

(130th General Assembly)
(Amended Substitute House Bill Number 59)

AN ACT

To amend sections 9.03, 9.15, 9.231, 9.239, 9.24, 9.833, 9.90, 9.901, 101.39, 101.391, 102.02, 103.144, 103.63, 107.033, 107.12, 109.06, 109.36, 109.57, 109.572, 109.71, 109.746, 109.77, 109.85, 109.86, 109.90, 109.91, 111.02, 111.15, 111.28, 113.02, 113.061, 117.03, 117.10, 117.20, 119.01, 120.06, 121.02, 121.03, 121.22, 121.35, 121.37, 121.372, 122.075, 122.083, 122.17, 122.171, 122.175, 122.28, 122.30, 122.31, 122.32, 122.33, 122.34, 122.35, 122.36, 122.58, 122.657, 122.658, 122.66, 122.67, 122.68, 122.69, 122.70, 122.701, 122.76, 122.861, 123.01, 123.10, 123.11, 123.201, 123.21, 123.27, 124.11, 124.14, 124.18, 124.30, 124.341, 124.381, 124.57, 124.84, 125.05, 125.21, 125.212, 125.28, 125.602, 125.603, 125.832, 125.836, 126.07, 126.14, 126.32, 126.35, 126.45, 126.46, 126.47, 126.48, 127.14, 127.16, 131.51, 133.01, 133.06, 135.22, 135.61, 135.71, 135.80, 135.81, 135.85, 140.01, 140.03, 140.05, 145.01, 145.012, 145.037, 145.038, 145.22, 149.01, 149.12, 149.311, 149.43, 149.431, 149.54, 151.11, 152.09, 153.692, 154.01, 154.17, 154.20, 154.22, 154.23, 154.25, 156.02, 156.03, 156.04, 156.05, 166.02, 166.03, 166.04, 166.08, 166.25, 167.03, 169.02, 169.05, 169.07, 169.08, 171.05, 173.03, 173.14, 173.17, 173.19, 173.20, 173.21, 173.23, 173.25, 173.26, 173.27, 173.28, 173.39, 173.391, 173.392, 173.394, 173.40, 173.401, 173.402, 173.403, 173.404, 173.42, 173.43, 173.431, 173.432, 173.434, 173.45, 173.47, 173.48, 173.50, 173.501, 173.99, 183.16, 183.33, 187.10, 191.01, 191.02, 191.04,

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3793.99, 5101.503, 5101.514, 5101.515, 5101.518, 5101.523, 5101.525, 5101.526, 5101.528, 5101.529, 5111.012, 5111.014, 5111.015, 5111.0110, 5111.0111, 5111.0113, 5111.0115, 5111.0120, 5111.0121, 5111.0122, 5111.0123, 5111.176, 5111.211, 5111.236, 5111.65, 5111.8710, 5111.8811, 5111.913, 5111.942, 5111.946, 5119.011, 5119.013, 5119.03, 5119.05, 5119.47, 5119.623, 5119.64, 5119.65, 5119.66, 5119.67, 5119.68, 5507.65, 5507.66, 5707.05, 5727.41, 5733.35, 5747.211, 5747.33, 5751.031, 6101.451, and 6111.029 of the Revised Code; to amend Section 1 of Sub. H.B. 34 of the 130th General Assembly; to amend Sections 205.10, 506.10, and 755.30 of Am. Sub. H.B. 51 of the 130th General Assembly; to amend Section 753.30 of Am. Sub. H.B. 153 of the 129th General Assembly; to amend Section 4 of Am. Sub. H.B. 279 of the 129th General Assembly; to amend Section 11 of Sub. H.B. 303 of the 129th General Assembly; to amend Section 9 of Am. Sub. H.B. 386 of the 129th General Assembly; to amend Section 4 of Am. Sub. H.B. 472 of the 129th General Assembly; to amend Sections 201.80, 205.83, and 509.40 of Sub. H.B. 482 of the 129th General Assembly; to amend Sections 301.11, 301.12, and 301.13 of Am. Sub. H.B. 487 of the 129th General Assembly; to amend Section 10 of Am. Sub. H.B. 386 of the 129th General Assembly, as subsequently amended; to amend Section 205.80 of Sub. H.B. 482 of the 129th General Assembly, as subsequently amended; to amend Section 4 of Sub. S.B. 171 of the 129th General Assembly, as subsequently amended; to amend Section 105.05 of Am. Sub. H.B. 2 of the 128th General Assembly; to repeal Section 267.60.31 of Am. Sub. H.B. 153 of the 129th General Assembly; to

repeal Section 125.10 of Am. Sub. H.B. 1 of the 128th General Assembly as subsequently amended; to repeal Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly as subsequently amended; to amend Sections 203.30.40, 203.30.70, 203.30.80, 203.90.20, 205.10.20, 205.30.90, 205.50.70, and 207.10.10 of Sub. S.B. 312 of the 129th General Assembly; to amend the versions of sections 109.57, 2151.011, 2923.126, 5104.012, 5104.013, 5104.03, 5104.08, and 5104.32 of the Revised Code that are scheduled to take effect January 1, 2014, to continue the provisions of this act on and after that effective date; to amend the versions of sections 4501.01 and 4507.06 of the Revised Code that are scheduled to take effect January 1, 2017, to continue the provisions of this act on and after that effective date; to amend section 3313.88 of the Revised Code as it results from Section 101.01 of this act for the purpose of adopting new section number 3313.482 on July 1, 2014; to amend the versions of sections 3302.20, 3310.08, 3313.981, 3314.091, 3317.01, 3317.02, 3317.022, 3317.0217, 3317.03, 3317.16, 3317.30, and 5751.21 of the Revised Code that result from Section 101.01 of this act and to amend sections 3310.41, 3311.52, 3317.024, 3317.033, 3317.081, 3317.201, 3318.18, 3318.42, 3327.05, 3328.32, 3328.33, and 5727.85 and to enact section 3317.034 of the Revised Code on July 1, 2014; to amend sections 5111.31 (5165.08), 5111.673 (5165.513), 5111.675 (5165.515), and 5111.99 (5165.99) of the Revised Code as they result from Section 101.01 of this act on January 1, 2015; to make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; to provide authorization and conditions for the

operation of state programs; to repeal sections 5168.20, 5168.21, 5168.22, 5168.23, 5168.24, 5168.25, 5168.26, 5168.27, and 5168.28 of the Revised Code on October 1, 2015, to terminate the operation of those sections on that date; to repeal sections 5168.01, 5168.02, 5168.03, 5168.04, 5168.05, 5168.06, 5168.07, 5168.08, 5168.09, 5168.10, 5168.11, 5168.12, 5168.13, 5168.99, and 5168.991 of the Revised Code on October 16, 2015, to terminate the operation of those sections on that date; and to repeal section 5124.67 of the Revised Code on July 1, 2018, to terminate the operation of that section on that date.

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

SECTION 101.01. That sections 9.03, 9.15, 9.231, 9.239, 9.24, 9.833, 9.90, 9.901, 101.39, 101.391, 102.02, 103.144, 103.63, 107.033, 107.12, 109.06, 109.36, 109.57, 109.572, 109.71, 109.746, 109.77, 109.85, 109.86, 109.90, 109.91, 111.02, 111.15, 111.28, 113.02, 113.061, 117.03, 117.10, 117.20, 119.01, 120.06, 121.02, 121.03, 121.22, 121.35, 121.37, 121.372, 122.075, 122.083, 122.17, 122.171, 122.175, 122.28, 122.30, 122.31, 122.32, 122.33, 122.34, 122.35, 122.36, 122.58, 122.657, 122.658, 122.66, 122.67, 122.68, 122.69, 122.70, 122.701, 122.76, 122.861, 123.01, 123.10, 123.11, 123.201, 123.21, 123.27, 124.11, 124.14, 124.18, 124.30, 124.341, 124.381, 124.57, 124.84, 125.05, 125.21, 125.212, 125.28, 125.602, 125.603, 125.832, 125.836, 126.07, 126.14, 126.32, 126.35, 126.45, 126.46, 126.47, 126.48, 127.14, 127.16, 131.51, 133.01, 133.06, 135.22, 135.61, 135.71, 135.80, 135.81, 135.85, 140.01, 140.03, 140.05, 145.01, 145.012, 145.037, 145.038, 145.22, 149.01, 149.12, 149.311, 149.43, 149.431, 149.54, 151.11, 152.09, 153.692, 154.01, 154.17, 154.20, 154.22, 154.23, 154.25, 156.02, 156.03, 156.04, 156.05, 166.02, 166.03, 166.04, 166.08, 166.25, 167.03, 169.02, 169.05, 169.07, 169.08, 171.05, 173.03, 173.14, 173.17, 173.19, 173.20, 173.21, 173.23, 173.25, 173.26, 173.27, 173.28, 173.39, 173.391, 173.392, 173.394, 173.40, 173.401, 173.402, 173.403, 173.404, 173.42, 173.43, 173.431, 173.432, 173.434, 173.45, 173.47, 173.48, 173.50, 173.501, 173.99, 183.16, 183.33, 187.10, 191.01, 191.02,

191.04, 191.06, 301.28, 305.23, 307.07, 307.515, 307.673, 307.674, 307.696, 307.697, 307.86, 309.09, 317.06, 317.08, 317.32, 317.321, 317.36, 319.302, 321.35, 321.44, 323.151, 323.152, 323.153, 329.04, 329.051, 329.06, 329.14, 333.01, 333.02, 333.03, 333.04, 333.05, 339.02, 339.05, 339.06, 339.07, 340.01, 340.011, 340.02, 340.021, 340.03, 340.031, 340.032, 340.04, 340.05, 340.07, 340.09, 340.091, 340.10, 340.11, 340.12, 340.13, 340.15, 340.16, 341.192, 349.01, 349.04, 351.021, 715.013, 715.691, 721.01, 721.03, 731.091, 737.41, 742.14, 755.06, 901.21, 901.22, 901.23, 903.11, 903.99, 905.06, 909.15, 924.02, 924.06, 927.54, 935.01, 935.03, 935.041, 935.07, 935.12, 955.01, 955.05, 955.06, 955.07, 955.08, 955.09, 955.12, 955.14, 955.201, 956.07, 956.18, 959.131, 959.132, 959.99, 991.03, 991.04, 991.06, 1309.521, 1332.26, 1337.11, 1347.08, 1501.011, 1501.45, 1506.21, 1506.30, 1509.01, 1509.02, 1509.062, 1509.10, 1509.11, 1509.22, 1509.226, 1509.50, 1511.02, 1511.022, 1531.06, 1531.17, 1545.071, 1547.542, 1547.99, 1548.02, 1551.33, 1551.35, 1555.15, 1701.86, 1701.922, 1703.29, 1711.07, 1721.10, 1724.02, 1724.03, 1739.061, 1751.01, 1751.11, 1751.12, 1751.14, 1751.271, 1751.31, 1751.60, 1923.14, 2101.24, 2108.05, 2113.041, 2113.06, 2117.061, 2117.25, 2133.01, 2133.25, 2151.011, 2151.3514, 2151.362, 2151.83, 2151.86, 2152.54, 2152.59, 2303.201, 2305.234, 2307.65, 2317.02, 2317.422, 2317.56, 2505.02, 2743.48, 2744.05, 2901.13, 2901.30, 2903.13, 2903.33, 2907.22, 2913.01, 2913.40, 2913.401, 2919.271, 2921.01, 2921.22, 2921.36, 2921.38, 2923.125, 2923.126, 2925.03, 2929.13, 2929.15, 2929.18, 2930.01, 2935.03, 2935.33, 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 2951.041, 2967.22, 2981.01, 2981.12, 2981.13, 3101.051, 3107.083, 3109.15, 3111.04, 3111.72, 3119.29, 3119.54, 3121.441, 3121.89, 3121.891, 3121.892, 3121.893, 3121.898, 3123.958, 3125.18, 3125.36, 3301.07, 3301.0711, 3301.0712, 3301.0714, 3301.0715, 3301.0723, 3301.0725, 3301.15, 3301.16, 3302.01, 3302.03, 3302.20, 3302.21, 3302.22, 3303.41, 3304.11, 3304.12, 3304.13, 3304.14, 3304.15, 3304.16, 3304.17, 3304.18, 3304.181, 3304.182, 3304.19, 3304.20, 3304.21, 3304.22, 3304.23, 3304.231, 3304.25, 3304.27, 3304.28, 3304.41, 3305.03, 3307.51, 3309.21, 3310.01, 3310.02, 3310.03, 3310.05, 3310.06, 3310.08, 3310.14, 3310.52, 3310.522, 3310.56, 3311.0510, 3311.19, 3311.22, 3311.231, 3311.38, 3311.78, 3311.83, 3311.86, 3312.08, 3313.372, 3313.376, 3313.48, 3313.483, 3313.484, 3313.488, 3313.4810, 3313.533, 3313.537, 3313.539, 3313.60, 3313.603, 3313.6013, 3313.6016, 3313.612, 3313.615, 3313.62, 3313.64, 3313.646, 3313.65, 3313.714, 3313.715, 3313.82, 3313.83, 3313.841, 3313.843, 3313.844, 3313.845, 3313.847, 3313.88, 3313.911,

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5111.191 (5164.741), 5111.20 (5165.01), 5111.201 (5165.011), 5111.202 (5165.03), 5111.203 (5165.031), 5111.204 (5165.04), 5111.21 (5165.06), 5111.212 (5165.35), 5111.22 (5165.07), 5111.221 (5165.37), 5111.222 (5165.15), 5111.223 (5165.071), 5111.224 (5124.15), 5111.225 (5165.155), 5111.226 (5124.02), 5111.23 (5124.19), 5111.231 (5165.19), 5111.232 (5165.192), 5111.233 (5124.194), 5111.235 (5124.23), 5111.24 (5165.16), 5111.241 (5124.21), 5111.242 (5165.21), 5111.244 (5165.25), 5111.245 (5165.26), 5111.246 (5165.23), 5111.25 (5165.17), 5111.251 (5124.17), 5111.254 (5165.151), 5111.255 (5124.151), 5111.257 (5165.28), 5111.258 (5165.153), 5111.259 (5165.156), 5111.26 (5165.10), 5111.261 (5165.107), 5111.262 (5165.47), 5111.263 (5124.29), 5111.264 (5165.30), 5111.265 (5165.29), 5111.266 (5165.101), 5111.27 (5165.108), 5111.271 (5165.1010), 5111.28 (5165.40), 5111.29 (5165.38), 5111.291 (5124.154), 5111.30 (5165.073), 5111.31 (5165.08), 5111.32 (5165.081), 5111.33 (5124.34), 5111.331 (5165.34), 5111.35 (5165.60), 5111.36 (5165.61), 5111.37 (5165.62), 5111.38 (5165.63), 5111.39 (5165.64), 5111.40 (5165.65), 5111.41 (5165.66), 5111.411 (5165.67), 5111.42 (5165.68), 5111.43 (5165.69), 5111.44 (5165.70), 5111.45 (5165.71), 5111.46 (5165.72), 5111.47 (5165.73), 5111.48 (5165.74), 5111.49 (5165.75), 5111.50 (5165.76), 5111.51 (5165.77), 5111.511 (5165.78), 5111.52 (5165.79), 5111.53 (5165.80), 5111.54 (5165.81), 5111.55 (5165.82), 5111.56 (5165.83), 5111.57 (5165.84), 5111.58 (5165.85), 5111.59 (5165.86), 5111.60 (5165.87), 5111.61 (5165.88), 5111.62 (5162.66), 5111.63 (5165.89), 5111.66 (5165.50), 5111.661 (5165.501), 5111.67 (5165.51), 5111.671 (5165.511), 5111.672 (5165.512), 5111.673 (5165.513), 5111.674 (5165.514), 5111.675 (5165.515), 5111.676 (5165.516), 5111.677 (5165.517), 5111.68 (5165.52), 5111.681 (5165.521), 5111.682 (5165.522), 5111.683 (5165.523), 5111.684 (5165.524), 5111.685 (5165.525), 5111.686 (5165.526), 5111.687 (5165.527), 5111.688 (5165.528), 5111.689 (5165.53), 5111.70 (5163.09), 5111.701 (5163.091), 5111.702 (5163.092), 5111.703 (5163.093), 5111.704 (5163.094), 5111.705 (5163.095), 5111.706 (5163.096), 5111.707 (5163.097), 5111.708 (5163.098), 5111.709 (5163.099), 5111.7011 (5163.0910), 5111.71 (5162.36), 5111.711 (5162.361), 5111.712 (5162.362), 5111.713 (5162.363), 5111.714 (5162.64), 5111.715 (5162.364), 5111.83 (5162.30), 5111.84 (5166.03), 5111.85 (5166.02), 5111.851 (5166.04), 5111.852 (5166.05), 5111.853 (5166.06), 5111.854 (5166.07), 5111.855 (5166.08), 5111.856 (5166.10), 5111.86 (5166.11), 5111.861 (5166.12), 5111.862 (5166.121), 5111.863 (5166.13), 5111.864 (5166.14), 5111.865 (5166.141),

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5119.691 (5119.411), 5507.01 (128.01), 5507.02 (128.02), 5507.021 (128.021), 5507.022 (128.022), 5507.03 (128.03), 5507.06 (128.06), 5507.07 (128.07), 5507.08 (128.08), 5507.09 (128.09), 5507.12 (128.12), 5507.15 (128.15), 5507.18 (128.18), 5507.22 (128.22), 5507.25 (128.25), 5507.26 (128.26), 5507.27 (128.27), 5507.32 (128.32), 5507.34 (128.34), 5507.40 (128.40), 5507.42 (128.42), 5507.44 (128.44), 5507.46 (128.46), 5507.52 (128.52), 5507.53 (128.53), 5507.54 (128.54), 5507.55 (128.55), 5507.57 (128.57), 5507.571 (128.571), 5507.60 (128.60), 5507.63 (128.63), and 5507.99 (128.99) be amended for the purpose of adopting new section numbers as indicated in parentheses; new sections 3313.481, 3317.014, 3317.02, 3317.022, 3317.0217, 3317.051, 3317.16, 3326.39, 3345.81, and 3737.883 and sections 1.611, 103.0521, 109.921, 121.483, 122.681, 123.19, 125.27, 125.833, 126.211, 128.45, 128.461, 128.462, 128.47, 149.307, 173.51, 173.522, 173.523, 173.543, 173.545, 173.546, 173.56, 173.60, 311.172, 319.10, 321.49, 340.08, 353.01, 353.02, 353.03, 353.04, 353.05, 353.06, 353.07, 353.08, 353.09, 353.10, 353.11, 353.12, 353.13, 353.14, 353.15, 353.16, 511.261, 517.271, 721.29, 743.50, 903.30, 955.121, 991.041, 1509.074, 1509.16, 1509.227, 1545.23, 1547.532, 2101.026, 2329.192, 2919.19, 2919.191, 2919.192, 2919.193, 2950.012, 3302.26, 3310.032, 3310.035, 3313.5311, 3313.5312, 3313.6018, 3313.6019, 3313.848, 3313.849, 3314.042, 3314.082, 3314.086, 3314.092, 3314.20, 3317.016, 3317.017, 3317.0213, 3317.0214, 3317.161, 3317.25, 3317.40, 3319.031, 3325.13, 3325.14, 3326.112, 3326.40, 3327.07, 3328.27, 3333.0412, 3333.124, 3333.613, 3337.16, 3345.48, 3350.15, 3365.022, 3701.033, 3701.139, 3701.832, 3701.94, 3701.941, 3701.942, 3701.943, 3701.944, 3701.96, 3701.98, 3702.302, 3702.303, 3702.304, 3702.305, 3702.306, 3702.307, 3702.308, 3714.074, 3721.072, 3727.60, 3734.125, 3735.661, 3769.101, 3769.102, 3769.103, 3772.36, 4123.322, 4503.524, 4503.526, 4503.732, 4503.95, 4503.96, 4713.641, 4731.299, 4751.042, 4751.14, 4783.01, 4783.02, 4783.03, 4783.04, 4783.05, 4783.09, 4783.10, 4783.11, 4783.12, 4783.13, 4783.99, 4906.201, 4909.157, 4955.322, 5101.101, 5101.804, 5103.05, 5119.28, 5119.341, 5123.023, 5124.01, 5124.03, 5124.05, 5124.06, 5124.07, 5124.071, 5124.072, 5124.08, 5124.081, 5124.10, 5124.101, 5124.102, 5124.103, 5124.104, 5124.105, 5124.106, 5124.107, 5124.108, 5124.109, 5124.152, 5124.153, 5124.191, 5124.192, 5124.193, 5124.25, 5124.28, 5124.30, 5124.31, 5124.32, 5124.33, 5124.35, 5124.37, 5124.38, 5124.40, 5124.41, 5124.42, 5124.43, 5124.44, 5124.45, 5124.46, 5124.50, 5124.51, 5124.511, 5124.512, 5124.513, 5124.514, 5124.515, 5124.516, 5124.517, 5124.52, 5124.521, 5124.522,

5124.523, 5124.524, 5124.525, 5124.526, 5124.527, 5124.528, 5124.53, 5124.67, 5124.99, 5126.131, 5160.01, 5160.011, 5160.02, 5160.021, 5160.03, 5160.04, 5160.05, 5160.051, 5160.052, 5160.06, 5160.10, 5160.11, 5160.12, 5160.13, 5160.16, 5160.20, 5160.21, 5160.22, 5160.23, 5160.30, 5160.31, 5160.371, 5160.46, 5160.47, 5160.48, 5160.481, 5160.50, 5160.52, 5160.99, 5161.01, 5162.01, 5162.02, 5162.021, 5162.022, 5162.05, 5162.06, 5162.07, 5162.12, 5162.31, 5162.60, 5162.62, 5163.01, 5163.03, 5163.04, 5163.05, 5163.06, 5163.061, 5163.07, 5163.08, 5164.01, 5164.03, 5164.30, 5164.33, 5164.55, 5164.59, 5164.60, 5164.61, 5164.71, 5164.72, 5164.73, 5164.78, 5164.881, 5164.911, 5165.02, 5165.072, 5165.082, 5165.102, 5165.103, 5165.104, 5165.105, 5165.106, 5165.109, 5165.152, 5165.154, 5165.191, 5165.193, 5165.32, 5165.33, 5165.41, 5165.42, 5165.43, 5165.44, 5165.45, 5165.46, 5165.49, 5165.771, 5166.01, 5166.16, 5167.01, 5167.02, 5168.41, 5540.18, 5703.75, 5703.76, 5703.90, 5703.91, 5703.92, 5703.93, 5705.55, 5735.013, 5736.01, 5736.02, 5736.03, 5736.04, 5736.05, 5736.06, 5736.07, 5736.08, 5736.081, 5736.09, 5736.10, 5736.11, 5736.12, 5736.13, 5736.14, 5736.99, 5741.032, 5747.71, 5910.08, and 5919.342 of the Revised Code be enacted to read as follows:

Sec. 1.611. As used in the Revised Code, "OSU extension" means the cooperative extension service that was established by the "Smith-Lever Act," 38 Stat. 372 (1914), 7 U.S.C. 341 et seq., and is administered in this state by the Ohio state university.

Sec. 9.03. (A) As used in this section:

(1) "Political subdivision" means any body corporate and politic, except a municipal corporation that has adopted a charter under Section 7 of Article XVIII, Ohio Constitution, and except a county that has adopted a charter under Sections 3 and 4 of Article X, Ohio Constitution, to which both of the following apply:

(a) It is responsible for governmental activities only in a geographic area smaller than the state.

(b) It is subject to the sovereign immunity of the state.

(2) "Cigarettes" and "tobacco product" have the same meanings as in section 5743.01 of the Revised Code.

(3) "Transaction" has the same meaning as in section 1315.51 of the Revised Code.

(4) "Campaign committee," "campaign fund," "candidate," "legislative campaign fund," "political action committee," "political committee," "political party," and "separate segregated fund" have the same meanings as in section 3517.01 of the Revised Code.

(B) Except as otherwise provided in division (C) of this section, the governing body of a political subdivision may use public funds to publish and distribute newsletters, or to use any other means, to communicate information about the plans, policies, and operations of the political subdivision to members of the public within the political subdivision and to other persons who may be affected by the political subdivision.

(C) Except as otherwise provided in division (A)(7) of section 340.03 ~~or division (A)(12) of section 340.033~~ of the Revised Code, no governing body of a political subdivision shall use public funds to do any of the following:

(1) Publish, distribute, or otherwise communicate information that does any of the following:

(a) Contains defamatory, libelous, or obscene matter;

(b) Promotes alcoholic beverages, cigarettes or other tobacco products, or any illegal product, service, or activity;

(c) Promotes illegal discrimination on the basis of race, color, religion, national origin, handicap, age, or ancestry;

(d) Supports or opposes any labor organization or any action by, on behalf of, or against any labor organization;

(e) Supports or opposes the nomination or election of a candidate for public office, the investigation, prosecution, or recall of a public official, or the passage of a levy or bond issue.

(2) Compensate any employee of the political subdivision for time spent on any activity to influence the outcome of an election for any of the purposes described in division (C)(1)(e) of this section. Division (C)(2) of this section does not prohibit the use of public funds to compensate an employee of a political subdivision for attending a public meeting to present information about the political subdivision's finances, activities, and governmental actions in a manner that is not designed to influence the outcome of an election or the passage of a levy or bond issue, even though the election, levy, or bond issue is discussed or debated at the meeting.

(D) Except as otherwise provided in division (A)(7) of section 340.03 ~~or division (A)(12) of section 340.033~~ of the Revised Code or in division (E) of this section, no person shall knowingly conduct a direct or indirect transaction of public funds to the benefit of any of the following:

- (1) A campaign committee;
- (2) A political action committee;
- (3) A legislative campaign fund;
- (4) A political party;
- (5) A campaign fund;
- (6) A political committee;

(7) A separate segregated fund;

(8) A candidate.

(E) Division (D) of this section does not prohibit the utilization of any person's own time to speak in support of or in opposition to any candidate, recall, referendum, levy, or bond issue unless prohibited by any other section of the Revised Code.

(F) Nothing in this section prohibits or restricts any political subdivision from sponsoring, participating in, or doing any of the following:

(1) Charitable or public service advertising that is not commercial in nature;

(2) Advertising of exhibitions, performances, programs, products, or services that are provided by employees of a political subdivision or are provided at or through premises owned or operated by a political subdivision;

(3) Licensing an interest in a name or mark that is owned or controlled by the political subdivision.

(G) Whoever violates division (D) of this section shall be punished as provided in section 3599.40 of the Revised Code.

Sec. 9.15. When the body of a dead person is found in a township or municipal corporation, and such person was not an inmate of a correctional, benevolent, or charitable institution of this state, and the body is not claimed by any person for private interment or cremation at the person's own expense, or delivered for the purpose of medical or surgical study or dissection in accordance with section 1713.34 of the Revised Code, it shall be disposed of as follows:

(A) If the person was a legal resident of the county, the proper officers of the township or municipal corporation in which the person's body was found shall cause it to be buried or cremated at the expense of the township or municipal corporation in which the person had a legal residence at the time of death.

(B) If the person had a legal residence in any other county of the state at the time of death, the superintendent of the county home of the county in which such body was found shall cause it to be buried or cremated at the expense of the township or municipal corporation in which the person had a legal residence at the time of death.

(C) If the person was an inmate of a correctional institution of the county or a patient or resident of a benevolent institution of the county, the person had no legal residence in the state, or the person's legal residence is unknown, the superintendent shall cause the person to be buried or cremated at the expense of the county.

Such officials shall provide, at the grave of the person or, if the person's cremated remains are buried, at the grave of the person's cremated remains, a metal, stone, or concrete marker on which the person's name and age, if known, and date of death shall be inscribed.

A political subdivision is not relieved of its duty to bury or cremate a person at its expense under this section when the body is claimed by an indigent person. As used in this section, "indigent person" means a person whose income does not exceed one hundred fifty per cent of the federal poverty line, as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the person's family.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The person receives the money solely in return for the performance

of services intended to help preserve public health or safety under circumstances requiring immediate action as a result of a natural or man-made emergency.

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

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

- (1) The attorney general;
- (2) The auditor of state;
- (3) The director of administrative services;
- (4) The director of aging;
- (5) ~~The director of alcohol and drug addiction services~~ The medicaid director;
- (6) The director of budget and management;
- (7) The director of development services;
- (8) The director of job and family services;
- (9) The director of ~~mental health~~ mental health and addiction services;
- (10) The director of developmental disabilities;
- (11) The director of rehabilitation and correction;
- (12) The administrator of workers' compensation;
- (13) The executive director of the county commissioners' association of Ohio;
- (14) The president of the Ohio grantmakers forum;
- (15) The president of the Ohio chamber of commerce;
- (16) The president of the Ohio state bar association;
- (17) The president of the Ohio society of certified public accountants;
- (18) The executive director of the Ohio association of nonprofit organizations;

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

(B) If an agency or organization represented on the council ceases to exist in the form it has on September 29, 2005, the successor agency or organization shall be represented in its place. If there is no successor agency or organization, or if it is not clear what agency or organization is the successor, the attorney general shall designate an agency or organization to be represented in place of the agency or organization originally represented on the council.

(C) The two members appointed to the council shall serve three-year terms. Original appointments shall be made not later than sixty days after September 29, 2005. Vacancies on the council shall be filled in the same manner as the original appointment.

(D) The attorney general or the attorney general's designee shall be the chairperson of the council. The council shall meet at least once every two years to review the rules adopted under sections 9.237 and 9.238 of the Revised Code and to make recommendations to the attorney general and auditor of state regarding the adoption, amendment, or repeal of those rules. The council shall also meet at other times as requested by the attorney general or auditor of state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

operational on or before January 1, 2004. The initial database shall contain the information required under this division for calendar years 2001, 2002, and 2003.

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

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

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

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

(2) To medicaid provider agreements under ~~Chapter 5111~~ of the Revised Code medicaid program.

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

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

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

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

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

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

(H) As used in this section:

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

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

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

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

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

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

Sec. 9.833. (A) As used in this section, "political subdivision" has the meaning defined in sections 2744.01 and 3905.36 of the Revised Code. For purposes of this section, "political subdivision" includes municipal corporations as defined in section 5705.01 of the Revised Code.

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

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

(2) Establish and maintain a health savings account program whereby employees or officers may establish and maintain health savings accounts in accordance with section 223 of the Internal Revenue Code. Public moneys

may be used to pay for or fund federally qualified high deductible health plans that are linked to health savings accounts or to make contributions to health savings accounts. A health savings account program may be a part of a self-insurance program.

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

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

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

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

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

(8) Purchase plans ~~approved~~ containing best practices established by the department of administrative services under section 9.901 of the Revised Code.

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

(1) Such funds shall be reserved as are necessary, in the exercise of sound and prudent actuarial judgment, to cover potential cost of health care benefits for the officers and employees of the political subdivision. A certified audited financial statement and a report of aggregate amounts so reserved and aggregate disbursements made from such funds, together with a written report of a member of the American academy of actuaries certifying whether the amounts reserved conform to the requirements of this division, are computed in accordance with accepted loss reserving standards,

and are fairly stated in accordance with sound loss reserving principles, shall be prepared and maintained, within ninety days after the last day of the fiscal year of the entity for which the report is provided for that fiscal year, in the office of the program administrator described in division (C)(3) of this section.

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

The program administrator described in division (C)(3) of this section shall make the report required by this division available for inspection by any person at all reasonable times during regular business hours, and, upon the request of such person, shall make copies of the report available at cost within a reasonable period of time. The program administrator shall further provide the report to the auditor of state under Chapter 117. of the Revised Code. The report required by this division is in lieu of the records required by division (A) of section 149.431 of the Revised Code.

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

(3) A contract may be awarded, without the necessity of competitive bidding, to any person, political subdivision, nonprofit corporation organized under Chapter 1702. of the Revised Code, or regional council of governments created under Chapter 167. of the Revised Code for purposes of administration of an individual or joint self-insurance program. No such contract shall be entered into without full, prior, public disclosure of all terms and conditions. The disclosure shall include, at a minimum, a statement listing all representations made in connection with any possible savings and losses resulting from the contract, and potential liability of any political subdivision or employee. The proposed contract and statement shall be disclosed and presented at a meeting of the political subdivision not less

than one week prior to the meeting at which the political subdivision authorizes the contract.

A contract awarded to a nonprofit corporation or a regional council of governments under this division may provide that all employees of the nonprofit corporation or regional council of governments, the employees of all entities related to the nonprofit corporation or regional council of governments, and the employees of other nonprofit corporations that have fifty or fewer employees and have been organized for the primary purpose of representing the interests of political subdivisions, may be covered by the individual or joint self-insurance program under the terms and conditions set forth in the contract.

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

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

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

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

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

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

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

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

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

(11) A joint self-insurance program shall pay the run-off expenses of a participating political subdivision that terminates its participation in the program if the political subdivision has accumulated funds in the reserves for incurred but not reported claims. The run-off payment, at minimum, shall be limited to an actuarially determined cap or sixty days, whichever is reached first. This provision shall not apply during the term of a specific, separate agreement with a political subdivision to maintain enrollment for a specified period, not to exceed three years.

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

(E) This section does not apply to individual self-insurance programs created solely by municipal corporations as defined in section 5705.01 of the Revised Code.

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

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

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

Sec. 9.90. (A) ~~The following applies until the department of administrative services implements healthcare plans designed under section 9.901 of the Revised Code. If those plans do not include or address any benefits listed in this section, or if the board of trustees or other governing body of a state institution of higher education, as defined in section 3345.011 of the Revised Code, board of education of a school district, or governing board of an educational service center do not elect to be covered under a plan offered by the department of administrative services under section 9.901 of the Revised Code, the following provisions continue in effect for those benefits. The board of trustees or other governing body of a state institution of higher education, as defined in section 3345.011 of the Revised Code, board of education of a school district, or governing board of an educational service center may, in addition to all other powers provided in the Revised Code:~~

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

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

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

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

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

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

Sec. 9.901. (A)(1) All health care benefits provided to persons employed by ~~the political subdivisions and public school districts of~~

employers as defined by this state section shall be provided by health care plans that contain best practices established ~~pursuant to this section~~ by the ~~former~~ school employees health care board or the department of administrative services. ~~Twelve months after the release of best practices by the board all~~ All policies or contracts for health care benefits ~~provided to public school district employees~~ that are issued or renewed after the expiration of any applicable collective bargaining agreement must contain all best practices established pursuant to this section ~~by the board at the time of renewal~~. ~~Any or all of the health~~ Health care plans that contain the best practices ~~specified by the board~~ may be self-insured.

~~(2) Upon completion of the consultant's report under division (E) of this section and once the plans are released in final form by the department, all health care benefits provided to persons employed by political subdivisions, public school districts, and state institutions of higher education may be provided by health care plans designed under this section by the department. The department, in consultation with the superintendent of insurance, may negotiate with and, in accordance with the competitive selection procedures of Chapter 125. of the Revised Code, contract with one or more insurance companies authorized to do business in this state for the issuance of the plans. Any or all of the health care plans designed by the department may be self-insured. All self-insured plans adopted shall be administered by the department in accordance with this section. The plans shall incorporate the best practices adopted by the department under division (C)(3) of this section consulting with the department of administrative services, a political subdivision may adopt a delivery system of benefits that is not in accordance with the department's adopted best practices if it is considered by the department to be most financially advantageous to the political subdivision.~~

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

~~(4) The department, in consultation with the superintendent of insurance, shall develop a request for proposals and solicit bids for health care plans for political subdivisions, public school districts, and state institutions in a region similar to the existing plans. The department shall~~

~~also determine the benefits offered by existing health care plans, the employees' costs, and the cost sharing arrangements used by political subdivisions, schools, and institutions participating in a consortium. The department shall determine what strategies are used by the existing plans to manage health care costs and shall study the potential benefits of state or regional consortiums offering multiple health care plans. When options exist in a defined regional service area that meet the benchmarks or best practices prescribed by the department, public employees shall be given the option of selecting from two or more health plans.~~

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

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

~~(6) As used in this section:~~

~~(a) "Public employer" means political subdivisions, public school districts, or state institutions of higher education.~~

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

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

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

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

employees of a political subdivision, public school district, or state institution.

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

~~(B)~~(4) The ~~political subdivisions and~~ public employees health care fund is hereby created in the state treasury. The department shall use all funds in the ~~political subdivisions and~~ public employees health care fund solely to carry out the provisions of this section and related administrative costs.

~~(C)~~(B) The department of administrative services shall do all of the following:

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

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

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

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

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

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

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

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

~~(D) The sections in Chapter 3923. of the Revised Code regulating public~~

~~employee benefit plans are not applicable to the health care plans designed pursuant to this section.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(a) Existing health care pooling and consortiums;~~

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

~~(c) Individual political subdivisions, school districts, and state institutions;~~

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

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

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

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

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

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

~~(F) The Identify strategies to manage health care costs;~~

(2) Study the potential benefits of state or regional consortiums of public employers' health care plans;

(3) Publish information regarding the health care plans offered by political subdivisions, public school districts, state institutions, and existing consortiums;

(4) Assist in the design of health care plans for political subdivisions, public school districts, and state institutions of higher education in accordance with division (A) of this section separate from the plans for state agencies;

(5) Adopt and release a set of standards that shall be considered the best practices for health care plans offered to employees of political subdivisions, public school districts, and state institutions;

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

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

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

(9) Prepare and disseminate to the public an annual report on the status of health plan sponsors' effectiveness in complying with best practices and making progress to reduce the rate of increase in insurance premiums and employee out-of-pocket expenses, as well as progress in improving the health status of employees and their families.

~~(C) The director of administrative services may convene a public health care advisory committee is hereby created under the department of administrative services. The committee shall make recommendations to the director of administrative services or the director's designee on the development and adoption of best practices under this section. The committee shall consist of fifteen members: five members appointed by the speaker of the house of representatives; five members appointed by the president of the senate; and five members appointed by the governor and shall include representatives from state and local government employers, state and local government employees, insurance agents, health insurance companies, and joint purchasing arrangements currently in existence. Nothing in this section prohibits a political subdivision from adopting a delivery system of benefits that is not in accordance with the department's adopted best practices if it is considered to be most financially advantageous to the political subdivision. Members shall serve without compensation.~~

~~(G)~~(D) The department may adopt rules for the enforcement of health plan sponsors' compliance with the best practices standards adopted by the

department pursuant to this section.

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

~~(I)~~(F) The department may ~~contract~~ work with other state agencies ~~for~~ to obtain services as the department deems necessary for the implementation and operation of this section, based on demonstrated experience and expertise in administration, management, data handling, actuarial studies, quality assurance, or for other needed services.

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

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

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

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

Sec. 101.39. (A) There is hereby created the joint legislative committee on health care oversight. The committee may review or study any matter related to the provision of health care services that it considers of significance to the citizens of this state, including the availability of health care, the quality of health care, the effectiveness and efficiency of managed care systems, and the operation of the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code or other government health programs.

The department of ~~job and family services~~ medicaid, department of health, department of aging, department of ~~mental health~~ mental health and addiction services, department of developmental disabilities, ~~department of alcohol and drug addiction services~~, and other state agencies shall cooperate with the committee in its study and review of health care issues. On request, the departments shall provide the committee with reports and other information sufficient for the committee to fulfill its duties.

The committee may issue recommendations as it determines appropriate. The recommendations may be made to the general assembly, state agencies, private industry, or any other entity.

(B) The committee shall consist of the following members of the general assembly: the chairperson of the senate's standing committee with primary responsibility for health legislation, the chairperson of the house of representatives' standing committee with primary responsibility for health legislation, four members of the house of representatives appointed by the speaker of the house of representatives, and four members of the senate appointed by the president of the senate. Not more than two members appointed by the speaker of the house of representatives and not more than two members appointed by the president of the senate may be of the same political party. Except in 1995, appointments shall be made not later than fifteen days after the commencement of the first regular session of each general assembly. The chairpersons of the standing committees with primary responsibility for health legislation shall serve as co-chairpersons of the committee.

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

The committee shall meet at least quarterly and at the call of the co-chairpersons. The co-chairpersons shall determine the time, place, and agenda for each meeting of the committee.

The committee has the same powers as other standing or select committees of the general assembly. The committee may request assistance from the legislative service commission.

Sec. 101.391. (A) There is hereby created the joint legislative committee on medicaid technology and reform. The committee may review or study any matter that it considers relevant to the operation of the medicaid

~~program established under Chapter 5111. of the Revised Code~~, with priority given to the study or review of mechanisms to enhance the program's effectiveness through improved technology systems and program reform.

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

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

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

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

to division (C) of section 171.01 of the Revised Code; employees of the Ohio retirement study council, other than employees who perform purely administrative or clerical functions; the administrator of workers' compensation and each member of the bureau of workers' compensation board of directors; the bureau of workers' compensation director of investments; the chief investment officer of the bureau of workers' compensation; all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has a total student count of twelve thousand or more as most recently determined by the department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district that is established under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use, and that includes two municipal corporations in two counties; every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; all members appointed to the Ohio livestock care standards board under section 904.02 of the Revised Code; and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section.

The disclosure statement shall include all of the following:

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

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section and except as otherwise provided in section 102.022 of the Revised Code, identification of every source of income, other than income from a legislative agent identified in division (A)(2)(b) of this section, received during the preceding calendar year, in the person's own name or by any other person for the

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

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

(c) Except as otherwise provided in division (A)(2)(c) of this section, division (A)(2)(a) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics

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

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

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

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

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

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

(8) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source and amount of every payment of expenses

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

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

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

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

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

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

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

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

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

service center. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by the individuals set forth in division (B)(2) of section 187.03 of the Revised Code shall be kept confidential. The Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be kept confidential by the commission and shall not be made subject to public inspection, except as is necessary for the enforcement of Chapters 102. and 2921. of the Revised Code and except as otherwise provided in this division.

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

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

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

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

For state office, except member of the state board of education	\$95
For office of member of general assembly	\$40
For county office	\$60
For city office	\$35
For office of member of the state board of education	\$35
For office of member of a city, local, exempted village, or cooperative education board of	

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

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

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

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

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

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

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

(H) Division (A) of this section does not apply to a person elected or appointed to the office of precinct, ward, or district committee member

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

Sec. 103.0521. If a rule currently in effect is obsolete because the rule was adopted by an agency that is no longer in existence and jurisdiction over the rule has not been transferred to another agency, and if that status is verified by the executive director of the joint committee on agency rule review, the executive director shall prepare, for consideration of the joint committee, a motion that the director of the legislative service commission remove the obsolete rule from the Administrative Code. The executive director shall transmit a copy of the motion to the common sense initiative office before the next meeting of the joint committee.

The chairperson of the joint committee, or another member of the joint committee delegated by the chairperson, shall offer the motion at the next meeting of the joint committee. If the motion is agreed to by the joint committee, the executive director shall transmit a copy of the motion to the director of the legislative service commission. The executive director shall certify on the copy transmitted that the motion was agreed to by the joint committee.

Upon receiving the certified motion, the director of the legislative service commission shall remove the obsolete rule from the Administrative Code as directed in the motion. The director thereafter shall maintain the removed obsolete rule in a file of obsolete rules. The file of obsolete rules may be maintained in electronic form.

Sec. 103.144. As used in sections 103.144 to 103.146 of the Revised Code:

(A) "Mandated benefit" means the following, when considered in the context of a sickness and accident insurance policy or a health insuring corporation policy, contract, or agreement:

(1) Any required coverage for a specific medical or health-related service, treatment, medication, or practice;

(2) Any required coverage for the services of specific health care providers;

(3) Any requirement that an insurer or health insuring corporation offer coverage to specific individuals or groups;

(4) Any requirement that an insurer or health insuring corporation offer specific medical or health-related services, treatments, medications, or practices to existing insureds or enrollees;

(5) Any required expansion of, or addition to, existing coverage;

(6) Any mandated reimbursement amount to specific health care providers.

(B) "Mandated benefit" does not include any required coverage or offer of coverage, any required expansion of, or addition to, existing coverage, or any mandated reimbursement amount to specific providers, as described in division (A) of this section, within the context of any public health benefits arrangement, including but not limited to, the coverage of beneficiaries enrolled in ~~Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, medicare~~ pursuant to a medicare risk contract or medicare cost contract, or to the coverage of beneficiaries enrolled in ~~Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, provided by the Ohio department of job and family services under Chapter 5111. of the Revised Code.~~

Sec. 103.63. There is established an Ohio constitutional modernization commission consisting of thirty-two members. Twelve members shall be appointed from the general assembly as follows: three by the president of the senate, three by the minority leader of the senate, three by the speaker of the house of representatives, and three by the minority leader of the house of representatives. Not later than January 1, 2012, and every two years thereafter, the twelve general assembly members shall meet, organize, and elect two co-chairpersons, who shall be from different political parties. Beginning in 2014, the twelve general assembly members shall elect one co-chairperson from each house of the general assembly. The members shall then, by majority vote, appoint twenty commission members, not from the general assembly. All appointments shall end on the first day of January of every even-numbered year, and the commission shall then be re-created in the manner provided above. Members may be reappointed. Vacancies on the commission shall be filled in the manner provided for original appointments.

The members of the commission shall serve without compensation, but each member shall be reimbursed for actual and necessary expenses incurred while engaging in the performance of the member's official duties. Membership on the commission does not constitute holding another public office. The joint legislative ethics committee is the appropriate ethics commission as described in division (F) of section 102.01 of the Revised Code for matters relating to the public members appointed to the Ohio

constitutional modernization commission.

Sec. 107.033. As part of the state budget the governor submits to the general assembly under section 107.03 of the Revised Code, the governor shall include the state appropriation limitations the general assembly shall not exceed when making aggregate general revenue fund appropriations for each respective fiscal year of the biennium covered by that budget. The aggregate general revenue fund appropriations the governor proposes in the state budget also shall not exceed those limitations for each respective fiscal year of the biennium covered by that budget.

(A) For fiscal year 2008, the state appropriation limitation is the sum of the following:

(1) The aggregate general revenue fund appropriations for fiscal year 2007; plus

(2) The aggregate general revenue fund appropriations for fiscal year 2007 multiplied by either three and one-half per cent, or the sum of the rate of inflation plus the rate of population change, whichever is greater.

(B) For each fiscal year thereafter that is not a recast fiscal year, the state appropriation limitation is the sum of the following:

(1) The state appropriation limitation for the previous fiscal year; plus

(2) The state appropriation limitation for the previous fiscal year multiplied by either three and one-half per cent, or the sum of the rate of inflation plus the rate of population change, whichever is greater.

(C) For each recast fiscal year, the state appropriation limitation is the sum of the following:

(1) The aggregate general revenue fund appropriations for the previous fiscal year; plus

(2) The aggregate general revenue fund appropriations for the previous fiscal year multiplied by either three and one-half per cent, or the sum of the rate of inflation plus the rate of population change, whichever is greater.

(D) The state appropriation limitation for a fiscal year shall be increased by the amount of a nongeneral revenue fund appropriation made in the immediately preceding fiscal year, if all of the following apply to the nongeneral revenue fund appropriation:

(1) It was made on or after July 1, 2013.

(2) It is included in the aggregate general revenue fund appropriations proposed for that fiscal year.

(3) It is being made for the first time from the general revenue fund.

Sec. 107.12. (A) As used in this section, "organization" means a faith-based or other organization that is exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986,"

100 Stat. 2085, 26 U.S.C. 1, as amended, and provides charitable services to needy residents of this state.

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

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

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

(3) Assist local, state, and federal agencies in coordinating their activities to secure maximum use of funds and efforts that benefit people receiving charitable services from organizations;

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

(C) The governor shall appoint an executive director and such other staff as may be necessary to manage the office and perform or oversee the performance of the duties of the office. Within sixty days after being appointed, and every twelve months thereafter, the executive director shall distribute to the advisory board and review with the board a strategic plan. The executive director shall report to the board at least quarterly on proposed initiatives and policies. A report shall include the condition of the budget and the finances of the office.

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

(a) The directors of aging, ~~alcohol and drug addiction services,~~ rehabilitation and correction, health, job and family services, developmental disabilities, ~~mental health~~ mental health and addiction services, and youth services, or their designees;

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

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

(2) Terms of the office shall be one year. Any vacancy that occurs on

the board shall be filled in the same manner as the original appointment.

(3) Members of the board are not entitled to compensation, but the members appointed by the governor, the speaker of the house of representatives, and the president of the senate who are representatives of the nonprofit, faith-based and other nonprofit community shall be reimbursed for their actual and necessary expenses that are incurred in relation to board meetings.

(4) The board shall be presided over by a chairperson and a vice-chairperson, who shall be the members of the board who are also members of the house of representatives or the senate. Annually on the first day of January, the chairpersonship and vice-chairpersonship shall alternate between the members of the house of representatives and the senate.

(E) The board shall have the following duties:

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

(2) Assist in the dissemination of information about, and in the stimulation of public awareness of, the service programs supported by the office;

(3) Review the budget and finances of the office, proposed initiatives and policies, and the executive director's annual strategic plan at board meetings;

(4) Provide feedback for and proposed modifications of the executive director's strategic plan. Within forty-five days after submitting a strategic plan, the executive director shall contact each advisory board member to obtain feedback. With the approval of the advisory board chairperson, the executive director shall lead a strategic plan discussion at the first board meeting following the distribution of the strategic plan.

(5) Publish a report of its activities and accomplishments on or before the first day of August of each year, and deliver copies of the report to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate.

(F) No member of the board or organization that the member is affiliated or involved with is eligible to receive any grant that the office administers or assists in administering.

Sec. 109.06. Before entering upon the discharge of the duties of his office, the attorney general shall give a bond to the state in the sum of five thousand dollars, with ~~two or more sureties approved by the governor~~ a surety authorized to do business in the state, conditioned for the faithful discharge of the duties of ~~his~~ the office of attorney general. Such bond, ~~with the approval of the governor and the oath of office indorsed thereon~~, shall be deposited with and kept by the secretary of state ~~and kept in his~~ the secretary

of state's office.

The first assistant attorney general shall give a bond to the state in the sum of five thousand dollars, and such other employees as are designated by the attorney general shall give a bond to the state in such amounts as the attorney general determines. Such bonds shall be approved by the attorney general, conditioned for the faithful discharge of the duties of their offices, and shall be deposited with and kept by the secretary of state ~~and kept in his~~ the secretary of state's office.

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

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

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

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

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

(d) A person who, at the time a cause of action against the person arises, is rendering medical, nursing, dental, podiatric, optometric, physical therapeutic, psychiatric, or psychological services to patients in a state institution operated by the department of ~~mental health~~ mental health and addiction services pursuant to an agreement with the department.

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

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

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

smaller than that of the state.

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

Sec. 109.57. (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to the superintendent of the bureau. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence who is not in any other category of child specified in this division, if committed by an adult, has not been adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, has not been convicted of or pleaded guilty to committing a felony or an offense of violence, and is not a child with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence

if committed by an adult shall not be procured by the superintendent or furnished by any person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution, except as authorized in section 2151.313 of the Revised Code.

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

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

(b) The style and number of the case;

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

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

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

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

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

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

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

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

(B) The superintendent shall prepare and furnish to every county,

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

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

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

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

(4) The attorney general may adopt rules under Chapter 119. of the Revised Code establishing guidelines for the operation of and participation

in the Ohio law enforcement gateway. The rules may include criteria for granting and restricting access to information gathered and disseminated through the Ohio law enforcement gateway. The attorney general shall permit the state medical board and board of nursing to access and view, but not alter, information gathered and disseminated through the Ohio law enforcement gateway.

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

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

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

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

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

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

(E)(1) The attorney general shall adopt rules, in accordance with Chapter 119. of the Revised Code and subject to division (E)(2) of this section, setting forth the procedure by which a person may receive or release information gathered by the superintendent pursuant to division (A) of this section. A reasonable fee may be charged for this service. If a temporary employment service submits a request for a determination of whether a person the service plans to refer to an employment position has been convicted of or pleaded guilty to an offense listed or described in division (A)(1), (2), or (3) of section 109.572 of the Revised Code, the request shall be treated as a single request and only one fee shall be charged.

(2) Except as otherwise provided in this division, a rule adopted under division (E)(1) of this section may provide only for the release of information gathered pursuant to division (A) of this section that relates to the conviction of a person, or a person's plea of guilty to, a criminal offense. The superintendent shall not release, and the attorney general shall not adopt

any rule under division (E)(1) of this section that permits the release of, any information gathered pursuant to division (A) of this section that relates to an adjudication of a child as a delinquent child, or that relates to a criminal conviction of a person under eighteen years of age if the person's case was transferred back to a juvenile court under division (B)(2) or (3) of section 2152.121 of the Revised Code and the juvenile court imposed a disposition or serious youthful offender disposition upon the person under either division, unless either of the following applies with respect to the adjudication or conviction:

(a) The adjudication or conviction was for a violation of section 2903.01 or 2903.02 of the Revised Code.

(b) The adjudication or conviction was for a sexually oriented offense, the juvenile court was required to classify the child a juvenile offender registrant for that offense under section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that classification has not been removed.

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

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

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

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

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

(3) The state board of education may request, with respect to any

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

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

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

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

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

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

In addition to or in conjunction with any request that is required to be made under section ~~173.394~~ 173.38 of the Revised Code with respect to an individual who has applied for employment in a direct-care position ~~that involves providing direct care to an individual~~, the chief administrator of a ~~community-based long-term care agency~~ provider, as defined in section 173.39 of the Revised Code, may request that the superintendent investigate and determine, with respect to any individual who has applied for employment in a position that ~~does~~ is not involve providing direct care a direct-care position, whether the bureau has any information gathered under division (A) of this section that pertains to that applicant.

In addition to or in conjunction with any request that is required to be made under section 3712.09 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to a pediatric respite care patient, the chief administrator of a pediatric respite care program may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing direct care to a pediatric respite care patient, whether the bureau has any information gathered under division (A) of this section that pertains to that individual.

On receipt of a request under this division, the superintendent shall determine whether that information exists and, on request of the individual requesting information, shall also request from the federal bureau of investigation any criminal records it has pertaining to the applicant. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, subject to division (E)(2) of this section, the superintendent shall send to the requester a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the requester a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

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

(J) As used in this section:

(1) "Pediatric respite care program" and "pediatric respite care patient" have the same meanings as in section 3712.01 of the Revised Code.

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

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

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

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

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses

listed in division (A)(1)(a) of this section;

(c) If the request is made pursuant to section 3319.39 of the Revised Code for an applicant who is a teacher, any offense specified in section 3319.31 of the Revised Code.

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

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

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

(3) On receipt of a request pursuant to section 173.27, ~~173.394~~ 173.38, 3701.881, ~~5111.032~~ 5164.34, ~~5111.033~~ 5164.341, ~~5111.034~~ 5164.342, 5123.081, or 5123.169 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check of the person for whom the request is made. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of, has pleaded guilty to, or (except in the case of a request pursuant to section 5164.34, 5164.341, or 5164.342 of the Revised Code) has been found eligible for intervention in

lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or (except in the case of a request pursuant to section 5164.34, 5164.341, or 5164.342 of the Revised Code) the date the person was found eligible for intervention in lieu of conviction:

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.12, 2921.13, 2921.21, 2921.24, 2921.32, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 2925.141, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;

(b) Felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(c) A violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996;

(d) A violation of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A)(3)(a) to (c) of this section;

(e) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in divisions (A)(3)(a) to (d) of this section.

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

subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, two or more OVI or OVUAC violations committed within the three years immediately preceding the submission of the application or petition that is the basis of the request, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

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

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

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 2919.22, 2919.24,

2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, a violation of section 2923.02 or 2923.03 of the Revised Code that relates to a crime specified in this division, or a second violation of section 4511.19 of the Revised Code within five years of the date of application for licensure or certification.

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

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

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

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses

listed in division (A)(6)(a) of this section.

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

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

(9) On receipt of a request for a criminal records check from the treasurer of state under section 113.041 of the Revised Code or from an individual under section 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061,

4741.10, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4776.021, ~~or 4779.091~~, or 4783.04 of the Revised Code, accompanied by a completed form prescribed under division (C)(1) of this section and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any criminal offense in this state or any other state. Subject to division (F) of this section, the superintendent shall send the results of a check requested under section 113.041 of the Revised Code to the treasurer of state and shall send the results of a check requested under any of the other listed sections to the licensing board specified by the individual in the request.

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

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

(12) On receipt of a request pursuant to section 2151.33 or 2151.412 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner

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

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

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(12)(a) of this section.

(B) Subject to division (F) of this section, the superintendent shall conduct any criminal records check to be conducted under this section as follows:

(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the criminal records check, including, if the criminal records check was requested under section 113.041, 121.08, 173.27, ~~173.394~~ 173.38, 1121.23, 1155.03, 1163.05, 1315.141, 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, ~~5111.032~~ 5164.34, ~~5111.033~~ 5164.341, ~~5111.034~~ 5164.342, 5123.081, 5123.169, or 5153.111 of the Revised Code, any relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 if the request is made pursuant to section

2151.86, 5104.012, or 5104.013 of the Revised Code or if any other Revised Code section requires fingerprint-based checks of that nature, and shall review or cause to be reviewed any information the superintendent receives from that bureau. If a request under section 3319.39 of the Revised Code asks only for information from the federal bureau of investigation, the superintendent shall not conduct the review prescribed by division (B)(1) of this section.

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

(4) The superintendent shall include in the results of the criminal records check a list or description of the offenses listed or described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), or (12) of this section, whichever division requires the superintendent to conduct the criminal records check. The superintendent shall exclude from the results any information the dissemination of which is prohibited by federal law.

(5) The superintendent shall send the results of the criminal records check to the person to whom it is to be sent not later than the following number of days after the date the superintendent receives the request for the criminal records check, the completed form prescribed under division (C)(1) of this section, and the set of fingerprint impressions obtained in the manner described in division (C)(2) of this section:

(a) If the superintendent is required by division (A) of this section (other than division (A)(3) of this section) to conduct the criminal records check, thirty;

(b) If the superintendent is required by division (A)(3) of this section to conduct the criminal records check, sixty.

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is to be conducted under this section. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is to be conducted under this section. Any person for whom a records check is to be conducted under this section shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint

impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check under this section. The person requesting the criminal records check shall pay the fee prescribed pursuant to this division. In the case of a request under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, 2151.33, 2151.412, or ~~5111.032~~ 5164.34 of the Revised Code, the fee shall be paid in the manner specified in that section.

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

(D) The results of a criminal records check conducted under this section, other than a criminal records check specified in division (A)(7) of this section, are valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent completes the criminal records check. If during that period the superintendent receives another request for a criminal records check to be conducted under this section for that person, the superintendent shall provide the results from the previous criminal records check of the person at a lower fee than the fee prescribed for the initial criminal records check.

(E) When the superintendent receives a request for information from a registered private provider, the superintendent shall proceed as if the request was received from a school district board of education under section 3319.39 of the Revised Code. The superintendent shall apply division (A)(1)(c) of this section to any such request for an applicant who is a teacher.

(F)(1) All information regarding the results of a criminal records check conducted under this section that the superintendent reports or sends under division (A)(7) or (9) of this section to the director of public safety, the treasurer of state, or the person, board, or entity that made the request for the criminal records check shall relate to the conviction of the subject person, or the subject person's plea of guilty to, a criminal offense.

(2) Division (F)(1) of this section does not limit, restrict, or preclude the superintendent's release of information that relates to an adjudication of a child as a delinquent child, or that relates to a criminal conviction of a

person under eighteen years of age if the person's case was transferred back to a juvenile court under division (B)(2) or (3) of section 2152.121 of the Revised Code and the juvenile court imposed a disposition or serious youthful offender disposition upon the person under either division, if either of the following applies with respect to the adjudication or conviction:

(a) The adjudication or conviction was for a violation of section 2903.01 or 2903.02 of the Revised Code.

(b) The adjudication or conviction was for a sexually oriented offense, as defined in section 2950.01 of the Revised Code, the juvenile court was required to classify the child a juvenile offender registrant for that offense under section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that classification has not been removed.

(G) As used in this section:

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

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

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

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

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

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

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

(A) "Peace officer" means:

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

(2) A police officer who is employed by a railroad company and appointed and commissioned by the secretary of state pursuant to sections 4973.17 to 4973.22 of the Revised Code;

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

(4) An undercover drug agent;

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

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

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

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

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

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

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

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

(13) A special police officer employed by the department of ~~mental health~~ mental health and addiction services pursuant to section ~~5119.14~~ 5119.08 of the Revised Code or the department of developmental disabilities pursuant to section 5123.13 of the Revised Code;

(14) A member of a campus police department appointed under section 1713.50 of the Revised Code;

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

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

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

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

(19) A special police officer employed by a municipal corporation who has been awarded a certificate by the executive director of the Ohio peace

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

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

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

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

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

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

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

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

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

Sec. 109.746. (A) The attorney general may prepare public awareness programs that are designed to educate potential victims of violations of section 2905.32 of the Revised Code and their families of the risks of becoming a victim of a violation of that section. The attorney general may prepare these programs with assistance from the department of health, the department of ~~mental health~~ mental health and addiction services, the department of job and family services, ~~the department of alcohol and drug addiction services~~, and the department of education.

(B) Any organization, person, or other governmental agency with an interest and expertise in trafficking in persons may submit information or materials to the attorney general regarding the preparation of the programs and materials permitted under this section. The attorney general, in developing the programs and materials permitted by this section, shall consider any information submitted pursuant to this division.

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

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

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

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

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

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

(e) A state university law enforcement officer;

(f) A special police officer employed by the department of ~~mental health~~ mental health and addiction services pursuant to section ~~5119.14~~ 5119.08 of

the Revised Code or the department of developmental disabilities pursuant to section 5123.13 of the Revised Code;

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

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

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

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

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

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

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

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

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

(e) A special police officer employed by the department of ~~mental health~~ mental health and addiction services pursuant to section ~~5119.14~~ 5119.08 of the Revised Code or the department of developmental disabilities pursuant to section 5123.13 of the Revised Code;

(f) An enforcement agent of the department of public safety whom the

director of public safety designates under section 5502.14 of the Revised Code;

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

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

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

(4) Division (B) of this section does not apply to any person serving on a permanent basis on March 28, 1985, as a park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the department of natural resources or as an employee of a park district under section 511.232 or 1545.13 of the Revised Code, to any person serving on a permanent basis on March 6, 1986, as an employee of a conservancy district

designated pursuant to section 6101.75 of the Revised Code, to any person serving on a permanent basis on January 10, 1991, as a preserve officer of the department of natural resources, to any person employed on a permanent basis on July 2, 1992, as a special police officer by the department of ~~mental health~~ mental health and addiction services pursuant to section ~~5119.14~~ 5119.08 of the Revised Code or by the department of developmental disabilities pursuant to section 5123.13 of the Revised Code, to any person serving on a permanent basis on May 17, 2000, as a special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, to any person serving on a permanent basis on March 19, 2003, as a special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in division (A)(19) of section 109.71 of the Revised Code, to any person serving on a permanent basis on June 19, 1978, as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who, immediately prior to June 19, 1978, was serving as a special police officer designated under authority of that section, or to any person serving on a permanent basis on September 20, 1984, as a liquor control investigator, known after June 30, 1999, as an enforcement agent of the department of public safety, engaged in the enforcement of Chapters 4301. and 4303. of the Revised Code.

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

(C) No person, after September 20, 1984, shall receive an original appointment on a permanent basis as a veterans' home police officer designated under section 5907.02 of the Revised Code unless the person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved police officer basic training program. Every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as a veterans' home police officer designated under section 5907.02 of the Revised Code shall forfeit that position unless the person previously has completed satisfactorily or, within

one year from the time of appointment, satisfactorily completes an approved police officer basic training program.

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

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

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

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

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

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

Upon receipt of the executive director's request, the bureau of criminal identification and investigation and the federal bureau of investigation shall conduct a criminal history records check on the person and, upon completion of the check, shall provide a copy of the criminal history records check to the executive director. The executive director shall not award any certificate prescribed in this section unless the executive director has received a copy of the criminal history records check on the person to whom

the certificate is to be awarded.

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

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

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

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

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

(2) The executive director of the commission shall suspend any certificate that has been awarded to a person as prescribed in this section if the person is convicted, after trial, of a felony committed on or after January 1, 1997. The executive director shall suspend the certificate pursuant to division (F)(2) of this section pending the outcome of an appeal by the person from that conviction to the highest court to which the appeal is taken or until the expiration of the period in which an appeal is required to be filed. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the executive director shall reinstate the certificate awarded to the person under this section. If the person files an appeal from that person's conviction of the felony and the conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the executive director shall revoke the certificate awarded to the person under this section.

(G)(1) If a person is awarded a certificate under this section and the certificate is revoked pursuant to division (E)(4) or (F) of this section, the

person shall not be eligible to receive, at any time, a certificate attesting to the person's satisfactory completion of a peace officer basic training program.

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

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

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

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

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

(K) This section does not apply to any member of the police department of a municipal corporation in an adjoining state serving in this state under a contract pursuant to section 737.04 of the Revised Code.

Sec. 109.85. (A) Upon the written request of the governor, the general assembly, the auditor of state, the medicaid director ~~of job and family~~

~~services~~, the director of health, or the director of budget and management, or upon the attorney general's becoming aware of criminal or improper activity related to Chapter 3721. and the ~~medical assistance~~ medicaid program ~~established under section 5111.01 of the Revised Code~~, the attorney general shall investigate any criminal or civil violation of law related to Chapter 3721. of the Revised Code or the ~~medical assistance~~ medicaid program.

(B) When it appears to the attorney general, as a result of an investigation under division (A) of this section, that there is cause to prosecute for the commission of a crime or to pursue a civil remedy, the attorney general may refer the evidence to the prosecuting attorney having jurisdiction of the matter, or to a regular grand jury drawn and impaneled pursuant to sections 2939.01 to 2939.24 of the Revised Code, or to a special grand jury drawn and impaneled pursuant to section 2939.17 of the Revised Code, or the attorney general may initiate and prosecute any necessary criminal or civil actions in any court or tribunal of competent jurisdiction in this state. When proceeding under this section, the attorney general, and any assistant or special counsel designated by the attorney general for that purpose, have all rights, privileges, and powers of prosecuting attorneys. The attorney general shall have exclusive supervision and control of all investigations and prosecutions initiated by the attorney general under this section. The forfeiture provisions of Chapter 2981. of the Revised Code apply in relation to any such criminal action initiated and prosecuted by the attorney general.

(C) Nothing in this section shall prevent a county prosecuting attorney from investigating and prosecuting criminal activity related to Chapter 3721. of the Revised Code and the ~~medical assistance~~ medicaid program ~~established under section 5111.01 of the Revised Code~~. The forfeiture provisions of Chapter 2981. of the Revised Code apply in relation to any prosecution of criminal activity related to the ~~medical assistance~~ medicaid program undertaken by the prosecuting attorney.

Sec. 109.86. (A) The attorney general shall investigate any activity the attorney general has reasonable cause to believe is in violation of section 2903.34 of the Revised Code. Upon written request of the governor, the general assembly, the auditor of state, or the director of health, job and family services, aging, ~~mental health~~ mental health and addiction services, or developmental disabilities, the attorney general shall investigate any activity these persons believe is in violation of section 2903.34 of the Revised Code. If after an investigation the attorney general has probable cause to prosecute for the commission of a crime, the attorney general shall refer the evidence to the prosecuting attorney, director of law, or other

similar chief legal officer having jurisdiction over the matter. If the prosecuting attorney decides to present the evidence to a grand jury, the prosecuting attorney shall notify the attorney general in writing of the decision within thirty days after referral of the matter and shall present the evidence prior to the discharge of the next regular grand jury. If the director of law or other chief legal officer decides to prosecute the case, the director or officer shall notify the attorney general in writing of the decision within thirty days and shall initiate prosecution within sixty days after the matter was referred to the director or officer.

(B) If the prosecuting attorney, director of law, or other chief legal officer fails to notify the attorney general or to present evidence or initiate prosecution in accordance with division (A) of this section, the attorney general may present the evidence to a regular grand jury drawn and impaneled pursuant to sections 2939.01 to 2939.24 of the Revised Code, or to a special grand jury drawn and impaneled pursuant to section 2939.17 of the Revised Code, or the attorney general may initiate and prosecute any action in any court or tribunal of competent jurisdiction in this state. The attorney general, and any assistant or special counsel designated by the attorney general, have all the powers of a prosecuting attorney, director of law, or other chief legal officer when proceeding under this section. Nothing in this section shall limit or prevent a prosecuting attorney, director of law, or other chief legal officer from investigating and prosecuting criminal activity committed against a resident or patient of a care facility.

Sec. 109.90. (A) The attorney general shall collaborate with the state board of pharmacy and director of ~~alcohol and drug addiction services~~ mental health and addiction services in the establishment and administration of a drug take-back program, as provided under section 4729.69 of the Revised Code. The office of the attorney general is solely responsible for the costs incurred in the establishment and administration of the program.

(B) The attorney general may accept grants, gifts, or donations for purposes of the program. Money received under this division or section ~~3793.22~~ 5119.49 or 4729.69 of the Revised Code shall be deposited into the state treasury to the credit of the drug take-back program fund, which is hereby created. Money credited to the fund shall be used solely for purposes of the program.

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

(B) There is hereby established the state victims assistance advisory council. The council shall consist of a chairperson, to be appointed by the attorney general, three ex officio members, and ~~fifteen~~ seventeen members

to be appointed by the attorney general as follows: one member who represents the Ohio victim-witness association; three members who represent local victim assistance programs, including one from a municipally operated program and one from a county-operated program; one member who represents the interests of elderly victims; one member who represents the interests of individuals with mental illness; one member who is a board member of any statewide or local organization that exists primarily to aid victims of domestic violence; or who is an employee of, or counselor for, such an organization; one member who is a board member of any statewide or local organization that exists primarily to aid victims of sexual violence or who is an employee of or a counselor for an organization that exists primarily to aid victims of sexual violence; one member who is an employee or officer of a county probation department or a probation department operated by the department of rehabilitation and correction; one member who is a county prosecuting attorney; one member who is a city law director; one member who is a county sheriff; one member who is a member or officer of a township or municipal police department; one member who is a court of common pleas judge; one member who is a municipal court judge or county court judge; and two members who are private citizens and are not government employees.

The council shall include the following ex officio, nonvoting members: the attorney general, one member of the senate to be designated by the president of the senate, and one member of the house of representatives to be designated by the speaker of the house.

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

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

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

(2) Review and recommend to the crime victims assistance office the

victim assistance programs that should be considered for the receipt of state financial assistance pursuant to section 109.92 of the Revised Code. The financial assistance allocation recommendations of the council shall be based on the following priorities:

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

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

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

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

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

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

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

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

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

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

Sec. 109.921. (A) As used in this section:

(1) "Rape crisis program" means any of the following:

(a) The nonprofit state sexual assault coalition designated by the center for injury prevention and control of the federal centers for disease control and prevention;

(b) A victim witness assistance program operated by a prosecuting attorney;

(c) A program operated by a government-based or nonprofit entity that provides a full continuum of services to victims of sexual assault, including hotlines, victim advocacy, and support services from the onset of the need

for services through the completion of healing, that does not provide medical services, and that may refer victims to physicians for medical care but does not engage in or refer for services for which the use of genetic services funds is prohibited by section 3701.511 of the Revised Code.

(2) "Sexual assault" means any of the following:

(a) A violation of section 2907.02, 2907.03, 2907.04, 2907.05, or former section 2907.12 of the Revised Code;

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

(B) There is hereby created in the state treasury the rape crisis program trust fund, consisting of money paid into the fund pursuant to sections 307.515 and 311.172 of the Revised Code and any money appropriated to the fund by the general assembly or donated to the fund. The attorney general shall administer the fund. The attorney general may use not more than five per cent of the money deposited or appropriated into the fund to pay costs associated with administering this section and shall use at least ninety-five per cent of the money deposited or appropriated into the fund for the purpose of providing funding to rape crisis programs under this section.

(C)(1) The attorney general shall adopt rules under Chapter 119. of the Revised Code that establish procedures for rape crisis programs to apply to the attorney general for funding out of the rape crisis program trust fund and procedures for the attorney general to distribute money out of the fund to rape crisis programs.

(2) The attorney general may decide upon an application for funding out of the rape crisis program trust fund without a hearing. A decision of the attorney general to grant or deny funding is final and not appealable under Chapter 119. or any other provision of the Revised Code.

(D) A rape crisis program that receives funding out of the rape crisis program trust fund shall use the money received only for the following purposes:

(1) If the program is the nonprofit state sexual assault coalition, to provide training and technical assistance to service providers;

(2) If the program is a victim witness assistance program, to provide victims of sexual assault with hotlines, victim advocacy, or support services;

(3) If the program is a government-based or nonprofit entity that provides a full continuum of services to victims of sexual assault, to provide those services and education to prevent sexual assault.

Sec. 111.02. Before entering upon the discharge of the duties of his office, the secretary of state shall give a bond to the state in the sum of one

hundred thousand dollars, with ~~two or more sureties approved by the governor, auditor of state, and attorney general~~ a surety authorized to do business in the state, conditioned for the faithful discharge of the duties of ~~his~~ the office of secretary of state. The bond, ~~with the approval of the proper officials and the oath of office indorsed thereon,~~ shall be deposited with and kept by the director of administrative services ~~and kept in his~~ the director's office.

Sec. 111.15. (A) As used in this section:

(1) "Rule" includes any rule, regulation, bylaw, or standard having a general and uniform operation adopted by an agency under the authority of the laws governing the agency; any appendix to a rule; and any internal management rule. "Rule" does not include any guideline adopted pursuant to section 3301.0714 of the Revised Code, any order respecting the duties of employees, any finding, any determination of a question of law or fact in a matter presented to an agency, or any rule promulgated pursuant to Chapter 119., section 4141.14, division (C)(1) or (2) of section 5117.02, or section 5703.14 of the Revised Code. "Rule" includes any amendment or rescission of a rule.

(2) "Agency" means any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

(3) "Internal management rule" means any rule, regulation, bylaw, or standard governing the day-to-day staff procedures and operations within an agency.

(4) "Substantive revision" has the same meaning as in division (J) of section 119.01 of the Revised Code.

(B)(1) Any rule, other than a rule of an emergency nature, adopted by any agency pursuant to this section shall be effective on the tenth day after the day on which the rule in final form and in compliance with division (B)(3) of this section is filed as follows:

(a) The rule shall be filed in electronic form with both the secretary of state and the director of the legislative service commission;

(b) The rule shall be filed in electronic form with the joint committee on agency rule review. Division (B)(1)(b) of this section does not apply to any rule to which division (D) of this section does not apply.

An agency that adopts or amends a rule that is subject to division (D) of this section shall assign a review date to the rule that is not later than five

years after its effective date. If no review date is assigned to a rule, or if a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its effective date. A rule with a review date is subject to review under section 119.032 of the Revised Code. This paragraph does not apply to a rule of a state college or university, community college district, technical college district, or state community college.

If all filings are not completed on the same day, the rule shall be effective on the tenth day after the day on which the latest filing is completed. If an agency in adopting a rule designates an effective date that is later than the effective date provided for by division (B)(1) of this section, the rule if filed as required by such division shall become effective on the later date designated by the agency.

Any rule that is required to be filed under division (B)(1) of this section is also subject to division (D) of this section if not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or (8) of this section.

If a rule incorporates a text or other material by reference, the agency shall comply with sections 121.71 to 121.76 of the Revised Code.

(2) A rule of an emergency nature necessary for the immediate preservation of the public peace, health, or safety shall state the reasons for the necessity. The emergency rule, in final form and in compliance with division (B)(3) of this section, shall be filed in electronic form with the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review. The emergency rule is effective immediately upon completion of the latest filing, except that if the agency in adopting the emergency rule designates an effective date, or date and time of day, that is later than the effective date and time provided for by division (B)(2) of this section, the emergency rule if filed as required by such division shall become effective at the later date, or later date and time of day, designated by the agency.

An emergency rule becomes invalid at the end of the ninetieth day it is in effect. Prior to that date, the agency may file the emergency rule as a nonemergency rule in compliance with division (B)(1) of this section. The agency may not refile the emergency rule in compliance with division (B)(2) of this section so that, upon the emergency rule becoming invalid under such division, the emergency rule will continue in effect without interruption for another ninety-day period.

(3) An agency shall file a rule under division (B)(1) or (2) of this section in compliance with the following standards and procedures:

(a) The rule shall be numbered in accordance with the numbering

system devised by the director for the Ohio administrative code.

(b) The rule shall be prepared and submitted in compliance with the rules of the legislative service commission.

(c) The rule shall clearly state the date on which it is to be effective and the date on which it will expire, if known.

(d) Each rule that amends or rescinds another rule shall clearly refer to the rule that is amended or rescinded. Each amendment shall fully restate the rule as amended.

If the director of the legislative service commission or the director's designee gives an agency notice pursuant to section 103.05 of the Revised Code that a rule filed by the agency is not in compliance with the rules of the legislative service commission, the agency shall within thirty days after receipt of the notice conform the rule to the rules of the commission as directed in the notice.

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) of this section shall be recorded by the secretary of state and the director under the title of the agency adopting the rule and shall be numbered according to the numbering system devised by the director. The secretary of state and the director shall preserve the rules in an accessible manner. Each such rule shall be a public record open to public inspection and may be transmitted to any law publishing company that wishes to reproduce it.

(D) At least sixty-five days before a board, commission, department, division, or bureau of the government of the state files a rule under division (B)(1) of this section, it shall file the full text of the proposed rule in electronic form with the joint committee on agency rule review, and the proposed rule is subject to legislative review and invalidation under division (I) of section 119.03 of the Revised Code. If a state board, commission, department, division, or bureau makes a substantive revision in a proposed rule after it is filed with the joint committee, the state board, commission, department, division, or bureau shall promptly file the full text of the proposed rule in its revised form in electronic form with the joint committee. The latest version of a proposed rule as filed with the joint committee supersedes each earlier version of the text of the same proposed rule. ~~Except as provided in division (F) of this section, a~~ A state board, commission, department, division, or bureau shall also file the rule summary and fiscal analysis prepared under section 127.18 of the Revised Code in electronic form along with a proposed rule, and along with a proposed rule in revised form, that is filed under this division. If a proposed rule has an adverse impact on businesses, the state board, commission, department, division, or bureau also shall file the business impact analysis, any recommendations

received from the common sense initiative office, and the associated memorandum of response, if any, in electronic form along with the proposed rule, or the proposed rule in revised form, that is filed under this division.

As used in this division, "commission" includes the public utilities commission when adopting rules under a federal or state statute.

This division does not apply to any of the following:

- (1) A proposed rule of an emergency nature;
- (2) A rule proposed under section 1121.05, 1121.06, 1155.18, 1163.22, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised Code;
- (3) A rule proposed by an agency other than a board, commission, department, division, or bureau of the government of the state;
- (4) A proposed internal management rule of a board, commission, department, division, or bureau of the government of the state;
- (5) Any proposed rule that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a federally reimbursed program in this state, so long as the proposed rule contains both of the following:
 - (a) A statement that it is proposed for the purpose of complying with a federal law or rule;
 - (b) A citation to the federal law or rule that requires verbatim compliance.
- (6) An initial rule proposed by the director of health to impose safety standards and quality-of-care standards with respect to a health service specified in section 3702.11 of the Revised Code, or an initial rule proposed by the director to impose quality standards on a facility listed in division (A)(4) of section 3702.30 of the Revised Code, if section 3702.12 of the Revised Code requires that the rule be adopted under this section;
- (7) A rule of the state lottery commission pertaining to instant game rules.

If a rule is exempt from legislative review under division (D)(5) of this section, and if the federal law or rule pursuant to which the rule was adopted expires, is repealed or rescinded, or otherwise terminates, the rule is thereafter subject to legislative review under division (D) of this section.

(E) Whenever a state board, commission, department, division, or bureau files a proposed rule or a proposed rule in revised form under division (D) of this section, it shall also file the full text of the same proposed rule or proposed rule in revised form in electronic form with the secretary of state and the director of the legislative service commission.

~~Except as provided in division (F) of this section,~~ a A state board, commission, department, division, or bureau shall file the rule summary and fiscal analysis prepared under section 127.18 of the Revised Code in electronic form along with a proposed rule or proposed rule in revised form that is filed with the secretary of state or the director of the legislative service commission.

~~(F) Except as otherwise provided in this division, the auditor of state or the auditor of state's designee is not required to file a rule summary and fiscal analysis along with a proposed rule, or proposed rule in revised form, that the auditor of state proposes under section 117.12, 117.19, 117.38, or 117.43 of the Revised Code and files under division (D) or (E) of this section.~~

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

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

(C) There is hereby created in the state treasury the miscellaneous federal grants fund. All moneys the secretary of state receives as grants from federal sources that are not otherwise designated shall be credited to the fund. The secretary of state shall use the moneys credited to the fund for the purposes and activities required by the applicable federal grant agreements. All investment earnings of the fund shall be credited to the fund.

Sec. 113.02. Before entering upon the discharge of the duties of his office, the treasurer of state shall give a bond to the state in the sum of one million dollars, with ~~sureties approved by the governor~~ a surety authorized to do business in the state, conditioned for the faithful discharge of the duties of his the office of treasurer of state. The bond, ~~with the approval of the governor and the oath of office endorsed thereon,~~ shall be deposited with and kept by the secretary of state and kept in his the secretary of state's

office.

Sec. 113.061. The treasurer of state shall adopt rules in accordance with Chapter 119. of the Revised Code governing the remittance of taxes by electronic funds transfer as required under sections 3769.103, 5726.03, 5727.311, 5727.83, 5733.022, 5735.062, 5736.04, 5739.032, 5745.04, and 5747.072, 5749.06, and 5751.07 of the Revised Code and any other section of the Revised Code under which a person is required to remit taxes by electronic funds transfer. The rules shall govern the modes of electronic funds transfer acceptable to the treasurer of state and under what circumstances each mode is acceptable, the content and format of electronic funds transfers, the coordination of payment by electronic funds transfer and filing of associated tax reports and returns, the remittance of taxes by means other than electronic funds transfer by persons otherwise required to do so but relieved of the requirement by the treasurer of state, and any other matter that in the opinion of the treasurer of state facilitates payment by electronic funds transfer in a manner consistent with those sections.

Upon failure by a person, if so required, to remit taxes by electronic funds transfer in the manner prescribed under section 3769.103, 5726.03, 5727.83, 5733.022, 5735.062, 5736.04, 5739.032, 5745.04, or 5747.072, 5749.06, or 5751.07 of the Revised Code and rules adopted under this section, the treasurer of state shall notify the tax commissioner of such failure if the treasurer of state determines that such failure was not due to reasonable cause or was due to willful neglect, and shall provide the tax commissioner with any information used in making that determination. The tax commissioner may assess an additional charge as specified in the respective section of the Revised Code governing the requirement to remit taxes by electronic funds transfer.

The treasurer of state may implement means of acknowledging, upon the request of a taxpayer, receipt of tax remittances made by electronic funds transfer, and may adopt rules governing acknowledgments. The cost of acknowledging receipt of electronic remittances shall be paid by the person requesting acknowledgment.

The treasurer of state, not the tax commissioner, is responsible for resolving any problems involving electronic funds transfer transmissions.

Sec. 117.03. Before entering upon the discharge of the duties of ~~his~~ office, the auditor of state shall give a bond to the state in the sum of twenty thousand dollars, with a surety ~~approved by the governor~~ authorized to do business in the state, conditioned for the faithful discharge of the duties of ~~his~~ the office of auditor of state. The bond, ~~with the approval of the governor~~ and the oath of office ~~endorsed thereon~~, shall be deposited with

and kept by the secretary of state and kept in ~~his~~ the secretary of state's office.

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

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

The auditor of state may audit the accounts of any medicaid provider, as defined in section ~~5114.06~~ 5164.01 of the Revised Code.

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

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

Sec. 117.20. (A) In adopting rules pursuant to Chapter 117. of the Revised Code, the auditor of state or the auditor of state's designee shall do both of the following:

(1) Before adopting any such rule, except a rule of an emergency nature, do each of the following:

(a) At least thirty-five days before any public hearing on the proposed rule-making action, mail or send by electronic mail notice of the hearing to each public office and to each statewide organization that the auditor of state or designee determines will be affected or represents persons who will be affected by the proposed rule-making action;

(b) Mail or send by electronic mail a copy of the proposed rule to any person or organization that requests a copy within five days after receipt of the request;

(c) Consult with appropriate state and local government agencies, or with persons representative of their interests, including statewide organizations of local government officials, and consult with accounting professionals and other interested persons;

(d) Conduct, on the date and at the time and place designated in the notice, a public hearing at which any person affected by the proposed rule, including statewide organizations of local government officials, may appear and be heard in person, by attorney, or both, and may present the person's or organization's position or contentions orally or in writing.

~~(2) Except as otherwise provided in division (A)(2) of this section, comply~~ Comply with divisions (B) to (E) of section 111.15 of the Revised Code. ~~The auditor of state is not required to file a rule summary and fiscal analysis along with any copy of a proposed rule, or proposed rule in revised form, that is filed with the joint committee on agency rule review, the secretary of state, or the director of the legislative service commission under division (D) or (E) of section 111.15 of the Revised Code.~~

(B) The auditor of state shall diligently discharge the duties imposed by divisions (A)(1)(a), (b), and (c) of this section, but failure to mail or send by electronic mail any notice or copy of a proposed rule, or to consult with any person or organization, shall not invalidate any rule.

(C) Notwithstanding any contrary provision of the Revised Code, the auditor of state may prepare and disseminate, to public offices and other interested persons and organizations, advisory bulletins, directives, and instructions relating to accounting and financial reporting systems, budgeting procedures, fiscal controls, and the constructions by the auditor of state of constitutional and statutory provisions, court decisions, and opinions of the attorney general. The bulletins, directives, and instructions shall be of an advisory nature only.

(D) As used in this section, "rule" includes the adoption, amendment, or rescission of a rule.

Sec. 119.01. As used in sections 119.01 to 119.13 of the Revised Code:

(A)(1) "Agency" means, except as limited by this division, any official, board, or commission having authority to promulgate rules or make adjudications in the civil service commission, the division of liquor control, the department of taxation, the industrial commission, the bureau of workers' compensation, the functions of any administrative or executive officer, department, division, bureau, board, or commission of the government of the state specifically made subject to sections 119.01 to 119.13 of the Revised Code, and the licensing functions of any administrative or executive officer, department, division, bureau, board, or commission of the government of the state having the authority or responsibility of issuing, suspending, revoking, or canceling licenses.

Except as otherwise provided in division (I) of this section, sections 119.01 to 119.13 of the Revised Code do not apply to the public utilities

commission. Sections 119.01 to 119.13 of the Revised Code do not apply to the utility radiological safety board; to the controlling board; to actions of the superintendent of financial institutions and the superintendent of insurance in the taking possession of, and rehabilitation or liquidation of, the business and property of banks, savings and loan associations, savings banks, credit unions, insurance companies, associations, reciprocal fraternal benefit societies, and bond investment companies; to any action taken by the division of securities under section 1707.201 of the Revised Code; or to any action that may be taken by the superintendent of financial institutions under section 1113.03, 1121.06, 1121.10, 1125.09, 1125.12, 1125.18, 1157.09, 1157.12, 1157.18, 1165.09, 1165.12, 1165.18, 1349.33, 1733.35, 1733.361, 1733.37, or 1761.03 of the Revised Code.

Sections 119.01 to 119.13 of the Revised Code do not apply to actions of the industrial commission or the bureau of workers' compensation under sections 4123.01 to 4123.94 of the Revised Code with respect to all matters of adjudication, or to the actions of the industrial commission, bureau of workers' compensation board of directors, and bureau of workers' compensation under division (D) of section 4121.32, sections 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, 4123.442, 4127.07, divisions (B), (C), and (E) of section 4131.04, and divisions (B), (C), and (E) of section 4131.14 of the Revised Code with respect to all matters concerning the establishment of premium, contribution, and assessment rates.

(2) "Agency" also means any official or work unit having authority to promulgate rules or make adjudications in the department of job and family services, but only with respect to both of the following:

(a) The adoption, amendment, or rescission of rules that section 5101.09 of the Revised Code requires be adopted in accordance with this chapter;

(b) The issuance, suspension, revocation, or cancellation of licenses.

(B) "License" means any license, permit, certificate, commission, or charter issued by any agency. "License" does not include any arrangement whereby a person, ~~institution,~~ or government entity furnishes medicaid services under a provider agreement with the department of ~~job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended~~ medicaid.

(C) "Rule" means any rule, regulation, or standard, having a general and uniform operation, adopted, promulgated, and enforced by any agency under the authority of the laws governing such agency, and includes any appendix to a rule. "Rule" does not include any internal management rule of an agency unless the internal management rule affects private rights and does

not include any guideline adopted pursuant to section 3301.0714 of the Revised Code.

(D) "Adjudication" means the determination by the highest or ultimate authority of an agency of the rights, duties, privileges, benefits, or legal relationships of a specified person, but does not include the issuance of a license in response to an application with respect to which no question is raised, nor other acts of a ministerial nature.

(E) "Hearing" means a public hearing by any agency in compliance with procedural safeguards afforded by sections 119.01 to 119.13 of the Revised Code.

(F) "Person" means a person, firm, corporation, association, or partnership.

(G) "Party" means the person whose interests are the subject of an adjudication by an agency.

(H) "Appeal" means the procedure by which a person, aggrieved by a finding, decision, order, or adjudication of any agency, invokes the jurisdiction of a court.

(I) "Rule-making agency" means any board, commission, department, division, or bureau of the government of the state that is required to file proposed rules, amendments, or rescissions under division (D) of section 111.15 of the Revised Code and any agency that is required to file proposed rules, amendments, or rescissions under divisions (B) and (H) of section 119.03 of the Revised Code. "Rule-making agency" includes the public utilities commission. "Rule-making agency" does not include any state-supported college or university.

(J) "Substantive revision" means any addition to, elimination from, or other change in a rule, an amendment of a rule, or a rescission of a rule, whether of a substantive or procedural nature, that changes any of the following:

(1) That which the rule, amendment, or rescission permits, authorizes, regulates, requires, prohibits, penalizes, rewards, or otherwise affects;

(2) The scope or application of the rule, amendment, or rescission.

(K) "Internal management rule" means any rule, regulation, or standard governing the day-to-day staff procedures and operations within an agency.

Sec. 120.06. (A)(1) The state public defender, when designated by the court or requested by a county public defender or joint county public defender, may provide legal representation in all courts throughout the state to indigent adults and juveniles who are charged with the commission of an offense or act for which the penalty or any possible adjudication includes the potential loss of liberty.

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

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

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

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

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

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

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

(D)(1) When the state public defender is designated by the court or requested by a county public defender or joint county public defender to provide legal representation for an indigent person in any case, other than pursuant to a contract entered into under authority of division (C)(7) of

section 120.04 of the Revised Code, the state public defender shall send to the county in which the case is filed a bill detailing the actual cost of the representation that separately itemizes legal fees and expenses. The county, upon receipt of an itemized bill from the state public defender pursuant to this division, shall pay the state public defender each of the following amounts:

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

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

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

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

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

(E)(1) Notwithstanding any contrary provision of sections 109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code that pertains to representation by the attorney general, an assistant attorney general, or

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

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

(i) The private legal counsel shall file with the attorney general a copy of the contract; a request for an award of legal fees, court costs, and expenses earned or incurred in connection with the defense of the Ohio public defender commission, the state public defender, an assistant state public defender, an employee, or an attorney in a specified civil action or proceeding; a written itemization of those fees, costs, and expenses, including the signature of the state public defender and the state public defender's attestation that the fees, costs, and expenses were earned or incurred pursuant to division (E)(1) of this section to the best of the state public defender's knowledge and information; a written statement whether

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

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

(iii) The attorney general shall forward a copy of the document prepared pursuant to division (E)(2)(a)(ii) of this section to the director of budget and management. The award of legal fees, court costs, or expenses shall be paid out of the state public defender's appropriations, to the extent there is a sufficient available balance in those appropriations. If the state public defender does not have a sufficient available balance in the state public defender's appropriations to pay the entire award of legal fees, court costs, or expenses, the director shall make application for a transfer of appropriations out of the emergency purposes account or any other appropriation for emergencies or contingencies in an amount equal to the portion of the award that exceeds the sufficient available balance in the state

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

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

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

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

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

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

division (E)(2)(b) of this section, the attorney general shall notify the private legal counsel in writing of the denial and of the limitation applied.

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

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

(G)(1) The state public defender may conduct a legal assistance referral service for children committed to the department of youth services relative to conditions of confinement claims. If the legal assistance referral service receives a request for assistance from a child confined in a facility operated, or contracted for, by the department of youth services and the state public defender determines that the child has a conditions of confinement claim that has merit, the state public defender may refer the child to a private attorney. If no private attorney who the child has been referred to by the state public defender accepts the case within a reasonable time, the state public defender may prepare, as appropriate, pro se pleadings in the form of a complaint regarding the conditions of confinement at the facility where the child is confined with a motion for appointment of counsel and other

applicable pleadings necessary for sufficient pro se representation.

(2) Division (G)(1) of this section does not authorize the state public defender to represent a child committed to the department of youth services in general civil matters arising solely out of state law.

(3) The state public defender shall not undertake the representation of a child in court based on a conditions of confinement claim arising under this division.

(H) A child's right to representation or services under this section is not affected by the child, or another person on behalf of the child, previously having paid for similar representation or services or having waived legal representation.

(I) The state public defender shall have reasonable access to any child committed to the department of youth services, department of youth services institution, and department of youth services record as needed to implement this section.

(J) As used in this section:

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

(2) "Conditions of confinement" means any issue involving a constitutional right or other civil right related to a child's incarceration, including, but not limited to, actions cognizable under 42 U.S.C. 1983.

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

Sec. 121.02. The following administrative departments and their respective directors are hereby created:

(A) The office of budget and management, which shall be administered by the director of budget and management;

(B) The department of commerce, which shall be administered by the director of commerce;

(C) The department of administrative services, which shall be administered by the director of administrative services;

(D) The department of transportation, which shall be administered by the director of transportation;

(E) The department of agriculture, which shall be administered by the director of agriculture;

(F) The department of natural resources, which shall be administered by the director of natural resources;

(G) The department of health, which shall be administered by the director of health;

(H) The department of job and family services, which shall be

administered by the director of job and family services;

(I) Until July 1, 1997, the department of liquor control, which shall be administered by the director of liquor control;

(J) The department of public safety, which shall be administered by the director of public safety;

(K) The department of ~~mental health~~ mental health and addiction services, which shall be administered by the director of ~~mental health~~ mental health and addiction services;

(L) The department of developmental disabilities, which shall be administered by the director of developmental disabilities;

(M) The department of insurance, which shall be administered by the superintendent of insurance as director thereof;

(N) The development services agency, which shall be administered by the director of development services;

(O) The department of youth services, which shall be administered by the director of youth services;

(P) The department of rehabilitation and correction, which shall be administered by the director of rehabilitation and correction;

(Q) The environmental protection agency, which shall be administered by the director of environmental protection;

(R) The department of aging, which shall be administered by the director of aging;

(S) ~~The department of alcohol and drug addiction services, which shall be administered by the director of alcohol and drug addiction services;~~

(~~T~~) The department of veterans services, which shall be administered by the director of veterans services;

(T) The department of medicaid, which shall be administered by the medicaid director.

The director of each department shall exercise the powers and perform the duties vested by law in such department.

Sec. 121.03. The following administrative department heads shall be appointed by the governor, with the advice and consent of the senate, and shall hold their offices during the term of the appointing governor, and are subject to removal at the pleasure of the governor.

(A) The director of budget and management;

(B) The director of commerce;

(C) The director of transportation;

(D) The director of agriculture;

(E) The director of job and family services;

(F) Until July 1, 1997, the director of liquor control;

- (G) The director of public safety;
- (H) The superintendent of insurance;
- (I) The director of development services;
- (J) The tax commissioner;
- (K) The director of administrative services;
- (L) The director of natural resources;
- (M) The director of ~~mental health~~ mental health and addiction services;
- (N) The director of developmental disabilities;
- (O) The director of health;
- (P) The director of youth services;
- (Q) The director of rehabilitation and correction;
- (R) The director of environmental protection;
- (S) The director of aging;
- (T) ~~The director of alcohol and drug addiction services~~;
- (~~U~~) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code;
- (~~V~~)(U) The director of veterans services who meets the qualifications required under section 5902.01 of the Revised Code;
- (~~W~~)(V) The chancellor of the Ohio board of regents;
- (W) The medicaid director.

Sec. 121.22. (A) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.

(B) As used in this section:

(1) "Public body" means any of the following:

(a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;

(b) Any committee or subcommittee of a body described in division (B)(1)(a) of this section;

(c) A court of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or reappointment of a member of the board of directors of such a district pursuant to section 6115.10 of the Revised Code, if applicable, or for any

other matter related to such a district other than litigation involving the district. As used in division (B)(1)(c) of this section, "court of jurisdiction" has the same meaning as "court" in section 6115.01 of the Revised Code.

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.

(3) "Regulated individual" means either of the following:

(a) A student in a state or local public educational institution;

(b) A person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or retardation, disease, disability, age, or other condition requiring custodial care.

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

(C) All meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

The minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions authorized under division (G) or (J) of this section.

(D) This section does not apply to any of the following:

(1) A grand jury;

(2) An audit conference conducted by the auditor of state or independent certified public accountants with officials of the public office that is the subject of the audit;

(3) The adult parole authority when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine parole or pardon;

(4) The organized crime investigations commission established under section 177.01 of the Revised Code;

(5) Meetings of a child fatality review board established under section 307.621 of the Revised Code and meetings conducted pursuant to sections 5153.171 to 5153.173 of the Revised Code;

(6) The state medical board when determining whether to suspend a certificate without a prior hearing pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code;

(7) The board of nursing when determining whether to suspend a license

or certificate without a prior hearing pursuant to division (B) of section 4723.281 of the Revised Code;

(8) The state board of pharmacy when determining whether to suspend a license without a prior hearing pursuant to division (D) of section 4729.16 of the Revised Code;

(9) The state chiropractic board when determining whether to suspend a license without a hearing pursuant to section 4734.37 of the Revised Code;

(10) The executive committee of the emergency response commission when determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce Chapter 3750. of the Revised Code;

(11) The board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code or any committee thereof, and the board of directors of any subsidiary of that corporation or a committee thereof;

(12) An audit conference conducted by the audit staff of the department of job and family services with officials of the public office that is the subject of that audit under section 5101.37 of the Revised Code;

(13) The occupational therapy section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license or limited permit without a hearing pursuant to division (D) of section 4755.11 of the Revised Code;

(14) The physical therapy section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license without a hearing pursuant to division (E) of section 4755.47 of the Revised Code;

(15) The athletic trainers section of the occupational therapy, physical therapy, and athletic trainers board when determining whether to suspend a license without a hearing pursuant to division (D) of section 4755.64 of the Revised Code.

(E) The controlling board, ~~the industrial technology and enterprise advisory council~~, the tax credit authority, or the minority development financing advisory board, when meeting to consider granting assistance pursuant to Chapter 122. or 166. of the Revised Code, in order to protect the interest of the applicant or the possible investment of public funds, by unanimous vote of all board, ~~council~~, or authority members present, may close the meeting during consideration of the following information confidentially received by the authority, ~~council~~, or board from the applicant:

- (1) Marketing plans;
- (2) Specific business strategy;

(3) Production techniques and trade secrets;

(4) Financial projections;

(5) Personal financial statements of the applicant or members of the applicant's immediate family, including, but not limited to, tax records or other similar information not open to public inspection.

The vote by the authority, ~~council~~, or board to accept or reject the application, as well as all proceedings of the authority, ~~council~~, or board not subject to this division, shall be open to the public and governed by this section.

(F) Every public body, by rule, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.

The rule shall provide that any person, upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notification may include, but are not limited to, mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

(G) Except as provided in ~~division~~ divisions (G)(8) and (J) of this section, the members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes

listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers.

If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

(3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action;

(4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(5) Matters required to be kept confidential by federal law or regulations or state statutes;

(6) Details relative to the security arrangements and emergency response protocols for a public body or a public office, if disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office;

(7) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code, a joint township hospital operated pursuant to Chapter 513. of the Revised Code, or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, to consider trade secrets, as defined in section 1333.61 of the Revised Code;

(8) To consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal

financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply:

(1) The information is directly related to a request for economic development assistance that is to be provided or administered under any provision of Chapter 715., 725., 1724., or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project.

(2) A unanimous quorum of the public body determines, by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to ~~(7)~~(8) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.

A public body specified in division (B)(1)(c) of this section shall not hold an executive session when meeting for the purposes specified in that division.

(H) A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the public body that adopted the resolution, rule, or formal action violated division (F) of this section.

(I)(1) Any person may bring an action to enforce this section. An action under division (I)(1) of this section shall be brought within two years after the date of the alleged violation or threatened violation. Upon proof of a violation or threatened violation of this section in an action brought by any person, the court of common pleas shall issue an injunction to compel the members of the public body to comply with its provisions.

(2)(a) If the court of common pleas issues an injunction pursuant to division (I)(1) of this section, the court shall order the public body that it

enjoins to pay a civil forfeiture of five hundred dollars to the party that sought the injunction and shall award to that party all court costs and, subject to reduction as described in division (I)(2) of this section, reasonable attorney's fees. The court, in its discretion, may reduce an award of attorney's fees to the party that sought the injunction or not award attorney's fees to that party if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of violation or threatened violation that was the basis of the injunction, a well-informed public body reasonably would believe that the public body was not violating or threatening to violate this section;

(ii) That a well-informed public body reasonably would believe that the conduct or threatened conduct that was the basis of the injunction would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(b) If the court of common pleas does not issue an injunction pursuant to division (I)(1) of this section and the court determines at that time that the bringing of the action was frivolous conduct, as defined in division (A) of section 2323.51 of the Revised Code, the court shall award to the public body all court costs and reasonable attorney's fees, as determined by the court.

(3) Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(4) A member of a public body who knowingly violates an injunction issued pursuant to division (I)(1) of this section may be removed from office by an action brought in the court of common pleas for that purpose by the prosecuting attorney or the attorney general.

(J)(1) Pursuant to division (C) of section 5901.09 of the Revised Code, a veterans service commission shall hold an executive session for one or more of the following purposes unless an applicant requests a public hearing:

(a) Interviewing an applicant for financial assistance under sections 5901.01 to 5901.15 of the Revised Code;

(b) Discussing applications, statements, and other documents described in division (B) of section 5901.09 of the Revised Code;

(c) Reviewing matters relating to an applicant's request for financial assistance under sections 5901.01 to 5901.15 of the Revised Code.

(2) A veterans service commission shall not exclude an applicant for, recipient of, or former recipient of financial assistance under sections 5901.01 to 5901.15 of the Revised Code, and shall not exclude representatives selected by the applicant, recipient, or former recipient, from

a meeting that the commission conducts as an executive session that pertains to the applicant's, recipient's, or former recipient's application for financial assistance.

(3) A veterans service commission shall vote on the grant or denial of financial assistance under sections 5901.01 to 5901.15 of the Revised Code only in an open meeting of the commission. The minutes of the meeting shall indicate the name, address, and occupation of the applicant, whether the assistance was granted or denied, the amount of the assistance if assistance is granted, and the votes for and against the granting of assistance.

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

- (1) The department of aging;
- (2) ~~The department of alcohol and drug addiction services;~~
- (3) ~~The department of development services agency;~~
- (4)(3) The department of developmental disabilities;
- (5)(4) The department of education;
- (6)(5) The department of health;
- (7)(6) The department of job and family services;
- (8)(7) ~~The department of medicaid;~~
- (8) The department of ~~mental health~~ mental health and addiction services;
- (9) The ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency.

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

Sec. 121.37. (A)(1) There is hereby created the Ohio family and children first cabinet council. The council shall be composed of the superintendent of public instruction, the ~~administrator~~ executive director of the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency, the medicaid director, and the directors of youth services, job and family services, ~~mental health~~ mental health and addiction services, health, ~~alcohol and drug addiction services~~, developmental disabilities, aging, rehabilitation and correction, and budget and management. The chairperson of the council shall be the governor or the

governor's designee and shall establish procedures for the council's internal control and management.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Monitoring and supervision of a statewide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of health for early intervention services under the "Individuals with Disabilities Education Act of 2004," 118 Stat. 2744, 20 U.S.C.A. 1400, as amended.

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

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

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

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

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

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

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

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

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

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

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

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

(f) The superintendent of the county board of developmental disabilities or, if the superintendent serves as superintendent of more than one county board of developmental disabilities, the superintendent's designee;

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

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

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

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

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

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

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

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

Notwithstanding any other provision of law, the public members of a county council are not prohibited from serving on the council and making

decisions regarding the duties of the council, including those involving the funding of joint projects and those outlined in the county's service coordination mechanism implemented pursuant to division (C) of this section.

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

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

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

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

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

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

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

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

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

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

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

(c) An annual plan that identifies the county's interagency efforts to increase child well-being in the county.

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

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

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

(5)(a) Each county council shall designate an administrative agent for the council from among the following public entities: the board of alcohol, drug addiction, and mental health services, including a board of alcohol and drug addiction or a community mental health board if the county is served by separate boards; the board of county commissioners; any board of health of the county's city and general health districts; the county department of job and family services; the county agency responsible for the administration of children services pursuant to section 5153.15 of the Revised Code; the

county board of developmental disabilities; any of the county's boards of education or governing boards of educational service centers; or the county's juvenile court. Any of the foregoing public entities, other than the board of county commissioners, may decline to serve as the council's administrative agent.

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

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

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

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

Revised Code from the competitive bidding requirements of section 307.86 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

Each mechanism shall include all of the following:

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

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

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

(4) A procedure for ensuring that a family service coordination plan meeting is conducted for each child who receives service coordination under the mechanism and for whom an emergency out-of-home placement has been made or for whom a nonemergency out-of-home placement is being considered. The meeting shall be conducted within ten days of an emergency out-of-home placement. The meeting shall be conducted before a nonemergency out-of-home placement. The family service coordination plan shall outline how the county council members will jointly pay for services, where applicable, and provide services in the least restrictive environment.

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

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

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

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

(9) A local dispute resolution process to serve as the process that must be used first to resolve disputes among the agencies represented on the county council concerning the provision of services to children, including children who are abused, neglected, dependent, unruly, alleged unruly, or delinquent children and under the jurisdiction of the juvenile court and children whose parents or custodians are voluntarily seeking services. The local dispute resolution process shall comply with sections 121.38, 121.381, and 121.382 of the Revised Code. The local dispute resolution process shall be used to resolve disputes between a child's parents or custodians and the county council regarding service coordination. The county council shall

inform the parents or custodians of their right to use the dispute resolution process. Parents or custodians shall use existing local agency grievance procedures to address disputes not involving service coordination. The dispute resolution process is in addition to and does not replace other rights or procedures that parents or custodians may have under other sections of the Revised Code.

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

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

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

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

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

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

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

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

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

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

(a) Designation of the person or agency to conduct the assessment of the

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 121.372. (A) As used in this section, "substitute care provider" means any of the following:

(1) ~~An alcohol and drug~~ A community addiction program services provider subject to certification under section ~~3793.06~~ 5119.36 of the Revised Code;

(2) An institution or association subject to certification under section 5103.03 of the Revised Code;

(3) A residential facility subject to licensure under section ~~5119.22~~ 5119.34 of the Revised Code;

(4) A residential facility subject to licensure under section 5123.19 of the Revised Code.

(B) Not later than ninety days after ~~the effective date of this section~~ March 18, 1999, the members of the Ohio family and children first cabinet council, other than the director of budget and management, shall enter into an agreement to establish an office to perform the duties prescribed by division (C) of this section. The agreement shall specify one of the departments represented on the council as the department responsible for housing and supervising the office. The agreement shall include the recommendation of the council for funding the office.

(C) The office established pursuant to the agreement entered into under this section shall review rules governing the certification and licensure of substitute care providers and determine which of the rules can be made substantively identical or more similar in order to minimize the number of differing certification and licensure standards and simplify the certification or licensure process for substitute care providers seeking certification or licensure from two or more of the departments represented on the council. The office shall provide county family and children first councils, substitute care providers, and persons interested in substitute care providers the opportunity to help the office with the review and determination. The office shall report its findings to the council. Each of the departments represented on the council that has adopted rules governing the certification or licensure of substitute care providers shall review the report and amend the rules as that department considers appropriate, except that no rule shall be amended so as to make it inconsistent with substitute care provider certification or licensure procedures and standards established by federal or state law. A department shall give priority to amendments that will not increase the department's administrative costs. In amending a rule, a department shall comply with Chapter 119. or section 111.15 of the Revised Code, as required by the Revised Code section governing the adoption of the particular rule.

(D) In accordance with section 124.27 of the Revised Code, the council shall select a coordinator to oversee the office established pursuant to the agreement entered into under this section. The coordinator shall be in the classified service. In addition to overseeing the office, the coordinator shall perform any other duties the council assigns to the coordinator. The duties

the council assigns to the coordinator shall be related to the duties of the office under division (C) of this section.

Sec. 121.483. A deputy inspector general appointed under section 121.48 of the Revised Code, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, or municipal peace officer basic training program, shall, during the term of the deputy inspector general's appointment, be considered a peace officer for the purpose of maintaining a current and valid basic training certificate pursuant to rules adopted under section 109.74 of the Revised Code.

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

(1) "Alternative fuel" has the same meaning as in section 125.831 of the Revised Code.

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

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

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

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

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

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

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

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

(B) For the purpose of improving the air quality in this state, the director of development services shall establish an alternative fuel transportation program under which the director may make grants and loans to businesses, nonprofit organizations, public school systems, or local governments for the purchase and installation of alternative fuel refueling or distribution facilities and terminals, for the purchase and use of alternative fuel, to pay the cost of fleet conversion, and to pay the costs of educational and

promotional materials and activities intended for prospective alternative fuel consumers, fuel marketers, and others in order to increase the availability and use of alternative fuel.

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

(1) An application form and procedures governing the application process for receiving funds under the program;

(2) A procedure for prioritizing the award of grants and loans under the program. The procedures shall give preference to all of the following:

(a) Publicly accessible refueling facilities;

(b) Entities applying to the program that have secured funding from other sources, including, but not limited to, private or federal incentives;

(c) Entities that have presented compelling evidence of demand in the market in which the facilities or terminals will be located;

(d) Entities that have committed to utilizing purchased or installed facilities or terminals for the greatest number of years;

(e) Entities that will be purchasing or installing facilities or terminals for any type of alternative fuel.

(3) A requirement that the maximum incentive for the purchase and installation of an alternative fuel refueling or distribution facility or terminal be eighty per cent of the cost of the facility or terminal, except that at least twenty per cent of the total ~~net~~ cost of the facility or terminal shall be incurred by the recipient and not compensated for by any other source;

(4) A requirement that the maximum incentive for the purchase of alternative fuel be eighty per cent of the cost of the fuel or, in the case of blended biodiesel or blended gasoline, eighty per cent of the incremental cost of the blended biodiesel or blended gasoline;

(5) Any other criteria, procedures, or guidelines that the director determines are necessary to administer the program, including fees, charges, interest rates, and payment schedules.

(D) An applicant for a grant or loan under this section that sells motor vehicle fuel at retail shall agree that if the applicant receives funding, the applicant will report to the director the gallon or gallon equivalent amounts of alternative fuel the applicant sells at retail in this state for a period of three years after the project is completed.

The director shall enter into a written confidentiality agreement with the applicant regarding the gallon or gallon equivalent amounts sold as described in this division, and upon execution of the agreement this

information is not a public record.

(E) There is hereby created in the state treasury the alternative fuel transportation fund. The fund shall consist of money transferred to the fund under division ~~(C)~~(B) of section 125.836 and under division (B)(2) of section 3706.27 of the Revised Code, money that is appropriated to it by the general assembly, ~~and~~ money as may be specified by the general assembly from the advanced energy fund created by section 4928.61 of the Revised Code, and all money received from the repayment of loans made from the fund or in the event of a default on any such loan. Money in the fund shall be used to make grants and loans under the alternative fuel transportation program and by the director in the administration of that program.

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

- (1) Acquisition of property, including options;
- (2) Preparation of sites, including brownfield clean-up activities;
- (3) Construction of road, water, telecommunication, and utility infrastructure;
- (4) Payment of professional fees the amount of which shall not exceed twenty per cent of the grant amount for a project.

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

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

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

(1) "Income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during the taxable year, or during the calendar year that includes the tax period, from the compensation of each employee or each home-based employee employed in the project to the extent the employee's withholdings are not used to determine the credit under section 122.171 of the Revised Code. "Income tax revenue" excludes amounts withheld before the day the taxpayer becomes eligible for the credit.

(2) "Baseline income tax revenue" means income tax revenue except that the applicable withholding period is the twelve months immediately

preceding the date the tax credit authority approves the taxpayer's application or the date the tax credit authority receives the recommendation described in division (C)(2)(a) of this section, whichever occurs first, multiplied by the sum of one plus an annual pay increase factor to be determined by the tax credit authority. If the taxpayer becomes eligible for the credit after the first day of the taxpayer's taxable year or after the first day of the calendar year that includes the tax period, the taxpayer's baseline income tax revenue for the first such taxable or calendar year of credit eligibility shall be reduced in proportion to the number of days during the taxable or calendar year for which the taxpayer was not eligible for the credit. For subsequent taxable or calendar years, "baseline income tax revenue" equals the unreduced baseline income tax revenue for the preceding taxable or calendar year multiplied by the sum of one plus the pay increase factor.

(3) "Excess income tax revenue" means income tax revenue minus baseline income tax revenue.

(4) "Home-based employee" means an employee whose services are performed primarily from the employee's residence in this state exclusively for the benefit of the project and whose rate of pay is at least one hundred thirty-one per cent of the federal minimum wage under 29 U.S.C. 206.

(B) The tax credit authority may make grants under this section to foster job creation in this state. Such a grant shall take the form of a refundable credit allowed against the tax imposed by section 5725.18, 5726.02, 5729.03, 5733.06, or 5747.02 or levied under Chapter 5751. of the Revised Code. The credit shall be claimed for the taxable years or tax periods specified in the taxpayer's agreement with the tax credit authority under division (D) of this section. With respect to taxes imposed under section 5726.02, 5733.06, or 5747.02 or Chapter 5751. of the Revised Code, the credit shall be claimed in the order required under section 5726.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of the credit available for a taxable year or for a calendar year that includes a tax period equals the excess income tax revenue for that year multiplied by the percentage specified in the agreement with the tax credit authority. Any credit granted under this section against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, to the extent not fully utilized against such tax for taxable years ending prior to 2008, shall automatically be converted without any action taken by the tax credit authority to a credit against the tax levied under Chapter 5751. of the Revised Code for tax periods beginning on or after July 1, 2008, provided that the person to whom the credit was granted is subject to such tax. The converted credit shall apply to those calendar

years in which the remaining taxable years specified in the agreement end.

(C)(1) A taxpayer or potential taxpayer who proposes a project to create new jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section.

An application shall not propose to include both home-based employees and employees who are not home-based employees in the computation of income tax revenue for the purposes of the same tax credit agreement. If a taxpayer or potential taxpayer employs both home-based employees and employees who are not home-based employees in a project, the taxpayer shall submit separate applications for separate tax credit agreements for the project, one of which shall include home-based employees in the computation of income tax revenue and one of which shall include all other employees in the computation of income tax revenue.

The director of development services shall prescribe the form of the application. After receipt of an application, the authority may enter into an agreement with the taxpayer for a credit under this section if it determines all of the following:

- (a) The taxpayer's project will increase payroll and income tax revenue;
- (b) The taxpayer's project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state;
- (c) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the project.

(2)(a) A taxpayer that chooses to begin the project prior to receiving the determination of the authority may, upon submitting the taxpayer's application to the authority, request that the chief investment officer of the nonprofit corporation formed under section 187.01 of the Revised Code and the director review the taxpayer's application and recommend to the authority that the taxpayer's application be considered. As soon as possible after receiving such a request, the chief investment officer and the director shall review the taxpayer's application and, if they determine that the application warrants consideration by the authority, make that recommendation to the authority not later than six months after the application is received by the authority.

(b) The authority shall consider any taxpayer's application for which it receives a recommendation under division (C)(2)(a) of this section. If the authority determines that the taxpayer does not meet all of the criteria set forth in division (C)(1) of this section, the authority and the development services agency shall proceed in accordance with rules adopted by the director pursuant to division (I) of this section.

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

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

(2)(a) The term of the tax credit, which, except as provided in division (D)(2)(b) of this section, shall not exceed fifteen years, and the first taxable year, or first calendar year that includes a tax period, for which the credit may be claimed;

(b) If the tax credit is computed on the basis of home-based employees, the term of the credit shall expire on or before the last day of the taxable or calendar year ending before the beginning of the seventh year after September 6, 2012, the effective date of H.B. 327 of the 129th general assembly;

(3) A requirement that the taxpayer shall maintain operations at the project location for at least the greater of seven years or the term of the credit plus three years;

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

(5) The pay increase factor to be applied to the taxpayer's baseline income tax revenue;

(6) A requirement that the taxpayer annually shall report to the director of development services employment, tax withholding, investment, the provision of health care benefits and tuition reimbursement if required in the agreement, and other information the director needs to perform the director's duties under this section;

(7) A requirement that the director of development services annually review the information reported under division (D)(6) of this section and verify compliance with the agreement; if the taxpayer is in compliance, a requirement that the director issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit that may be claimed for the taxable or calendar year;

(8) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project location unless the director of development services determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the taxpayer of the relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the employment

position in the first political subdivision is replaced.

(9) If the tax credit is computed on the basis of home-based employees, that the tax credit may not be claimed by the taxpayer until the taxable year or tax period in which the taxpayer employs at least two hundred employees more than the number of employees the taxpayer employed on June 30, 2011.

(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

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

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

(H) A taxpayer claiming a credit under this section shall submit to the tax commissioner or, if the taxpayer is an insurance company, to the superintendent of insurance, a copy of the director of development services' certificate of verification under division (D)(7) of this section with the

taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within sixty days after the commissioner or superintendent requests it.

(I) The director of development services, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules that establish a procedure to be followed by the tax credit authority and the development services agency in the event the authority considers a taxpayer's application for which it receives a recommendation under division (C)(2)(a) of this section but does not approve it. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. The fees collected shall be credited to the business assistance fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(J) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (D)(6) of this section. The election applies to and is irrevocable for the credit for which the report is submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

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

(1) If the taxpayer maintained operations at the project location for a

period less than or equal to the term of the credit, an amount not exceeding one hundred per cent of the sum of any credits allowed and received under this section;

(2) If the taxpayer maintained operations at the project location for a period longer than the term of the credit, but less than the greater of seven years or the term of the credit plus three years, an amount not exceeding seventy-five per cent of the sum of any credits allowed and received under this section.

In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or superintendent of insurance, as appropriate. If the amount is certified to the commissioner, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5726., 5733., 5747., or 5751. of the Revised Code. If the amount is certified to the superintendent, the superintendent shall make an assessment for that amount against the taxpayer under Chapter 5725. or 5729. of the Revised Code. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the commissioner or superintendent, as appropriate, shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

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

(M) There is hereby created the tax credit authority, which consists of the director of development services and four other members appointed as follows: the governor, the president of the senate, and the speaker of the house of representatives each shall appoint one member who shall be a specialist in economic development; the governor also shall appoint a member who is a specialist in taxation. Of the initial appointees, the members appointed by the governor shall serve a term of two years; the members appointed by the president of the senate and the speaker of the house of representatives shall serve a term of four years. Thereafter, terms

of office shall be for four years. Initial appointments to the authority shall be made within thirty days after January 13, 1993. Each member shall serve on the authority until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Members may be reappointed to the authority. Members of the authority shall receive their necessary and actual expenses while engaged in the business of the authority. The director of development services shall serve as chairperson of the authority, and the members annually shall elect a vice-chairperson from among themselves. Three members of the authority constitute a quorum to transact and vote on the business of the authority. The majority vote of the membership of the authority is necessary to approve any such business, including the election of the vice-chairperson.

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

(N) For purposes of the credits granted by this section against the taxes imposed under sections 5725.18 and 5729.03 of the Revised Code, "taxable year" means the period covered by the taxpayer's annual statement to the superintendent of insurance.

(O) On or before the first day of ~~January~~ March of each of the ~~six~~ five calendar years ~~following the year in which H.B. 327 of the 129th general assembly becomes effective~~ beginning with 2014, each taxpayer subject to an agreement with the tax credit authority under this section on the basis of home-based employees shall report the number of home-based employees and other employees employed by the taxpayer in this state to the ~~department of development services agency~~.

(P) On or before the first day of January of ~~the seventh calendar year following the year in which H.B. 327 of the 129th general assembly became effective~~ 2019, the director of development services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the effect of agreements entered into under this section in which the taxpayer included home-based employees in the computation of income tax revenue. The report shall include information on the number of

such agreements that were entered into in the preceding six years, a description of the projects that were the subjects of such agreements, and an analysis of nationwide home-based employment trends, including the number of home-based jobs created from July 1, 2011, through June 30, 2017, and a description of any home-based employment tax incentives provided by other states during that time.

(Q) The director of development services may require any agreement entered into under this section for a tax credit computed on the basis of home-based employees to contain a provision that the taxpayer makes available health care benefits and tuition reimbursement to all employees.

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

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

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

(b) Project costs paid before January 1, 2002;

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

(2) "Eligible business" means a taxpayer and its related members with Ohio operations satisfying all of the following:

(a) The taxpayer employs at least five hundred full-time equivalent employees or has an annual payroll of at least thirty-five million dollars at the time the tax credit authority grants the tax credit under this section;

(b) The taxpayer makes or causes to be made payments for the capital investment project of one of the following:

(i) If the taxpayer is engaged at the project site primarily as a manufacturer, at least fifty million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;

(ii) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, as defined by the director of development services by rule, at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;

(iii) If the taxpayer is applying to enter into an agreement for a tax credit authorized under division (B)(3) of this section, at least five million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted.

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

(3) "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by two thousand eighty. "Full-time equivalent employees" shall exclude hours that are counted for a credit under section 122.17 of the Revised Code.

(4) "Income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during the taxable year, or during the calendar year that includes the tax period, from the compensation of all employees employed in the project whose hours of compensation are included in calculating the number of full-time equivalent employees.

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

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

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

(8) "Taxable year" includes, in the case of a domestic or foreign insurance company, the calendar year ending on the thirty-first day of December preceding the day the superintendent of insurance is required to certify to the treasurer of state under section 5725.20 or 5729.05 of the Revised Code the amount of taxes due from insurance companies.

(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, the superintendent of insurance in the case of an insurance company, and director of development services under

division (C) of this section, the tax credit authority may grant the following credits against the tax imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code:

(1) A nonrefundable credit to an eligible business;

(2) A refundable credit to an eligible business meeting the following conditions, provided that the director of budget and management, tax commissioner, superintendent of insurance in the case of an insurance company, and director of development services have recommended the granting of the credit to the tax credit authority before July 1, 2011:

(a) The business retains at least one thousand full-time equivalent employees at the project site.

(b) The business makes or causes to be made payments for a capital investment project of at least twenty-five million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the business' taxable year or tax period with respect to which the credit is granted.

(c) In 2010, the business received a written offer of financial incentives from another state of the United States that the director determines to be sufficient inducement for the business to relocate the business' operations from this state to that state.

(3) A refundable credit to an eligible business with a total annual payroll of at least twenty million dollars, provided that the tax credit authority grants the tax credit on or after July 1, 2011, and before January 1, 2014.

The credits authorized in divisions (B)(1), (2), and (3) of this section may be granted for a period up to fifteen taxable years or, in the case of the tax levied by section 5751.02 of the Revised Code, for a period of up to fifteen calendar years. The credit amount for a taxable year or a calendar year that includes the tax period for which a credit may be claimed equals the income tax revenue for that year multiplied by the percentage specified in the agreement with the tax credit authority. The percentage may not exceed seventy-five per cent. The credit shall be claimed in the order required under section 5725.98, 5726.98, 5729.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. In determining the percentage and term of the credit, the tax credit authority shall consider both the number of full-time equivalent employees and the value of the capital investment project. The credit amount may not be based on the income tax revenue for a calendar year before the calendar year in which the tax credit authority specifies the tax credit is to begin, and the credit shall be claimed only for the taxable years or tax periods specified in the eligible business' agreement with the tax credit authority. In no event shall the credit be claimed for a taxable year or

tax period terminating before the date specified in the agreement. Any credit granted under this section against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, to the extent not fully utilized against such tax for taxable years ending prior to 2008, shall automatically be converted without any action taken by the tax credit authority to a credit against the tax levied under Chapter 5751. of the Revised Code for tax periods beginning on or after July 1, 2008, provided that the person to whom the credit was granted is subject to such tax. The converted credit shall apply to those calendar years in which the remaining taxable years specified in the agreement end.

If a nonrefundable credit allowed under division (B)(1) of this section for a taxable year or tax period exceeds the taxpayer's tax liability for that year or period, the excess may be carried forward for the three succeeding taxable or calendar years, but the amount of any excess credit allowed in any taxable year or tax period shall be deducted from the balance carried forward to the succeeding year or period.

(C) A taxpayer that proposes a capital investment project to retain jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development services shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, the superintendent of insurance in the case of an insurance company, and the director of development services, each of whom shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority.

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

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

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

(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

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

(5) If the taxpayer is applying to enter into an agreement for a tax credit authorized under division (B)(3) of this section, the taxpayer's capital investment project will be located in the political subdivision in which the taxpayer maintains its principal place of business or maintains a unit or division with at least four thousand two hundred employees at the project site.

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

(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the number of full-time equivalent employees at the project site, and the anticipated income tax revenue to be generated.

(2) The term of the credit, the percentage of the tax credit, the maximum annual value of tax credits that may be allowed each year, and the first year for which the credit may be claimed.

(3) A requirement that the taxpayer maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

(4)(a) In the case of a credit granted under division (B)(1) of this section, a requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit, or a requirement that the taxpayer maintain an annual payroll of at least thirty-five million dollars for the entire term of the credit;

(b) In the case of a credit granted under division (B)(2) of this section, a requirement that the taxpayer retain at least one thousand full-time equivalent employees at the project site and within this state for the entire term of the credit;

(c) In the case of a credit granted under division (B)(3) of this section, either of the following:

(i) A requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit and a requirement that the taxpayer maintain an annual payroll of at least twenty million dollars for the entire term of the credit;

(ii) A requirement that the taxpayer maintain an annual payroll of at least thirty-five million dollars for the entire term of the credit.

(5) A requirement that the taxpayer annually report to the director of development services employment, tax withholding, capital investment, and other information the director needs to perform the director's duties under this section.

(6) A requirement that the director of development services annually

review the annual reports of the taxpayer to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year or calendar year that includes the tax period. In determining the number of full-time equivalent employees, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.

(7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development services determines that the taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

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

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

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

provide to the commissioner or superintendent any statement or other information submitted by an applicant for or recipient of a tax credit in connection with the credit. The commissioner or superintendent shall preserve the confidentiality of the statement or other information.

(H) A taxpayer claiming a tax credit under this section shall submit to the tax commissioner or, in the case of an insurance company, to the superintendent of insurance, a copy of the director of development services' certificate of verification under division (E)(6) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within sixty days after the commissioner or superintendent requests it.

(I) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (E)(5) of this section. The election applies to and is irrevocable for the credit for which the report is submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

(J) If the director of development services determines that a taxpayer that received a certificate under division (E)(6) of this section is not complying with the requirement under division (E)(3) of this section, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer, or any related member or members that claimed the tax credit under division (N) of this section, to refund to the state all or a portion of the credit claimed in previous years, as follows:

(1) If the taxpayer maintained operations at the project site for less than or equal to the term of the credit, an amount not to exceed one hundred per cent of the sum of any tax credits allowed and received under this section.

(2) If the taxpayer maintained operations at the project site longer than the term of the credit, but less than the greater of (a) the term of the credit plus three years, or (b) seven years, the amount required to be refunded shall

not exceed seventy-five per cent of the sum of any tax credits allowed and received under this section.

In determining the portion of the credit to be refunded to this state, the authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or the superintendent of insurance. If the taxpayer, or any related member or members who claimed the tax credit under division (N) of this section, is not an insurance company, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5726., 5733., 5747., or 5751. of the Revised Code. If the taxpayer, or any related member or members that claimed the tax credit under division (N) of this section, is an insurance company, the superintendent of insurance shall make an assessment under section 5725.222 or 5729.102 of the Revised Code. The time limitations on assessments under those chapters and sections do not apply to an assessment under this division, but the commissioner or superintendent shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

(K) The director of development services, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. The fees collected shall be credited to the business assistance fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

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

(M)(1) The aggregate amount of tax credits issued under division (B)(1) of this section during any calendar year for capital investment projects

reviewed and approved by the tax credit authority may not exceed the following amounts:

- (a) For 2010, thirteen million dollars;
- (b) For 2011 through 2023, the amount of the limit for the preceding calendar year plus thirteen million dollars;
- (c) For 2024 and each year thereafter, one hundred ninety-five million dollars.

(2) The aggregate amount of tax credits authorized under divisions (B)(2) and (3) of this section and allowed to be claimed by taxpayers in any calendar year for capital improvement projects reviewed and approved by the tax credit authority in 2011, 2012, and 2013 combined shall not exceed twenty-five million dollars. An amount equal to the aggregate amount of credits first authorized in calendar year 2011, 2012, and 2013 may be claimed over the ensuing period up to fifteen years, subject to the terms of individual tax credit agreements.

The limitations in division (M) of this section do not apply to credits for capital investment projects approved by the tax credit authority before July 1, 2009.

(N) This division applies only to an eligible business that is part of an affiliated group that includes a diversified savings and loan holding company or a grandfathered unitary savings and loan holding company, as those terms are defined in section 5726.01 of the Revised Code. Notwithstanding any contrary provision of the agreement between such an eligible business and the tax credit authority, any credit granted under this section against the tax imposed by section 5725.18, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code to the eligible business, at the election of the eligible business and without any action by the tax credit authority, may be shared with any member or members of the affiliated group that includes the eligible business, which member or members may claim the credit against the taxes imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code. Credits shall be claimed by the eligible business in sequential order, as applicable, first claiming the credits to the fullest extent possible against the tax that the certificate holder is subject to, then against the tax imposed by, sequentially, section 5729.03, 5725.18, 5747.02, 5751.02, and lastly 5726.02 of the Revised Code. The credits may be allocated among the members of the affiliated group in such manner as the eligible business elects, but subject to the sequential order required under this division. This division applies to credits granted before, on, or after March 27, 2013, the effective date of H.B. 510 of the 129th general assembly. Credits granted before that

effective date that are shared and allocated under this division may be claimed in those calendar years in which the remaining taxable years specified in the agreement end.

As used in this division, "affiliated group" means a group of two or more persons with fifty per cent or greater of the value of each person's ownership interests owned or controlled directly, indirectly, or constructively through related interests by common owners during all or any portion of the taxable year, and the common owners. "Affiliated group" includes, but is not limited to, any person eligible to be included in a consolidated elected taxpayer group under section 5751.011 of the Revised Code or a combined taxpayer group under section 5751.012 of the Revised Code.

Sec. 122.175. (A) As used in this section:

(1) "Capital investment project" means a plan of investment at a project site for the acquisition, construction, renovation, expansion, replacement, or repair of a computer data center or of computer data center equipment, but does not include any of the following:

(a) Project costs paid before a date determined by the tax credit authority for each capital investment project;

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

(2) "Computer data center" means a facility used or to be used primarily to house computer data center equipment used or to be used in conducting a one or more computer data center business businesses, as determined by the tax credit authority.

(3) "Computer data center business" means, as may be further determined by the tax credit authority, a business that provides electronic information services as defined in division (Y)(1)(c) of section 5739.01 of the Revised Code, or that leases a facility to one or more such businesses. "Computer data center business" does not include providing electronic publishing as defined in division (LLL) of that section.

(4) "Computer data center equipment" means tangible personal property used or to be used for any of the following:

(a) To conduct a computer data center business, including equipment cooling systems to manage the performance of computer data center equipment;

(b) To generate, transform, transmit, distribute, or manage electricity necessary to operate the tangible personal property used or to be used in conducting a computer data center business;

(c) As building and construction materials sold to construction contractors for incorporation into a computer data center.

(5) "Eligible computer data center" means a computer data center that satisfies all of the following requirements:

(a) ~~The taxpayer~~ One or more taxpayers operating a computer data center business at the project site will, in the aggregate, make payments for a capital investment project of at least one hundred million dollars ~~in the aggregate~~ at the project site during a period of three consecutive calendar years;

(b) ~~The taxpayer~~ One or more taxpayers operating a computer data center business at the project site will, in the aggregate, pay annual compensation that is subject to the withholding obligation imposed under section 5747.06 of the Revised Code of at least ~~five~~ one million five hundred thousand dollars to employees employed at the project site for ~~the term of the agreement~~ each year of the agreement beginning on or after the first day of the twenty-fifth month after the agreement was entered into under this section.

(6) "Person" has the same meaning as in section 5701.01 of the Revised Code.

(7) "Project site," "related member," and "tax credit authority" have the same meanings as in sections 122.17 and 122.171 of the Revised Code.

(8) "Taxpayer" means any person subject to the taxes imposed under Chapters 5739. and 5741. of the Revised Code.

(B) The tax credit authority may completely or partially exempt from the taxes levied under Chapters 5739. and 5741. of the Revised Code the sale, storage, use, or other consumption of computer data center equipment used or to be used at an eligible computer data center. Any such exemption shall extend to charges for the delivery, installation, or repair of the computer data center equipment subject to the exemption under this section.

(C) A taxpayer that proposes a capital improvement project for an eligible computer data center in this state may apply to the tax credit authority to enter into an agreement under this section ~~for authorizing~~ a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment purchased by the applicant or any other taxpayer that operates a computer data center business at the project site and used or to be used at the eligible computer data center. The director of development services shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, and the director of development

services, each of whom shall review the application to determine the economic impact that the proposed eligible computer data center would have on the state and any affected political subdivisions and submit to the authority a summary of their determinations and recommendations.

(D) Upon review and consideration of such determinations and recommendations, the tax credit authority may enter into an agreement with the applicant and any other taxpayer that operates a computer data center business at the project site for a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment used or to be used at an eligible computer data center if the authority determines all of the following:

(1) The ~~taxpayer's~~ capital investment project for the eligible computer data center will increase payroll and the amount of income taxes to be withheld from employee compensation pursuant to section 5747.06 of the Revised Code.

(2) The ~~taxpayer~~ applicant is economically sound and has the ability to complete or effect the completion of the proposed capital investment project.

(3) The ~~taxpayer~~ applicant intends to and has the ability to maintain operations at the project site for the term of the agreement.

(4) Receiving the exemption is a major factor in the ~~taxpayer's~~ applicant's decision to begin, continue with, or complete the capital investment project.

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

(1) A detailed description of the capital investment project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the annual compensation to be paid by ~~the~~ each taxpayer subject to the agreement to its employees at the project site, and the anticipated amount of income taxes to be withheld from employee compensation pursuant to section 5747.06 of the Revised Code.

(2) The percentage of the exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code for the computer data center equipment used or to be used at the eligible computer data center, the length of time the computer data center equipment will be exempted, and the first date on which the exemption applies.

(3) A requirement that ~~the taxpayer maintain~~ the computer data center as remain an eligible computer data center during the term of the agreement and that the ~~taxpayer~~ applicant maintain operations at the eligible computer

data center during that term. An applicant does not violate the requirement described in division (E)(3) of this section if the applicant ceases operations at the eligible computer data center during the term of the agreement but resumes those operations within eighteen months after the date of cessation. The agreement shall provide that, in such a case, the applicant and any other taxpayer that operates a computer data center business at the project site shall not claim the tax exemption authorized in the agreement for any purchase of computer data center equipment made during the period in which the applicant did not maintain operations at the eligible computer data center.

(4) A requirement that ~~during, for~~ each year of the term of the agreement ~~the taxpayer~~ beginning on or after the first day of the twenty-fifth month after the date the agreement was entered into, one or more taxpayers operating a computer data center business at the project site will, in the aggregate, pay annual compensation that is subject to the withholding obligation imposed under section 5747.06 of the Revised Code of at least ~~five one~~ million ~~five hundred thousand~~ dollars to ~~its~~ employees at the eligible computer data center.

(5) A requirement that ~~the~~ each taxpayer subject to the agreement annually report to the director of development services employment, tax withholding, capital investment, and other information required by the director to perform the director's duties under this section.

(6) A requirement that the director of development services annually review the annual reports of ~~the~~ each taxpayer subject to the agreement to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to ~~the~~ each such taxpayer stating that the information has been verified and that the taxpayer remains eligible for the exemption specified in the agreement.

(7) A provision providing that the ~~taxpayer~~ taxpayers subject to the agreement may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development services determines that the appropriate taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated. For purposes of this paragraph, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an

employment position if the employment position in the first political subdivision is replaced by another employment position.

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

(F) The term of an agreement under this section shall be determined by the tax credit authority, and the amount of the exemption shall not exceed one hundred per cent of such taxes that would otherwise be owed in respect to the exempted computer data center equipment.

(G) If a any taxpayer subject to an agreement under this section fails to meet or comply with any condition or requirement set forth in ~~an~~ the agreement under this section, the tax credit authority may amend the agreement to reduce the percentage of the exemption or term during which the exemption applies to the computer data center equipment used or to be used by the noncompliant taxpayer at an eligible computer data center. The reduction of the percentage or term may take effect in the current calendar year.

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

(I) The tax commissioner shall issue a direct payment permit under section 5739.031 of the Revised Code to a each taxpayer that enters into subject to an agreement under this section. Such direct payment permit shall authorize the taxpayer to pay any sales and use taxes due on purchases of computer data center equipment used or to be used in an eligible computer data center and to pay any sales and use taxes due on purchases of tangible personal property or taxable services other than computer data center equipment used or to be used in an eligible computer data center directly to the tax commissioner. Each such taxpayer shall pay pursuant to such direct payment permit all sales tax levied on such purchases under sections

5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code and all use tax levied on such purchases under sections 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, consistent with the terms of the agreement entered into under this section.

During the term of an agreement under this section ~~the~~ each taxpayer subject to the agreement shall submit to the tax commissioner a return that shows the amount of computer data center equipment purchased for use at the eligible computer data center, the amount of tangible personal property and taxable services other than computer data center equipment purchased for use at the eligible computer data center, the amount of tax under Chapter 5739. or 5741. of the Revised Code that would be due in the absence of the agreement under this section, the exemption percentage for computer data center equipment specified in the agreement, and the amount of tax due under Chapter 5739. or 5741. of the Revised Code as a result of the agreement under this section. ~~The~~ Each such taxpayer shall pay the tax shown on the return to be due in the manner and at the times as may be further prescribed by the tax commissioner. ~~The~~ Each such taxpayer shall include a copy of the director of development services' certificate of verification issued under division (E)(6) of this section. Failure to submit a copy of the certificate with the return does not invalidate the claim for exemption if the taxpayer submits a copy of the certificate to the tax commissioner within sixty days after the tax commissioner requests it.

(J) If the director of development services determines that ~~a taxpayer that one or more taxpayers~~ received an exemption ~~under this section is not complying from taxes due on the purchase of computer data center equipment purchased for use at a computer data center that no longer complies~~ with the requirement under division (E)(3) of this section, the director shall notify the tax credit authority and, if applicable, the taxpayer that applied to enter the agreement for the exemption under division (C) if this section of the noncompliance. After receiving such a notice, and after giving ~~the~~ each taxpayer subject to the agreement an opportunity to explain the noncompliance, the authority may terminate the agreement and require ~~the~~ each such taxpayer to pay to the state all or a portion of the taxes that would have been owed in regards to the exempt equipment in previous years, all as determined under rules adopted pursuant to division (K) of this section. In determining the portion of the taxes that would have been owed on the previously exempted equipment to be paid to this state by ~~the~~ a taxpayer, the authority shall consider the effect of market conditions on the ~~taxpayer's~~ eligible computer data center ~~and~~, whether the taxpayer continues to maintain other operations in this state, and, with respect to agreements

involving multiple taxpayers, the taxpayer's level of responsibility for the noncompliance. After making the determination, the authority shall certify to the tax commissioner the amount to be paid by ~~the~~ each taxpayer subject to the agreement. The tax commissioner shall make an assessment for that amount against ~~the~~ each such taxpayer under Chapter 5739. or 5741. of the Revised Code. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the tax commissioner shall make the assessment within one year after the date the authority certifies to the tax commissioner the amount to be paid by the taxpayer.

(K) The director of development services, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax exemptions under this section to be charged fees to cover administrative costs incurred in the administration of this section. The fees collected shall be credited to the business assistance fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(L) On or before the first day of August of each year, the director of development services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax exemption authorized under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the eligible computer data center that is the subject of each such agreement, and an update on the status of eligible computer data centers under agreements entered into before the preceding calendar year.

(M) A taxpayer may be made a party to an existing agreement entered into under this section by the tax credit authority and another taxpayer or group of taxpayers. In such a case, the taxpayer shall be entitled to all benefits and bound by all obligations contained in the agreement and all requirements described in this section. When an agreement includes multiple taxpayers, each taxpayer shall be entitled to a direct payment permit as authorized in division (I) of this section.

Sec. 122.28. As used in sections 122.28 and 122.30 to 122.36 of the Revised Code:

(A) "New technology" means the development through science or research of methods, processes, and procedures, including but not limited to

those involving the processing and utilization of coal, for practical application in industrial or agribusiness situations.

(B) "Industrial research" means study and investigation in giving new shapes, new qualities or new combinations to matter or material products by the application of labor thereto or the rehabilitation of an existing matter or material product.

(C) "Enterprise" means a business with its principal place of business in this state or which proposes to be engaged in this state in research and development or in the provision of products or services involving a significant amount of new technology.

(D) "Educational institutions" means nonprofit public and private colleges and universities, incorporated or unincorporated, in the state.

(E) "Small business" means an enterprise with less than four hundred employees, including corporations, partnerships, unincorporated entities, proprietorships, and joint enterprises.

(F) "Applied research" means the application of basic research for the development of new technology.

Sec. 122.30. ~~The industrial technology and enterprise advisory council and the director of development~~ are services is vested with the powers and duties provided in sections 122.28 and 122.30 to 122.36 of the Revised Code, to promote the welfare of the people of the state through the interaction of the business and industrial community and educational institutions in the development of new technology and enterprise.

(A) It is necessary for the state to establish the ~~industrial technology and enterprise advisory council and the~~ programs created pursuant to sections 122.28 and 122.30 to 122.36 of the Revised Code to accomplish the following purposes which are determined to be essential:

- (1) Improve the existing industrial and agricultural base of the state;
- (2) Improve the economy of the state by providing employment, increasing productivity, and slowing the rate of inflation;
- (3) Develop markets worldwide for the products of the state's natural resources and agricultural and manufacturing industries;
- (4) Maintain a high standard of living for the people of the state.

(B) ~~The industrial technology and enterprise advisory council shall do all of the following:~~

~~(1) Make recommendations to the director of development as to applications for assistance pursuant to sections 122.28 to 122.36 of the Revised Code. The council may revise its recommendations to reflect any changes in the proposed assistance made by the director.~~

~~(2) Advise the director in the administration of sections 122.28 to~~

~~122.36 of the Revised Code;~~

~~(3) Adopt bylaws to govern the conduct of the council's business.~~

~~(C) The director of development shall do all of the following:~~

~~(1) Receive applications for assistance under sections 122.28 and 122.30 to 122.36 of the Revised Code and, after processing, forward them to the council together with necessary supporting information;~~

~~(2) Receive the recommendations of the council and make Make a final determination whether to approve the application for assistance;~~

~~(3) Transmit determinations to approve assistance exceeding forty thousand dollars to the controlling board, together with any information the controlling board requires, for the board's review and decision as to whether to approve the assistance;~~

~~(4) Gather and disseminate information and conduct hearings, conferences, seminars, investigations, and special studies on problems and programs concerning industrial research and new technology and their commercial applications in the state;~~

~~(5) Establish an annual program to recognize the accomplishments and contributions of individuals and organizations in the development of industrial research and new technology in the state;~~

~~(6) Stimulate both public and industrial awareness and interest in industrial research and development of new technology primarily in the areas of industrial processes, implementation, energy, agribusiness, medical technology, avionics, and food processing;~~

~~(7) Develop and implement comprehensive and coordinated policies, programs, and procedures promoting industrial research and new technology;~~

~~(8) Propose appropriate legislation or executive actions to stimulate the development of industrial research and new technology by enterprises and individuals;~~

~~(9) Encourage and facilitate contracts between industry, agriculture, educational institutions, federal agencies, and state agencies, with special emphasis on industrial research and new technology by small businesses and agribusiness;~~

~~(10) Participate with any state agency in developing specific programs and goals to assist in the development of industrial research and new technology and monitor performance;~~

~~(11) Assist enterprises in obtaining alternative forms of governmental or commercial financing for industrial research and new technology;~~

~~(12) Assist enterprises or individuals in the implementation of new programs and policies and the expansion of existing programs to provide an~~

atmosphere conducive to increased cooperation among and participation by individuals, enterprises, and educational institutions engaged in industrial research and the development of new technology;

(13) Advertise, prepare, print, and distribute books, maps, pamphlets, and other information ~~which in the judgment of the director will further its purposes;~~

(14) Include in the director's annual report to the governor and the general assembly a report on the activities for the preceding calendar year under sections 122.28 and 122.30 to 122.36 of the Revised Code;

(15) Approve the expenditure of money appropriated by the general assembly for the purpose of sections 122.28 and 122.30 to 122.36 of the Revised Code;

(16) Identify and implement federal research and development programs which would link Ohio's industrial base, research facilities, and natural resources;

(17) Employ and fix the compensation of technical and professional personnel, who shall be in the unclassified civil service, and employ other personnel, who shall be in the classified civil service, as necessary to carry out the provisions of sections 122.28 and 122.30 to 122.36 of the Revised Code.

Sec. 122.31. All expenses and obligations incurred by the director of development ~~and the industrial technology and enterprise advisory council services~~ in carrying out ~~their~~ the director's powers and ~~in exercising their~~ duties under sections 122.28 and 122.30 to 122.36 of the Revised Code, are payable from revenues or other receipts or income from grants, gifts, contributions, compensation, reimbursement, and funds established in accordance with those sections or general revenue funds appropriated by the general assembly for operating expenses of the director ~~or council~~.

Sec. 122.32. The director of development services, on behalf of the programs authorized pursuant to sections 122.28 and 122.30 to 122.36 of the Revised Code, may receive and accept grants, gifts, and contributions of money, property, labor, and other things of value to be held, used, and applied only for the purpose for which the grants, gifts, and contributions are made, from individuals, private and public corporations, from the United States or any agency of the United States, and from any political subdivision of the state. The director may agree to repay any contribution of money or to return any property contributed or its value at times, in amounts, and on terms and conditions excluding the payment of interest as the director determines at the time the contribution is made. The director may evidence the obligation by written contracts, subject to section 122.31 of the Revised

Code, provided that the director shall not thereby incur indebtedness of or impose liability upon the state or any political subdivision.

Sec. 122.33. The director of development services shall administer the following programs:

(A) The industrial technology and enterprise development grant program, to provide capital to acquire, construct, enlarge, improve, or equip and to sell, lease, exchange, and otherwise dispose of property, structures, equipment, and facilities within the state.

Such funding may be made to enterprises that propose to develop new products or technologies when the director finds all of the following factors to be present:

(1) The undertaking will benefit the people of the state by creating or preserving jobs and employment opportunities or improving the economic welfare of the people of the state, and promoting the development of new technology.

(2) There is reasonable assurance that the potential royalties to be derived from the sale of the product or process described in the proposal will be sufficient to repay the funding pursuant to sections 122.28 and 122.30 to 122.36 of the Revised Code and that, in making the agreement, as it relates to patents, copyrights, and other ownership rights, there is reasonable assurance that the resulting new technology will be utilized to the maximum extent possible in facilities located in Ohio.

(3) The technology and research to be undertaken will allow enterprises to compete more effectively in the marketplace. Grants of capital may be in such form and conditioned upon such terms as the ~~board~~ director deems appropriate.

(B) The industrial technology and enterprise resources program to provide for the collection, dissemination, and exchange of information regarding equipment, facilities, and business planning consultation resources available in business, industry, and educational institutions and to establish methods by which small businesses may use available facilities and resources. The methods may include, but need not be limited to, leases reimbursing the educational institutions for their actual costs incurred in maintaining the facilities and agreements assigning royalties from development of successful products or processes through the use of the facilities and resources. The director shall operate this program in conjunction with the board of regents.

(C) The Thomas Alva Edison grant program to provide grants to foster research, development, or technology transfer efforts involving enterprises and educational institutions that will lead to the creation of jobs. The

director shall utilize the Edison center network in carrying out the goals and objectives shall this program. For the purposes of this division, "Edison center network" means the six cooperative research and development facilities in this state that receive funding under this division, are nonprofit organizations, have been in existence at least eighteen years as of the effective date of this amendment, and have experience in delivering manufacturing extension partnership program services to companies in this state.

(1) Grants may be made to a nonprofit organization or a public or private educational institution, department, college, institute, faculty member, or other administrative subdivision or related entity of an educational institution when the director finds that the undertaking will benefit the people of the state by supporting research in advanced technology areas likely to improve the economic welfare of the people of the state through promoting the development of new commercial technology.

(2) Grants may be made in a form and conditioned upon terms as the director considers appropriate.

(3) Grants made under this program shall in all instances be in conjunction with a contribution to the project by a cooperating enterprise which maintains or proposes to maintain a relevant research, development, or manufacturing facility in the state, by a nonprofit organization, or by an educational institution or related entity; however, funding provided by an educational institution or related entity shall not be from general revenue funds appropriated by the Ohio general assembly. No grant made under this program shall exceed the contribution made by the cooperating enterprise, nonprofit organization, or educational institution or related entity. The director may consider cooperating contributions in the form of state of the art new equipment or in other forms provided the director determines that the contribution is essential to the successful implementation of the project. The director may adopt rules or guidelines for the valuation of contributions of equipment or other property.

(4) The director may determine fields of research from which grant applications will be accepted under this program.

Sec. 122.34. The exercise of the powers granted by sections 122.28 and 122.30 to 122.36 of the Revised Code will be in all respects for the benefit of the people of the state, for the improvement of commerce and prosperity, improvement of employment conditions, and will constitute the performance of essential governmental functions.

Sec. 122.35. All moneys received under sections 122.28 and 122.30 to

122.36 of the Revised Code are trust funds to be held and applied solely as provided in those sections and section 166.03 of the Revised Code. All moneys, except when deposited with the treasurer of the state, shall be kept and secured in depositories as selected by the director of development services in the manner provided in sections 135.01 to 135.21 of the Revised Code, insofar as those sections are applicable. All moneys held by the director in trust to carry out the purposes of sections 122.28 and 122.30 to 122.36 of the Revised Code shall be used as provided in sections 122.28 and 122.30 to 122.36 of the Revised Code and at no time be part of other public funds.

Sec. 122.36. Any materials or data submitted to, made available to, or received by the director of development, ~~the industrial technology and enterprise advisory council,~~ services or the controlling board, to the extent that the material or data consist of trade secrets, as defined in section 1333.61 of the Revised Code, or commercial or financial information, regarding projects are not public records for the purposes of section 149.43 of the Revised Code.

Sec. 122.58. Moneys in the funds established pursuant to Chapter 122. of the Revised Code, except as otherwise provided in any proceedings authorizing revenue bonds or in any trust agreement securing such bonds, in excess of current needs, may be invested in notes, bonds, or other obligations which are direct obligations of or are guaranteed by the United States, in certificates of deposit or other withdrawable accounts of banks, trust companies, and building and loan or savings and loan associations organized under the laws of the state or the United States, or in the manner provided in any agreement entered into pursuant to section 169.05 of the Revised Code.

Income from all such investments of moneys in any fund shall be credited to such funds as the director of development determines subject to the provisions of any bond issuance proceedings or trust agreement, and such investments may be sold at such time as the director shall determine, provided certificates of deposit or other withdrawable accounts may be sold only in accordance with division (B) of section 169.05 or divisions ~~(D) and~~ (E) and (E) of section 169.08 of the Revised Code.

Sec. 122.657. For the purposes of sections 122.65 to 122.658 of the Revised Code, the director of development shall establish policies and requirements regarding all of the following:

(A) The form and content of applications for grants or loans from the clean Ohio revitalization fund under section 122.652 of the Revised Code. The policies and requirements shall require that each application include, at

a minimum, all of the following:

(1) The name, address, and telephone number of the applicant;

(2) The legal description of the property for which the grant or loan is requested;

(3) A summary description of the hazardous substances or petroleum present at the brownfield and a certified copy of the results of an assessment;

(4) A detailed explanation of the proposed cleanup or remediation of the brownfield, including an identification of the applicable cleanup standards, and a detailed description of the proposed use of the brownfield after completion of the cleanup or remediation;

(5) An estimate of the total cost to clean up or remediate the brownfield in order to comply with the applicable cleanup standards. The total cost shall include the cost of employing a certified professional under section 122.654 of the Revised Code.

(6) A detailed explanation of the portion of the estimated total cost of the cleanup or remediation of the brownfield that the applicant proposes to provide as required under sections 122.653 and 122.658 of the Revised Code and financial records supporting the proposal;

(7) A certified copy of a resolution or ordinance approving the project that the applicant shall obtain from the board of township trustees of the township or the legislative authority of the municipal corporation in which the property is located, whichever is applicable;

(8) A description of the estimated economic benefit that will result from a cleanup or remediation of the brownfield;

(9) An application summary for purposes of review by an integrating committee or, if applicable, the executive committee of an integrating committee under division (B) of section 122.652 of the Revised Code;

(10) With respect to applications for loans, information demonstrating that the applicant will implement a financial management plan that includes, without limitation, provisions for the satisfactory repayment of the loan;

(11) Any other provisions that the director determines should be included in an application.

(B) Procedures for conducting public meetings and providing public notice under division (A) of section 122.652 of the Revised Code;

(C) Criteria to be used by integrating committees or, if required under division (C) of section 122.652 of the Revised Code, executive committees of integrating committees when prioritizing projects under division (B) of section 122.652 of the Revised Code. The policies and requirements also shall establish procedures that integrating committees or, if required under

division (C) of section 122.652 of the Revised Code, executive committees of integrating committees shall use in applying the criteria.

(D) A selection process that provides for the prioritization of brownfield cleanup or remediation projects for which grant or loan applications are submitted under section 122.652 of the Revised Code. The policies and requirements shall require the selection process to give priority to projects in which the post-cleanup or remediation use will be for a combination of residential, commercial, or industrial purposes, which may include the conversion of a portion of a brownfield to a recreation, park, or natural area that is integrated with the residential, commercial, or industrial use of the brownfield after cleanup or remediation, or will incorporate projects that are funded by grants awarded under sections 164.20 to 164.27 of the Revised Code. The policies and requirements shall require the selection process to incorporate and emphasize all of the following factors:

(1) The potential economic benefit that will result from the cleanup or remediation of a brownfield;

(2) The potential environmental improvement that will result from the cleanup or remediation of a brownfield;

(3) The amount and nature of the match provided by an applicant as required under sections 122.653 and 122.658 of the Revised Code;

(4) Funding priorities recommended by integrating committees or, if required under division (C) of section 122.652 of the Revised Code, executive committees of integrating committees under division (B) of section 122.652 of the Revised Code;

(5) The potential benefit to low-income communities, including minority communities, that will result from the cleanup or remediation of a brownfield;

(6) Any other factors that the director considers appropriate.

(E) The development of criteria that the director shall use when awarding grants under section 122.656 of the Revised Code. The criteria shall give priority to public health projects. In addition, the director, in consultation with the director of environmental protection, shall establish policies and requirements that require the criteria to include a public health project selection process that incorporates and emphasizes all of the following factors:

(1) The potential environmental improvement that will result from the cleanup or remediation;

(2) The ability of an applicant to access the property for purposes of the cleanup or remediation;

(3) The name and qualifications of the cleanup or remediation

contractor;

(4) Any other factors that the director of development considers appropriate.

The director of development may develop any other policies and requirements that the director determines are necessary for the administration of section 122.656 of the Revised Code.

(F) The development of a brownfield cleanup and remediation oversight program to ensure compliance with sections 122.65 to 122.658 of the Revised Code and policies and requirements established under this section. The policies and requirements shall require the program to include, at a minimum, both of the following:

(1) Procedures for the accounting of invoices and receipts and any other documents that are necessary to demonstrate that a cleanup or remediation was properly performed;

(2) Procedures that are necessary to provide a detailed explanation of the status of the property five years after the completed cleanup or remediation.

(G) A delineation of what constitutes administrative costs for purposes of divisions (D) and (F) of section 122.658 of the Revised Code;

(H) Procedures and requirements for making loans and loan agreements that include at least all of the following:

(1) Not more than fifteen per cent of moneys annually allocated to the clean Ohio revitalization fund shall be used for loans.

(2) The loans shall be made at or below market rates of interest, including, without limitation, interest-free loans.

(3) The recipient of a loan shall identify a source of security and a source of repayment of the loan.

~~(4) All payments of principal and interest on a loan shall be deposited in the state treasury and credited to the clean Ohio revitalization revolving loan fund.~~

~~(5)~~ The clean Ohio council may accept notes and other forms of obligation to evidence indebtedness, accept mortgages, liens, pledges, assignments, and other security interests to secure such indebtedness, and take any actions that are considered by the council to be appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and bidding on the purchase of property upon foreclosure or other sale.

(I) Any other policies and requirements that the director determines are necessary for the administration of sections 122.65 to 122.658 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

applicant's matching share.

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

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

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

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

~~(G)(1) The clean Ohio revitalization revolving loan fund is hereby~~

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

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

Sec. 122.66. As used in sections 122.66 to 122.702 of the Revised Code:

(A) "Poverty line" means the official poverty line established by the director of the United States office of management and budget and as revised by the ~~director~~ secretary of the ~~office of community health and human services~~ in accordance with section 673(2) of the "Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902.

(B) "Low-income person" means a person whose adjusted gross income as defined in division (A) of section 5747.01 of the Revised Code is below the poverty line as defined in division (A) of this section.

(C) "Advocacy" means the act of pleading for, supporting, or recommending actions on behalf of low-income persons.

(D) "Community action agency" means a community-based and operated private nonprofit agency or organization that includes or is designed to include a sufficient number of projects or components to provide a range of services and activities having a measurable and potentially major impact on the causes of poverty in the community or those areas of the community where poverty is a particularly acute problem and is designated as a community action agency by the ~~office of~~ community services division pursuant to sections 122.68 and 122.69 of the Revised Code.

(E) "Community" means a city, village, county, multicounty or multicounty unit, a neighborhood or other area, disregarding boundaries or political subdivisions, which provides a suitable organizational base and possesses a commonality of needs and interests for a community action program suitable to be served by a community action agency.

(F) "Service area" means the geographical area served by a community action agency.

Sec. 122.67. There is hereby created in the ~~department of development services agency~~ the ~~office of~~ community services division. The director of development services shall employ and fix the compensation of professional and technical unclassified personnel as necessary to carry out the provisions

of sections 122.66 to 122.701 of the Revised Code.

Sec. 122.68. The ~~office~~ of community services division shall:

(A) Administer all federal funds appropriated to the state from the "Community Services Block Grant Act," 95 Stat. 511, 42 U.S.C.A. 9901, and comply with requirements imposed by that act in its application for, and administration of, the funds;

(B) Designate community action agencies to receive community services block grant funds;

(C) Disburse at least ninety-five per cent or such other higher maximum amount as may from time to time be designated by congress of the funds received in the state from the "Community Services Block Grant Act" to community action agencies that comply with the requirements of section 122.69 of the Revised Code and migrant and seasonal farm worker organizations that are not designated community action agencies but which provide the services described in division (B)(1) of section 122.69 of the Revised Code.

(D) Provide technical assistance to community action agencies to improve program planning, development, and administration;

(E) Conduct yearly performance assessments, according to criteria determined by ~~department~~ of development services agency rule, to determine whether community action agencies are in compliance with section 122.69 of the Revised Code;

(F) Annually prepare and submit to the United States secretary of health and human services, the governor, the president of the Ohio senate, and the speaker of the Ohio house of representatives, a comprehensive report that includes:

(1) Certification that all community action agencies designated to receive funds from the "Community Services Block Grant Act" are in compliance with section 122.69 of the Revised Code;

(2) A program plan for the next federal fiscal year that has been made available for public inspection and that details how community services block grant funds will be disbursed and used during that fiscal year;

(3) Information detailing how funds were expended for the current fiscal year;

(4) An audit of community services block grant expenditures for the preceding federal fiscal year that is conducted in accordance with generally accepted accounting principles by an independent auditing firm that has no connection with any community action agency receiving community services block grant funds or with any employee of the ~~office~~ division.

(G) Serve as a statewide advocate for social and economic opportunities

for low-income persons.

Sec. 122.681. (A) Except as permitted by this section, or when required by federal law, no person or government entity shall solicit, release, disclose, receive, use, or knowingly permit or participate in the use of any information regarding an individual receiving assistance pursuant to a community services division program under sections 122.66 to 122.702 of the Revised Code for any purpose not directly related to the administration of a division assistance program.

(B) To the extent permitted by federal law, the division, and any entity that receives division funds to administer a division program to assist individuals, shall release information regarding an individual assistance recipient to the following:

(1) A government entity responsible for administering the assistance program for purposes directly related to the administration of the program;

(2) A law enforcement agency for the purpose of any investigation, prosecution, or criminal or civil proceeding relating to the administration of the assistance program;

(3) A government entity responsible for administering a children's protective services program, for the purpose of protecting children.

(C) To the extent permitted by federal law and section 1347.08 of the Revised Code, the division, and any entity administering a division program, shall provide access to information regarding an individual assistance recipient to all of the following:

(1) The individual assistance recipient;

(2) The authorized representative of the individual assistance recipient;

(3) The legal guardian of the individual assistance recipient;

(4) The attorney of the individual assistance recipient.

(D) To the extent permitted by federal law, the division, and any entity administering a division program, may do either of the following:

(1) Release information about an individual assistance recipient if the recipient gives voluntary, written authorization;

(2) Release information regarding an individual assistance recipient to a state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need.

(E) The community services division, or an entity administering a division program, shall provide, at no cost, a copy of each written authorization to the individual who signed it.

(F) The development services agency may adopt rules defining who may serve as an individual assistance recipient's authorized representative for purposes of division (C)(2) of this section.

Sec. 122.69. (A) Any nonprofit agency or organization seeking designation as a community action agency by the ~~office~~ of community services division shall obtain the endorsement of the chief elected officials of at least two-thirds of the municipal corporations and the counties within the community to be served by the agency or organization.

(B) Any nonprofit agency or organization that receives the endorsement provided for in division (A) of this section shall be designated by the ~~office~~ division as the community action agency for the community it serves and shall receive community services block grant funds for any period of time that the nonprofit agency or organization:

(1) Provides a range of services and opportunities having a measurable and potentially major impact on the causes of poverty in the community or those areas of the community where poverty is a particularly acute problem. These activities may include but shall not be limited to:

(a) Providing activities designed to assist low-income persons, including elderly and handicapped low-income persons, to:

(i) Secure and maintain meaningful employment, training, work experience, and unsubsidized employment;

(ii) Attain an adequate education;

(iii) Make better use of available income;

(iv) Obtain and maintain adequate housing and a suitable living environment;

(v) Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;

(vi) Remove obstacles and solve personal and family problems that block the achievement of self-sufficiency;

(vii) Achieve greater participation in the affairs of the community;

(viii) Undertake family planning, consistent with personal and family goals and religious and moral convictions;

(ix) Obtain energy assistance, conservation, and weatherization services.

(b) Providing, on an emergency basis, supplies and services, nutritious foodstuffs, and related services necessary to counteract conditions of starvation and malnutrition among low-income persons;

(c) Coordinating and establishing links between government and other social services programs to assure the effective delivery of services to low-income individuals;

(d) Providing child care services, nutrition and health services, transportation services, alcoholism and narcotic addiction prevention and

rehabilitation services, youth development services, and community services to elderly and handicapped persons;

(e) Encouraging entities in the private sector to participate in efforts to ameliorate poverty in the community.

(2) Annually submits to the ~~office of community services~~ division a program plan and budget for use of community services block grant funds for the next federal fiscal year. At least ten days prior to its submission to the ~~office of community services~~ division, a copy of the program plan and budget shall be made available to the chief elected officials of the municipal corporations and counties within the service area in order to provide them the opportunity to review and comment upon such plan and budget.

(3) Composes its board of directors in compliance with section (c)(3) of section 675 of ~~the~~ the "Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9904, except that the board shall consist of not less than fifteen nor more than thirty-three members;

(4) Complies with the prohibitions against discrimination and political activity, as provided in the "Community Services Block Grant Act";

(5) Complies with fiscal and program requirements established by ~~department of development~~ services agency rule.

Sec. 122.70. The board of directors of a community action agency shall:

(A) Select, appoint, and may remove the executive director of the community action agency;

(B) Approve contracts, annual program budgets, and policies of the community action agency;

(C) Advise the elected officials of any political subdivision located within its service area, and state and federal elected officials who represent its service area, of the nature and extent of poverty within its community, and advise them of any needed changes;

(D) Convene public meetings to provide community members the opportunity to comment on public policies and programs to reduce poverty;

(E) Annually evaluate the policies and programs of the community action agency according to criteria determined by ~~department of~~ development services agency rule;

(F) Submit the results of the evaluation required by division (E) of this section, along with recommendations for improved administration of the community action agency, to the ~~office of~~ community services division;

(G) Adopt a code of ethics for the board of directors and the employees of the community action agency;

(H) Adopt written policies describing all of the following:

(1) How the community action agency is to expend and distribute the

community services block grant funds that it receives from the ~~office of community services~~ division under sections 122.68 and 122.69 of the Revised Code;

(2) The salary, benefits, travel expenses, and any other compensation that persons are to receive for serving on the community action agency's board of directors;

(3) The operating procedures to be used by the board to conduct its meetings, to vote on all official business it considers, and to provide notice of its meetings.

(I) Provide for the posting of notices in a conspicuous place indicating that the code of ethics described in division (G) of this section and the policies described in division (H) of this section are available for public inspection at the community action agency during normal business hours.

Sec. 122.701. (A) Prior to designating a new community action agency or rescinding a community action agency's designation, the ~~office of community services~~ division shall:

(1) Determine whether a community action agency is in compliance with section 122.69 of the Revised Code;

(2) Consult with the chief elected officials of political subdivisions located within a community action agency's service area, and, in designating a new community action agency, obtain their endorsement of the agency in accordance with division (A) of section 122.69 of the Revised Code;

(3) Hold at least one public meeting within a community action agency's service area for the purpose of allowing citizens to comment on the community action agency's delivery of services;

(4) Evaluate the proposed service area of the community action agency, and, as may be necessary, modify the boundaries of the service area so that low-income persons in the area are adequately and efficiently served.

(B) After providing notice and hearing pursuant to sections 119.01 to 119.13 of the Revised Code, the director of development services:

(1) May rescind the designation of a community action agency ~~if he finds~~ after finding that the agency is not in compliance with any or all of the provisions of section 122.69 of the Revised Code;

(2) Shall rescind the designation of a community action agency upon notification from the chief elected officials of more than one-half of the municipal corporations and the counties within a community currently served by a community action agency that such agency is not endorsed by them and ~~upon a~~ after finding ~~by him~~ that the agency is not in compliance with section 122.69 of the Revised Code.

Any agency whose designation is rescinded pursuant to this section may

appeal from an order rescinding such designation pursuant to section 119.12 of the Revised Code.

Sec. 122.76. (A) The director of development services, with controlling board approval, may lend funds to minority business enterprises and to community improvement corporations, Ohio development corporations, minority contractors business assistance organizations, and minority business supplier development councils for the purpose of loaning funds to minority business enterprises ~~and~~, for the purpose of procuring or improving real or personal property, or both, for the establishment, location, or expansion of industrial, distribution, commercial, or research facilities in the state, and for the purpose of contract financing, and to community development corporations that predominantly benefit minority business enterprises or are located in a census tract that has a population that is sixty per cent or more minority, if the director determines, in the director's sole discretion, that all of the following apply:

(1) The project is economically sound and will benefit the people of the state by increasing opportunities for employment, by strengthening the economy of the state, or expanding minority business enterprises.

(2) The proposed minority business enterprise borrower is unable to finance the proposed project through ordinary financial channels at comparable terms.

(3) The value of the project is or, upon completion, will be at least equal to the total amount of the money expended in the procurement or improvement of the project.

(4) The amount to be loaned by the director will not exceed seventy-five per cent of the total amount expended in the procurement or improvement of the project.

(5) The amount to be loaned by the director will be adequately secured by a first or second mortgage upon the project or by mortgages, leases, liens, assignments, or pledges on or of other property or contracts as the director requires, and such mortgage will not be subordinate to any other liens or mortgages except the liens securing loans or investments made by financial institutions referred to in division (A)(3) of this section, and the liens securing loans previously made by any financial institution in connection with the procurement or expansion of all or part of a project.

(B) Any proposed minority business enterprise borrower submitting an application for assistance under this section shall not have defaulted on a previous loan from the director, and no full or limited partner, major shareholder, or holder of an equity interest of the proposed minority business enterprise borrower shall have defaulted on a loan from the

director.

(C) The proposed minority business enterprise borrower shall demonstrate to the satisfaction of the director that it is able to successfully compete in the private sector if it obtains the necessary financial, technical, or managerial support and that support is available through the director, the minority business development office of the ~~department of~~ development services agency, or other identified and acceptable sources. In determining whether a minority business enterprise borrower will be able to successfully compete, the director may give consideration to such factors as the successful completion of or participation in courses of study, recognized by the board of regents as providing financial, technical, or managerial skills related to the operation of the business, by the economically disadvantaged individual, owner, or partner, and the prior success of the individual, owner, or partner in personal, career, or business activities, as well as to other factors identified by the director.

(D) The director shall not lend funds for the purpose of procuring or improving motor vehicles or accounts receivable.

Sec. 122.861. (A) As used in this section:

(1) "Certified engine configuration" means a new, rebuilt, or remanufactured engine configuration that satisfies divisions (A)(1)(a) and (b) and, if applicable, division (A)(1)(c) of this section:

(a) It has been certified by the administrator of the United States environmental protection agency or the California air resources board.

(b) It meets or is rebuilt or remanufactured to a more stringent set of engine emission standards than when originally manufactured, as determined pursuant to Subtitle G of Title VII of the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 838, et seq.

(c) In the case of a certified engine configuration involving the replacement of an existing engine, an engine configuration that replaced an engine that was removed from the vehicle and returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for scrappage.

(2) "Section 793" means section 793 of the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 841, et seq.

(3) "Verified technology" means a pollution control technology, including a retrofit technology, advanced truckstop electrification system, or auxiliary power unit, that has been verified by the administrator of the United States environmental protection agency or the California air resources board.

(B) For the purpose of reducing emissions from diesel engines, the

director of environmental protection shall administer a diesel emissions reduction grant program and a diesel emissions reduction revolving loan program. The programs shall provide for the implementation in this state of section 793 and shall otherwise be administered in compliance with the requirements of section 793, and any regulations issued pursuant to that section.

The director shall apply to the administrator of the United States environmental protection agency for grant or loan funds available under section 793 to help fund the diesel emissions reduction grant program and the diesel emissions reduction revolving loan program.

~~(C) There is hereby created in the state treasury the diesel emissions grant fund consisting of money appropriated to it by the general assembly, any grants obtained from the federal government under section 793, and any other grants, gifts, or other contributions of money made to the credit of the fund. Money in the fund shall be used for the purpose of making grants for projects relating to certified engine configurations and verified technologies in a manner consistent with the requirements of section 793 and any regulations issued under that section. Interest earned from moneys in the fund shall be used to administer the diesel emissions reduction grant program.~~

~~(D)~~ There is hereby created in the state treasury the diesel emissions reduction revolving loan fund consisting of money appropriated to it by the general assembly, any grants obtained from the federal government under section 793, and any other grants, gifts, or other contributions of money made to the credit of the fund. Money in the fund shall be used for the purpose of making loans for projects relating to certified engine configurations and verified technologies in a manner consistent with the requirements of section 793 and any regulations issued pursuant to that section. Interest earned from moneys in the fund shall be used to administer the diesel emissions reduction revolving loan program.

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

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

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

(3) To erect, supervise, and maintain all public monuments and

memorials erected by the state, except where the supervision and maintenance is otherwise provided by law;

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

(5) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses may be granted to any person or entity, shall be for a period not to exceed fifteen years, and shall be executed for the state by the director of administrative services, provided that the director shall grant leases, easements, or licenses of university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university land for periods not to exceed forty years for purposes approved by the respective university's board of trustees pursuant to section 123.17 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

lease agreement has been conducted upon the basis of basic plans, specifications, bills of materials, and estimates of costs, upon the award to the builder the department, or the builder with the approval of the department, shall appoint an architect or engineer licensed in this state to prepare such further detailed plans, specifications, and bills of materials as are required to construct the building, structure, or improvement. The department shall adopt such rules as are necessary to give effect to this section. The department may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

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

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

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

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

- (a) The best interests of the state will be promoted by entering into a lease with the developer;
- (b) The development plans are satisfactory;
- (c) The developer has established the developer's financial responsibility and satisfactory plans for financing the development.

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

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

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

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

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

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

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

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

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

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

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

(a) Identifying available energy efficiency and conservation opportunities;

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

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

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

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

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

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

Each state agency, department, division, bureau, office, unit, commission, board, authority, quasi-governmental entity, institution, and state institution of higher education shall determine its fleet average fuel economy by dividing the total number of passenger vehicles acquired during the fiscal year, except for those passenger vehicles acquired for use in law enforcement or emergency rescue work, by a sum of terms, each of which is a fraction created by dividing the number of passenger vehicles of a given make, model, and year, except for passenger vehicles acquired for use in law enforcement or emergency rescue work, acquired during the fiscal year by the fuel economy measured by the administrator of the United States

environmental protection agency, for the given make, model, and year of vehicle, that constitutes an average fuel economy for combined city and highway driving.

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

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

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

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

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

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

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

(6) The power of the director of environmental protection to enter into

environmental covenants, to grant and accept easements, or to sell property pursuant to division (G) of section 3745.01 of the Revised Code.

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency, the bureau of workers' compensation, or the departments of public safety, job and family services, ~~mental health~~ mental health and addiction services, developmental disabilities, and rehabilitation and correction; buildings of educational and benevolent institutions under the management and control of boards of trustees; and purchases or leases for, and the custody and repair of, office space used for the purposes of the joint legislative ethics committee are not subject to the control and jurisdiction of the department of administrative services.

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

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

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

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

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

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

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

Sec. 123.19. There is hereby established in the state treasury the theater equipment maintenance fund. All appropriate theater-related revenues of the department of administrative services, as determined by the department, shall be credited to that fund and to any accounts created in that fund with the department's approval. All appropriate theater-related expenses of the department, as determined by the department, including reimbursement of, or payment to, any other fund or any governmental agency for advances made or services rendered to or on behalf of the department, shall be paid from that fund as determined by or pursuant to directions of the department. All investment earnings of that fund shall be credited to it and shall be allocated among any accounts created in the fund in the manner determined by the department.

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

the cost of providing project management services, and for other purposes determined by the commission to be necessary to fulfill its duties under this chapter.

(B)(1) There is hereby created in the state treasury the cultural and sports facilities building fund, consisting of proceeds of obligations authorized to pay costs of Ohio cultural facilities and Ohio sports facilities for which appropriations are made by the general assembly. All investment earnings of the fund shall be credited to the fund.

(2) Upon the request of the executive director of the Ohio facilities construction commission and subject to applicable tax law limitations, the director of budget and management may transfer to the Ohio cultural facilities administration fund moneys credited to the cultural and sports facilities building fund to pay the costs of administering projects funded through the cultural and sports facilities building fund.

(C) There is hereby created in the state treasury the Ohio cultural facilities administration fund, consisting of transfers of money authorized by the general assembly and revenues received by the commission under division (A)(9) of section 123.21 of the Revised Code. Moneys in the fund may be used by the Ohio facilities construction commission in administering projects funded through the cultural and sports facilities building fund pursuant to sections 123.28 and 123.281 of the Revised Code. All investment earnings of that fund shall be credited to it and shall be allocated among any accounts created in the fund in the manner determined by the commission.

(D)(1) There is hereby created in the state treasury the capital donations fund, which shall be administered by the Ohio facilities construction commission. The fund consists of gifts, grants, devises, bequests, and other financial contributions made to the commission for the construction or improvement of cultural and sports facilities and shall be used in accordance with the specific purposes for which the gifts, grants, devises, bequests, or other financial contributions are made. All investment earnings of the fund shall be credited to the fund. Chapters 123., 125., 127., and 153. and section 3517.13 of the Revised Code do not apply to contract obligations paid from the fund, notwithstanding anything to the contrary in those chapters or that section.

(2) Not later than one month following the end of each quarter of the fiscal year, the commission shall allocate the amounts credited to the fund from investment earnings during that preceding quarter of the fiscal year among the specific projects for which they are to be used and shall certify this information to the director of budget and management.

(3) If the amounts credited to the fund for a particular project exceed what is required to complete that project, the commission may refund any of those excess amounts, including unexpended investment earnings attributable to those amounts, to the entity from which they were received.

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

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

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

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

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

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

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

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

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

(9) Enter into and administer cooperative agreements for cultural projects, as provided in sections 123.28 and 123.281 of the Revised Code.

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

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

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

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

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

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

(B) Commencing not later than July 1, 2012, and upon completion of a capital facilities project that is funded wholly or in part using state funds, each public entity shall submit a report about the project to the executive director of the Ohio facilities construction commission. The report shall be submitted in Ohio administrative knowledge system capital improvement format or in a manner determined by the executive director and not later than thirty days after the project is complete. The report shall provide the total original contract bid, total cost of change orders, total actual cost of the

project, total costs incurred for mediation and litigation services, and any other data requested by the executive director. The first report submitted pursuant to this division shall include information about any capital facilities project completed on or after July 1, 2011. Any capital facilities project that is funded wholly or in part through appropriations made to the Ohio school facilities commission, or the Ohio public works commission, ~~or the Ohio cultural facilities commission~~, or for which a joint use agreement has been entered into with any public entity, is exempt from the reporting requirement prescribed under this division.

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

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

Sec. ~~3383.04~~ 123.28. As used in this ~~chapter~~ section and in section 123.281 of the Revised Code:

(A) "Culture" means any of the following:

(1) Visual, musical, dramatic, graphic, design, and other arts, including, but not limited to, architecture, dance, literature, motion pictures, music, painting, photography, sculpture, and theater, and the provision of training or education in these arts;

(2) The presentation or making available, in museums or other indoor or outdoor facilities, of principles of science and their development, use, or application in business, industry, or commerce or of the history, heritage, development, presentation, and uses of the arts described in division (A)(1) of this section and of transportation;

(3) The preservation, presentation, or making available of features of archaeological, architectural, environmental, or historical interest or significance in a state historical facility or a local historical facility.

(B) "Cultural organization" means either of the following:

(1) A governmental agency or Ohio nonprofit corporation, including the Ohio historical society, that provides programs or activities in areas directly concerned with culture;

(2) A regional arts and cultural district as defined in section 3381.01 of the Revised Code.

(C) "Cultural project" means all or any portion of an Ohio cultural facility for which the general assembly has ~~specifically authorized the spending of money, or made an appropriation, pursuant to division (D)(3) or (E) of section 3383.07 of the Revised Code~~ or has specifically authorized the spending of money or the making of rental payments relating to the financing of construction.

(D) "Cooperative contract" means a contract between the Ohio ~~cultural~~ facilities construction commission and a cultural organization providing the terms and conditions of the cooperative use of an Ohio cultural facility.

(E) "Costs of operation" means amounts required to manage an Ohio cultural facility that are incurred following the completion of construction of its cultural project, provided that both of the following apply:

(1) Those amounts either:

(a) Have been committed to a fund dedicated to that purpose;

(b) Equal the principal of any endowment fund, the income from which is dedicated to that purpose.

(2) The commission and the cultural organization have executed an agreement with respect to either of those funds.

~~(F) "General building services" means general building services for an Ohio cultural facility or an Ohio sports facility, including, but not limited to, general custodial care, security, maintenance, repair, painting, decoration, cleaning, utilities, fire safety, grounds and site maintenance and upkeep, and plumbing.~~

~~(G)~~ "Governmental agency" means ~~a state agency, a state-supported or state-assisted institution of higher education,~~ a municipal corporation, county, township, or school district, a port authority created under Chapter 4582. of the Revised Code, any other political subdivision or special district in this state established by or pursuant to law, or any combination of these entities; except where otherwise indicated, the United States or any department, division, or agency of the United States, or any agency, commission, or authority established pursuant to an interstate compact or agreement.

~~(H)~~(G) "Local contributions" means the value of an asset provided by or on behalf of a cultural organization from sources other than the state, the value and nature of which shall be approved by the Ohio ~~cultural~~ facilities construction commission, in its sole discretion. "Local contributions" may include the value of the site where a cultural project is to be constructed. All "local contributions," except a contribution attributable to such a site, shall

be for the costs of construction of a cultural project or the creation or expansion of an endowment for the costs of operation of a cultural facility.

~~(F)~~(H) "Local historical facility" means a site or facility, other than a state historical facility, of archaeological, architectural, environmental, or historical interest or significance, or a facility, including a storage facility, appurtenant to the operations of such a site or facility, that is owned by a cultural organization, ~~provided the facility meets the requirements of division (K)(2)(b) of this section, is managed by or pursuant to a contract with the Ohio cultural facilities commission,~~ and is used for or in connection with the cultural activities ~~of the commission,~~ including the presentation or making available of culture to the public.

~~(J)~~(I) "Manage," "operate," or "management" means the provision of, or the exercise of control over the provision of, activities:

(1) Relating to culture for an Ohio cultural facility, including as applicable, but not limited to, providing for displays, exhibitions, specimens, and models; booking of artists, performances, or presentations; scheduling; and hiring or contracting for directors, curators, technical and scientific staff, ushers, stage managers, and others directly related to the cultural activities in the facility; but not including general building services;

(2) Relating to sports and athletic events for an Ohio sports facility, including as applicable, but not limited to, providing for booking of athletes, teams, and events; scheduling; and hiring or contracting for staff, ushers, managers, and others directly related to the sports and athletic events in the facility; but not including general building services.

~~(K)~~(J) "Ohio cultural facility" means any of the following:

(1) The theaters located in the state office tower at 77 South High street in Columbus;

(2) Any ~~capital~~ cultural facility in this state ~~to which both of the following apply:~~

~~(a) The construction of a cultural project related to the facility was authorized or funded by the general assembly pursuant to division (D)(3) of section 3383.07 of the Revised Code and proceeds of state bonds are used for costs of the cultural project.~~

~~(b) The facility that is managed directly by, or is subject to a cooperative or management contract with, the Ohio ~~cultural facilities construction~~ commission, and is used for or in connection with the activities of the commission, including the presentation or making available of culture to the public and the provision of training or education in culture.~~

(3) A state historical facility or a local historical facility.

~~(L) "State agency" means the state or any of its branches, officers,~~

~~boards, commissions, authorities, departments, divisions, or other units or agencies.~~

~~(M)~~(K) "Construction" includes acquisition, including acquisition by lease-purchase, demolition, reconstruction, alteration, renovation, remodeling, enlargement, improvement, site improvements, and related equipping and furnishing.

~~(N)~~(L) "State historical facility" means a site or facility that has all of the following characteristics:

(1) It is created, supervised, operated, protected, maintained, and promoted by the Ohio historical society pursuant to the society's performance of public functions under sections 149.30 and 149.302 of the Revised Code.

(2) Its title must reside wholly or in part with the state, the society, or both the state and the society.

(3) It is managed directly by or is subject to a cooperative or management contract with the Ohio ~~cultural~~ facilities construction commission and is used for or in connection with ~~the cultural~~ activities ~~of the commission~~, including the presentation or making available of culture to the public.

~~(O)~~(M) "Ohio sports facility" means all or a portion of a stadium, arena, tennis facility, motorsports complex, or other capital facility in this state. A primary purpose of the facility shall be to provide a site or venue for the presentation to the public of motorsports events, professional tennis tournaments, or events of one or more major or minor league professional athletic or sports teams that are associated with the state or with a city or region of the state. The facility shall be, in the case of a motorsports complex, owned by the state or governmental agency, or in all other instances, owned by or located on real property owned by the state or a governmental agency, and includes all parking facilities, walkways, and other auxiliary facilities, equipment, furnishings, and real and personal property and interests and rights therein, that may be appropriate for or used for or in connection with the facility or its operation, for capital costs of which state funds are spent pursuant to ~~this chapter~~ this section and section 123.281 of the Revised Code. A facility constructed as an Ohio sports facility may be both an Ohio cultural facility and an Ohio sports facility.

~~(P)~~(N) "Motorsports" means sporting events in which motor vehicles are driven on a clearly demarcated tracked surface.

Sec. ~~3383.07~~ 123.281. (A) The Ohio facilities construction commission shall provide for the construction of a cultural project in conformity with Chapter 153. of the Revised Code, except ~~as follows~~:

~~(1) For a cultural project other than a state historical facility, construction services may be provided on behalf of the state by the Ohio cultural facilities commission, or by~~ for construction services provided on behalf of the state by a governmental agency or a cultural organization in accordance with divisions (B) and (C) of this section.

~~(B) In order for a governmental agency or a cultural organization that occupies, will occupy, or is responsible for the Ohio cultural facility, as determined by the Ohio cultural facilities commission. For a project receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to approve the provision of construction services by such an agency or organization, but not the authority to disapprove that provision. Construction services to be provided by a governmental agency or a cultural organization shall be specified in an agreement between the Ohio cultural facilities commission and the governmental agency or cultural organization. The agreement, or any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.081 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.~~

~~(2) For a cultural project that is to provide construction services on behalf of the state for a cultural project, other than a state historical facility, for which the general assembly has made an appropriation or specifically authorized the spending of money or the making of rental payments relating to the financing of the construction, the governmental agency or cultural organization shall submit to the Ohio facilities construction commission a cooperative agreement that includes, but is not limited to, provisions that:~~

~~(1) Specify how the proposed project will support culture, as defined in section 123.28 of the Revised Code;~~

~~(2) Specify that the governmental agency or cultural organization has local contributions amounting to not less than fifty per cent of the total state funding for the cultural project;~~

~~(3) Specify that the funds shall be used only for construction, as defined in section 123.28 of the Revised Code;~~

~~(4) Identify the facility to be constructed, renovated, remodeled, or improved;~~

~~(5) Specify that the project scope meets the intent and purpose of the project appropriation and that the project can be completed and ready for full occupancy without exceeding appropriated funds;~~

~~(6) Specify that the governmental agency or cultural organization shall hold the Ohio facilities construction commission harmless from all liability for the operation and maintenance costs of the facility;~~

(7) Specify that the agreement or any actions taken under it are not subject to Chapters 123. or 153. of the Revised Code, except for section 153.011 of the Revised Code, and are subject to Chapter 4115. of the Revised Code; and

(8) Provide that amendments to the agreement shall require the approval of the Ohio facilities construction commission.

~~(C) In order for a cultural organization to provide construction services on behalf of the state for a state historical facility, construction services may be provided by the Ohio cultural facilities commission or by a cultural organization that occupies, will occupy, or is responsible for the facility, as determined by the Ohio cultural facilities commission. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to approve the provision of construction services by such an organization, but not the authority to disapprove that provision. The construction services to be provided by the cultural organization shall be specified in an agreement between the Ohio cultural facilities commission and the cultural organization. That agreement, and any actions taken under it, are not subject to Chapter 123., 153., or 4115. of the Revised Code.~~

~~(B) For an Ohio sports facility that is financed in part by obligations issued pursuant to Chapter 154. of the Revised Code, construction services shall be provided on behalf of the state by or at the direction of the governmental agency or nonprofit corporation that will own or be responsible for the management of the facility, all as determined by the Ohio cultural facilities commission. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to approve the provision of construction services by or at the direction of the agency or corporation, but not the authority to disapprove that provision. Any construction services to be provided by a governmental agency or nonprofit corporation shall be specified in an agreement between the Ohio cultural facilities commission and the governmental agency or nonprofit corporation. That agreement, and any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.081 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.~~

~~(C) General building services for an Ohio cultural facility shall be provided by the Ohio cultural facilities commission or by a cultural organization that occupies, will occupy, or is responsible for the facility, as determined by the Ohio cultural facilities commission. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio~~

~~cultural facilities commission may delegate to its executive director the authority to approve the provision of general building services by such an organization, but not the authority to disapprove that provision. Alternatively, the Ohio building authority may elect to provide those services for Ohio cultural facilities financed with proceeds of state bonds issued by the authority. The costs of management and general building services shall be paid by the cultural organization that occupies, will occupy, or is responsible for the facility as provided in an agreement between the Ohio cultural facilities commission and the cultural organization, except that the state may pay for general building services for state-owned cultural facilities constructed on state-owned land.~~

~~General building services for an Ohio sports facility shall be provided by or at the direction of the governmental agency or nonprofit corporation that will be responsible for the management of the facility, all as determined by the Ohio cultural facilities commission. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to approve the provision of general building services by or at the direction of the agency or corporation, but not the authority to disapprove that provision. Any general building services to be provided by a governmental agency or nonprofit corporation for an Ohio sports facility shall be specified in an agreement between the Ohio cultural facilities commission and the governmental agency or nonprofit corporation. That agreement, and any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.081 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.~~

~~(D) This division does not apply to a state historical facility. No state funds, including any state bond proceeds, shall be spent on the construction of any cultural project under this chapter unless, with respect to the cultural project and to the Ohio cultural facility related to the project, all of the following apply:~~

~~(1) The Ohio cultural facilities commission has determined that there is a need for the cultural project and the Ohio cultural facility related to the project in the region of the state in which the Ohio cultural facility is located or for which the facility is proposed. For a project receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to determine need but only in the affirmative.~~

~~(2) The Ohio cultural facilities commission has determined that, as an indication of substantial regional support for the cultural project, the cultural~~

~~organization has made provision satisfactory to the Ohio cultural facilities commission, in its sole discretion, for local contributions amounting to not less than fifty per cent of the total state funding for the cultural project. For a project receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to determine the adequacy of the regional support but only in the affirmative.~~

~~(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the cultural project, or for rental payments relating to the financing of the construction of the cultural project. Authorization to spend money, or an appropriation, for planning the cultural project does not constitute authorization to spend money on, or an appropriation for, construction of the cultural project.~~

~~(E) No state funds, including any state bond proceeds, shall be spent on the construction of any state historical facility under this chapter unless the general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the state historical project related to the facility, or for rental payments relating to the financing of the construction of the state historical project. Authorization to spend money, or an appropriation, for planning the state historical project does not constitute authorization to spend money on, or an appropriation for, the construction of the state historical project.~~

~~(F) for which the general assembly has made an appropriation or specifically authorized the spending of money or the making of rental payments relating to the financing of the construction, the cultural organization shall submit to the Ohio facilities construction commission a cooperative agreement that includes, but is not limited to, provisions that:~~

~~(1) Specify how the proposed project will support culture, as defined in section 123.28 of the Revised Code;~~

~~(2) Specify that the funds shall be used only for construction, as defined in section 123.28 of the Revised Code;~~

~~(3) Identify the facility to be constructed, renovated, remodeled, or improved;~~

~~(4) Specify that the project scope meets the intent and purpose of the project appropriation and that the project can be completed and ready for full occupancy without exceeding appropriated funds;~~

~~(5) Specify that the cultural organization shall hold the Ohio facilities construction commission harmless from all liability for the operation and maintenance costs of the facility;~~

~~(6) Specify that the agreement or any actions taken under it are not~~

subject to Chapters 123., 153., or 4115. of the Revised Code; and

(7) Provide that amendments to the agreement shall require the approval of the Ohio facilities construction commission.

(D) State funds shall not be used to pay or reimburse more than fifteen per cent of the initial estimated construction cost of an Ohio sports facility, excluding any site acquisition cost, and no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility under this chapter unless, with respect to that facility, all of the following apply:

~~(1) The Ohio cultural facilities construction commission has determined that there is a need for the facility in the region of the state for which the facility is proposed to provide the function of an Ohio sports facility as provided for in this chapter. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to determine need but only in the affirmative.~~

~~(2) As an indication of substantial local support for the facility, the Ohio cultural facilities commission has received a financial and development plan satisfactory to it, and provision has been made, by agreement or otherwise, satisfactory to the Ohio cultural facilities commission, for a contribution amounting to not less than eighty-five per cent of the total estimated construction cost of the facility, excluding any site acquisition cost, from sources other than the state. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to evaluate the financial and development plan and the contribution and to determine their adequacy but only in the affirmative.~~

~~(3)~~(2) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the facility, or for rental payments relating to state financing of all or a portion of the costs of constructing the facility. Authorization to spend money, or an appropriation, for planning or determining the feasibility of or need for the facility does not constitute authorization to spend money on, or an appropriation for, costs of constructing the facility.

~~(4)~~(3) If state bond proceeds are being used for the Ohio sports facility, the state or a governmental agency owns or has sufficient property interests in the facility or in the site of the facility or in the portion or portions of the facility financed from proceeds of state bonds, which may include, but is not limited to, the right to use or to require the use of the facility for the presentation of sport and athletic events to the public at the facility.

~~(G)~~(E) In addition to the requirements of division ~~(F)~~(D) of this section,

no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility that is a motorsports complex, unless, with respect to that facility, both of the following apply:

(1) Motorsports events shall be presented at the facility pursuant to a lease entered into with the owner of the facility. The term of the lease shall be for a period of not less than the greater of the useful life of the portion of the facility financed from proceeds of state bonds as determined using the guidelines for maximum maturities as provided under divisions (B) and (C) of section 133.20 of the Revised Code, or the period of time remaining to the date of payment or provision for payment of outstanding state bonds allocable to costs of the facility, all as determined by the director of budget and management and certified by the executive director ~~to~~ of the Ohio ~~cultural~~ facilities construction commission and to the treasurer of state.

(2) Any motorsports organization that commits to using the facility for an established period of time shall give the political subdivision in which the facility is located not less than six months' advance notice if the organization intends to cease utilizing the facility prior to the expiration of that established period. Such a motorsports organization shall be liable to the state for any state funds used on the construction costs of the facility.

~~(H)(F)~~ In addition to the requirements of division ~~(F)(D)~~ of this section, no state bond proceeds shall be spent on any Ohio sports facility that is a tennis facility, unless the owner or manager of the facility provides contractual commitments from a national or international professional tennis organization in a form acceptable to the ~~cultural~~ Ohio facilities construction commission that assures that one or more sanctioned professional tennis events will be presented at the facility during each year that the bonds remain outstanding.

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

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

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

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

(3)(a) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor

or by and with the governor's consent;

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

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

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

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

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

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

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

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

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

(9) The deputies and assistants of state agencies authorized to act for and on behalf of the agency, or holding a fiduciary or administrative relation to that agency and those persons employed by and directly responsible to elected county officials or a county administrator and holding a fiduciary or administrative relationship to such elected county officials or county administrator, and the employees of such county officials whose fitness

would be impracticable to determine by competitive examination, provided that division (A)(9) of this section shall not affect those persons in county employment in the classified service as of September 19, 1961. Nothing in division (A)(9) of this section applies to any position in a county department of job and family services created pursuant to Chapter 329. of the Revised Code.

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

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

(12) Such teachers and employees in the agricultural experiment stations; such students in normal schools, colleges, and universities of the state who are employed by the state or a political subdivision of the state in student or intern classifications; and such unskilled labor positions as the director of administrative services, with respect to positions in the service of the state, or any municipal civil service commission may find it impracticable to include in the competitive classified service; provided such exemptions shall be by order of the commission or the director, duly entered on the record of the commission or the director with the reasons for each such exemption;

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

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

(15) Noncitizens of the United States employed by the state, or its counties or cities, as physicians or nurses who are duly licensed to practice

their respective professions under the laws of this state, or medical assistants, in mental or chronic disease hospitals, or institutions;

(16) Employees of the governor's office;

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

(18) Executive directors, deputy directors, and program directors employed by boards of alcohol, drug addiction, and mental health services under Chapter 340. of the Revised Code, and secretaries of the executive directors, deputy directors, and program directors;

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

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

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

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

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

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

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

(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of workers' compensation, industrial commission, state lottery commission, opportunities for Ohioans with disabilities agency, and public utilities commission of Ohio that the head of that administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range ~~44~~ 47 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service

under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative department or state agency has under the Revised Code to establish positions, appoint employees, or set compensation.

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

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

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

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

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

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

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

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

certified to the appointing officer in accordance with this chapter.

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

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

(D)(1) This division does not apply to persons in the unclassified service who have the right to resume positions in the classified service under sections 4121.121, ~~5119.071~~ 5119.18, 5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised Code or to cities, counties, or political subdivisions of the state.

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

(a) That person held a certified position prior to July 1, 2007, in the

classified service within the appointing authority's agency; or

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

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

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

(b) Upon transfer to a different agency.

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

Sec. 124.14. (A)(1) The director of administrative services shall establish, and may modify or rescind, by rule, a job classification plan for all positions, offices, and employments ~~the salaries of which are paid in whole or in part by~~ in the service of the state. The director shall group jobs within a classification so that the positions are similar enough in duties and responsibilities to be described by the same title, to have the same pay assigned with equity, and to have the same qualifications for selection applied. The director shall, by rule, assign a classification title to each classification within the classification plan. However, the director shall consider in establishing classifications, including classifications with parenthetical titles, and assigning pay ranges such factors as duties performed only on one shift, special skills in short supply in the labor

market, recruitment problems, separation rates, comparative salary rates, the amount of training required, and other conditions affecting employment. The director shall describe the duties and responsibilities of the class, establish the qualifications for being employed in each position in the class, and file with the secretary of state a copy of specifications for all of the classifications. The director shall file new, additional, or revised specifications with the secretary of state before they are used.

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

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

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

(4) The director shall, by rule, assign related classifications, which form a career progression, to a classification series. The director shall, by rule, assign each classification in the classification plan a five-digit number, the first four digits of which shall denote the classification series to which the classification is assigned. When a career progression encompasses more than ten classifications, the director shall, by rule, identify the additional classifications belonging to a classification series. The additional classifications shall be part of the classification series, notwithstanding the

fact that the first four digits of the number assigned to the additional classifications do not correspond to the first four digits of the numbers assigned to other classifications in the classification series.

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

(1) Elected officials;

(2) Legislative employees, employees of the legislative service commission, employees in the office of the governor, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, and employees of the supreme court;

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

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

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

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

(2) When the director proposes to reclassify any employee in the service of the state so that the employee is adversely affected, the director shall give to the employee affected and to the employee's appointing authority a written notice setting forth the proposed new classification, pay range, and salary. Upon the request of any classified employee in the service of the state who is not serving in a probationary period, the director shall perform a job audit to review the classification of the employee's position to determine whether the position is properly classified. The director shall give to the employee affected and to the employee's appointing authority a written notice of the director's determination whether or not to reclassify the position or to reassign the employee to another classification. An employee or appointing authority desiring a hearing shall file a written request for the hearing with the state personnel board of review within thirty days after receiving the notice. The board shall set the matter for a hearing and notify

the employee and appointing authority of the time and place of the hearing. The employee, the appointing authority, or any authorized representative of the employee who wishes to submit facts for the consideration of the board shall be afforded reasonable opportunity to do so. After the hearing, the board shall consider anew the reclassification and may order the reclassification of the employee and require the director to assign the employee to such appropriate classification as the facts and evidence warrant. As provided in division (A)(1) of section 124.03 of the Revised Code, the board may determine the most appropriate classification for the position of any employee coming before the board, with or without a job audit. The board shall disallow any reclassification or reassignment classification of any employee when it finds that changes have been made in the duties and responsibilities of any particular employee for political, religious, or other unjust reasons.

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

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

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

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

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

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

(F)(1) Notwithstanding any contrary provision of sections 124.01 to

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

(2) Each board of trustees shall adopt rules under section 111.15 of the Revised Code to carry out the matters of governance described in division (F)(1) of this section. Until the board of trustees adopts those rules, a state university or college shall continue to operate pursuant to the applicable rules adopted by the director of administrative services under this chapter.

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

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

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

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

(3) After the county personnel department of a county has been established as described in division (G)(2) of this section, any elected official, board, agency, or other appointing authority of that county, upon written notification to the county personnel department, may elect to use the

services and facilities of the county personnel department. Upon receipt of the notification by the county personnel department, the county personnel department shall exercise the powers, duties, and functions as described in division (G)(2) of this section with respect to the employees of that elected official, board, agency, or other appointing authority.

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

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

(6) A county personnel department, in carrying out its duties, shall adhere to merit system principles with regard to employees of county departments of job and family services, child support enforcement agencies, and public child welfare agencies so that there is no threatened loss of federal funding for these agencies, and the county is financially liable to the state for any loss of federal funds due to the action or inaction of the county personnel department.

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

(I) The director of administrative services shall establish the rate and method of compensation for all employees who are paid directly by warrant of the director of budget and management and who are serving in positions that the director of administrative services has determined impracticable to include in the state job classification plan. This division does not apply to elected officials, legislative employees, employees of the legislative service commission, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, employees of the courts, employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under

division (B) of section 4121.121 of the Revised Code, or employees of an appointing authority authorized by law to fix the compensation of those employees.

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

Sec. 124.18. (A) Forty hours shall be the standard work week for all employees whose salary or wage is paid in whole or in part by the state or by any state-supported college or university. When any employee whose salary or wage is paid in whole or in part by the state or by any state-supported college or university is required by an authorized administrative authority to be in an active pay status more than forty hours in any calendar week, the employee shall be compensated for such time over forty hours, except as otherwise provided in this section, at one and one-half times the employee's regular rate of pay. The use of sick leave or any leave used in lieu of sick leave shall not be considered to be active pay status for the purposes of earning overtime or compensatory time by employees whose wages are paid directly by warrant of the director of budget and management. A flexible-hours employee is not entitled to compensation for overtime work unless the employee's authorized administrative authority required the employee to be in active pay status for more than forty hours in a calendar week, regardless of the number of hours the employee works on any day in the same calendar week.

Such compensation for overtime work shall be paid no later than at the conclusion of the next succeeding pay period.

If the employee elects to take compensatory time off in lieu of overtime pay for any overtime worked, such compensatory time shall be granted by the employee's administrative superior, on a time and one-half basis, at a

time mutually convenient to the employee and the administrative superior. Compensatory time is not available for use until it appears on the employee's earning statement and the compensation described in the earning statement is available to the employee.

An employee may accrue compensatory time to a maximum of two hundred forty hours, except that public safety employees and other employees who meet the criteria established in the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended, may accrue a maximum of four hundred eighty hours of compensatory time. An employee shall be paid at the employee's regular rate of pay for any hours of compensatory time accrued in excess of these maximum amounts if the employee has not used the compensatory time within three hundred sixty-five days after it is granted, if the employee transfers to another agency of the state, or if a change in the employee's status exempts the employee from the payment of overtime compensation. Upon the termination of employment, any employee with accrued but unused compensatory time shall be paid for that time at a rate that is the greater of the employee's final regular rate of pay or the employee's average regular rate of pay during the employee's last three years of employment with the state.

No overtime, as described in this section, can be paid unless it has been authorized by the authorized administrative authority. Employees may be exempted from the payment of compensation as required by this section only under the criteria for exemption from the payment of overtime compensation established in the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended. With the approval of the director of administrative services, the appointing authority may establish a policy to grant compensatory time or to pay compensation to state employees in the service of the state who are exempt from overtime compensation. With the approval of the board of county commissioners, a county human services department may establish a policy to grant compensatory time or to pay compensation to employees of the department who are exempt from overtime compensation.

(B)(1) An employee, whose salary or wage is paid in whole or in part by the state, shall be paid for the holidays declared in section 124.19 of the Revised Code and shall not be required to work on those holidays, unless, in the opinion of the employee's responsible administrative authority, failure to work on those holidays would impair the public service.

(2) An employee paid directly by warrant of the director of budget and management who is scheduled to work on the first day of January, the commemoration of memorial day, the fourth day of July, the fourth

Thursday in November, or the twenty-fifth day of December and who does not report to work the day before, the day of, or the day after the holiday due to an illness of the employee or of a member of the employee's immediate family shall not receive holiday pay as provided by this division, unless the employee can provide documentation of extenuating circumstances that prohibited the employee from so reporting to work. If the employee works a shift between the employee's scheduled shift and the holiday, the employee shall be paid for the holiday.

(3) An employee also shall not be paid for a holiday unless the employee was in active pay status on the scheduled work day immediately preceding the holiday, except that an employee need not be in active pay status on that work day in order to be paid for the holiday if the employee is participating in a mandatory or voluntary cost savings day under section 124.392 of the Revised Code.

(4) If any of the holidays declared in section 124.19 of the Revised Code falls on Saturday, the Friday immediately preceding shall be observed as the holiday. If any of the holidays declared in section 124.19 of the Revised Code falls on Sunday, the Monday immediately succeeding shall be observed as the holiday. Employees whose work schedules are based on the requirements of a seven-days-a-week work operation shall observe holidays on the actual days specified in section 124.19 of the Revised Code.

(5) If an employee's work schedule is other than Monday through Friday, the employee shall be entitled to eight hours of holiday pay for holidays observed on the employee's day off regardless of the day of the week on which they are observed.

(6) A full-time permanent employee is entitled to a minimum of eight hours of pay for each holiday regardless of the employee's work shift and work schedule. A flexible-hours employee, who is normally scheduled to work in excess of eight hours on a day on which a holiday falls, either shall be required to work an alternate schedule for that week or shall receive additional holiday pay for the hours the employee is normally scheduled to work. Such an alternate schedule may require a flexible-hours employee to work five shifts consisting of eight hours each during the week including the holiday, and, in that case, the employee shall receive eight hours of holiday pay for the day the holiday is observed.

(7) Except as provided under section 124.392 of the Revised Code, part-time permanent employees shall receive four hours of holiday pay regardless of the employee's work shift and work schedule.

(8) When an employee who is eligible for overtime pay under this section is required by the employee's responsible administrative authority to

work on the day observed as a holiday, the employee shall be entitled to pay for such time worked at one and one-half times the employee's regular rate of pay in addition to the employee's regular pay, or to be granted compensatory time off at time and one-half thereafter, at the employee's option. Payment at such rate shall be excluded in the calculation of hours in active pay status.

(C) Each appointing authority may designate the number of employees in an agency who are flexible-hours employees. The appointing authority may establish for each flexible-hours employee a specified minimum number of hours to be worked each day that is consistent with the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended.

(D) This section shall be uniformly administered for employees as defined in section 124.01 of the Revised Code and by the personnel departments of state-supported colleges and universities for employees of state-supported colleges and universities. If employees are not paid directly by warrant of the director of budget and management, the political subdivision shall determine whether the use of sick leave shall be considered to be active pay status for purposes of those employees earning overtime or compensatory time.

(E) Policies relating to the payment of overtime pay or the granting of compensatory time off shall be adopted by the chief administrative officer of the house of representatives for employees of the house of representatives, by the clerk of the senate for employees of the senate, and by the director of the legislative service commission for all other legislative employees.

(F) As used in this section, "regular rate of pay" means the base rate of pay an employee receives plus any pay supplements received pursuant to section 124.181 of the Revised Code.

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

(1) Whenever there are urgent reasons for filling a vacancy in any position in the classified civil service and the director of administrative services is unable to certify to the appointing authority, upon its request, a list of persons eligible for appointment to the position after a competitive examination, the appointing authority may fill the position by noncompetitive examination.

A temporary appointment may be made without regard to the rules of sections 124.01 to 124.64 of the Revised Code. Except as otherwise provided in this division, the temporary appointment may not continue longer than one hundred twenty days, and in no case shall successive

temporary appointments be made. A temporary appointment longer than one hundred twenty days may be made if necessary by reason of sickness, disability, or other approved leave of absence of regular officers or employees, in which case it may continue during the period of sickness, disability, or other approved leave of absence, subject to the rules of the director.

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

(a) The director of job and family services provides the certification under section 5101.051 of the Revised Code that a position with the department of job and family services can best be filled if the provisions are suspended;

(b) The medicaid director provides the certification under section 5160.051 of the Revised Code that a position with the department of medicaid can best be filled if the provisions are suspended.

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

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

Sec. 124.341. (A) If an employee in the classified or unclassified civil service becomes aware in the course of employment of a violation of state or federal statutes, rules, or regulations or the misuse of public resources, and the employee's supervisor or appointing authority has authority to correct the violation or misuse, the employee may file a written report identifying the violation or misuse with the supervisor or appointing authority. In addition to or instead of filing a written report with the supervisor or

appointing authority, the employee may file a written report with the office of internal ~~auditing~~ audit created under section 126.45 of the Revised Code or file a complaint with the auditor of state's fraud-reporting system under section 117.103 of the Revised Code.

If the employee reasonably believes that a violation or misuse of public resources is a criminal offense, the employee, in addition to or instead of filing a written report or complaint with the supervisor, appointing authority, the office of internal ~~auditing~~ audit, or the auditor of state's fraud-reporting system, may report it to a prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation, to a peace officer, as defined in section 2935.01 of the Revised Code, or, if the violation or misuse of public resources is within the jurisdiction of the inspector general, to the inspector general in accordance with section 121.46 of the Revised Code. In addition to that report, if the employee reasonably believes the violation or misuse is also a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code, the employee may report it to the appropriate ethics commission.

(B) Except as otherwise provided in division (C) of this section, no officer or employee in the classified or unclassified civil service shall take any disciplinary action against an employee in the classified or unclassified civil service for making any report or filing a complaint as authorized by division (A) of this section, including, without limitation, doing any of the following:

- (1) Removing or suspending the employee from employment;
- (2) Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled;
- (3) Transferring or reassigning the employee;
- (4) Denying the employee promotion that otherwise would have been received;
- (5) Reducing the employee in pay or position.

(C) An employee in the classified or unclassified civil service shall make a reasonable effort to determine the accuracy of any information reported under division (A) of this section. The employee is subject to disciplinary action, including suspension or removal, as determined by the employee's appointing authority, for purposely, knowingly, or recklessly reporting false information under division (A) of this section.

(D) If an appointing authority takes any disciplinary or retaliatory action against a classified or unclassified employee as a result of the employee's having filed a report or complaint under division (A) of this section, the employee's sole and exclusive remedy, notwithstanding any other provision

of law, is to file an appeal with the state personnel board of review within thirty days after receiving actual notice of the appointing authority's action. If the employee files such an appeal, the board shall immediately notify the employee's appointing authority and shall hear the appeal. The board may affirm or disaffirm the action of the appointing authority or may issue any other order as is appropriate. The order of the board is appealable in accordance with Chapter 119. of the Revised Code.

(E) As used in this section:

(1) "Purposely," "knowingly," and "recklessly" have the same meanings as in section 2901.22 of the Revised Code.

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

(3) "Inspector general" means the inspector general appointed under section 121.48 of the Revised Code.

Sec. 124.381. (A)(1)(a) An employee in the service of the state may be eligible to receive salary continuation not to exceed four hundred eighty hours at the employee's total rate of pay for absence as a result of injury incurred during the performance of, or arising out of, state employment. When an eligible employee's absence as a result of such an injury extends beyond four hundred eighty hours, the employee immediately becomes subject to sections 124.382 and 124.385 of the Revised Code regarding sick leave and disability leave benefits.

An employee is ineligible to receive salary continuation until the date of implementation is established in the rules adopted under division (C)(1) of this section.

(b) Employees of the secretary of state, auditor of state, treasurer of state, attorney general, supreme court, general assembly, or legislative service commission are not subject to division (A)(1)(a) of this section unless the relevant appointing authority notifies the director of administrative services in writing of the intent to have all of the appointing authority's employees participate in salary continuation. The relevant appointing authority also may discontinue salary continuation for all of its employees by providing written notice of the discontinuation to the director.

Participation in salary continuation is subject to rules adopted under division (C)(1) of this section.

(2) Each employee of the department of rehabilitation and correction, the department of ~~mental health~~ mental health and addiction services, the department of developmental disabilities, the department of veterans services, or the Ohio schools for the deaf and blind, and each employee of the department of youth services as established in division (A) of section

124.14 of the Revised Code who sustains a qualifying physical condition inflicted by a ward of these agencies during the time the employee is lawfully carrying out the assigned duties of the employee's position shall be paid occupational injury leave at the employee's total rate of pay during the period the employee is disabled as a result of that qualifying physical condition, but in no case to exceed nine hundred sixty hours, in lieu of workers' compensation. Pay made according to this division shall not be charged to the employee's accumulation of sick leave credit. In any case when an employee's disability as a result of such a qualifying physical condition extends beyond nine hundred sixty hours, the employee immediately becomes subject to sections 124.382 and 124.385 of the Revised Code regarding sick leave and disability leave benefits.

(B) An employee who is receiving salary continuation or occupational injury leave under division (A)(1) or (2) of this section is not eligible for other paid leave, including holiday pay, while receiving benefits under either division. While an employee is receiving salary continuation or occupational injury leave under division (A)(1) or (2) of this section, vacation leave credit ceases to accrue to the employee under section 124.134 of the Revised Code, but sick leave credit and personal leave credit continue to accrue to the employee under sections 124.382 and 124.386 of the Revised Code.

(C)(1) The director of administrative services shall adopt rules for the administration of both the salary continuation program and the occupational injury leave program. The rules shall include, but not be limited to, provisions for determining a disability, for filing a claim for leave under this section, and for allowing or denying claims for the leave.

(2) The director also may adopt rules for the payment of health benefits while an employee is on workers' compensation leave.

(D) An appointing authority may apply to the director of administrative services to grant salary continuation under division (A)(1) of this section or occupational injury leave under division (A)(2) of this section to law enforcement personnel employed by the agency.

Sec. 124.57. (A) No officer or employee in the classified service of the state, the several counties, cities, and city school districts of the state, or the civil service townships of the state shall directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political party or for any candidate for public office; nor shall any person solicit directly or indirectly, orally or by letter, or be in any manner concerned in soliciting, any such assessment, contribution, or payment from any officer or

employee in the classified service of the state, the several counties, cities, or city school districts of the state, or the civil service townships of the state; nor shall any officer or employee in the classified service of the state, the several counties, cities, and city school districts of the state, or the civil service townships of the state be an officer in any political organization or take part in politics other than to vote as the officer or employee pleases and to express freely political opinions.

(B)(1) Nothing in division (A) of this section prohibits an officer or employee described in that division from serving as a precinct election official under section 3501.22 of the Revised Code.

(2) Nothing in division (A) of this section prohibits an employee of ~~the Ohio cooperative~~ OSU extension service whose position is transferred from the unclassified civil service to the classified civil service and who also holds the office of president of a city legislative authority from completing the existing term of office as president.

Sec. 124.84. (A) The department of administrative services, in consultation with the superintendent of insurance and subject to division (D) of this section, ~~shall~~ may negotiate and contract with one or more insurance companies or health insuring corporations authorized to operate or do business in this state for the purchase of a policy of long-term care insurance covering all state employees who are paid directly by warrant of the director of budget and management, including elected state officials. Any policy purchased under this division shall be negotiated and entered into in accordance with the competitive selection procedures specified in Chapter 125. of the Revised Code. As used in this section, "long-term care insurance" has the same meaning as in section 3923.41 of the Revised Code.

(B) Any elected state official or state employee paid directly by warrant of the director of budget and management may elect to participate in any long-term care insurance policy purchased under division (A) of this section. All or any portion of the premium charged may be paid by the state. Participation in the policy may include the dependents and family members of the elected state official or state employee.

If a participant in a long-term care insurance policy leaves employment, the participant and the participant's dependents and family members may, at their election, continue to participate in a policy established under this section. The manner of payment and the portion of premium charged the participant, dependent, and family member shall be established pursuant to division (E) of this section.

(C) Any long-term care insurance policy purchased under this section or section 124.841 or 145.581 of the Revised Code shall provide for all of the

following with respect to the premiums charged for the policy:

(1) They shall be set at the entry age of the official or employee when first covered by the policy and shall not increase except as a class during coverage under the policy.

(2) They shall be based on the class of all officials or employees covered by the policy.

(3) They shall continue, pursuant to section 145.581 of the Revised Code, after the retirement of the official or employee who is covered under the policy, at the rate in effect on the date of the official's or employee's retirement.

(D) Prior to entering into a contract with an insurance company or health insuring corporation for the purchase of a long-term care insurance policy under this section, the department shall request the superintendent of insurance to certify the financial condition of the company or corporation. The department shall not enter into the contract if, according to that certification, the company or corporation is insolvent, is determined by the superintendent to be potentially unable to fulfill its contractual obligations, or is placed under an order of rehabilitation or conservation by a court of competent jurisdiction or under an order of supervision by the superintendent.

(E) The department shall adopt rules in accordance with section 111.15 of the Revised Code governing long-term care insurance purchased under this section. All or any portion of the premium charged the participants, dependents, and family members shall be paid in such manner or combination of manners as the department determines.

Sec. ~~3701.041~~ 124.88. (A) The employee assistance program is hereby established in the department of administrative services for the purpose of referring state employees paid by warrant of the director of budget and management who are in need of medical, social, or other services to providers of those services.

~~The director of health, in consultation with the director of budget and management, shall determine a rate at which the payrolls of all state agencies with employees paid by warrant of the director of budget and management shall be charged each pay period that is sufficient to cover the costs of administering the program. The rate shall be based upon the total number of such employees and may be adjusted as the director of health, in consultation with the director of budget and management, considers necessary. All money collected from the assessment shall be deposited in the state treasury to the credit of the employee assistance general services fund, which is hereby created. The fund shall be used by the director of~~

~~health to administer the program.~~

(B) Records of the identity, diagnosis, prognosis, or treatment of any person that are maintained in connection with the employee assistance program created in division (A) of this section are not public records under section 149.43 of the Revised Code and shall be disclosed only as provided in division (C) of this section.

(C)(1) Records described in division (B) of this section may be disclosed with the prior written consent of the person who is the subject of the record.

(2) Records described in division (B) of this section may be disclosed with or without the prior written consent of the person who is the subject of the record under the following conditions:

(a) To medical personnel to the extent necessary to meet a bona fide medical emergency;

(b) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but the personnel shall not directly or indirectly identify any person who is the subject of the record in any report of the research, audit, or evaluation or in any other manner;

(c) If authorized by an appropriate order of a court of competent jurisdiction granted after a showing of good cause. In determining good cause, the court shall weigh the public interest and the need for disclosure against injury to the person who is the subject of the record and to the employee assistance program. Upon granting such an order, the court shall, in determining the extent to which the disclosure of all or any part of any record is necessary, impose appropriate safeguards against unauthorized disclosure.

(D) Except as authorized by a court order described in division (C)(2)(c) of this section, no record described in division (B) of this section may be used to initiate or substantiate criminal charges against the person who is the subject of the record or to conduct any investigation of such a person.

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

(A) Subject to division (E) of this section, a state agency may, without competitive selection, make any purchase of supplies or services that cost twenty-five thousand dollars or less. The agency may make the purchase directly or may make the purchase from or through the department of administrative services, whichever the agency determines. The agency shall adopt written procedures consistent with the department's purchasing

procedures and shall use those procedures when making purchases under this division.

(B) Subject to division (E) of this section and in accordance with section 125.051 of the Revised Code, a state agency may make purchases of supplies and services that cost more than twenty-five thousand dollars but less than fifty thousand dollars if the purchases are made under the direction of an employee of the agency who is certified by the department to make purchases and if the purchases comply with the department's purchasing procedures. Section 127.16 of the Revised Code does not apply to purchases made under this division. Until the certification effective date established by the department in rules adopted under section 125.051 of the Revised Code, state agencies may make purchases of supplies and services that cost more than twenty-five thousand dollars but less than fifty thousand dollars in the same manner as provided in division (A) of this section.

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

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

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

(E) Not later than the thirty-first day of January of each even-numbered year, the directors of administrative services and budget and management shall review and recommend to the general assembly, if necessary, adjustments to the amounts specified in divisions (A) to (C) of this section and division (B) of section 127.16 of the Revised Code.

(F) If ~~the eTech Ohio commission~~, the department of education, or the Ohio education computer network determines that it can purchase software services or supplies for specified school districts at a price less than the price for which the districts could purchase the same software services or supplies

for themselves, the ~~commission~~, department, or network shall certify that fact to the department of administrative services and, acting as an agent for the specified school districts, shall make that purchase without following the provisions in divisions (A) to (D) of this section.

Sec. 125.21. The director of administrative services shall process payroll information for the purpose of payment for personal services of state officials and employees on the basis of rates of pay determined by pertinent law, the director, or other competent authority.

Calculation of payrolls may be made after the conclusion of each pay period based upon the amount of time served as certified by the appropriate appointing authority. Payment for personal service rendered by an official or employee during any pay period shall be made no later than at the conclusion of the official's or employee's next succeeding pay period.

The director of administrative services shall furnish to the director of budget and management all necessary data for drawing state official and employee pay warrants and preparing earning statements. These data shall include the rate at which paid; the time for which paid, including overtime and any other adjustments affecting the official's or employee's gross pay; all taxes withheld, including, whenever practicable, year-to-date figures on all taxes withheld; the amount of contribution to the appropriate retirement system; any voluntary deductions made in accordance with authorizations filed by the official or employee; and whether a direct deposit is to be made in accordance with an authorization filed by the official or employee.

Amounts deducted from the salaries or wages of all officials and employees shall be transferred to the payroll ~~withholding~~ deduction fund, which is hereby created in the state treasury for the purpose of consolidating all such deductions made in any month. Payments from this fund shall be made at intervals for the intended purpose of the deduction or for refund where it is determined that deductions were made in error.

Sec. 125.212. The life insurance investment fund is hereby created in the state treasury. The fund shall consist of amounts from ~~the payroll withholding fund created by section 125.21 of the Revised Code~~ state agencies, life insurance premium refunds received by the state, and other receipts related to the state's life insurance benefit program. The fund shall be used to pay the costs of the state's life insurance benefit program. All investment earnings of the life insurance investment fund shall be credited to the fund.

Sec. 125.27. (A) There is hereby created in the state treasury the building improvement fund. The fund shall retain the interest earned.

(B) The fund shall consist of any payments made by intrastate transfer

voucher from the appropriation item for office building operating payments.

(C) The fund shall be used for major maintenance or improvements required in the James A. Rhodes or Frank J. Lausche state office tower, Toledo government center, Senator Oliver R. Ocasek government office building, and Vern Riffe center for government and the arts.

Sec. 125.28. (A)(1) Each state agency that is supported in whole or in part by nongeneral revenue fund money and that occupies space in the James A. Rhodes or Frank J. Lausche state office tower, Toledo government center, Senator Oliver R. Ocasek government office building, Vern Riffe center for government and the arts, capitol square, or governor's mansion shall reimburse the general revenue fund for the cost of occupying the space in the ratio that the occupied space in each facility attributable to the nongeneral revenue fund money bears to the total space occupied by the state agency in the facility.

(2) All agencies that occupy space in the old blind school or that occupy warehouse space in the general services facility shall reimburse the department of administrative services for the cost of occupying the space. The director of administrative services shall determine the amount of debt service, if any, to be charged to building tenants and shall collect reimbursements for it.

(3) Each agency that is supported in whole or in part by nongeneral revenue fund money and that occupies space in any other facility or facilities owned and maintained by the department of administrative services or space in the general services facility other than warehouse space shall reimburse the department for the cost of occupying the space, including debt service, if any, in the ratio that the occupied space in each facility attributable to the nongeneral revenue fund money bears to the total space occupied by the state agency in the facility.

(B) The director of administrative services may provide building maintenance services and ~~skilled trades~~ minor construction project management services to any state agency ~~occupying space in a facility that is not owned by the department of administrative services~~ and may collect reimbursements for the cost of providing those services.

(C) All money collected by the department of administrative services for operating expenses of facilities owned or maintained by the department shall be deposited into the state treasury to the credit of the building management fund, which is hereby created, or to the credit of the building operation fund, which is hereby created. All money collected by the department for ~~skilled trades~~ minor construction project management services shall be deposited into the state treasury to the credit of the ~~skilled~~

~~trades~~ minor construction project management fund, which is hereby created. All money collected for debt service shall be deposited into the general revenue fund.

(D) The director of administrative services shall determine the reimbursable cost of space in state-owned or state-leased facilities and shall collect reimbursements for that cost.

Sec. 125.602. (A) The department of developmental disabilities, the department of ~~mental health~~ mental health and addiction services, the department of job and family services, the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency, and any other state or governmental agency or community rehabilitation program responsible for the provision of rehabilitation and vocational educational services to persons with work-limiting disabilities may, through written agreement, cooperate in providing resources to the department of administrative services for the operation of the office of procurement from community rehabilitation programs. These resources may include, but are not limited to, leadership and assistance in dealing with the societal aspects of meeting the needs of persons with work-limiting disabilities.

(B) The office and all governmental entities that administer socioeconomic programs may enter into contractual agreements, cooperative working relationships, or other arrangements that are necessary for effective coordination and realization of the objectives of these entities.

Sec. 125.603. (A) The office of procurement from community rehabilitation programs shall do the following in addition to other duties specified in sections 125.60 to 125.6012 of the Revised Code:

(1) Establish, maintain, and periodically update a procurement list of approved supplies and services available from qualified nonprofit agencies;

(2) Monitor the procurement practices of government ordering offices to ensure compliance with sections 125.60 to 125.6012 of the Revised Code;

(3) In cooperation with qualified nonprofit agencies, government ordering offices, the department of developmental disabilities, the department of ~~mental health~~ mental health and addiction services, the department of job and family services, and the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency, develop and recommend to the director of administrative services rules the director shall adopt in accordance with Chapter 119. of the Revised Code for the effective and efficient administration of sections 125.60 to 125.6012 of the Revised Code;

(4) Prepare a report of its activities by the last day of December of each year. The report shall be posted electronically on the office's web site.

(B) The office of procurement from community rehabilitation programs may enter into contractual agreements and establish pilot programs to further the objectives of sections 125.60 to 125.6012 of the Revised Code.

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

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

Except as otherwise provided in division (A)(1) of this section, on and after July 1, 2005, each state agency shall acquire all passenger motor vehicles under the department's master leasing program. If the department determines that acquisition under that program is not the most economical method and if the department and the state agency acquiring the passenger motor vehicle can provide economic justification for doing so, the department may approve the purchase, rather than the lease, of a passenger motor vehicle for the acquiring state agency.

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

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

(C) The director shall establish and maintain a fleet reporting system and shall require state agencies to submit to the department information relative to state motor vehicles, including motor vehicles described in division (G)(2) of section 125.831 of the Revised Code, to be used in operating the fleet management program. State agencies shall provide to the department fleet data and other information, including, but not limited to, mileage and costs. The data and other information shall be submitted in formats and in a manner determined by the department.

(D) All state agency purchases or leases of motor vehicles are subject to the prior approval of the director under division (A)(1) of this section.

(E) State agencies that utilize state motor vehicles or pay mileage reimbursements to employees shall provide a fleet plan to the department as directed by the department.

(F)(1) The fleets of state agencies that consist of one hundred or less vehicles on July 1, 2004, shall be managed by the department's fleet management program on a time schedule determined by the department, unless the state agency has received delegated authority as described in division (G) of this section.

(2) The fleets of state agencies that consist of greater than one hundred motor vehicles, but less than five hundred motor vehicles, on July 1, 2005, also shall be managed by the department's fleet management program on a time schedule determined by the department, unless the state agency has received delegated authority as described in division (G) of this section.

(G)(1) The department may delegate any or all of its duties regarding fleet management to a state agency, if the state agency demonstrates to the satisfaction of the department both of the following:

(a) Capabilities to institute and manage a fleet management program, including, but not limited to, the presence of a certified fleet manager;

(b) Fleet management performance, as demonstrated by fleet data and other information submitted pursuant to annual reporting requirements and any other criteria the department considers necessary in evaluating the performance.

(2) The department may determine that a state agency is not in compliance with this section and direct that the agency's fleet management duties be transferred to the department.

(H) The proceeds derived from the disposition of any motor vehicles under this section shall be paid to whichever of the following applies:

(1) The fund that originally provided moneys for the purchase or lease of the motor vehicles;

(2) If the motor vehicles were originally purchased with moneys derived from the general revenue fund, the proceeds shall be deposited, in the director's discretion, into the state treasury to the credit of either the fleet management fund created by section 125.83 of the Revised Code or the investment recovery fund created by section 125.14 of the Revised Code.

(I)(1) The department shall create and maintain a certified fleet manager program.

(2) State agencies that have received delegated authority as described in division (G) of this section shall have a certified fleet manager.

(J) The department annually shall prepare and submit a statewide fleet report to the governor, the speaker of the house of representatives, and the

president of the senate. The report shall be submitted not later than the thirty-first day of January following the end of each fiscal year. It may include, but is not limited to, the numbers and types of motor vehicles, their mileage, miles per gallon, and cost per mile, mileage reimbursements, accident and insurance data, and information regarding compliance by state agencies having delegated authority under division (G) of this section with applicable fleet management requirements.

(K) The director shall adopt rules for implementing the fleet management program that are consistent with recognized best practices. The program shall be supported by reasonable fee charges for the services provided. The director shall collect these fees and deposit them into the state treasury to the credit for the fleet management fund created by section 125.83 of the Revised Code. The setting and collection of fees under this division is not subject to any restriction imposed by law upon the director's or the department's authority to set or collect fees.

(L) The director also shall adopt rules that prohibit, except in very limited circumstances, the exclusive assignment of state-owned, leased, or pooled motor vehicles to state employees and that prohibit the reimbursement under section 126.31 of the Revised Code of state employees who use their own motor vehicles for any mileage they incur above an amount that the department shall determine annually unless reimbursement for the excess mileage is approved by the department in accordance with standards for that approval the director shall establish in those rules. Beginning on September 26, 2003, no state-owned, leased, or pooled motor vehicle shall be personally assigned as any form of compensation or benefit of state employment, and no state-owned, leased, or pooled motor vehicle shall be assigned to an employee solely for commuting to and from home and work.

(M) The director shall do both of the following:

(1) Implement to the greatest extent possible the recommendations from the 2002 report entitled "Administrative Analysis of the Ohio Fleet Management Program" in connection with the authority granted to the department by this section;

(2) Attempt to reduce the number of passenger vehicles used by state agencies during the fiscal years ending on June 30, 2004, and June 30, 2005.

(N) Each state agency shall reimburse the department for all costs incurred in the assignment of motor vehicles to the state agency.

(O) The director shall do all of the following in managing the fleet management program:

(1) Determine how motor vehicles will be maintained, insured,

operated, financed, and licensed;

(2) Pursuant to the formula in division (O)(3) of this section, annually establish the minimum number of business miles per year an employee of a state agency must drive in order to qualify for approval by the department to receive a motor vehicle for business use;

(3) Establish the minimum number of business miles per year at an amount that results when the annual motor vehicle cost is divided by the amount that is the reimbursement rate per mile minus the amount that is the sum of the fuel cost, the operating cost, and the insurance cost. As used in this division:

(a) "Annual motor vehicle cost" means the price of a motor vehicle divided by the number of years an average motor vehicle is used.

(b) "Fuel cost" means the average price per gallon of motor fuel divided by the miles per gallon fuel efficiency of a motor vehicle.

(c) "Insurance cost" means the cost of insuring a motor vehicle per year divided by the number of miles an average motor vehicle is driven per year.

(d) "Operating cost" means the maintenance cost of a motor vehicle per year divided by the product resulting when the number of miles an average motor vehicle is driven per year is multiplied by the number of years an average motor vehicle is used.

(e) "Reimbursement rate per mile" means the reimbursement per mile rate for travel expenses as provided by rule of the director of budget and management adopted under division (B) of section 126.31 of the Revised Code.

~~(P)(1) Not later than the fifteenth day of September of each year, each state institution of higher education shall report to the department on all of the following topics relating to motor vehicles that the institution acquires and manages:~~

~~(a) The methods it uses to track the motor vehicles;~~

~~(b) Whether or not it uses a fuel card program to purchase fuel for, or to pay for the maintenance of, the motor vehicles;~~

~~(c) Whether or not it makes bulk purchases of fuel for the motor vehicles.~~

~~(2) Assuming it does not use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides, the report of a state institution of higher education required by division (P)(1) of this section also shall include both of the following:~~

~~(a) An analysis of the amount the institution would save, if any, if it were to use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides instead of the fleet~~

management system the institution regularly uses;

~~(b) A rationale for either continuing with the fleet management system that the institution regularly uses or changing to the use of those tools and services that the department provides.~~

~~(3) The department shall certify within ninety days after receipt of all reports under division (P)(1) of this section a list of those state institutions of higher education that the department determines would save amounts if they were to use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides. The institutions so certified then shall use those tools and services that the department provides until the department next certifies institutions under division (P)(3) of this section.~~

Sec. 125.833. (A) There is hereby established in the department of administrative services the vehicle management commission.

(B) The commission shall consist of seven members. One member shall be an officer or employee of the department of administrative services who is appointed by the director of administrative services. One member shall be an officer or employee of the department of public safety who is appointed by the director of public safety. The other members shall be two members of the house of representatives appointed by the speaker of the house of representatives, two members of the senate appointed by the president of the senate, and one person with experience in the vehicle leasing, purchasing, and maintenance industry in this state appointed by the governor and serving at the governor's pleasure. The governor shall appoint the commission's chairperson.

Initial appointments of the members to the commission shall be made by October 1, 2013, in the manner prescribed in this section. The initial meeting of the commission shall be held on that date and twice annually thereafter each year. After the initial appointments, appointments of legislative members to the commission shall be made within fifteen days after the commencement of the first regular session of the general assembly in the manner prescribed in this section. The terms of legislative members on the commission shall be for the duration of the session of the general assembly in which they are appointed. Members shall continue to serve on the commission until the appointments are made in the following session of the general assembly, unless they cease to be members of the general assembly. A vacancy on the commission shall be filled for the unexpired term in the same manner as the original appointment.

(C) The commission shall periodically review the implementation of the fleet management program by the department of administrative services

under section 125.832 of the Revised Code and may recommend to the department and the general assembly modifications to the department's procedures and functions and other statutory changes.

Sec. 125.836. (A) As used in this section:

(1) "Biodiesel," "blended biodiesel," and "diesel fuel" have the same meanings as in section 125.831 of the Revised Code.

(2) ~~"Credit" means a credit generated by the acquisition of alternative fueled vehicles in accordance with the "Energy Policy Act of 1992," 106 Stat. 2897, 42 U.S.C. 13257.~~

(3) "Incremental cost" means the difference in cost between blended biodiesel and conventional petroleum-based diesel fuel at the time the blended biodiesel is purchased.

~~(B) The department of administrative services shall establish and administer a credit banking and selling program. The department may sell or trade credits in accordance with procedures established pursuant to the "Energy Policy Act of 1992," 106 Stat. 2897, 42 U.S.C. 13258.~~

~~(C) There is hereby created in the state treasury the "biodiesel revolving fund," to which shall be credited moneys received from the sale of credits under this section, any moneys appropriated to the fund by the general assembly; and any other moneys obtained or accepted by the department development services agency for crediting to the fund. Moneys credited to the fund shall be used to pay for the incremental cost of biodiesel for use in vehicles owned or leased by the state that use diesel fuel. The director of administrative services, after consultation with the director of development services may direct the director of budget and management to transfer available moneys in the biodiesel revolving fund to the alternative fuel transportation fund created in section 122.075 of the Revised Code to be used by the department of development services agency for the purposes specified in that section.~~

~~(D) The director of administrative services shall adopt rules under Chapter 119. of the Revised Code that are necessary for the administration of the credit banking and selling program.~~

Sec. 126.07. Except as provided in division (B) of section 126.21 of the Revised Code, no contract, agreement, or obligation involving the expenditure of money chargeable to an appropriation, nor any resolution or order for the expenditure of money chargeable to an appropriation, shall be valid and enforceable unless the director of budget and management first certifies that there is a balance in the appropriation not already obligated to pay existing obligations, in an amount at least equal to the portion of the contract, agreement, obligation, resolution, or order to be performed in the

current fiscal year. Any written contract or agreement entered into by the state shall contain a clause stating that the obligations of the state are subject to this section.

The chief administrative officer of a state agency is responsible for the preaudit and approval of expenditures and other transactions of the agency. In order to initiate the making of a payment from the state treasury, the person in a state agency who requests that the payment be made shall first submit to the chief administrative officer of the agency all invoices, claims, vouchers, and other documentation related to the payment. The chief administrative officer shall examine each voucher and all other documentation required to support the voucher and determine whether they meet all the requirements established by the director of budget and management for making the payment. If they do meet those requirements, the chief administrative officer shall certify to the director the approval of the chief administrative officer for payment.

Prior to drawing a warrant or processing an electronic funds transfer as provided in section 126.35 of the Revised Code, the director may review and audit the voucher, any documentation accompanying the voucher, and any other documentation related to the transaction that the director may require to determine if the transaction is in accordance with law. The director shall not approve payment to be made if the director finds that there is not an unobligated balance in the appropriation for the payment, that the payment is not for a valid claim against the state that is legally due, or that insufficient documentation has been submitted. If the director does not approve payment, the director shall notify the agency of the reasons the director has not given approval.

In approving payments to be made under this section, the director, upon receipt of certification from the director of job and family services pursuant to section 4141.231 of the Revised Code, shall withhold from amounts otherwise payable to a person who is the subject of the director of jobs and family services' certification, the amount certified to be due and unpaid to the director of job and family services, and shall approve for payment to the director of job and family services, the amount withheld.

As used in this section and in section 126.21 of the Revised Code, "chief administrative officer" means either of the following:

(A) The director of the agency or, in the case of a state agency without a director, the equivalent officer of that agency;

(B) The designee of the chief administrative officer for the purposes of such sections.

Sec. 126.14. The release of any money appropriated for the purchase of

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

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

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

Sec. 126.211. The director of budget and management shall not release funds to a veterans organization until the director has been advised by the director of veterans services under division (Y) of section 5902.02 of the Revised Code that the organization has submitted a satisfactory report as required by division (W) of that section.

Sec. 126.32. (A) Any officer of any state agency may authorize reimbursement for travel, including the costs of transportation, for lodging,

and for meals to any person who is interviewing for a position that is classified in pay range 13 or above in schedule E-1 or schedule E-1 for step seven only, or is classified in schedule E-2, of section 124.152 of the Revised Code.

(B) If a person is appointed to a position listed in section 121.03 of the Revised Code, to the position of chairperson of the industrial commission, adjutant general, chancellor of the Ohio board of regents, superintendent of public instruction, chairperson of the public utilities commission of Ohio, or director of the state lottery commission, to a position holding a fiduciary relationship to the governor, to a position of an appointing authority of the department of ~~mental health~~ mental health and addiction services, developmental disabilities, or rehabilitation and correction, to a position of superintendent in the department of youth services, or to a position under section 122.05 of the Revised Code, and if that appointment requires a permanent change of residence, the appropriate state agency may reimburse the person for the person's actual and necessary expenses, including the cost of in-transit storage of household goods and personal effects, of moving the person and members of the person's immediate family residing in the person's household, and of moving their household goods and personal effects, to the person's new location.

Until that person moves the person's permanent residence to the new location, but not for a period that exceeds thirty consecutive days, the state agency may reimburse the person for the person's temporary living expenses at the new location that the person has incurred on behalf of the person and members of the person's immediate family residing in the person's household. In addition, the state agency may reimburse that person for the person's travel expenses between the new location and the person's former residence during this period for a maximum number of trips specified by rule of the director of budget and management, but the state agency shall not reimburse the person for travel expenses incurred for those trips by members of the person's immediate family. With the prior written approval of the director, the maximum thirty-day period for temporary living expenses may be extended for a person appointed to a position under section 122.05 of the Revised Code.

The director of development services may reimburse a person appointed to a position under section 122.05 of the Revised Code for the person's actual and necessary expenses of moving the person and members of the person's immediate family residing in the person's household back to the United States and may reimburse a person appointed to such a position for the cost of storage of household goods and personal effects of the person

and the person's immediate family while the person is serving outside the United States, if the person's office outside the United States is the person's primary job location.

(C) All reimbursement under division (A) or (B) of this section shall be made in the manner, and at rates that do not exceed those, provided by rule of the director of budget and management in accordance with section 111.15 of the Revised Code. Reimbursements may be made under division (B) of this section directly to the persons who incurred the expenses or directly to the providers of goods or services the persons receive, as determined by the director of budget and management.

Sec. 126.35. (A) The director of budget and management shall draw warrants or process electronic funds transfers against the treasurer of state pursuant to all requests for payment that the director has approved under section 126.07 of the Revised Code.

(B) Unless a cash assistance payment is to be made by electronic benefit transfer, payment by the director of budget and management to a participant in the Ohio works first program pursuant to Chapter 5107. of the Revised Code, a recipient of disability financial assistance pursuant to Chapter 5115. of the Revised Code, or a recipient of cash assistance provided under the refugee assistance program established under section 5101.49 of the Revised Code shall be made by direct deposit to the account of the participant or recipient in the financial institution designated under section 329.03 of the Revised Code. Payment by the director of budget and management to a recipient of benefits distributed through the medium of electronic benefit transfer pursuant to section 5101.33 of the Revised Code shall be by electronic benefit transfer. Payment by the director of budget and management as compensation to an employee of the state who has, pursuant to section 124.151 of the Revised Code, designated a financial institution and account for the direct deposit of such payments shall be made by direct deposit to the account of the employee. Payment to any other payee who has designated a financial institution and account for the direct deposit of such payment may be made by direct deposit to the account of the payee in the financial institution as provided in section 9.37 of the Revised Code. Accounts maintained by the director of budget and management or the director's agent in a financial institution for the purpose of effectuating payment by direct deposit or electronic benefit transfer shall be maintained in accordance with section 135.18 of the Revised Code.

(C) All other payments from the state treasury shall be made by paper warrants, electronic funds transfers, or by direct deposit payable to the respective payees. The director of budget and management may mail the

paper warrants to the respective payees or distribute them through other state agencies, whichever the director determines to be the better procedure.

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

Sec. 126.45. (A) As used in sections 126.45 to 126.48 of the Revised Code, "state agency" means the administrative departments listed in section 121.02 of the Revised Code, the department of taxation, the bureau of workers' compensation, ~~and the Ohio board of regents, the opportunities for Ohioans with disabilities agency, the public utilities commission of Ohio, the adjutant general, and the state lottery commission.~~

(B) The office of internal ~~auditing~~ audit is hereby created in the office of budget and management to ~~conduct~~ direct internal audits of state agencies or divisions of state agencies to improve their operations in the areas of risk management, internal controls, and governance. The director of budget and management, with the approval of the governor, shall appoint for the office of internal ~~auditing~~ audit a chief internal auditor who meets the qualifications specified in division ~~(C)~~(E) of this section. The chief internal auditor shall serve at the director's pleasure and be responsible for the administration of the office of internal ~~auditing~~ audit consistent with sections 126.45 to 126.48 of the Revised Code.

~~(C)~~ (E) The office of internal ~~auditing~~ audit shall conduct programs for the internal auditing of state agencies. The programs shall include an annual internal audit plan, reviewed by the state audit committee, that utilizes risk assessment techniques and identifies the specific audits to be ~~conducted~~ directed during the year. The programs also shall include periodic audits of each state agency's major systems and controls, including those systems and controls pertaining to accounting, administration, and ~~electronic data processing~~ information technology. Upon the request of the office of internal ~~auditing~~ audit, each state agency shall provide office employees access to all records and documents necessary for the performance of an internal audit.

The director of budget and management shall assess a charge against each state agency for which the office of internal ~~auditing~~ audit conducts

internal auditing programs under sections 126.45 to 126.48 of the Revised Code so that the total amount of these charges is sufficient to cover the costs of the operation of the office of internal ~~auditing~~ audit.

(D) At the request of any other organized body, office, or agency established by the laws of the state for the exercise of any function of state government that is not described in division (A) of this section, the office of internal audit may direct an internal audit of all or part of that body, office, or agency. The office of internal audit shall charge an amount sufficient to cover the costs it incurs in relation to the requested audit.

~~(C)~~(E) The chief internal auditor of the office of internal ~~auditing~~ audit shall hold at least a bachelor's degree and be one of the following:

(1) A certified internal auditor, a certified government auditing professional, or a certified public accountant, who also has held a PA registration or a CPA certificate authorized by Chapter 4701. of the Revised Code for at least four years and has at least six years of auditing experience;

(2) An auditor who has held a PA registration or a CPA certificate authorized by Chapter 4701. of the Revised Code for at least four years and has at least ten years of auditing experience.

~~(D)~~(F) The chief internal auditor, subject to the direction and control of the director of budget and management, may appoint and maintain any staff necessary to carry out the duties assigned by sections 126.45 to 126.48 of the Revised Code to the office of internal ~~auditing~~ audit or to the chief internal auditor.

Sec. 126.46. (A)(1) There is hereby created the state audit committee, consisting of the following five members: one public member appointed by the governor; two public members appointed by the speaker of the house of representatives, one of which may be a person who is recommended by the minority leader of the house of representatives; and two public members appointed by the president of the senate, one of which may be a person who is recommended by the minority leader of the senate. Not more than two of the four members appointed by the speaker of the house of representatives and the president of the senate shall belong to or be affiliated with the same political party. The member appointed by the governor shall have the program and management expertise required to perform the duties of the committee's chairperson.

Each member of the committee shall be external to the management structure of state government and shall serve a three-year term. Each term shall commence on the first day of July and end on the thirtieth day of June. Any member may continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of

ninety days has elapsed, whichever occurs first. Members may be reappointed to serve one additional term.

~~On the effective date of the amendment of this section by H.B. 153 of the 129th general assembly~~ September 29, 2011, the terms of the members shall be altered as follows:

(a) The terms of the members appointed by the president shall expire on June 30, 2012.

(b) The term of the member appointed by the speaker scheduled to expire on November 17, 2012, shall expire on June 30, 2013.

(c) The term of the other member appointed by the speaker shall expire on June 30, 2014.

(d) The term of the member appointed by the governor shall expire on June 30, 2014.

The committee shall include at least one member who is a financial expert; at least one member who is an active, inactive, or retired certified public accountant; at least one member who is familiar with governmental financial accounting; at least one member who is familiar with information technology systems and services; and at least one member who is a representative of the public.

Any vacancy on the committee shall be filled in the same manner as provided in this division, and, when applicable, the person appointed to fill a vacancy shall serve the remainder of the predecessor's term.

(2) Members of the committee shall receive reimbursement for actual and necessary expenses incurred in the discharge of their duties.

(3) The member of the committee appointed by the governor shall serve as the committee's chairperson.

(4) Members of the committee shall be subject to the disclosure statement requirements of section 102.02 of the Revised Code.

(B) The state audit committee shall do all of the following:

(1) ~~Ensure that~~ Evaluate whether the internal audits ~~conducted~~ directed by the office of internal ~~auditing~~ audit in the office of budget and management conform to the institute of internal auditors' international ~~standards for the professional practice of~~ practices framework for internal auditing and to the institute of internal auditors' code of ethics;

(2) Review and comment on the process used by the office of budget and management to prepare ~~its annual budgetary financial report and~~ the state's comprehensive annual financial report required under division (A)(9) of section 126.21 of the Revised Code;

(3) Review and comment on unaudited financial statements submitted to the auditor of state and communicate with external auditors as required by

government auditing standards;

(4) Perform the additional functions imposed upon it by section 126.47 of the Revised Code.

(C) As used in this section, "financial expert" means a person who has all of the following:

(1) An understanding of generally accepted accounting principles and financial statements;

(2) The ability to assess the general application of those principles in connection with accounting for estimates, accruals, and reserves;

(3) Experience preparing, auditing, analyzing, or evaluating financial statements presenting accounting issues that generally are of comparable breadth and level of complexity to those likely to be presented by a state agency's financial statements, or experience actively supervising one or more persons engaged in those activities;

(4) An understanding of internal controls and procedures for financial reporting; and

(5) An understanding of audit committee functions.

Sec. 126.47. (A) The state audit committee created by section 126.46 of the Revised Code shall ensure that the office of internal ~~auditing~~ audit in the office of budget and management has an annual internal audit plan that identifies the internal audits of state agencies or divisions of state agencies scheduled for the next fiscal year. The chief internal auditor of the office of internal ~~auditing~~ audit shall submit the plan to the state audit committee for review and comment before the beginning of each fiscal year. The chief internal auditor may submit a revised internal audit plan for review and comment at any time the director of budget and management believes there is reason to modify the previously submitted plan for a fiscal year.

(B) To determine the state agencies or divisions of state agencies that are to be internally audited, the office of internal ~~auditing~~ audit, in the formulation of an annual or revised internal audit plan, and the state audit committee, in reviewing a submitted annual or revised internal audit plan, shall consider the following factors:

(1) The risk for fraud, waste, or abuse of public money within an agency or division;

(2) The length of time since an agency or division was last subject to an internal audit;

(3) The size of an agency or division, and the amount of time and resources necessary to audit it;

(4) Any other factor the state audit committee determines to be relevant.

(C) All internal audits shall be ~~conducted only~~ directed by employees of

the office of internal ~~auditing~~ audit.

(D) After the conclusion of an internal audit, the chief internal auditor shall submit a preliminary report of the internal audit's findings and recommendations to the state audit committee and to the director of the state agency involved. The state agency or division of the state agency covered by the preliminary report shall be provided an opportunity to respond within thirty days after receipt of the preliminary report. The response shall include a corrective action plan for any recommendations in the preliminary report that are not disputed by the agency or division. Any response received by the office of internal ~~auditing~~ audit within that thirty-day period shall be included in the office's final report of the internal audit's findings and recommendations. The final report shall be issued by the office of internal ~~auditing~~ audit within thirty days after the termination of the thirty-day response period. Copies of the final report shall be submitted to the state audit committee, the governor, and the director of the state agency involved. The state audit committee shall determine an appropriate method for making the preliminary and final reports available for public inspection in a timely manner.

Any suspected fraud or other illegal activity discovered by the office of internal ~~auditing~~ audit during ~~the conduct of~~ an internal audit shall be reported immediately to the state audit committee, the director of the state agency in which the fraud or illegal activity is suspected to have occurred, and the auditor of state.

(E) The chief internal auditor shall prepare an annual report and submit the report to the governor, the president of the senate, the speaker of the house of representatives, and the auditor of state. The office of budget and management shall make the report available to the public by posting it on the office's web site before the first of ~~July~~ August of each year.

Sec. 126.48. ~~Any~~ (A) Except as provided in division (B) of this section, any preliminary or final report of an internal audit's findings and recommendations which is produced by the office of internal ~~auditing~~ audit in the office of budget and management and all work papers of the internal audit are confidential and are not public records under section 149.43 of the Revised Code until the final report of an internal audit's findings and recommendations is submitted to the state audit committee, the governor, and the director of the state agency involved.

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

(1) An internal audit report that meets the definition of a security record under section 149.433 of the Revised Code;

(2) Any information derived from a state tax return or state tax return information as permitted to be used by the office of internal audit under section 5703.21 of the Revised Code.

Sec. 127.14. The controlling board may, at the request of any state agency or the director of budget and management, authorize, with respect to the provisions of any appropriation act:

(A) Transfers of all or part of an appropriation within but not between state agencies, except such transfers as the director of budget and management is authorized by law to make, provided that no transfer shall be made by the director for the purpose of effecting new or changed levels of program service not authorized by the general assembly;

(B) Transfers of all or part of an appropriation from one fiscal year to another;

(C) Transfers of all or part of an appropriation within or between state agencies made necessary by administrative reorganization or by the abolition of an agency or part of an agency;

(D) Transfers of all or part of cash balances in excess of needs from any fund of the state to the general revenue fund or to such other fund of the state to which the money would have been credited in the absence of the fund from which the transfers are authorized to be made, except that the controlling board may not authorize such transfers from the accrued leave liability fund, auto registration distribution fund, local motor vehicle license tax fund, budget stabilization fund, building improvement fund, development bond retirement fund, facilities establishment fund, gasoline excise tax fund, general revenue fund, higher education improvement fund, highway improvement bond retirement fund, highway obligations bond retirement fund, highway capital improvement fund, highway operating fund, horse racing tax fund, improvements bond retirement fund, public library fund, liquor control fund, local government fund, local transportation improvement program fund, mental health facilities improvement fund, Ohio fairs fund, parks and recreation improvement fund, public improvements bond retirement fund, school district income tax fund, state agency facilities improvement fund, state and local government highway distribution fund, state highway safety fund, state lottery fund, undivided liquor permit fund, Vietnam conflict compensation bond retirement fund, volunteer fire fighters' dependents fund, waterways safety fund, wildlife fund, workers' compensation fund, or any fund not specified in this division that the director of budget and management determines to be a bond fund or bond retirement fund;

(E) Transfers of all or part of those appropriations included in the

emergency purposes account of the controlling board;

(F) Temporary transfers of all or part of an appropriation or other moneys into and between existing funds, or new funds, as may be established by law when needed for capital outlays for which notes or bonds will be issued;

(G) Transfer or release of all or part of an appropriation to a state agency requiring controlling board approval of such transfer or release as provided by law;

(H) Temporary transfer of funds included in the emergency purposes appropriation of the controlling board. Such temporary transfers may be made subject to conditions specified by the controlling board at the time temporary transfers are authorized. No transfers shall be made under this division for the purpose of effecting new or changed levels of program service not authorized by the general assembly.

As used in this section, "request" means an application by a state agency or the director of budget and management seeking some action by the controlling board.

When authorizing the transfer of all or part of an appropriation under this section, the controlling board may authorize the transfer to an existing appropriation item and the creation of and transfer to a new appropriation item.

Whenever there is a transfer of all or part of funds included in the emergency purposes appropriation by the controlling board, pursuant to division (E) of this section, the state agency or the director of budget and management receiving such transfer shall keep a detailed record of the use of the transferred funds. At the earliest scheduled meeting of the controlling board following the accomplishment of the purposes specified in the request originally seeking the transfer, or following the total expenditure of the transferred funds for the specified purposes, the state agency or the director of budget and management shall submit a report on the expenditure of such funds to the board. The portion of any appropriation so transferred which is not required to accomplish the purposes designated in the original request to the controlling board shall be returned to the proper appropriation of the controlling board at this time.

Notwithstanding any provisions of law providing for the deposit of revenues received by a state agency to the credit of a particular fund in the state treasury, whenever there is a temporary transfer of funds included in the emergency purposes appropriation of the controlling board pursuant to division (H) of this section, revenues received by any state agency receiving such a temporary transfer of funds shall, as directed by the controlling

board, be transferred back to the emergency purposes appropriation.

The board may delegate to the director of budget and management authority to approve transfers among items of appropriation under division (A) of this section.

Sec. 127.16. (A) Upon the request of either a state agency or the director of budget and management and after the controlling board determines that an emergency or a sufficient economic reason exists, the controlling board may approve the making of a purchase without competitive selection as provided in division (B) of this section.

(B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly, shall:

(1) Make any purchase from a particular supplier, that would amount to fifty thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the controlling board;

(2) Lease real estate from a particular supplier, if the lease would amount to seventy-five thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for real estate leases made by the agency and the amount of all outstanding encumbrances for real estate leases made by the agency from the supplier, unless the lease is made by competitive selection or with the approval of the controlling board.

(C) Any person who authorizes a purchase in violation of division (B) of this section shall be liable to the state for any state funds spent on the purchase, and the attorney general shall collect the amount from the person.

(D) Nothing in division (B) of this section shall be construed as:

(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;

(2) Applying to medicaid provider agreements under ~~Chapter 5111. of the Revised Code~~ medicaid program;

(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;

(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually

files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;

(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;

(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.

(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;

(8) Applying to purchases made by the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency of services, or supplies, that are provided to persons with disabilities, or to purchases made by the ~~commission~~ agency in connection with the eligibility determinations it makes for applicants of programs administered by the social security administration;

(9) Applying to payments by the department of ~~job and family services~~ medicaid under section ~~5111.13~~ 5164.85 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;

(10) Applying to any agency of the legislative branch of the state government;

(11) Applying to agreements or contracts entered into under section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the Revised Code;

(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;

(13) Applying to dues or fees paid for membership in an organization or association;

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;

(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;

(16) Applying to purchases of tickets for passenger air transportation;

(17) Applying to purchases necessary to provide public notifications

required by law or to provide notifications of job openings;

(18) Applying to the judicial branch of state government;

(19) Applying to purchases of liquor for resale by the division of liquor control;

(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;

(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;

(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;

(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education or the Ohio historical society;

(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;

(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code;

(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;

(27) Applying to contracts entered into by the department of developmental disabilities under section 5123.18 of the Revised Code;

(28) Applying to payments made by the department of ~~mental health~~ mental health and addiction services under a physician recruitment program authorized by section ~~5119.104~~ 5119.185 of the Revised Code;

(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.

(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;

(31) Applying to the department of ~~job and family services~~' medicaid's purchases of health assistance services under the children's health insurance program ~~part I provided for under section 5101.50 of the Revised Code, the~~

~~children's health insurance program part II provided for under section 5101.51 of the Revised Code, or the children's health insurance program part III provided for under section 5101.52 of the Revised Code;~~

(32) Applying to payments by the attorney general from the reparations fund to hospitals and other emergency medical facilities for performing medical examinations to collect physical evidence pursuant to section 2907.28 of the Revised Code;

(33) Applying to contracts with a contracting authority or administrative receiver under division (B) of section 5126.056 of the Revised Code;

(34) Applying to purchases of goods and services by the department of veterans services in accordance with the terms of contracts entered into by the United States department of veterans affairs;

(35) Applying to payments by the superintendent of the bureau of criminal identification and investigation to the federal bureau of investigation for criminal records checks pursuant to section 109.572 of the Revised Code;

(36) Applying to contracts entered into by the department of ~~job and family services~~ medicaid under section ~~5111.054~~ 5164.47 of the Revised Code;

(37) Applying to contracts entered into under section 5160.12 of the Revised Code;

(38) Applying to payments to the Ohio historical society from other state agencies.

(E) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1) and (2) of this section, all of the following purchases by such agency shall not be considered:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the threshold of division (B)(1) of this section only, leases of real estate.

(F) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.

Sec. ~~5507.01~~ 128.01. As used in this chapter:

(A) "9-1-1 system" means a system through which individuals can request emergency service using the telephone number 9-1-1.

(B) "Basic 9-1-1" means a 9-1-1 system in which a caller provides information on the nature of and the location of an emergency, and the

personnel receiving the call must determine the appropriate emergency service provider to respond at that location.

(C) "Enhanced 9-1-1" means a 9-1-1 system capable of providing both enhanced wireline 9-1-1 and wireless enhanced 9-1-1.

(D) "Enhanced wireline 9-1-1" means a 9-1-1 system in which the wireline telephone network, in providing wireline 9-1-1, automatically routes the call to emergency service providers that serve the location from which the call is made and immediately provides to personnel answering the 9-1-1 call information on the location and the telephone number from which the call is being made.

(E) "Wireless enhanced 9-1-1" means a 9-1-1 system that, in providing wireless 9-1-1, has the capabilities of phase I and, to the extent available, phase II enhanced 9-1-1 services as described in 47 C.F.R. 20.18 (d) to (h).

(F)(1) "Wireless service" means federally licensed commercial mobile service as defined in 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3, and includes service provided by any wireless, two-way communications device, including a radio-telephone communications line used in cellular telephone service or personal communications service, a network radio access line, or any functional or competitive equivalent of such a radio-telephone communications or network radio access line.

(2) Nothing in this chapter applies to paging or any service that cannot be used to call 9-1-1.

(G) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.

(H) "Wireless 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireless service provider.

(I) "Wireline 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireline service provider.

(J) "Wireline service provider" means a facilities-based provider of wireline service to one or more end-users in this state.

(K) "Wireline service" means basic local exchange service, as defined in section 4927.01 of the Revised Code, that is transmitted by means of interconnected wires or cables by a wireline service provider authorized by the public utilities commission.

(L) "Wireline telephone network" means the selective router and data base processing systems, trunking and data wiring cross connection points at the public safety answering point, and all other voice and data components

of the 9-1-1 system.

(M) "Subdivision" means a county, municipal corporation, township, township fire district, joint fire district, township police district, joint police district, joint ambulance district, or joint emergency medical services district that provides emergency service within its territory, or that contracts with another municipal corporation, township, or district or with a private entity to provide such service; and a state college or university, port authority, or park district of any kind that employs law enforcement officers that act as the primary police force on the grounds of the college or university or port authority or in the parks operated by the district.

(N) "Emergency service" means emergency law enforcement, firefighting, ambulance, rescue, and medical service.

(O) "Emergency service provider" means the state highway patrol and an emergency service department or unit of a subdivision or that provides emergency service to a subdivision under contract with the subdivision.

(P) "Public safety answering point" means a facility to which 9-1-1 system calls for a specific territory are initially routed for response and where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.

(Q) "Customer premises equipment" means telecommunications equipment, including telephone instruments, on the premises of a public safety answering point that is used in answering and responding to 9-1-1 system calls.

(R) "Municipal corporation in the county" includes any municipal corporation that is wholly contained in the county and each municipal corporation located in more than one county that has a greater proportion of its territory in the county to which the term refers than in any other county.

(S) "Board of county commissioners" includes the legislative authority of a county established under Section 3 of Article X, Ohio Constitution, or Chapter 302. of the Revised Code.

(T) "Final plan" means a final plan adopted under division (B) of section ~~5507.08~~ 128.08 of the Revised Code and, except as otherwise expressly provided, an amended final plan adopted under section ~~5507.12~~ 128.12 of the Revised Code.

(U) "Subdivision served by a public safety answering point" means a subdivision that provides emergency service for any part of its territory that is located within the territory of a public safety answering point whether the subdivision provides the emergency service with its own employees or

pursuant to a contract.

(V) A township's population includes only population of the unincorporated portion of the township.

(W) "Telephone company" means a company engaged in the business of providing local exchange telephone service by making available or furnishing access and a dial tone to persons within a local calling area for use in originating and receiving voice grade communications over a switched network operated by the provider of the service within the area and gaining access to other telecommunications services. "Telephone company" includes a wireline service provider and a wireless service provider unless otherwise expressly specified. For purposes of sections ~~5507.25~~ 128.25 and ~~5507.26~~ 128.26 of the Revised Code, "telephone company" means a wireline service provider.

(X) "Prepaid wireless calling service" has the same meaning as in division (AA)(5) of section 5739.01 of the Revised Code.

(Y) "Provider of a prepaid wireless calling service" means a wireless service provider that provides a prepaid wireless calling service.

(Z) "Retail sale" has the same meaning as in section 5739.01 of the Revised Code.

(AA) "Seller" means a person that sells a prepaid wireless calling service to another person by retail sale.

(BB) "Consumer" means the person for whom the prepaid wireless calling service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the prepaid wireless calling service is charged, or to whom the admission is granted.

(CC) "Reseller" means a nonfacilities-based provider of wireless service that provides wireless service under its own name to one or more end users in this state using the network of a wireless service provider.

(DD) "Steering committee" means the statewide emergency services internet protocol network steering committee established by division (A)(1) of section 128.02 of the Revised Code.

Sec. ~~5507.02~~ 128.02. (A)(1) There is hereby created the statewide emergency services internet protocol network steering committee, consisting of the following ten members:

- (a) The state chief information officer or the officer's designee;
- (b) Two members of the house of representatives appointed by the speaker, one from the majority party and one from the minority party;
- (c) Two members of the senate appointed by the president, one from the majority party and one from the minority party;
- (d) Five members appointed by the governor.

(2) In appointing the five members under division (A)(1)(d) of this section, the governor shall appoint two representatives of the county commissioners' association of Ohio or a successor organization, two representatives of the Ohio municipal league or a successor organization, and one representative of the Ohio township association or a successor organization. For each of these appointments, the governor shall consider a nominee proposed by the association or successor organization. The governor may reject any of the nominees and may request that a nominating entity submit alternative nominees.

(3) Initial appointments shall be made not later than ten days after September 28, 2012.

(B)(1) The state chief information officer or the officer's designee shall serve as the chairperson of the steering committee and shall be a nonvoting member. All other members shall be voting members.

(2) A member of the steering committee appointed from the membership of the senate or the house of representatives shall serve during the member's term as a member of the general assembly and until a successor is appointed and qualified, notwithstanding adjournment of the general assembly or the expiration of the member's term as a member of the general assembly.

(3) The initial terms of one of the representatives of the county commissioners' association of Ohio, one of the representatives of the Ohio municipal league, and the representative of the Ohio township association shall all expire on December 31, 2016. The initial terms of the other representatives of the county commissioners' association of Ohio and the Ohio municipal league shall expire on December 31, 2014. Thereafter, terms of the members appointed by the governor shall be for four years, with each term ending on the same day of the same month as the term it succeeds. Each member appointed by the governor shall hold office from the date of the member's appointment until the end of the term for which the member was appointed, and may be reappointed. A member appointed by the governor shall continue in office after the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. Members appointed by the governor shall serve without compensation and shall not be reimbursed for expenses.

(4) A vacancy in the position of any member of the steering committee shall be filled for the unexpired term in the same manner as the original appointment.

(C) The steering committee shall generally advise the state on the implementation, operation, and maintenance of a statewide emergency

services internet protocol network that would support state and local government next-generation 9-1-1 and the dispatch of emergency service providers. The steering committee shall do all of the following:

(1) On or before May 15, 2013, deliver an initial report to the speaker of the house of representatives, the president of the senate, and the governor providing recommendations for the state to address the development of a statewide emergency services internet protocol network, which recommendations shall include a review of the current funding model for this state's 9-1-1 systems and may include a recommendation for a reduction in wireless 9-1-1 charges;

(2) Examine the readiness of the state's current technology infrastructure for a statewide emergency services internet protocol network;

(3) Research legislative authority with regard to governance and funding of a statewide emergency services internet protocol network, and provide recommendations on best practices to limit duplicative efforts to ensure an effective transition to next-generation 9-1-1;

(4) Make recommendations for consolidation of public-safety-answering-point operations in this state, including recommendations for accelerating the consolidation schedule established in section ~~5507.571~~ 128.571 of the Revised Code, to accommodate next-generation 9-1-1 technology and to facilitate a more efficient and effective emergency services system;

(5) Recommend policies, procedures, and statutory or regulatory authority to effectively govern a statewide emergency services internet protocol network;

(6) Designate a next-generation 9-1-1 statewide coordinator to serve as the primary point of contact for federal initiatives;

(7) Coordinate with statewide initiatives and associations such as the state interoperable executive committee, the Ohio geographically referenced information program council, the Ohio multi-agency radio communications system steering committee, and other interested parties;

(8) Serve as the entity responsible for the administration of Chapter 128. of the Revised Code.

~~(D)(1) Not later than February 15, 2013, each chairperson of a countywide 9-1-1 planning committee or the chairperson's designee shall report the following information~~ A 9-1-1 service provider shall provide to the steering committee:

(a) The aggregate number of access lines that the provider maintains within the state of Ohio;

(b) The aggregate amount of costs and cost recovery associated with

providing 9-1-1 service, including coverage under tariffs and bill and keep arrangements within this state:

(c) Any other information requested by the steering committee deemed necessary to support the transition to next generation 9-1-1.

(2) Any political subdivision or governmental entity operating a public safety answering point shall provide to the steering committee:

(a) The geographic location and population of the area for which the planning committee is responsible;

(b) Statistics detailing the number of 9-1-1 calls received;

(c) A report of expenditures made from disbursements from the wireless for 9-1-1 government assistance fund;

(d) An inventory of and the technical specifications for the current 9-1-1 network and equipment;

(e) Any other information requested by the steering committee that is deemed necessary to support the transition to next generation 9-1-1.

~~(2)(a) If, by February 15, 2013, a countywide 9-1-1 planning committee fails to provide to the steering committee the information required under division (D)(1) of this section, the steering committee shall notify the Ohio 9-1-1 coordinator of the failure and the coordinator shall suspend disbursements from the wireless 9-1-1 government assistance fund to that county. Disbursements to the county shall resume after the steering committee receives the required information and notifies the coordinator that the requirement has been met.~~

~~(b) Beginning January 1, 2014, the notification that the steering committee has received the required information shall be sent to the tax commissioner, and the disbursements to the county shall resume after the tax commissioner receives that notice~~

(3) The information requested under divisions (D)(1) and (2) of this section shall be provided by the 9-1-1 service provider, political subdivision, or governmental entity within forty-five days of the request of the steering committee.

(E) The steering committee shall hold its inaugural meeting not later than thirty days after September 28, 2012. Thereafter, the steering committee shall meet at least once a month, either in person or utilizing telecommunication-conferencing technology. A majority of the voting members shall constitute a quorum.

(F)(1) The steering committee shall have a permanent technical-standards subcommittee and a permanent public-safety-answering-point-operations subcommittee, and may, from time to time, establish additional subcommittees, to advise and assist the

steering committee based upon the subcommittees' areas of expertise.

(2) The membership of subcommittees shall be determined by the steering committee.

(a) The technical-standards subcommittee shall include one member representing a wireline or wireless service provider that participates in the state's 9-1-1 system, one representative of the Ohio academic resources network, one representative of the Ohio multi-agency radio communications system steering committee, one representative of the Ohio geographically referenced information program, and one member representing each of the following associations selected by the steering committee from nominations received from that association:

(i) The Ohio telephone association;

(ii) The Ohio chapter of the association of public-safety communications officials;

(iii) The Ohio chapter of the national emergency number association.

(b) The public-safety-answering-point-operations subcommittee shall include one member representing the division of emergency management of the department of public safety, one member representing the state highway patrol, two members recommended by the county commissioners' association of Ohio who are managers of public safety answering points, two members recommended by the Ohio municipal league who are managers of public safety answering points, and one member from each of the following associations selected by the steering committee from nominations received from that association:

(i) The buckeye state sheriffs' association;

(ii) The Ohio association of chiefs of police;

(iii) The Ohio association of fire chiefs;

(iv) The Ohio chapter of the association of public-safety communications officials;

(v) The Ohio chapter of the national emergency number association.

(G) The committee is not an agency, as defined in section 101.82 of the Revised Code, for purposes of sections 101.82 to 101.87 of the Revised Code.

(H) As used in this section, "9-1-1 system," "wireless service provider," "wireline service provider," "emergency service provider," and "public safety answering point" have the same meanings as in section ~~5507.01~~ 128.01 of the Revised Code.

(I) As used in this section, "bill and keep arrangements" has the same meaning as in 47 C.F.R. 51.713.

Sec. ~~5507.024~~ 128.021. Not later than January 1, 2014, and in

accordance with Chapter 119. of the Revised Code, the ~~statewide emergency services internet protocol network~~ steering committee shall adopt rules that establish technical and operational standards for public safety answering points eligible to receive disbursements under section ~~5507.55~~ 128.55 of the Revised Code. The rules shall incorporate industry standards and best practices for wireless 9-1-1 services. Public safety answering points shall comply with the standards not later than two years after the effective date of the rules adopting the standards.

Sec. ~~5507.022~~ 128.022. The ~~statewide emergency services internet protocol network~~ steering committee shall establish guidelines for the tax commissioner to use when disbursing money from the next generation 9-1-1 fund to countywide 9-1-1 systems in the state. The guidelines shall be consistent with the standards adopted in section ~~5507.021~~ 128.021 of the Revised Code and shall specify that disbursements may be used for costs associated with the operation of and equipment for phase II wireless systems and for costs associated with a county's migration to next generation 9-1-1 systems and technology.

Sec. ~~5507.03~~ 128.03. (A)(1) A countywide 9-1-1 system shall include all of the territory of the townships and municipal corporations in the county and any portion of such a municipal corporation that extends into an adjacent county.

(2) The system shall exclude any territory served by a wireline service provider that is not capable of reasonably meeting the technical and economic requirements of providing the wireline telephone network portion of the countywide system for that territory. The system shall exclude from enhanced 9-1-1 any territory served by a wireline service provider that is not capable of reasonably meeting the technical and economic requirements of providing the wireline telephone network portion of enhanced 9-1-1 for that territory. If a 9-1-1 planning committee and a wireline service provider do not agree on whether the provider is so capable, the planning committee shall notify the ~~department of public safety steering committee~~, and the ~~department steering committee~~ shall determine whether the wireline service provider is so capable. The planning committee shall ascertain whether such disagreement exists before making its implementation proposal under division (A) of section ~~5507.07~~ 128.07 of the Revised Code. The ~~department's steering committee's~~ determination shall be in the form of an order. No final plan shall require a wireline service provider to provide the wireline telephone network portion of a 9-1-1 system that the ~~department steering committee~~ has determined the provider is not reasonably capable of providing.

(B) A countywide 9-1-1 system may be a basic or enhanced 9-1-1 system, or a combination of the two, and shall be for the purpose of providing both wireline 9-1-1 and wireless 9-1-1.

(C) Every emergency service provider that provides emergency service within the territory of a countywide 9-1-1 system shall participate in the countywide system.

(D)(1) Each public safety answering point shall be operated by a subdivision or a regional council of governments and shall be operated constantly.

(2) A subdivision or a regional council of governments that operates a public safety answering point shall pay all of the costs associated with establishing, equipping, furnishing, operating, and maintaining that facility and shall allocate those costs among itself and the subdivisions served by the answering point based on the allocation formula in a final plan. The wireline service provider or other entity that provides or maintains the customer premises equipment shall bill the operating subdivision or the operating regional council of governments for the cost of providing such equipment, or its maintenance. A wireless service provider and a subdivision or regional council of governments operating a public safety answering point may enter into a service agreement for providing wireless enhanced 9-1-1 pursuant to a final plan adopted under this chapter.

(E) Except to the extent provided in a final plan that provides for funding of a 9-1-1 system in part through charges imposed under section ~~5507.22~~ 128.22 of the Revised Code, each subdivision served by a public safety answering point shall pay the subdivision or regional council of governments that operates the answering point the amount computed in accordance with the allocation formula set forth in the final plan.

(F) Notwithstanding any other provision of law, the purchase or other acquisition, installation, and maintenance of the telephone network for a 9-1-1 system and the purchase or other acquisition, installation, and maintenance of customer premises equipment at a public safety answering point made in compliance with a final plan or an agreement under section ~~5507.09~~ 128.09 of the Revised Code, including customer premises equipment used to provide wireless enhanced 9-1-1, are not subject to any requirement of competitive bidding.

(G) Each emergency service provider participating in a countywide 9-1-1 system shall maintain a telephone number in addition to 9-1-1.

(H) Whenever a final plan provides for the implementation of basic 9-1-1, the planning committee shall so notify the ~~department of public safety~~ steering committee, which shall determine whether the wireline service

providers serving the territory covered by the plan are capable of reasonably meeting the technical and economic requirements of providing the wireline telephone network portion of an enhanced 9-1-1 system. The determination shall be made solely for purposes of division (C)(2) of section ~~5507.18~~ 128.18 of the Revised Code.

(I) If the public safety answering point personnel reasonably determine that a 9-1-1 call is not an emergency, the personnel shall provide the caller with the telephone number of an appropriate subdivision agency as applicable.

(J) A final plan adopted under this chapter, or an agreement under section ~~5507.09~~ 128.09 of the Revised Code, may provide that, by further agreement included in the plan or agreement, the state highway patrol or one or more public safety answering points of another 9-1-1 system is the public safety answering point or points for the provision of wireline or wireless 9-1-1 for all or part of the territory of the 9-1-1 system established under the plan or agreement. In that event, the subdivision for which the wireline or wireless 9-1-1 is provided as named in the agreement shall be deemed the subdivision operating the public safety answering point or points for purposes of this chapter, except that, for the purpose of division (D)(2) of this section, that subdivision shall pay only so much of the costs of establishing, equipping, furnishing, operating, or maintaining any such public safety answering point as are specified in the agreement with the patrol or other system.

(K) A final plan for the provision of wireless enhanced 9-1-1 shall provide that any wireless 9-1-1 calls routed to a state highway patrol-operated public safety answering point by default, due to a wireless service provider so routing all such calls of its subscribers without prior permission, are instead to be routed as provided under the plan. Upon the implementation of countywide wireless enhanced 9-1-1 pursuant to a final plan, the state highway patrol shall cease any functioning as a public safety answering point providing wireless 9-1-1 within the territory covered by the countywide 9-1-1 system so established, unless the patrol functions as a public safety answering point providing wireless enhanced 9-1-1 pursuant to an agreement included in the plan as authorized under division (J) of this section.

Sec. ~~5507.06~~ 128.06. (A) A board of county commissioners or the legislative authority of any municipal corporation in the county that contains at least thirty per cent of the county's population may adopt a resolution to convene a 9-1-1 planning committee, which shall serve without compensation and shall consist of three voting members as follows:

(1) The president or other presiding officer of the board of county commissioners, who shall serve as chairperson of the committee;

(2) The chief executive officer of the most populous municipal corporation in the county;

(3) From the more populous of the following, either the chief executive officer of the second most populous municipal corporation in the county or a member of the board of township trustees of the most populous township in the county as selected by majority vote of the board of trustees.

In counties with a population of one hundred seventy-five thousand or more, the planning committee shall consist of two additional voting members as follows: a member of a board of township trustees selected by the majority of boards of township trustees in the county pursuant to resolutions they adopt, and the chief executive officer of a municipal corporation in the county selected by the majority of the legislative authorities of municipal corporations in the county pursuant to resolutions they adopt.

When determining population under this division, population residing outside the county shall be excluded.

(B) Within thirty days after the adoption of a resolution to convene the committee under division (A) of this section, the committee shall convene for the sole purpose of developing a final plan for implementing a countywide 9-1-1 system. The county shall provide the committee with any clerical, legal, and other staff assistance necessary to develop the final plan and shall pay for copying, mailing, and any other such expenses incurred by the committee in developing the final plan and in meeting the requirements imposed by sections ~~5507.06~~ 128.06 to ~~5507.08~~ 128.08 of the Revised Code.

(C) The 9-1-1 planning committee shall appoint a 9-1-1 technical advisory committee to assist it in planning the countywide 9-1-1 system. The advisory committee shall include at least one fire chief and one police chief serving in the county, the county sheriff, a representative of the state highway patrol selected by the patrol, one representative of each telephone company in each case selected by the telephone company represented, the director/coordinator of emergency management appointed under section 5502.26, 5502.27, or 5502.271 of the Revised Code, as appropriate, and a member of a board of township trustees of a township in the county selected by a majority of boards of township trustees in the county pursuant to resolutions they adopt.

Sec. ~~5507.07~~ 128.07. (A) The 9-1-1 planning committee shall prepare a proposal on the implementation of a countywide 9-1-1 system and shall hold

a public meeting on the proposal to explain the system to and receive comments from public officials. At least thirty but not more than sixty days before the meeting, the committee shall send a copy of the implementation proposal and written notice of the meeting:

(1) By certified mail, to the board of county commissioners, the legislative authority of each municipal corporation in the county, and to the board of trustees of each township in the county; and

(2) To the board of trustees, directors, or park commissioners of each subdivision that will be served by a public safety answering point under the plan.

(B) The proposal and the final plan adopted by the committee shall specify:

(1) Which telephone companies serving customers in the county and, as authorized in division (A)(1) of section ~~5507.03~~ 128.03 of the Revised Code, in an adjacent county will participate in the 9-1-1 system;

(2) The location and number of public safety answering points; how they will be connected to a company's telephone network; from what geographic territory each will receive 9-1-1 calls; whether basic or enhanced 9-1-1 service will be provided within such territory; what subdivisions will be served by the answering point; and whether an answering point will respond to calls by directly dispatching an emergency service provider, by relaying a message to the appropriate provider, or by transferring the call to the appropriate provider;

(3) Which subdivision or regional council of governments will establish, equip, furnish, operate, and maintain a particular public safety answering point;

(4) A projection of the initial cost of establishing, equipping, and furnishing and of the annual cost of the first five years of operating and maintaining each public safety answering point;

(5) Whether the cost of establishing, equipping, furnishing, operating, or maintaining each public safety answering point should be funded through charges imposed under section ~~5507.22~~ 128.22 of the Revised Code or will be allocated among the subdivisions served by the answering point and, if any such cost is to be allocated, the formula for so allocating it;

(6) How each emergency service provider will respond to a misdirected call.

(C) Following the meeting required by this section, the 9-1-1 planning committee may modify the implementation proposal and, no later than nine months after the resolution authorized by section ~~5507.06~~ 128.06 of the Revised Code is adopted, may adopt, by majority vote, a final plan for

implementing a countywide 9-1-1 system. If a planning committee and wireline service provider do not agree on whether the wireline service provider is capable of providing the wireline telephone network as described under division (A) of section ~~5507.03~~ 128.03 of the Revised Code and the planning committee refers that question to the ~~department of public safety steering committee~~, the ~~department steering committee~~ may extend the nine-month deadline established by this division to twelve months. Immediately on completion of the plan, the planning committee shall send a copy of the final plan:

(1) By certified mail to the board of county commissioners of the county, to the legislative authority of each municipal corporation in the county, and to the board of township trustees of each township in the county; and

(2) To the board of trustees, directors, or park commissioners of each subdivision that will be served by a public safety answering point under the plan.

~~(D) If the committee has not adopted a final plan on or before the deadline in division (C) of this section, the committee shall cease to exist. A new 9-1-1 planning committee may be convened in the manner established in section 5507.06 of the Revised Code to develop an implementation proposal and final plan in accordance with the requirements of sections 5507.06 to 5507.08 of the Revised Code.~~

Sec. ~~5507.08~~ 128.08. (A) Within sixty days after receipt of the final plan pursuant to division (C) of section ~~5507.07~~ 128.07 of the Revised Code, the board of county commissioners of the county and the legislative authority of each municipal corporation in the county and of each township whose territory is proposed to be included in a countywide 9-1-1 system shall act by resolution to approve or disapprove the plan, except that, with respect to a final plan that provides for funding of the 9-1-1 system in part through charges imposed under section ~~5507.22~~ 128.22 of the Revised Code, the board of county commissioners shall not act by resolution to approve or disapprove the plan until after a resolution adopted under section ~~5507.22~~ 128.22 of the Revised Code has become effective as provided in division (D) of that section. A municipal corporation or township whose territory is proposed to be included in the system includes any municipal corporation or township in which a part of its territory is excluded pursuant to division (A)(2) of section ~~5507.03~~ 128.03 of the Revised Code. Each such authority immediately shall notify the board of county commissioners in writing of its approval or disapproval of the final plan. Failure by a board or legislative authority to notify the board of county commissioners of approval or

disapproval within such sixty-day period shall be deemed disapproval by the board or authority.

(B) As used in this division, "county's population" excludes the population of any municipal corporation or township that, under the plan, is completely excluded from 9-1-1 service in the county's final plan. A countywide plan is effective if all of the following entities approve the plan in accordance with this section:

(1) The board of county commissioners;

(2) The legislative authority of a municipal corporation that contains at least thirty per cent of the county's population, if any;

(3) The legislative authorities of municipal corporations and townships that contain at least sixty per cent of the county's population or, if the plan has been approved by a municipal corporation that contains at least sixty per cent of the county's population, by the legislative authorities of municipal corporations and townships that contain at least seventy-five per cent of the county's population.

(C) After a countywide plan approved in accordance with this section is adopted, all of the telephone companies, subdivisions, and regional councils of governments included in the plan are subject to the specific requirements of the plan and to this chapter.

Sec. ~~5507.09~~ 128.09. (A) If a final plan is disapproved under division (B) of section ~~5507.08~~ 128.08 of the Revised Code, by resolution, the legislative authority of a municipal corporation or township that contains at least thirty per cent of the county's population may establish within its boundaries, or the legislative authorities of a group of municipal corporations or townships each of which is contiguous with at least one other such municipal corporation or township in the group, together containing at least thirty per cent of the county's population, may jointly establish within their boundaries a 9-1-1 system. For that purpose, the municipal corporation or township may enter into an agreement, and the contiguous municipal corporations or townships may jointly enter into an agreement with one or more telephone companies.

(B) If no resolution has been adopted to convene a 9-1-1 planning committee under section ~~5507.06~~ 128.06 of the Revised Code, by resolution, the legislative authority of any municipal corporation in the county may establish within its boundaries, or the legislative authorities of a group of municipal corporations and townships each of which is contiguous to at least one of the other such municipal corporations or townships in the group may jointly establish within their boundaries, a 9-1-1 system. For that purpose, the municipal corporation, or contiguous municipal corporations and

townships, may enter into an agreement with one or more telephone companies.

(C) Whenever a telephone company that is a wireline service provider and one or more municipal corporations and townships enter into an agreement under division (A) or (B) of this section to provide for the wireline telephone network portion of a basic 9-1-1 system, the telephone company shall so notify the ~~department of public safety~~ steering committee, which shall determine whether the telephone company is capable of reasonably meeting the technical and economic requirements of providing the wireline telephone network for an enhanced system within the territory served by the company and covered by the agreement. The determination shall be made solely for the purposes of division (C)(2) of section ~~5507.18~~ 128.18 of the Revised Code.

(D) Within three years from the date of entering into an initial agreement described under division (C) of this section, the telephone company shall have installed the wireline telephone network portion of the 9-1-1 system according to the terms, conditions, requirements, and specifications set forth in the agreement.

(E) A telephone company that is a wireline service provider shall recover the cost of installing the wireline telephone network system pursuant to agreements made under this section as provided in sections ~~5507.18~~ 128.18 and 5733.55 of the Revised Code.

Sec. ~~5507.12~~ 128.12. (A) An amended final plan is required for any of the following purposes:

- (1) Expanding the territory included in the countywide 9-1-1 system;
- (2) Upgrading any part or all of a system from basic to enhanced wireline 9-1-1;
- (3) Adjusting the territory served by a public safety answering point;
- (4) Permitting a regional council of governments to operate a public safety answering point;
- (5) Represcribing the funding of public safety answering points as between the alternatives set forth in division (B)(5) of section ~~5507.07~~ 128.07 of the Revised Code;
- (6) Providing for wireless enhanced 9-1-1;
- (7) Adding a telephone company as a participant in a countywide 9-1-1 system after the implementation of wireline 9-1-1 or wireless enhanced 9-1-1;
- (8) Providing that the state highway patrol or one or more public safety answering points of another 9-1-1 system function as a public safety answering point or points for the provision of wireline or wireless 9-1-1 for

all or part of the territory of the system established under the final plan, as contemplated under division (J) of section ~~5507.03~~ 128.03 of the Revised Code;

(9) Making any other necessary adjustments to the plan.

~~(B) Except as otherwise provided in division (C) of this section, a final plan shall be amended in the manner provided for adopting a final plan under sections 5507.06 to 5507.08 of the Revised Code, including convening a 9-1-1 planning committee and developing a proposed amended plan prior to adopting an amended final plan.~~

~~(C)~~(1) To amend a final plan for the purpose described in division (A)(7) of this section, an entity that wishes to be added as a participant in a 9-1-1 system shall file a written letter of that intent with the board of county commissioners of the county that approved the final plan. The final plan is deemed amended upon the filing of that letter. The entity that files the letter shall send written notice of that filing to all subdivisions, regional councils of governments, and telephone companies participating in the system.

(2) An amendment to a final plan for a any other purpose set forth in division (A)(1), (3), (6), ~~or (9)~~ of this section may be made by an addendum approved by a majority of the 9-1-1 planning committee. The board of county commissioners shall call a meeting of the 9-1-1 planning committee for the purpose of considering an addendum pursuant to this division.

(3) Adoption of any resolution under section ~~5507.22~~ 128.22 of the Revised Code pursuant to a final plan that both has been adopted and provides for funding through charges imposed under that section is not an amendment of a final plan for the purpose of this division.

~~(D)~~(C) When a final plan is amended for a purpose described in division (A)(1), (2), or (7) of this section, sections ~~5507.18~~ 128.18 and 5733.55 of the Revised Code apply with respect to the receipt of the nonrecurring and recurring rates and charges for the wireline telephone network portion of the 9-1-1 system.

Sec. ~~5507.15~~ 128.15. (A) Within three years from the date an initial final plan becomes effective under division (B) of section ~~5507.08~~ 128.08 of the Revised Code, the wireline service providers designated in the plan shall have installed the wireline telephone network portion of the 9-1-1 system according to the terms, conditions, requirements, and specifications set forth in that plan.

(B)(1) Upon installation of a countywide 9-1-1 system, the board of county commissioners may direct the county engineer to erect and maintain at the county boundaries on county roads and state and interstate highways, signs indicating the availability of a countywide 9-1-1 system. Any sign

erected by a county under this section shall be erected in accordance with and meet the specifications established under division (B)(2) of this section. All expenses incurred in erecting and maintaining the signs shall be paid by the county.

(2) The director of transportation shall develop design specifications for signs giving notice of the availability of a countywide 9-1-1 system. The director also shall establish standards for the erection of the signs and, in accordance with federal law and regulations and recognized engineering practices, specify those locations where the signs shall not be erected.

Sec. ~~5507.18~~ 128.18. (A) In accordance with this chapter and Chapters 4901., 4903., 4905., and 4909. of the Revised Code, the public utilities commission shall determine the just, reasonable, and compensatory rates, tolls, classifications, charges, or rentals to be observed and charged for the wireline telephone network portion of a basic or enhanced 9-1-1 system, and each telephone company that is a wireline service provider participating in the system shall be subject to those chapters, to the extent they apply, as to the service provided by its portion of the wireline telephone network for the system as described in the final plan or to be installed pursuant to agreements under section ~~5507.09~~ 128.09 of the Revised Code, and as to the rates, tolls, classifications, charges, or rentals to be observed and charged for that service.

(B) Only the customers of a participating telephone company described in division (A) of this section that are served within the area covered by a 9-1-1 system shall pay the recurring rates for the maintenance and operation of the company's portion of the wireline telephone network of the system. Such rates shall be computed by dividing the total monthly recurring rates set forth in the company's schedule as filed in accordance with section 4905.30 of the Revised Code, by the total number of residential and business customer access lines, or their equivalent, within the area served. Each residential and business customer within the area served shall pay the recurring rates based on the number of its residential and business customer access lines or their equivalent. No company shall include such amount on any customer's bill until the company has completed its portion of the wireline telephone network in accordance with the terms, conditions, requirements, and specifications of the final plan or an agreement made under section ~~5507.09~~ 128.09 of the Revised Code.

(C)(1) Except as otherwise provided in division (C)(2) of this section, a participating telephone company described in division (A) of this section may receive through the credit authorized by section 5733.55 of the Revised Code the total nonrecurring charges for its portion of the wireline telephone

network of the system and the total nonrecurring charges for any updating or modernization of that wireline telephone network in accordance with the terms, conditions, requirements, and specifications of the final plan or pursuant to agreements under section ~~5507.09~~ 128.09 of the Revised Code, as such charges are set forth in the schedule filed by the telephone company in accordance with section 4905.30 of the Revised Code. However, that portion, updating, or modernization shall not be for or include the provision of wireless 9-1-1. As applicable, the receipt of permissible charges shall occur only upon the completion of the installation of the network or the completion of the updating or modernization.

(2) The credit shall not be allowed under division (C)(1) of this section for the upgrading of a system from basic to enhanced wireline 9-1-1 if both of the following apply:

(a) The telephone company received the credit for the wireline telephone network portion of the basic 9-1-1 system now proposed to be upgraded.

(b) At the time the final plan or agreement pursuant to section ~~5507.09~~ 128.09 of the Revised Code calling for the basic 9-1-1 system was agreed to, the telephone company was capable of reasonably meeting the technical and economic requirements of providing the wireline telephone network portion of an enhanced 9-1-1 system within the territory proposed to be upgraded, as determined by the ~~department of public safety~~ steering committee under division (A) or (H) of section ~~5507.03~~ 128.03 or division (C) of section ~~5507.09~~ 128.09 of the Revised Code.

(3) If the credit is not allowed under division (C)(2) of this section, the total nonrecurring charges for the wireline telephone network used in providing 9-1-1 service, as set forth in the schedule filed by a telephone company in accordance with section 4905.30 of the Revised Code, on completion of the installation of the network in accordance with the terms, conditions, requirements, and specifications of the final plan or pursuant to section ~~5507.09~~ 128.09 of the Revised Code, shall be paid by the municipal corporations and townships with any territory in the area in which such upgrade from basic to enhanced 9-1-1 is made.

(D) If customer premises equipment for a public safety answering point is supplied by a telephone company that is required to file a schedule under section 4905.30 of the Revised Code pertaining to customer premises equipment, the recurring and nonrecurring rates and charges for the installation and maintenance of the equipment specified in the schedule shall apply.

Sec. ~~5507.22~~ 128.22. (A)(1) For the purpose of paying the costs of

establishing, equipping, and furnishing one or more public safety answering points as part of a countywide 9-1-1 system effective under division (B) of section ~~5507.08~~ 128.08 of the Revised Code and paying the expense of administering and enforcing this section, the board of county commissioners of a county, in accordance with this section, may fix and impose, on each lot or parcel of real property in the county that is owned by a person, municipal corporation, township, or other political subdivision and is improved, or is in the process of being improved, reasonable charges to be paid by each such owner. The charges shall be sufficient to pay only the estimated allowed costs and shall be equal in amount for all such lots or parcels.

(2) For the purpose of paying the costs of operating and maintaining the answering points and paying the expense of administering and enforcing this section, the board, in accordance with this section, may fix and impose reasonable charges to be paid by each owner, as provided in division (A)(1) of this section, that shall be sufficient to pay only the estimated allowed costs and shall be equal in amount for all such lots or parcels. The board may fix and impose charges under this division pursuant to a resolution adopted for the purposes of both divisions (A)(1) and (2) of this section or pursuant to a resolution adopted solely for the purpose of division (A)(2) of this section, and charges imposed under division (A)(2) of this section may be separately imposed or combined with charges imposed under division (A)(1) of this section.

(B) Any board adopting a resolution under this section pursuant to a final plan initiating the establishment of a 9-1-1 system or pursuant to an amendment to a final plan shall adopt the resolution within sixty days after the board receives the final plan for the 9-1-1 system pursuant to division (C) of section ~~5507.07~~ 128.07 of the Revised Code. The board by resolution may change any charge imposed under this section whenever the board considers it advisable. Any resolution adopted under this section shall declare whether securities will be issued under Chapter 133. of the Revised Code in anticipation of the collection of unpaid special assessments levied under this section.

(C) The board shall adopt a resolution under this section at a public meeting held in accordance with section 121.22 of the Revised Code. Additionally, the board, before adopting any such resolution, shall hold at least two public hearings on the proposed charges. Prior to the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall include a listing of the charges proposed in the resolution and the date, time, and

location of each of the hearings. The board shall hear any person who wishes to testify on the charges or the resolution.

(D) No resolution adopted under this section shall be effective sooner than thirty days following its adoption nor shall any such resolution be adopted as an emergency measure. The resolution is subject to a referendum in accordance with sections 305.31 to 305.41 of the Revised Code unless, in the resolution, the board of county commissioners directs the board of elections of the county to submit the question of imposing the charges to the electors of the county at the next primary or general election in the county occurring not less than ninety days after the resolution is certified to the board. No resolution shall go into effect unless approved by a majority of those voting upon it in any election allowed under this division.

(E) To collect charges imposed under division (A) of this section, the board of county commissioners shall certify them to the county auditor of the county who then shall place them upon the real property duplicate against the properties to be assessed, as provided in division (A) of this section. Each assessment shall bear interest at the same rate that securities issued in anticipation of the collection of the assessments bear, is a lien on the property assessed from the date placed upon the real property duplicate by the auditor, and shall be collected in the same manner as other taxes.

(F) All money collected by or on behalf of a county under this section shall be paid to the county treasurer of the county and kept in a separate and distinct fund to the credit of the county. The fund shall be used to pay the costs allowed in division (A) of this section and specified in the resolution adopted under that division. In no case shall any surplus so collected be expended for other than the use and benefit of the county.

Sec. ~~5507.25~~ 128.25. (A) This section applies only to a county that meets both of the following conditions:

(1) A final plan for a countywide 9-1-1 system either has not been approved in the county under section ~~5507.08~~ 128.08 of the Revised Code or has been approved but has not been put into operation because of a lack of funding;

(2) The board of county commissioners, at least once, has submitted to the electors of the county the question of raising funds for a 9-1-1 system under section ~~5507.22~~ 128.22, 5705.19, or 5739.026 of the Revised Code, and a majority of the electors has disapproved the question each time it was submitted.

(B) A board of county commissioners may adopt a resolution imposing a monthly charge on telephone access lines to pay for the equipment costs of establishing and maintaining no more than three public safety answering

points of a countywide 9-1-1 system, which public safety answering points shall be only twenty-four-hour dispatching points already existing in the county. The resolution shall state the amount of the charge, which shall not exceed fifty cents per month, and the month the charge will first be imposed, which shall be no earlier than four months after the special election held pursuant to this section. Each residential and business telephone company customer within the area served by the 9-1-1 system shall pay the monthly charge for each of its residential or business customer access lines or their equivalent.

Before adopting a resolution under this division, the board of county commissioners shall hold at least two public hearings on the proposed charge. Before the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall state the amount of the proposed charge, an explanation of the necessity for the charge, and the date, time, and location of each of the hearings.

(C) A resolution adopted under division (B) of this section shall direct the board of elections to submit the question of imposing the charge to the electors of the county at a special election on the day of the next primary or general election in the county. The board of county commissioners shall certify a copy of the resolution to the board of elections not less than ninety days before the day of the special election. No resolution adopted under division (B) of this section shall take effect unless approved by a majority of the electors voting upon the resolution at an election held pursuant to this section.

In any year, the board of county commissioners may impose a lesser charge than the amount originally approved by the electors. The board may change the amount of the charge no more than once a year. The board may not impose a charge greater than the amount approved by the electors without first holding an election on the question of the greater charge.

(D) Money raised from a monthly charge on telephone access lines under this section shall be deposited into a special fund created in the county treasury by the board of county commissioners pursuant to section 5705.12 of the Revised Code, to be used only for the necessary equipment costs of establishing and maintaining no more than three public safety answering points of a countywide 9-1-1 system pursuant to a resolution adopted under division (B) of this section. In complying with this division, any county may seek the assistance of the ~~department of public safety steering committee~~ with regard to operating and maintaining a 9-1-1 system.

(E) Pursuant to the voter approval required by division (C) of this section, the final plan for a countywide 9-1-1 system that will be funded through a monthly charge imposed in accordance with this section shall be amended by the existing 9-1-1 planning committee, and the amendment of such a final plan is not an amendment of a final plan for the purpose of division (A) of section ~~5507.12~~ 128.12 of the Revised Code.

Sec. ~~5507.26~~ 128.26. (A) This section applies only to a county that has a final plan for a countywide 9-1-1 system that either has not been approved in the county under section ~~5507.08~~ 128.08 of the Revised Code or has been approved but has not been put into operation because of a lack of funding.

(B) A board of county commissioners may adopt a resolution imposing a monthly charge on telephone access lines to pay for the operating and equipment costs of establishing and maintaining no more than one public safety answering point of a countywide 9-1-1 system. The resolution shall state the amount of the charge, which shall not exceed fifty cents per month, and the month the charge will first be imposed, which shall be no earlier than four months after the special election held pursuant to this section. Each residential and business telephone company customer within the area of the county served by the 9-1-1 system shall pay the monthly charge for each of its residential or business customer access lines or their equivalent.

Before adopting a resolution under this division, the board of county commissioners shall hold at least two public hearings on the proposed charge. Before the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall state the amount of the proposed charge, an explanation of the necessity for the charge, and the date, time, and location of each of the hearings.

(C) A resolution adopted under division (B) of this section shall direct the board of elections to submit the question of imposing the charge to the electors of the county at a special election on the day of the next primary or general election in the county. The board of county commissioners shall certify a copy of the resolution to the board of elections not less than ninety days before the day of the special election. No resolution adopted under division (B) of this section shall take effect unless approved by a majority of the electors voting upon the resolution at an election held pursuant to this section.

In any year, the board of county commissioners may impose a lesser charge than the amount originally approved by the electors. The board may change the amount of the charge no more than once a year. The board shall

not impose a charge greater than the amount approved by the electors without first holding an election on the question of the greater charge.

(D) Money raised from a monthly charge on telephone access lines under this section shall be deposited into a special fund created in the county treasury by the board of county commissioners pursuant to section 5705.12 of the Revised Code, to be used only for the necessary operating and equipment costs of establishing and maintaining no more than one public safety answering point of a countywide 9-1-1 system pursuant to a resolution adopted under division (B) of this section. In complying with this division, any county may seek the assistance of the ~~department of public safety~~ steering committee with regard to operating and maintaining a 9-1-1 system.

(E) Nothing in sections ~~5507.01 128.01~~ to ~~5507.34 128.34~~ of the Revised Code precludes a final plan adopted in accordance with those sections from being amended to provide that, by agreement included in the plan, a public safety answering point of another countywide 9-1-1 system is the public safety answering point of a countywide 9-1-1 system funded through a monthly charge imposed in accordance with this section. In that event, the county for which the public safety answering point is provided shall be deemed the subdivision operating the public safety answering point for purposes of sections ~~5507.01 128.01~~ to ~~5507.34 128.34~~ of the Revised Code, except that, for the purpose of division (D) of section ~~5507.03 128.03~~ of the Revised Code, the county shall pay only so much of the costs associated with establishing, equipping, furnishing, operating, or maintaining the public safety answering point specified in the agreement included in the final plan.

(F) Pursuant to the voter approval required by division (C) of this section, the final plan for a countywide 9-1-1 system that will be funded through a monthly charge imposed in accordance with this section, or that will be amended to include an agreement described in division (E) of this section, shall be amended by the existing 9-1-1 planning committee, and the amendment of such a final plan is not an amendment of a final plan for the purpose of division (A) of section ~~5507.12 128.12~~ of the Revised Code.

Sec. ~~5507.27 128.27~~. (A) As part of its normal monthly billing process, each telephone company with customers in the area served by a 9-1-1 system shall bill and collect from those customers any charge imposed under section ~~5507.25 128.25~~ or ~~5507.26 128.26~~ of the Revised Code. The company may list the charge as a separate entry on each bill and may indicate on the bill that the charge is made pursuant to approval of a ballot issue by county voters. Any customer billed by a company for a charge

imposed under section ~~5507.25~~ 128.25 or ~~5507.26~~ 128.26 of the Revised Code is liable to the county for the amount billed. The company shall apply any partial payment of a customer's bill first to the amount the customer owes the company. The company shall keep complete records of charges it bills and collects, and such records shall be open during business hours for inspection by the county commissioners or their agents or employees. If a company fails to bill any customer for the charge, it is liable to the county for the amount that was not billed.

(B) A telephone company that collects charges under this section shall remit the money to the county on a quarterly basis. The company may retain three per cent of any charge it collects as compensation for the costs of such collection. If a company collects charges under this section and fails to remit the money to the county as prescribed, it is liable to the county for any amount collected and not remitted.

Sec. ~~5507.32~~ 128.32. (A)(1) The state, the state highway patrol, a subdivision, or a regional council of governments participating in a 9-1-1 system established under this chapter and any officer, agent, employee, or independent contractor of the state, the state highway patrol, or such a participating subdivision or regional council of governments is not liable in damages in a civil action for injuries, death, or loss to persons or property arising from any act or omission, except willful or wanton misconduct, in connection with developing, adopting, or approving any final plan or any agreement made under section ~~5507.09~~ 128.09 of the Revised Code or otherwise bringing into operation the 9-1-1 system pursuant to this chapter.

(2) The ~~Ohio 9-1-1 council, the wireless 9-1-1 advisory board, steering committee~~ and any member of ~~that council or board~~ the steering committee are not liable in damages in a civil action for injuries, death, or loss to persons or property arising from any act or omission, except willful or wanton misconduct, in connection with the development or operation of a 9-1-1 system established under this chapter.

(B) Except as otherwise provided in this section ~~5507.32~~ of the Revised Code, an individual who gives emergency instructions through a 9-1-1 system established under this chapter, and the principals for whom the person acts, including both employers and independent contractors, public and private, and an individual who follows emergency instructions and the principals for whom that person acts, including both employers and independent contractors, public and private, are not liable in damages in a civil action for injuries, death, or loss to persons or property arising from the issuance or following of emergency instructions, except where the issuance or following of the instructions constitutes willful or wanton misconduct.

(C) Except for willful or wanton misconduct, a telephone company, and any other installer, maintainer, or provider, through the sale or otherwise, of customer premises equipment, and their respective officers, directors, employees, agents, and suppliers are not liable in damages in a civil action for injuries, death, or loss to persons or property incurred by any person resulting from any of the following:

(1) Such an entity's or its officers', directors', employees', agents', or suppliers' participation in or acts or omissions in connection with participating in or developing, maintaining, or operating a 9-1-1 system;

(2) Such an entity's or its officers', directors', employees', agents', or suppliers' provision of assistance to a public utility, municipal utility, or state or local government as authorized by divisions (G)(4) and (5) of this section.

(D) Except for willful or wanton misconduct, a provider of and a seller of a prepaid wireless calling service and their respective officers, directors, employees, agents, and suppliers are not liable in damages in a civil action for injuries, death, or loss to persons or property incurred by any person resulting from anything described in division (C) of this section.

(E) No person shall knowingly use the telephone number of a 9-1-1 system established under this chapter to report an emergency if the person knows that no emergency exists.

(F) No person shall knowingly use a 9-1-1 system for a purpose other than obtaining emergency service.

(G) No person shall disclose or use any information concerning telephone numbers, addresses, or names obtained from the data base that serves the public safety answering point of a 9-1-1 system established under this chapter, except for any of the following purposes or under any of the following circumstances:

(1) For the purpose of the 9-1-1 system;

(2) For the purpose of responding to an emergency call to an emergency service provider;

(3) In the circumstance of the inadvertent disclosure of such information due solely to technology of the wireline telephone network portion of the 9-1-1 system not allowing access to the data base to be restricted to 9-1-1 specific answering lines at a public safety answering point;

(4) In the circumstance of access to a data base being given by a telephone company that is a wireline service provider to a public utility or municipal utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a data base shall be

subject to the jurisdiction of the ~~department of public safety steering committee~~.

(5) In the circumstance of access to a data base given by a telephone company that is a wireline service provider to a state and local government in warning of a public emergency, as determined by the ~~department of public safety steering committee~~. The charge, terms, and conditions for the disclosure or use of that information for the purpose of access to a data base is subject to the jurisdiction of the ~~department of public safety steering committee~~.

Sec. ~~5507.34~~ 128.34. (A) The attorney general, upon request of the ~~department of public safety steering committee~~, or on the attorney general's own initiative, shall begin proceedings against a telephone company that is a wireline service provider to enforce compliance with this chapter or with the terms, conditions, requirements, or specifications of a final plan or of an agreement under section ~~5507.09~~ 128.09 of the Revised Code as to wireline or wireless 9-1-1.

(B) The attorney general, upon the attorney general's own initiative, or any prosecutor, upon the prosecutor's initiative, shall begin proceedings against a subdivision or a regional council of governments as to wireline or wireless 9-1-1 to enforce compliance with this chapter or with the terms, conditions, requirements, or specifications of a final plan or of an agreement under section ~~5507.09~~ 128.09 of the Revised Code as to wireline or wireless 9-1-1.

Sec. ~~5507.40~~ 128.40. There is hereby created within the ~~public utilities commission department of administrative services~~ the 9-1-1 service program office, headed by an ~~Ohio 9-1-1 coordinator~~ administrator in the unclassified civil service pursuant to division (A)(9) of section 124.11 of the Revised Code. The ~~coordinator~~ administrator shall be appointed by and serve at the pleasure of the ~~commission chairperson~~ director of administrative services and shall report directly to the ~~chairperson~~. ~~On May 6, 2005, the chairperson shall appoint an interim coordinator and, upon submission of a list of nominees by the Ohio 9-1-1 council pursuant to section 5507.65 of the Revised Code, shall consider those nominees in making the final appointment and in appointing any subsequent coordinator. The chairperson may request the council to submit additional nominees and may reject any of the nominees. The chairperson shall fix the compensation of the coordinator. The chairperson shall evaluate the performance of the coordinator after considering the evaluation and recommendations of the council under section 5507.65 of the Revised Code~~ state chief information officer. The program office

~~The Ohio 9-1-1 coordinator shall administer the wireless 9-1-1 government assistance fund as specified in sections ~~5507.53~~ 128.53 and ~~5507.55~~ 128.55 of the Revised Code. The coordinator shall carry out the coordinator's duties under this chapter. The chairperson may establish additional duties of the coordinator based on a list of recommended duties submitted by the Ohio 9-1-1 council pursuant to section ~~5507.65~~ of the Revised Code. The chairperson may assign one or more commission employees to assist the coordinator in carrying out the coordinator's duties.~~

Sec. ~~5507.42~~ 128.42. (A) There is hereby imposed a wireless 9-1-1 charge of twenty-five cents per month as follows:

(1) On each wireless telephone number of a wireless service subscriber who has a billing address in this state. The subscriber shall pay the wireless 9-1-1 charge for each such wireless telephone number assigned to the subscriber. Each wireless service provider and each reseller shall collect the wireless 9-1-1 charge as a specific line item on each subscriber's monthly bill. The line item shall be expressly designated "State/Local Wireless-E911 Costs (\$0.25/billed number)." If a provider bills a subscriber for any wireless enhanced 9-1-1 costs that the provider may incur, the charge or amount is not to appear in the same line item as the state/local line item. If the charge or amount is to appear in its own, separate line item on the bill, the charge or amount shall be expressly designated "[Name of Provider] Federal Wireless-E911 Costs."

(2)(a) Prior to January 1, 2014, on each subscriber of prepaid wireless service. A wireless service provider or reseller shall collect the wireless 9-1-1 charge in either of the following manners:

(i) If the subscriber has a positive account balance on the last day of the month and has used the service during that month, by reducing that balance not later than the end of the first week of the following month by twenty-five cents or an equivalent number of airtime minutes;

(ii) By dividing the total earned prepaid wireless telephone revenue from sales within this state received by the wireless service provider or reseller during the month by fifty, multiplying the quotient by twenty-five cents.

(b) Amounts collected under division (A)(2) of this section shall be remitted pursuant to division (A)(1) of section ~~5507.46~~ 128.46 of the Revised Code.

The wireless 9-1-1 charges authorized under this section shall not be imposed on a subscriber of wireless lifeline service or a provider of that service.

(B) Beginning January 1, 2014:

(1) There is hereby imposed, on each retail sale of a prepaid wireless calling service occurring in this state, a wireless 9-1-1 charge of five-tenths of one per cent of the sale price.

(2) For purposes of division (B)(1) of this section, a retail sale occurs in this state if it is effected by the consumer appearing in person at a seller's business location in this state, or if the sale is sourced to this state under division (E)(3) of section 5739.034 of the Revised Code, except that under that division, in lieu of sourcing a sale under division (C)(5) of section 5739.033 of the Revised Code, the seller, rather than the service provider, may elect to source the sale to the location associated with the mobile telephone number.

(3)(a) Except as provided in division (B)(4)(c) of this section, the seller of the prepaid wireless calling service shall collect the charge from the consumer at the time of each retail sale and disclose the amount of the charge to the consumer at the time of the sale by itemizing the charge on the receipt, invoice, or similar form of written documentation provided to the consumer.

(b) The seller shall comply with the reporting and remittance requirements under section ~~5507.46~~ 128.46 of the Revised Code.

(4) When a prepaid wireless calling service is sold with one or more other products or services for a single, nonitemized price, the wireless 9-1-1 charge imposed under division (B)(1) of this section shall apply to the entire nonitemized price, except as provided in divisions (B)(4)(a) to (c) of this section.

(a) If the amount of the prepaid wireless calling service is disclosed to the consumer as a dollar amount, the seller may elect to apply the charge only to that dollar amount.

(b) If the seller can identify the portion of the nonitemized price that is attributable to the prepaid wireless calling service, by reasonable and verifiable standards from the seller's books and records that are kept in the regular course of business for other purposes, including nontax purposes, the seller may elect to apply the charge only to that portion.

(c) If a minimal amount of a prepaid wireless calling service is sold with a prepaid wireless calling device for the single, nonitemized price, the seller may elect not to collect the charge. As used in this division, "minimal" means either ten minutes or less or five dollars or less.

(C) The wireless 9-1-1 charges shall be exempt from state or local taxation.

Sec. ~~5507.44~~ 128.44. Beginning January 1, 2014, the tax commissioner shall provide notice to all known wireless service providers, resellers, and

sellers of prepaid wireless calling services of any increase or decrease in either of the wireless 9-1-1 charges imposed under section ~~5507.42~~ 128.42 of the Revised Code. Each notice shall be provided not less than thirty days before the effective date of the increase or decrease.

Sec. 128.45. Beginning January 1, 2014:

(A) Each wireless service provider and reseller shall keep complete and accurate records of bills for wireless service, together with a record of the wireless 9-1-1 charges collected under section 128.42 of the Revised Code, and shall keep all related invoices and other pertinent documents. Each seller shall keep complete and accurate records of retail sales of prepaid wireless calling services, together with a record of the wireless 9-1-1 charges collected under section 128.42 of the Revised Code, and shall keep all related invoices and other pertinent documents.

(B) Records, invoices, and documents required to be kept under this section shall be open during business hours to the inspection of the tax commissioner. They shall be preserved for a period of four years unless the tax commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer.

Sec. ~~5507.46~~ 128.46. (A) Prior to January 1, 2014:

(1) A wireless service provider or reseller, not later than the last day of each month, shall remit the full amount of all wireless 9-1-1 charges it collected under division (A) of section ~~5507.42~~ 128.42 of the Revised Code for the second preceding calendar month to the ~~Ohio 9-1-1 coordinator~~ administrator, with the exception of charges equivalent to the amount authorized as a billing and collection fee under division (A)(2) of this section. In doing so, the provider or reseller may remit the requisite amount in any reasonable manner consistent with its existing operating or technological capabilities, such as by customer address, location associated with the wireless telephone number, or another allocation method based on comparable, relevant data. If the wireless service provider or reseller receives a partial payment for a bill from a wireless service subscriber, the wireless service provider or reseller shall apply the payment first against the amount the subscriber owes the wireless service provider or reseller and shall remit to the ~~coordinator~~ administrator such lesser amount, if any, as results from that invoice.

(2) A wireless service provider or reseller may retain as a billing and collection fee two per cent of the total wireless 9-1-1 charges it collects in a month and shall account to the ~~coordinator~~ administrator for the amount retained.

(3) The ~~coordinator~~ administrator shall return to, or credit against the

next month's remittance of, a wireless service provider or reseller the amount of any remittances the ~~coordinator~~ administrator determines were erroneously submitted by the provider or reseller.

(B) Beginning January 1, 2014:

(1) Each seller of a prepaid wireless calling service, wireless service provider, and reseller shall, on or before the twenty-third day of each month, except as provided in divisions (B)(2) and (3) of this section, do both of the following:

(a) Make and file a return for the preceding month, in the form prescribed by the tax commissioner, showing the amount of the wireless 9-1-1 charges due under section ~~5507.42~~ 128.42 of the Revised Code for that month;

(b) Remit the full amount due, as shown on the return, with the exception of charges equivalent to the amount authorized as a collection fee under division (B)(4) of this section.

(2) The commissioner may grant one or more thirty-day extensions for making and filing returns and remitting amounts due.

(3) If a seller is required to collect prepaid wireless 9-1-1 charges in amounts that do not merit monthly returns, the commissioner may authorize the seller to make and file returns less frequently. The commissioner shall ascertain whether this authorization is warranted upon the basis of administrative costs to the state.

(4) A wireless service provider, reseller, and seller may each retain as a collection fee three per cent of the total wireless 9-1-1 charges required to be collected under section ~~5507.42~~ 128.42 of the Revised Code, and shall account to the tax commissioner for the amount retained.

(5) The return required under division (B)(1)(a) of this section shall be filed electronically using the Ohio business gateway, as defined in section 718.051 of the Revised Code, the Ohio telefile system, or any other electronic means prescribed by the tax commissioner. Remittance of the amount due shall be made electronically in a manner approved by the commissioner. A wireless service provider, reseller, or seller may apply to the commissioner on a form prescribed by the commissioner to be excused from either electronic requirement of this division. For good cause shown, the commissioner may excuse the provider, reseller, or seller from either or both of the requirements and may permit the provider, reseller, or seller to file returns or make remittances by nonelectronic means.

(C)(1) Prior to January 1, 2014, each subscriber on which a wireless 9-1-1 charge is imposed under division (A) of section ~~5507.42~~ 128.42 of the Revised Code is liable to the state for the amount of the charge. If a wireless

service provider or reseller fails to collect the charge under that division from a subscriber of prepaid wireless service, or fails to bill any other subscriber for the charge, the wireless service provider or reseller is liable to the state for the amount not collected or billed. If a wireless service provider or reseller collects charges under that division and fails to remit the money to the ~~coordinator~~ administrator, the wireless service provider or reseller is liable to the state for any amount collected and not remitted.

(2) Beginning January 1, 2014:

(a) Each subscriber or consumer on which a wireless 9-1-1 charge is imposed under section ~~5507.42~~ 128.42 of the Revised Code is liable to the state for the amount of the charge. If a wireless service provider or reseller fails to bill or collect the charge, or if a seller fails to collect the charge, the provider, reseller, or seller is liable to the state for the amount not billed or collected. If a provider, reseller, or seller fails to remit money to the tax commissioner as required under this section, the provider, reseller, or seller is liable to the state for the amount not remitted, regardless of whether the amount was collected.

(b) No provider of a prepaid wireless calling service shall be liable to the state for any wireless 9-1-1 charge imposed under division (B)(1) of section ~~5507.42~~ 128.42 of the Revised Code that was not collected or remitted.

(D) Prior to January 1, 2014:

(1) If the ~~public utilities commission~~ steering committee has reason to believe that a wireless service provider or reseller has failed to bill, collect, or remit the wireless 9-1-1 charge as required by divisions (A)(1) and (C)(1) of this section or has retained more than the amount authorized under division (A)(2) of this section, and after written notice to the provider or reseller, the ~~commission~~ steering committee may audit the provider or reseller for the sole purpose of making such a determination. The audit may include, but is not limited to, a sample of the provider's or reseller's billings, collections, remittances, or retentions for a representative period, and the ~~commission~~ steering committee shall make a good faith effort to reach agreement with the provider or reseller in selecting that sample.

(2) Upon written notice to the wireless service provider or reseller, the ~~commission~~ steering committee, by order after completion of the audit, may make an assessment against the provider or reseller if, pursuant to the audit, the ~~commission~~ steering committee determines that the provider or reseller has failed to bill, collect, or remit the wireless 9-1-1 charge as required by divisions (A)(1) and (C)(1) of this section or has retained more than the amount authorized under division (A)(2) of this section. The assessment

shall be in the amount of any remittance that was due and unpaid on the date notice of the audit was sent by the ~~commission~~ steering committee to the provider or reseller or, as applicable, in the amount of the excess amount under division (A)(2) of this section retained by the provider or reseller as of that date.

(3) The portion of any assessment not paid within sixty days after the date of service by the ~~commission~~ steering committee of the assessment notice under division (D)(2) of this section shall bear interest from that date until paid at the rate per annum prescribed by section 5703.47 of the Revised Code. That interest may be collected by making an assessment under division (D)(2) of this section. An assessment under this division and any interest due shall be remitted in the same manner as the wireless 9-1-1 charge imposed under division (A) of section ~~5507.42~~ 128.42 of the Revised Code.

~~(4) An assessment is final and due and payable and shall be remitted to the commission unless the assessed party petitions for rehearing under section 4903.10 of the Revised Code. The proceedings of the commission specified in division (D)(4) of this section are subject to and governed by Chapter 4903. of the Revised Code, except that the court of appeals of Franklin county has exclusive, original jurisdiction to review, modify, or vacate an order of the commission under division (D)(2) of this section. The court shall hear and determine such appeal in the same manner and under the same standards as the Ohio supreme court hears and determines appeals under Chapter 4903. of the Revised Code.~~

~~The judgment of the court of appeals is final and conclusive unless reversed, vacated, or modified on appeal. Such an appeal may be made by the commission or the person to whom the order under division (D)(2) of this section was issued and shall proceed as in the case of appeals in civil actions as provided in Chapter 2505. of the Revised Code. Unless the provider, reseller, or seller assessed files with the steering committee within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment shall become final and the amount of the assessment shall be due and payable from the party assessed to the administrator. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the administrator or the steering committee prior to the date shown on the final determination.~~

(5) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the

~~commission's entry making the assessment~~ final assessment may be filed in the office of the clerk of the court of common pleas in the county in which the place of business of the assessed party is located. If the party assessed maintains no place of business in this state, the certified copy of the ~~entry~~ final assessment may be filed in the office of the clerk of the court of common pleas of Franklin county. Immediately upon the filing, the clerk shall enter a judgment for the state against the assessed party in the amount shown on the ~~entry~~ final assessment. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for wireless 9-1-1 charges" and shall have the same effect as other judgments. The judgment shall be executed upon the request of the ~~commission~~ steering committee.

(6) An assessment under this division does not discharge a subscriber's liability to reimburse the provider or reseller for the wireless 9-1-1 charge imposed under division (A) of section ~~5507.42~~ 128.42 of the Revised Code. If, after the date of service of the audit notice under division (D)(1) of this section, a subscriber pays a wireless 9-1-1 charge for the period covered by the assessment, the payment shall be credited against the assessment.

(7) All money collected by the ~~commission~~ administrator under division (D) of this section shall be paid to the treasurer of state, for deposit to the credit of the wireless 9-1-1 government assistance fund.

(E) Beginning January 1, 2014:

(1) If the tax commissioner has reason to believe that a wireless service provider, reseller, or seller has failed to bill, collect, or remit the wireless 9-1-1 charge as required by this section and section ~~5507.42~~ 128.42 of the Revised Code or has retained more than the amount authorized under division (B)(4) of this section, and after written notice to the provider, reseller, or seller, the tax commissioner may audit the provider, reseller, or seller for the sole purpose of making such a determination. The audit may include, but is not limited to, a sample of the provider's, reseller's, or seller's billings, collections, remittances, or retentions for a representative period, and the tax commissioner shall make a good faith effort to reach agreement with the provider, reseller, or seller in selecting that sample.

(2) Upon written notice to the wireless service provider, reseller, or seller, the tax commissioner, after completion of the audit, may make an assessment against the provider, reseller, or seller if, pursuant to the audit, the tax commissioner determines that the provider, reseller, or seller has failed to bill, collect, or remit the wireless 9-1-1 charge as required by this section and section ~~5507.42~~ 128.42 of the Revised Code or has retained more than the amount authorized under division (B)(4) of this section. The assessment shall be in the amount of any remittance that was due and unpaid

on the date notice of the audit was sent by the tax commissioner to the provider, reseller, or seller or, as applicable, in the amount of the excess amount under division (B)(4) of this section retained by the provider, reseller, or seller as of that date.

(3) The portion of any assessment consisting of wireless 9-1-1 charges due and not paid within sixty days after the date ~~of service by the tax commissioner of that~~ the assessment notice was made under division (E)(2) of this section shall bear interest from that date until paid at the rate per annum prescribed by section 5703.47 of the Revised Code. That interest may be collected by making an assessment under division (E)(2) of this section. ~~An assessment under this division and any interest due shall be remitted in the same manner as the wireless 9-1-1 charges imposed under section 5507.42 of the Revised Code.~~

~~(4) The portion of the assessment not paid within sixty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until it is paid. Interest shall be remitted in the same manner as the 9-1-1 charges and may be collected by the issuance of an assessment under division (E) of this section.~~

~~(5)~~ Unless the provider, reseller, or seller assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment shall become final and the amount of the assessment shall be due and payable from the party assessed to the treasurer of state, for deposit to the next generation 9-1-1 fund, which is created under section ~~5507.54~~ 128.54 of the Revised Code. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

~~(6)~~(5) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the final assessment may be filed in the office of the clerk of the court of common pleas in the county in which the business of the assessed party is conducted. If the party assessed maintains no place of business in this state, the certified copy of the final assessment may be filed in the office of the clerk of the court of common pleas of Franklin county. Immediately upon the filing, the clerk shall enter a judgment for the state against the assessed party in the amount shown on the final assessment. The judgment may be

filed by the clerk in a loose-leaf book entitled "special judgments for wireless 9-1-1 charges" and shall have the same effect as other judgments. The judgment shall be executed upon the request of the tax commissioner.

~~(7)~~(6) If the commissioner determines that the commissioner erroneously has refunded a wireless 9-1-1 charge to any person, the commissioner may make an assessment against that person for recovery of the erroneously refunded charge.

~~(8)~~(7) An assessment under division (E) of this section does not discharge a subscriber's or consumer's liability to reimburse the provider, reseller, or seller for a wireless 9-1-1 charge. If, after the date of service of the audit notice under division (E)(1) of this section, a subscriber or consumer pays a wireless 9-1-1 charge for the period covered by the assessment, the payment shall be credited against the assessment.

Sec. 128.461. Beginning January 1, 2014, any wireless 9-1-1 charge required to be remitted under section 128.46 of the Revised Code shall be subject to interest as prescribed by section 5703.47 of the Revised Code, calculated from the date the wireless 9-1-1 charge was due under section 128.46 of the Revised Code to the date the wireless 9-1-1 charge is remitted or the date of assessment, whichever occurs first.

Sec. 128.462. Beginning January 1, 2014:

(A) Except as otherwise provided in this section, no assessment shall be made or issued against a wireless service provider, reseller, or seller for any wireless 9-1-1 charge imposed by or pursuant to section 128.42 of the Revised Code more than four years after the return date for the period in which the sale or purchase was made, or more than four years after the return for such period is filed, whichever is later. This division does not bar an assessment:

(1) When the tax commissioner has substantial evidence of amounts of wireless 9-1-1 charges collected by a provider, reseller, or seller from subscribers or consumers, which were not returned to the state;

(2) When the provider, reseller, or seller assessed failed to file a return as required by section 128.46 of the Revised Code;

(3) When the provider, reseller, or seller and the commissioner waive in writing the time limitation.

(B) No assessment shall be made or issued against a wireless service provider, reseller, or seller for any wireless 9-1-1 charge imposed by or pursuant to section 128.42 of the Revised Code for any period during which there was in full force and effect a rule of the tax commissioner under or by virtue of which the collection or payment of any such wireless 9-1-1 charge was not required. This division does not bar an assessment when the tax

commissioner has substantial evidence of amounts of wireless 9-1-1 charges collected by a provider, reseller, or seller from subscribers or consumers, which were not returned to the state.

Sec. 128.47. Beginning January 1, 2014:

(A) A wireless service provider, reseller, seller, wireless service subscriber, or consumer of a prepaid wireless calling service may apply to the tax commissioner for a refund of wireless 9-1-1 charges described in division (B) of this section. The application shall be made on the form prescribed by the tax commissioner. The application shall be made not later than four years after the date of the illegal or erroneous payment of the wireless 9-1-1 charge by the subscriber or consumer, unless the wireless service provider, reseller, or seller waives the time limitation under division (A)(3) of section 128.462 of the Revised Code. If the time limitation is waived, the refund application period shall be extended for the same period as the waiver.

(B)(1) If a wireless service provider, reseller, or seller refunds to a subscriber or consumer the full amount of wireless 9-1-1 charges that the subscriber or consumer paid illegally or erroneously, and if the provider, reseller, or seller remitted that amount under section 128.46 of the Revised Code, the tax commissioner shall refund that amount to the provider, reseller, or seller.

(2) If a wireless service provider, reseller, or seller has illegally or erroneously billed a subscriber or charged a consumer for a wireless 9-1-1 charge, and if the provider, reseller, or seller has not collected the charge but has remitted that amount under section 128.46 of the Revised Code, the tax commissioner shall refund that amount to the provider, reseller, or seller.

(C)(1) The tax commissioner may refund to a subscriber or consumer wireless 9-1-1 charges paid illegally or erroneously to a provider, reseller, or seller only if both of the following apply:

(a) The tax commissioner has not refunded the wireless 9-1-1 charges to the provider, reseller, or seller.

(b) The provider, reseller, or seller has not refunded the wireless 9-1-1 charges to the subscriber or consumer.

(2) The tax commissioner may require the subscriber or consumer to obtain from the provider, reseller, or seller a written statement confirming that the provider, reseller, or seller has not refunded the wireless 9-1-1 charges to the subscriber or consumer and that the provider, reseller, or seller has not filed an application for a refund under this section. The tax commissioner may also require the provider, reseller, or seller to provide this statement.

(D) On the filing of an application for a refund under this section, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the determined amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(E) Refunds granted under this section shall include interest as provided by section 5739.132 of the Revised Code.

Sec. ~~5507.52~~ 128.52. (A) Beginning on July 1, 2013, each seller of a prepaid wireless calling service required to collect prepaid wireless 9-1-1 charges under division (B) of section ~~5507.42~~ 128.42 of the Revised Code shall also be subject to the provisions of Chapter 5739. of the Revised Code regarding the excise tax on retail sales levied under section 5739.02 of the Revised Code, as those provisions apply to audits, assessments, appeals, enforcement, liability, and penalties.

(B) The tax commissioner shall establish procedures by which a person may document that a sale is not a retail sale of a prepaid wireless calling service. The procedures shall substantially coincide with similar procedures under Chapter 5739. of the Revised Code.

Sec. ~~5507.53~~ 128.53. (A) There is hereby created the wireless 9-1-1 administrative fund in the state treasury. ~~A sufficient percentage, determined by the chairperson of the public utilities commission but not to exceed two~~ Two per cent; of the periodic remittances of the wireless 9-1-1 charges under section ~~5507.46~~ 128.46 of the Revised Code shall be deposited to the credit of the fund, to be used by the ~~commission steering committee~~ to cover such nonpayroll costs and, at the discretion of the ~~commission steering committee~~ such payroll costs, of the ~~commission steering committee~~ as are incurred in ~~assisting the coordinator in carrying out sections 5507.40 to 5507.66 of the Revised Code and in conducting audits under division (D) of section 5507.46 of the Revised Code. In addition, the compensation of the Ohio 9-1-1 coordinator, and any expenses of the coordinator in carrying out those sections, shall be paid from the fund~~ this chapter.

(B) There is hereby created the wireless 9-1-1 government assistance fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The periodic remittances of the wireless 9-1-1 charges under section ~~5507.46~~ 128.46 of the Revised Code, remaining after the deposit required by division (A) of this section, shall be deposited to the credit of the wireless 9-1-1 government assistance fund. The treasurer of

state shall deposit or invest the moneys in this fund in accordance with Chapter 135. of the Revised Code and any other provision of law governing public moneys of the state as defined in section 135.01 of the Revised Code. The treasurer of state shall credit the interest earned to the fund. The treasurer of state shall disburse money from the fund solely upon order of the ~~coordinator~~ steering committee as authorized under division (A) of section ~~5507.55~~ 128.55 of the Revised Code. Annually, unless the fund is depleted, the treasurer of state shall certify to the ~~coordinator~~ steering committee the amount of moneys in the treasurer of state's custody belonging to the fund.

(C) The ~~commission~~ steering committee shall transfer the funds remaining in the wireless 9-1-1 government assistance fund after the disbursements made under division (A) of section ~~5507.55~~ 128.55 of the Revised Code to the credit of the next generation 9-1-1 fund, created in section ~~5507.54~~ 128.54 of the Revised Code.

Sec. ~~5507.54~~ 128.54. (A) Beginning January 1, 2014:

(1) ~~The periodic remittances of the wireless 9-1-1 charges~~ For the purpose of receiving, distributing, and accounting for amounts received from the wireless 9-1-1 charges imposed under section 128.42 of the Revised Code, the following funds are created in the state treasury:

(a) The wireless 9-1-1 government assistance fund;

(b) The wireless 9-1-1 administrative fund;

(c) The wireless 9-1-1 program fund;

(d) The next generation 9-1-1 fund.

(2) Amounts remitted under section ~~5507.46~~ 128.46 of the Revised Code shall be paid to the treasurer of state for deposit as follows:

(a) ~~Ninety-eight~~ Ninety-seven per cent to the wireless 9-1-1 government assistance fund, ~~which is hereby created in the custody of the treasurer of state but which shall not be a part of the state treasury. The treasurer of state shall deposit or invest the moneys in this fund in accordance with Chapter 135. of the Revised Code and any other provision of law governing public moneys of the state as defined in section 135.01 of the Revised Code. The treasurer of state shall credit the~~ All interest earned on the wireless 9-1-1 government assistance fund shall be credited to the fund. ~~The treasurer of state shall disburse money from the fund solely upon order of the tax commissioner according to policies established by the statewide emergency services internet protocol network steering committee as authorized under section 5507.021 of the Revised Code. Annually, until the fund is depleted, the treasurer of state shall certify to the commissioner the amount of moneys in the treasurer of state's custody belonging to the fund.~~

(b) One per cent to the wireless 9-1-1 administrative fund, ~~which is hereby created in the state treasury. The treasurer of state shall credit the interest earned to the fund.;~~

(c) ~~One~~ Two per cent to the wireless 9-1-1 ~~public safety administrative program~~ fund, ~~which is hereby created in the state treasury. The treasurer of state shall credit the interest earned to the fund.~~

~~(2)~~(3) The tax commissioner shall use the ~~remittances in the~~ wireless 9-1-1 administrative fund to defray the costs incurred in carrying out this chapter.

~~(3)~~(4) The ~~director of public safety steering committee~~ shall use the ~~remittances in the~~ wireless 9-1-1 ~~public safety administrative program~~ fund to defray the costs incurred by the ~~department steering committee~~ in carrying out this chapter.

~~(4)~~(5) Annually, the tax commissioner and the ~~director of public safety steering committee~~, after paying administrative costs under ~~division (B) of~~ this section, shall transfer any excess remaining in the administrative funds to the next generation 9-1-1 fund, created under this section.

~~(B)~~(1) ~~There is hereby created the next generation 9-1-1 fund, which shall be in the custody of the treasurer but shall not be a part of the state treasury.~~

~~(2)~~ Beginning on January 1, 2014, the ~~The~~ tax commissioner shall transfer the funds remaining in the wireless 9-1-1 government assistance fund after the disbursements made under division (B)(1) of section ~~5507.55~~ 128.55 of the Revised Code to the credit of the next generation 9-1-1 fund. All interest earned on the next generation 9-1-1 fund shall be credited to the fund.

~~(3)~~ The treasurer of state shall deposit or invest the moneys in the next generation 9-1-1 fund in accordance with Chapter 135. of the Revised Code and any other provision of law governing public moneys of the state as defined in section 135.01 of the Revised Code. The treasurer of state shall credit the interest earned to the fund. The treasurer of state shall disburse money from the fund solely upon order of the tax commissioner according to policies established by the statewide emergency services internet protocol network steering committee as authorized under section 5507.021 of the Revised Code. Annually, until the fund is depleted, the treasurer of state shall certify to the commissioner the amount of moneys in the treasurer of state's custody belonging to the fund.

(C) From the wireless 9-1-1 government assistance fund, the director of budget and management shall, as funds are available, transfer to the tax refund fund, created under section 5703.052 of the Revised Code, amounts

equal to the refunds certified by the tax commissioner under division (D) of section 128.47 of the Revised Code.

~~Sec. 5507.55~~ 128.55. (A) Prior to January 1, 2014, the ~~public utilities commission steering committee~~ shall disburse moneys from the wireless 9-1-1 government assistance fund to each county in the same manner as the 2012 disbursements, in accordance with divisions (A) and (B) of section 4931.64 of the Revised Code as those divisions existed prior to the effective date of H.B. 360 of the 129th general assembly, December 20, 2012.

(B) Beginning January 1, 2014:

(1) The tax commissioner, not later than the last day of each month, shall disburse moneys from the wireless 9-1-1 government assistance fund, plus any accrued interest on the fund, to each county ~~in the same manner as the 2012 disbursements, in accordance with divisions (A) and (B) of section 4931.64 of the Revised Code as those divisions existed prior to the effective date of H.B. 360 of the 129th general assembly~~ treasurer.

(a) If there are sufficient funds in the wireless 9-1-1 government assistance fund, each county treasurer shall receive the same amount distributed to that county by the public utilities commission in the corresponding calendar month in 2013. If any excess remains after these distributions are made, the tax commissioner shall transfer that excess to the next generation 9-1-1 fund.

(b) If the funds available are insufficient to make the distributions as provided in division (B)(1)(a) of this section, each county's share shall be reduced in proportion to the amounts received in the corresponding calendar month in 2013, until the total amount to be distributed to the counties is equivalent to the amount available in the wireless 9-1-1 government assistance fund.

(2) The tax commissioner shall disburse moneys from the next generation 9-1-1 fund in accordance with the guidelines established under section ~~5507.022~~ 128.022 of the Revised Code.

(C) Immediately upon receipt by a county treasurer of a disbursement under division (A) or (B)(1) of this section, the county shall disburse, in accordance with the allocation formula set forth in the final plan, the amount the county so received to any other subdivisions in the county and any regional councils of governments in the county that pay the costs of a public safety answering point providing wireless enhanced 9-1-1 under the plan.

(D) Nothing in this chapter affects the authority of a subdivision operating or served by a public safety answering point of a 9-1-1 system or a regional council of governments operating a public safety answering point of a 9-1-1 system to use, as provided in the final plan for the system or in an

agreement under section ~~5507.09~~ 128.09 of the Revised Code, any other authorized revenue of the subdivision or the regional council of governments for the purposes of providing basic or enhanced 9-1-1.

Sec. ~~5507.57~~ 128.57. Except as otherwise provided in section ~~5507.571~~ 128.571 of the Revised Code:

(A) A countywide 9-1-1 system receiving a disbursement under section ~~5507.55~~ 128.55 of the Revised Code shall provide countywide wireless enhanced 9-1-1 in accordance with this chapter beginning as soon as reasonably possible after receipt of the first disbursement or, if that service is already implemented, shall continue to provide such service. Except as provided in divisions (B), (C), and (E) of this section, a disbursement shall be used solely for the purpose of paying either or both of the following:

(1) Any costs of designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining the necessary data, hardware, software, and trunking required for the public safety answering point or points of the 9-1-1 system to provide wireless enhanced 9-1-1, which costs are incurred before or on or after May 6, 2005, and consist of such additional costs of the 9-1-1 system over and above any costs incurred to provide wireline 9-1-1 or to otherwise provide wireless enhanced 9-1-1. Annually, up to twenty-five thousand dollars of the disbursements received on or after January 1, 2009, may be applied to data, hardware, and software that automatically alerts personnel receiving a 9-1-1 call that a person at the subscriber's address or telephone number may have a mental or physical disability, of which that personnel shall inform the appropriate emergency service provider. On or after the provision of technical and operational standards pursuant to ~~division (D)(1) of section 5507.65~~ 128.021 of the Revised Code, a regional council of governments operating a public safety answering point or a subdivision shall consider the standards before incurring any costs described in this division.

(2) Any costs of training the staff of the public safety answering point or points to provide wireless enhanced 9-1-1, which costs are incurred before or on or after May 6, 2005.

(B) A subdivision or a regional council of governments that certifies to the ~~department of public safety steering committee~~ that it has paid the costs described in divisions (A)(1) and (2) of this section and is providing countywide wireless enhanced 9-1-1 may use disbursements received under section ~~5507.55~~ 128.55 of the Revised Code to pay any of its personnel costs of one or more public safety answering points providing countywide wireless enhanced 9-1-1.

(C) After receiving its July 2013 disbursement under division (A) of

section ~~5507.55~~ 128.55 of the Revised Code, a regional council of governments operating a public safety answering point or a subdivision may use any remaining balance of disbursements it received under that division to pay any of its costs of providing countywide wireless 9-1-1, including the personnel costs of one or more public safety answering points providing that service.

(D) The costs described in divisions (A), (B), (C), and (E) of this section may include any such costs payable pursuant to an agreement under division (J) of section ~~5507.03~~ 128.03 of the Revised Code.

(E)(1) No disbursement to a countywide 9-1-1 system for costs of a public safety answering point shall be made from the wireless 9-1-1 government assistance fund or the next generation 9-1-1 fund unless the public safety answering point meets the standards set by rule of the ~~statewide emergency services internet protocol network~~ steering committee under section ~~5507.021~~ 128.021 of the Revised Code.

(2) The ~~department of public safety steering committee~~ shall monitor compliance with the standards set by the ~~steering committee~~. ~~The department~~ and shall notify the tax commissioner to suspend disbursements to a countywide 9-1-1 system that fails to meet the standards. Upon receipt of this notification, the commissioner shall suspend disbursements until the commissioner is notified of compliance with the standards.

(F) The auditor of state may audit and review each county's expenditures of funds received from the wireless 9-1-1 government assistance fund to verify that the funds were used in accordance with the requirements of this chapter.

Sec. ~~5507.571~~ 128.571. (A) Payment of costs specified in divisions (A) to (D) of section ~~5507.57~~ 128.57 of the Revised Code from a disbursement under section ~~5507.55~~ 128.55 of the Revised Code shall be limited to those specified and payable costs incurred for a specified number of public safety answering points of the particular 9-1-1 system as follows:

(1) For the period beginning on March 1, 2009, and ending on December 31, 2015, a countywide 9-1-1 system may use disbursements for not more than five public safety answering points per calendar year.

(2) Except as provided in division (B) of this section:

(a) For the period beginning on January 1, 2016, and ending on December 31, 2017, a countywide 9-1-1 system may use disbursements for not more than four public safety answering points per calendar year.

(b) For the period beginning on January 1, 2018, and thereafter a countywide 9-1-1 system may use disbursements for not more than three public safety answering points per calendar year.

(B) If within a county there is a municipal corporation with a population of over ~~175,000~~ one hundred seventy-five thousand according to the most recent federal decennial census, that county may use disbursements for one public safety answering point in addition to the number of public safety answering points allowed under division (A)(2) of this section.

(C) If a county exceeds the allowable number of public safety answering points under this section, disbursements to countywide 9-1-1 systems made to the county from the wireless 9-1-1 government assistance fund and the next generation 9-1-1 fund shall be reduced by fifty per cent until the county complies with the public safety answering point limitations established under this section.

Sec. ~~5507.60~~ 128.60. (A)(1) A telephone company, the state highway patrol as described in division (J) of section ~~5507.03~~ 128.03 of the Revised Code, and each subdivision or regional council of governments operating one or more public safety answering points for a countywide system providing wireless 9-1-1, shall provide the ~~director of public safety steering committee~~ and the tax commissioner with such information as the ~~director steering committee~~ and tax commissioner request for the purposes of carrying out their duties under this chapter, including, but not limited to, duties regarding the collection of the wireless 9-1-1 charges imposed under section ~~5507.42~~ 128.42 of the Revised Code.

(2) A wireless service provider shall provide an official, employee, agent, or representative of a subdivision or regional council of governments operating a public safety answering point, or of the state highway patrol as described in division (J) of section ~~5507.03~~ 128.03 of the Revised Code, with such technical, service, and location information as the official, employee, agent, or representative requests for the purpose of providing wireless 9-1-1.

(3) A subdivision or regional council of governments operating one or more public safety answering points of a 9-1-1 system, and a telephone company, shall provide to the ~~Ohio 9-1-1 council steering committee~~ such information as the ~~council steering committee~~ requires for the purpose of carrying out its duties under ~~division (D) of section 5507.65~~ Chapter 128. of the Revised Code.

(B)(1) Any information provided under division (A) of this section that consists of trade secrets as defined in section 1333.61 of the Revised Code or of information regarding the customers, revenues, expenses, or network information of a telephone company shall be confidential and does not constitute a public record for the purpose of section 149.43 of the Revised Code.

(2) The ~~director steering committee~~, tax commissioner, and any official, employee, agent, or representative of the ~~director steering committee~~, of the tax commissioner, of the state highway patrol as described in division (J) of section ~~5507.03~~ 128.03 of the Revised Code, or of a subdivision or regional council of governments operating a public safety answering point, while acting or claiming to act in the capacity of the ~~director steering committee~~ or tax commissioner or such official, employee, agent, or representative, shall not disclose any information provided under division (A) of this section regarding a telephone company's customers, revenues, expenses, or network information. Nothing in division (B)(2) of this section precludes any such information from being aggregated and included in any report ~~required under division (D) of section 5507.66 of the Revised Code~~ of the steering committee, tax commissioner, or any official, employee, agent, or representative of the steering committee or tax commissioner, provided the aggregated information does not identify the number of any particular company's customers or the amount of its revenues or expenses or identify a particular company as to any network information.

Sec. ~~5507.63~~ 128.63. (A) The tax commissioner may adopt rules in accordance with Chapter 119. of the Revised Code to carry out this chapter, including rules prescribing the necessary accounting for the collection fee under division (B)(4) of section ~~5507.46~~ 128.46 of the Revised Code.

(B) The amounts of the wireless 9-1-1 charges shall be prescribed only by act of the general assembly.

Sec. ~~5507.99~~ 128.99. (A) Whoever violates division (E) of section ~~5507.32~~ 128.32 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates division (F) or (G) of section ~~5507.32~~ 128.32 or division (B)(2) of section ~~5507.60~~ 128.60 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense and a felony of the fifth degree on each subsequent offense.

(C) If a wireless service provider, reseller, or seller violates division (B)(1)(a) of section 128.46 of the Revised Code, and does not comply with any extensions granted under division (B)(2) of that section, the tax commissioner may impose a late-filing penalty of not more than the greater of fifty dollars or five per cent of the amount required to be remitted as described in division (B)(1)(b) of that section.

(D) If a wireless service provider, reseller, or seller fails to comply with division (B)(1)(b) of section 128.46 of the Revised Code, the tax commissioner may impose a late-payment penalty of not more than the greater of fifty dollars or five per cent of the wireless 9-1-1 charge required

to be remitted for the reporting period minus any partial remittance made on or before the due date, including any extensions granted under division (B)(2) of section 128.46 of the Revised Code.

(E) The tax commissioner may impose an assessment penalty of not more than the greater of one hundred dollars or thirty-five per cent of the wireless 9-1-1 charges due after the tax commissioner notifies the person of an audit, an examination, a delinquency, assessment, or other notice that additional wireless 9-1-1 charges are due.

(F) If a wireless service provider, reseller, or seller fails to comply with either electronic requirement of division (B)(5) of section 128.46 of the Revised Code, the tax commissioner may impose an electronic penalty, for either or both failures to comply, of not more than the lesser of the following:

(1) The greater of one hundred dollars or ten per cent of the amount required to be, but not, remitted electronically;

(2) Five thousand dollars.

(G) Each penalty described in divisions (C) to (F) of this section is in addition to any other penalty described in those divisions. The tax commissioner may abate all or any portion of any penalty described in those divisions.

Sec. 131.51. (A) On or before July 5, 2013, the tax commissioner shall compute the following amounts and certify those amounts to the director of budget and management:

(1) A percentage calculated by multiplying one hundred by the quotient obtained by dividing the total amount credited to the local government fund in fiscal year 2013 by the total amount of tax revenue credited to the general revenue fund in fiscal year 2013. The percentage shall be rounded to the nearest one-hundredth of one per cent.

(2) A percentage calculated by multiplying one hundred by the quotient obtained by dividing the total amount credited to the public library fund in fiscal year 2013 by the total amount of tax revenue credited to the general revenue fund in fiscal year 2013. The percentage shall be rounded to the nearest one-hundredth of one per cent.

(B) On or before the seventh day of each month, the director of budget and management shall credit to the local government fund an amount equal to the product obtained by multiplying the percentage calculated under division (A)(1) of this section by the total tax revenue credited to the general revenue fund during the preceding month. In determining the total tax revenue credited to the general revenue fund during the preceding month, the director shall include amounts transferred from the fund during the

preceding month under this division and division (C) of this section. Money shall be distributed from the local government fund as required under section 5747.50 of the Revised Code during the same month in which it is credited to the fund.

(C) On or before the seventh day of each month, the director of budget and management shall credit to the public library fund an amount equal to the product obtained by multiplying the percentage calculated under division (A)(2) of this section by the total tax revenue credited to the general revenue fund during the preceding month. In determining the total tax revenue credited to the general revenue fund during the preceding month, the director shall include amounts transferred from the fund during the preceding month under this division and division (B) of this section. Money shall be distributed from the public library fund as required under section 5747.47 of the Revised Code during the same month in which it is credited to the fund.

(D) The director of budget and management shall develop a schedule identifying the specific tax revenue sources to be used to make the monthly transfers required under divisions (B) and (C) of this section. The director may, from time to time, revise the schedule as the director considers necessary.

Sec. 133.01. As used in this chapter, in sections 9.95, 9.96, and 2151.655 of the Revised Code, in other sections of the Revised Code that make reference to this chapter unless the context does not permit, and in related proceedings, unless otherwise expressly provided:

(A) "Acquisition" as applied to real or personal property includes, among other forms of acquisition, acquisition by exercise of a purchase option, and acquisition of interests in property, including, without limitation, easements and rights-of-way, and leasehold and other lease interests initially extending or extendable for a period of at least sixty months.

(B) "Anticipatory securities" means securities, including notes, issued in anticipation of the issuance of other securities.

(C) "Board of elections" means the county board of elections of the county in which the subdivision is located. If the subdivision is located in more than one county, "board of elections" means the county board of elections of the county that contains the largest portion of the population of the subdivision or that otherwise has jurisdiction in practice over and customarily handles election matters relating to the subdivision.

(D) "Bond retirement fund" means the bond retirement fund provided for in section 5705.09 of the Revised Code, and also means a sinking fund or any other special fund, regardless of the name applied to it, established by

or pursuant to law or the proceedings for the payment of debt charges. Provision may be made in the applicable proceedings for the establishment in a bond retirement fund of separate accounts relating to debt charges on particular securities, or on securities payable from the same or common sources, and for the application of moneys in those accounts only to specified debt charges on specified securities or categories of securities. Subject to law and any provisions in the applicable proceedings, moneys in a bond retirement fund or separate account in a bond retirement fund may be transferred to other funds and accounts.

(E) "Capitalized interest" means all or a portion of the interest payable on securities from their date to a date stated or provided for in the applicable legislation, which interest is to be paid from the proceeds of the securities.

(F) "Chapter 133. securities" means securities authorized by or issued pursuant to or in accordance with this chapter.

(G) "County auditor" means the county auditor of the county in which the subdivision is located. If the subdivision is located in more than one county, "county auditor" means the county auditor of the county that contains the highest amount of the tax valuation of the subdivision or that otherwise has jurisdiction in practice over and customarily handles property tax matters relating to the subdivision. In the case of a county that has adopted a charter, "county auditor" means the officer who generally has the duties and functions provided in the Revised Code for a county auditor.

(H) "Credit enhancement facilities" means letters of credit, lines of credit, stand-by, contingent, or firm securities purchase agreements, insurance, or surety arrangements, guarantees, and other arrangements that provide for direct or contingent payment of debt charges, for security or additional security in the event of nonpayment or default in respect of securities, or for making payment of debt charges to and at the option and on demand of securities holders or at the option of the issuer or upon certain conditions occurring under put or similar arrangements, or for otherwise supporting the credit or liquidity of the securities, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, interest rate hedge, and subrogation agreements, and other agreements and arrangements for payment and reimbursement of the person providing the credit enhancement facility and the security for that payment and reimbursement.

(I) "Current operating expenses" or "current expenses" means the lawful expenditures of a subdivision, except those for permanent improvements and for payments of debt charges of the subdivision.

(J) "Debt charges" means the principal, including any mandatory sinking fund deposits and mandatory redemption payments, interest, and any

redemption premium, payable on securities as those payments come due and are payable. The use of "debt charges" for this purpose does not imply that any particular securities constitute debt within the meaning of the Ohio Constitution or other laws.

(K) "Financing costs" means all costs and expenses relating to the authorization, including any required election, issuance, sale, delivery, authentication, deposit, custody, clearing, registration, transfer, exchange, fractionalization, replacement, payment, and servicing of securities, including, without limitation, costs and expenses for or relating to publication and printing, postage, delivery, preliminary and final official statements, offering circulars, and informational statements, travel and transportation, underwriters, placement agents, investment bankers, paying agents, registrars, authenticating agents, remarketing agents, custodians, clearing agencies or corporations, securities depositories, financial advisory services, certifications, audits, federal or state regulatory agencies, accounting and computation services, legal services and obtaining approving legal opinions and other legal opinions, credit ratings, redemption premiums, and credit enhancement facilities. Financing costs may be paid from any moneys available for the purpose, including, unless otherwise provided in the proceedings, from the proceeds of the securities to which they relate and, as to future financing costs, from the same sources from which debt charges on the securities are paid and as though debt charges.

(L) "Fiscal officer" means the following, or, in the case of absence or vacancy in the office, a deputy or assistant authorized by law or charter to act in the place of the named officer, or if there is no such authorization then the deputy or assistant authorized by legislation to act in the place of the named officer for purposes of this chapter, in the case of the following subdivisions:

- (1) A county, the county auditor;
- (2) A municipal corporation, the city auditor or village clerk or clerk-treasurer, or the officer who, by virtue of a charter, has the duties and functions provided in the Revised Code for the city auditor or village clerk or clerk-treasurer;
- (3) A school district, the treasurer of the board of education;
- (4) A regional water and sewer district, the secretary of the board of trustees;
- (5) A joint township hospital district, the treasurer of the district;
- (6) A joint ambulance district, the clerk of the board of trustees;
- (7) A joint recreation district, the person designated pursuant to section 755.15 of the Revised Code;

(8) A detention facility district or a district organized under section 2151.65 of the Revised Code or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district;

(9) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the fiscal officer of the township;

(10) A joint fire district, the clerk of the board of trustees of that district;

(11) A regional or county library district, the person responsible for the financial affairs of that district;

(12) A joint solid waste management district, the fiscal officer appointed by the board of directors of the district under section 343.01 of the Revised Code;

(13) A joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code;

(14) A fire and ambulance district, the person appointed as fiscal officer under division (B) of section 505.375 of the Revised Code;

(15) A subdivision described in division (MM)~~(18)~~(19) of this section, the officer who is designated by law as or performs the functions of its chief fiscal officer;

(16) A joint police district, the treasurer of the district;

(17) A lake facilities authority, the fiscal officer designated under section 353.02 of the Revised Code.

(M) "Fiscal year" has the same meaning as in section 9.34 of the Revised Code.

(N) "Fractionalized interests in public obligations" means participations, certificates of participation, shares, or other instruments or agreements, separate from the public obligations themselves, evidencing ownership of interests in public obligations or of rights to receive payments of, or on account of, principal or interest or their equivalents payable by or on behalf of an obligor pursuant to public obligations.

(O) "Fully registered securities" means securities in certificated or uncertificated form, registered as to both principal and interest in the name of the owner.

(P) "Fund" means to provide for the payment of debt charges and expenses related to that payment at or prior to retirement by purchase, call for redemption, payment at maturity, or otherwise.

(Q) "General obligation" means securities to the payment of debt charges on which the full faith and credit and the general property taxing

power, including taxes within the tax limitation if available to the subdivision, of the subdivision are pledged.

(R) "Interest" or "interest equivalent" means those payments or portions of payments, however denominated, that constitute or represent consideration for forbearing the collection of money, or for deferring the receipt of payment of money to a future time.

(S) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended, and includes any laws of the United States providing for application of that code.

(T) "Issuer" means any public issuer and any nonprofit corporation authorized to issue securities for or on behalf of any public issuer.

(U) "Legislation" means an ordinance or resolution passed by a majority affirmative vote of the then members of the taxing authority unless a different vote is required by charter provisions governing the passage of the particular legislation by the taxing authority.

(V) "Mandatory sinking fund redemption requirements" means amounts required by proceedings to be deposited in a bond retirement fund for the purpose of paying in any year or fiscal year by mandatory redemption prior to stated maturity the principal of securities that is due and payable, except for mandatory prior redemption requirements as provided in those proceedings, in a subsequent year or fiscal year.

(W) "Mandatory sinking fund requirements" means amounts required by proceedings to be deposited in a year or fiscal year in a bond retirement fund for the purpose of paying the principal of securities that is due and payable in a subsequent year or fiscal year.

(X) "Net indebtedness" has the same meaning as in division (A) of section 133.04 of the Revised Code.

(Y) "Obligor," in the case of securities or fractionalized interests in public obligations issued by another person the debt charges or their equivalents on which are payable from payments made by a public issuer, means that public issuer.

(Z) "One purpose" relating to permanent improvements means any one permanent improvement or group or category of permanent improvements for the same utility, enterprise, system, or project, development or redevelopment project, or for or devoted to the same general purpose, function, or use or for which self-supporting securities, based on the same or different sources of revenues, may be issued or for which special assessments may be levied by a single ordinance or resolution. "One purpose" includes, but is not limited to, in any case any off-street parking facilities relating to another permanent improvement, and:

(1) Any number of roads, highways, streets, bridges, sidewalks, and viaducts;

(2) Any number of off-street parking facilities;

(3) In the case of a county, any number of permanent improvements for courthouse, jail, county offices, and other county buildings, and related facilities;

(4) In the case of a school district, any number of facilities and buildings for school district purposes, and related facilities.

(AA) "Outstanding," referring to securities, means securities that have been issued, delivered, and paid for, except any of the following:

(1) Securities canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(2) Securities in replacement of which or in exchange for which other securities have been issued;

(3) Securities for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the applicable legislation or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, mandatory sinking fund requirements, or otherwise, have been deposited, and credited for the purpose in a bond retirement fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of securities to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected security holders has been filed with the subdivision or its agent for the purpose.

(BB) "Paying agent" means the one or more banks, trust companies, or other financial institutions or qualified persons, including an appropriate office or officer of the subdivision, designated as a paying agent or place of payment of debt charges on the particular securities.

(CC) "Permanent improvement" or "improvement" means any property, asset, or improvement certified by the fiscal officer, which certification is conclusive, as having an estimated life or period of usefulness of five years or more, and includes, but is not limited to, real estate, buildings, and personal property and interests in real estate, buildings, and personal property, equipment, furnishings, and site improvements, and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of five years or more. The acquisition of all the stock ownership of a corporation is the acquisition of a

permanent improvement to the extent that the value of that stock is represented by permanent improvements. A permanent improvement for parking, highway, road, and street purposes includes resurfacing, but does not include ordinary repair.

(DD) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any federal, state, interstate, regional, or local governmental agency, any subdivision, and any combination of those persons.

(EE) "Proceedings" means the legislation, certifications, notices, orders, sale proceedings, trust agreement or indenture, mortgage, lease, lease-purchase agreement, assignment, credit enhancement facility agreements, and other agreements, instruments, and documents, as amended and supplemented, and any election proceedings, authorizing, or providing for the terms and conditions applicable to, or providing for the security or sale or award of, public obligations, and includes the provisions set forth or incorporated in those public obligations and proceedings.

(FF) "Public issuer" means any of the following that is authorized by law to issue securities or enter into public obligations:

(1) The state, including an agency, commission, officer, institution, board, authority, or other instrumentality of the state;

(2) A taxing authority, subdivision, district, or other local public or governmental entity, and any combination or consortium, or public division, district, commission, authority, department, board, officer, or institution, thereof;

(3) Any other body corporate and politic, or other public entity.

(GG) "Public obligations" means both of the following:

(1) Securities;

(2) Obligations of a public issuer to make payments under installment sale, lease, lease purchase, or similar agreements, which obligations may bear interest or interest equivalent.

(HH) "Refund" means to fund and retire outstanding securities, including advance refunding with or without payment or redemption prior to maturity.

(II) "Register" means the books kept and maintained by the registrar for registration, exchange, and transfer of registered securities.

(JJ) "Registrar" means the person responsible for keeping the register for the particular registered securities, designated by or pursuant to the proceedings.

(KK) "Securities" means bonds, notes, certificates of indebtedness, commercial paper, and other instruments in writing, including, unless the

context does not admit, anticipatory securities, issued by an issuer to evidence its obligation to repay money borrowed, or to pay interest, by, or to pay at any future time other money obligations of, the issuer of the securities, but not including public obligations described in division (GG)(2) of this section.

(LL) "Self-supporting securities" means securities or portions of securities issued for the purpose of paying costs of permanent improvements to the extent that receipts of the subdivision, other than the proceeds of taxes levied by that subdivision, derived from or with respect to the improvements or the operation of the improvements being financed, or the enterprise, system, project, or category of improvements of which the improvements being financed are part, are estimated by the fiscal officer to be sufficient to pay the current expenses of that operation or of those improvements or enterprise, system, project, or categories of improvements and the debt charges payable from those receipts on securities issued for the purpose. Until such time as the improvements or increases in rates and charges have been in operation or effect for a period of at least six months, the receipts therefrom, for purposes of this definition, shall be those estimated by the fiscal officer, except that those receipts may include, without limitation, payments made and to be made to the subdivision under leases or agreements in effect at the time the estimate is made. In the case of an operation, improvements, or enterprise, system, project, or category of improvements without at least a six-month history of receipts, the estimate of receipts by the fiscal officer, other than those to be derived under leases and agreements then in effect, shall be confirmed by the taxing authority.

(MM) "Subdivision" means any of the following:

- (1) A county, including a county that has adopted a charter under Article X, Ohio Constitution;
- (2) A municipal corporation, including a municipal corporation that has adopted a charter under Article XVIII, Ohio Constitution;
- (3) A school district;
- (4) A regional water and sewer district organized under Chapter 6119. of the Revised Code;
- (5) A joint township hospital district organized under section 513.07 of the Revised Code;
- (6) A joint ambulance district organized under section 505.71 of the Revised Code;
- (7) A joint recreation district organized under division (C) of section 755.14 of the Revised Code;
- (8) A detention facility district organized under section 2152.41, a

district organized under section 2151.65, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code;

(9) A township police district organized under section 505.48 of the Revised Code;

(10) A township;

(11) A joint fire district organized under section 505.371 of the Revised Code;

(12) A county library district created under section 3375.19 or a regional library district created under section 3375.28 of the Revised Code;

(13) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code;

(14) A joint emergency medical services district organized under section 307.052 of the Revised Code;

(15) A fire and ambulance district organized under section 505.375 of the Revised Code;

(16) A fire district organized under division (C) of section 505.37 of the Revised Code;

(17) A joint police district organized under section 505.482 of the Revised Code;

(18) A lake facilities authority created under Chapter 353. of the Revised Code;

(19) Any other political subdivision or taxing district or other local public body or agency authorized by this chapter or other laws to issue Chapter 133. securities.

(NN) "Taxing authority" means in the case of the following subdivisions:

(1) A county, a county library district, or a regional library district, the board or boards of county commissioners, or other legislative authority of a county that has adopted a charter under Article X, Ohio Constitution, but with respect to such a library district acting solely as agent for the board of trustees of that district;

(2) A municipal corporation, the legislative authority;

(3) A school district, the board of education;

(4) A regional water and sewer district, a joint ambulance district, a joint recreation district, a fire and ambulance district, or a joint fire district, the board of trustees of the district;

(5) A joint township hospital district, the joint township hospital board;

(6) A detention facility district or a district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a joint emergency medical

services district, the joint board of county commissioners;

(7) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the board of township trustees;

(8) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code, the board of directors of the district;

(9) A subdivision described in division ~~(MM)(48)~~(19) of this section, the legislative or governing body or official;

(10) A joint police district, the joint police district board;

(11) A lake facilities authority, the board of directors.

(OO) "Tax limitation" means the "ten-mill limitation" as defined in section 5705.02 of the Revised Code without diminution by reason of section 5705.313 of the Revised Code or otherwise, or, in the case of a municipal corporation or county with a different charter limitation on property taxes levied to pay debt charges on unvoted securities, that charter limitation. Those limitations shall be respectively referred to as the "ten-mill limitation" and the "charter tax limitation."

(PP) "Tax valuation" means the aggregate of the valuations of property subject to ad valorem property taxation by the subdivision on the real property, personal property, and public utility property tax lists and duplicates most recently certified for collection, and shall be calculated without deductions of the valuations of otherwise taxable property exempt in whole or in part from taxation by reason of exemptions of certain amounts of taxable value under division (C) of section 5709.01, tax reductions under section 323.152 of the Revised Code, or similar laws now or in the future in effect.

For purposes of section 133.06 of the Revised Code, "tax valuation" shall not include the valuation of tangible personal property used in business, telephone or telegraph property, interexchange telecommunications company property, or personal property owned or leased by a railroad company and used in railroad operations listed under or described in section 5711.22, division (B) or (F) of section 5727.111, or section 5727.12 of the Revised Code.

(QQ) "Year" means the calendar year.

(RR) "Administrative agent," "agent," "commercial paper," "floating rate interest structure," "indexing agent," "interest rate hedge," "interest rate period," "put arrangement," and "remarketing agent" have the same meanings as in section 9.98 of the Revised Code.

(SS) "Sales tax supported" means obligations to the payment of debt charges on which an additional sales tax or additional sales taxes have been

pledged by the taxing authority of a county pursuant to section 133.081 of the Revised Code.

Sec. 133.06. (A) A school district shall not incur, without a vote of the electors, net indebtedness that exceeds an amount equal to one-tenth of one per cent of its tax valuation, except as provided in divisions (G) and (H) of this section and in division (C) of section 3313.372 of the Revised Code, or as prescribed in section 3318.052 or 3318.44 of the Revised Code, or as provided in division (J) of this section.

(B) Except as provided in divisions (E), (F), and (I) of this section, a school district shall not incur net indebtedness that exceeds an amount equal to nine per cent of its tax valuation.

(C) A school district shall not submit to a vote of the electors the question of the issuance of securities in an amount that will make the district's net indebtedness after the issuance of the securities exceed an amount equal to four per cent of its tax valuation, unless the superintendent of public instruction, acting under policies adopted by the state board of education, and the tax commissioner, acting under written policies of the commissioner, consent to the submission. A request for the consents shall be made at least one hundred twenty days prior to the election at which the question is to be submitted.

The superintendent of public instruction shall certify to the district the superintendent's and the tax commissioner's decisions within thirty days after receipt of the request for consents.

If the electors do not approve the issuance of securities at the election for which the superintendent of public instruction and tax commissioner consented to the submission of the question, the school district may submit the same question to the electors on the date that the next special election may be held under section 3501.01 of the Revised Code without submitting a new request for consent. If the school district seeks to submit the same question at any other subsequent election, the district shall first submit a new request for consent in accordance with this division.

(D) In calculating the net indebtedness of a school district, none of the following shall be considered:

(1) Securities issued to acquire school buses and other equipment used in transporting pupils or issued pursuant to division (D) of section 133.10 of the Revised Code;

(2) Securities issued under division (F) of this section, under section 133.301 of the Revised Code, and, to the extent in excess of the limitation stated in division (B) of this section, under division (E) of this section;

(3) Indebtedness resulting from the dissolution of a joint vocational

school district under section 3311.217 of the Revised Code, evidenced by outstanding securities of that joint vocational school district;

(4) Loans, evidenced by any securities, received under sections 3313.483, 3317.0210, and 3317.0211, ~~and 3317.64~~ of the Revised Code;

(5) Debt incurred under section 3313.374 of the Revised Code;

(6) Debt incurred pursuant to division (B)(5) of section 3313.37 of the Revised Code to acquire computers and related hardware;

(7) Debt incurred under section 3318.042 of the Revised Code.

(E) A school district may become a special needs district as to certain securities as provided in division (E) of this section.

(1) A board of education, by resolution, may declare its school district to be a special needs district by determining both of the following:

(a) The student population is not being adequately serviced by the existing permanent improvements of the district.

(b) The district cannot obtain sufficient funds by the issuance of securities within the limitation of division (B) of this section to provide additional or improved needed permanent improvements in time to meet the needs.

(2) The board of education shall certify a copy of that resolution to the superintendent of public instruction with a statistical report showing all of the following:

(a) The history of and a projection of the growth of the tax valuation;

(b) The projected needs;

(c) The estimated cost of permanent improvements proposed to meet such projected needs.

(3) The superintendent of public instruction shall certify the district as an approved special needs district if the superintendent finds both of the following:

(a) The district does not have available sufficient additional funds from state or federal sources to meet the projected needs.

(b) The projection of the potential average growth of tax valuation during the next five years, according to the information certified to the superintendent and any other information the superintendent obtains, indicates a likelihood of potential average growth of tax valuation of the district during the next five years of an average of not less than one and one-half per cent per year. The findings and certification of the superintendent shall be conclusive.

(4) An approved special needs district may incur net indebtedness by the issuance of securities in accordance with the provisions of this chapter in an amount that does not exceed an amount equal to the greater of the following:

(a) Twelve per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation by the percentage by which the tax valuation has increased over the tax valuation on the first day of the sixtieth month preceding the month in which its board determines to submit to the electors the question of issuing the proposed securities;

(b) Twelve per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation by the percentage, determined by the superintendent of public instruction, by which that tax valuation is projected to increase during the next ten years.

(F) A school district may issue securities for emergency purposes, in a principal amount that does not exceed an amount equal to three per cent of its tax valuation, as provided in this division.

(1) A board of education, by resolution, may declare an emergency if it determines both of the following:

(a) School buildings or other necessary school facilities in the district have been wholly or partially destroyed, or condemned by a constituted public authority, or that such buildings or facilities are partially constructed, or so constructed or planned as to require additions and improvements to them before the buildings or facilities are usable for their intended purpose, or that corrections to permanent improvements are necessary to remove or prevent health or safety hazards.

(b) Existing fiscal and net indebtedness limitations make adequate replacement, additions, or improvements impossible.

(2) Upon the declaration of an emergency, the board of education may, by resolution, submit to the electors of the district pursuant to section 133.18 of the Revised Code the question of issuing securities for the purpose of paying the cost, in excess of any insurance or condemnation proceeds received by the district, of permanent improvements to respond to the emergency need.

(3) The procedures for the election shall be as provided in section 133.18 of the Revised Code, except that:

(a) The form of the ballot shall describe the emergency existing, refer to this division as the authority under which the emergency is declared, and state that the amount of the proposed securities exceeds the limitations prescribed by division (B) of this section;

(b) The resolution required by division (B) of section 133.18 of the Revised Code shall be certified to the county auditor and the board of elections at least one hundred days prior to the election;

(c) The county auditor shall advise and, not later than ninety-five days before the election, confirm that advice by certification to, the board of

education of the information required by division (C) of section 133.18 of the Revised Code;

(d) The board of education shall then certify its resolution and the information required by division (D) of section 133.18 of the Revised Code to the board of elections not less than ninety days prior to the election.

(4) Notwithstanding division (B) of section 133.21 of the Revised Code, the first principal payment of securities issued under this division may be set at any date not later than sixty months after the earliest possible principal payment otherwise provided for in that division.

(G)(1) The board of education may contract with an architect, professional engineer, or other person experienced in the design and implementation of energy conservation measures for an analysis and recommendations pertaining to installations, modifications of installations, or remodeling that would significantly reduce energy consumption in buildings owned by the district. The report shall include estimates of all costs of such installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, and debt service, forgone residual value of materials or equipment replaced by the energy conservation measure, as defined by the Ohio school facilities commission, a baseline analysis of actual energy consumption data for the preceding three years with the utility baseline based on only the actual energy consumption data for the preceding twelve months, and estimates of the amounts by which energy consumption and resultant operational and maintenance costs, as defined by the commission, would be reduced.

If the board finds after receiving the report that the amount of money the district would spend on such installations, modifications, or remodeling is not likely to exceed the amount of money it would save in energy and resultant operational and maintenance costs over the ensuing fifteen years, the board may submit to the commission a copy of its findings and a request for approval to incur indebtedness to finance the making or modification of installations or the remodeling of buildings for the purpose of significantly reducing energy consumption.

~~If the commission determines that the board's findings are reasonable, it~~
The school facilities commission, in consultation with the auditor of state, may deny a request under this division by the board of education any school district is in a state of fiscal watch pursuant to division (A) of section 3316.03 of the Revised Code, if it determines that the expenditure of funds is not in the best interest of the school district.

No district board of education of a school district that is in a state of fiscal emergency pursuant to division (B) of section 3316.03 of the Revised

Code shall submit a request without submitting evidence that the installations, modifications, or remodeling have been approved by the district's financial planning and supervision commission established under section 3316.05 of the Revised Code.

No board of education of a school district that, for three or more consecutive years, has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code, as that section existed prior to March 22, 2013, and has failed to meet adequate yearly progress, or has met any condition set forth in division (A)(2), (3), or (4) of section 3302.10 of the Revised Code shall submit a request without first receiving approval to incur indebtedness from the district's academic distress commission established under that section, for so long as such commission continues to be required for the district.

(2) The school facilities commission shall approve the board's request. Upon provided that the following conditions are satisfied:

(a) The commission determines that the board's findings are reasonable.

(b) The request for approval is complete.

(c) The installations, modifications, or remodeling are consistent with any project to construct or acquire classroom facilities, or to reconstruct or make additions to existing classroom facilities under sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

Upon receipt of the commission's approval, the district may issue securities without a vote of the electors in a principal amount not to exceed nine-tenths of one per cent of its tax valuation for the purpose of making such installations, modifications, or remodeling, but the total net indebtedness of the district without a vote of the electors incurred under this and all other sections of the Revised Code, except section 3318.052 of the Revised Code, shall not exceed one per cent of the district's tax valuation.

(3) So long as any securities issued under ~~division (G) of this section~~ division remain outstanding, the board of education shall monitor the energy consumption and resultant operational and maintenance costs of buildings in which installations or modifications have been made or remodeling has been done pursuant to ~~division (G) of this section~~ division and shall maintain and annually update a report documenting the reductions in energy consumption and resultant operational and maintenance cost savings attributable to such installations, modifications, or remodeling. The report shall be certified by an architect or engineer independent of any person that provided goods or services to the board in connection with the energy conservation measures that are the subject of the report. The resultant operational and maintenance cost savings shall be certified by the school district treasurer. The report

shall be submitted annually to the commission.

(H) With the consent of the superintendent of public instruction, a school district may incur without a vote of the electors net indebtedness that exceeds the amounts stated in divisions (A) and (G) of this section for the purpose of paying costs of permanent improvements, if and to the extent that both of the following conditions are satisfied:

(1) The fiscal officer of the school district estimates that receipts of the school district from payments made under or pursuant to agreements entered into pursuant to section 725.02, 1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised Code, or distributions under division (C) of section 5709.43 of the Revised Code, or any combination thereof, are, after accounting for any appropriate coverage requirements, sufficient in time and amount, and are committed by the proceedings, to pay the debt charges on the securities issued to evidence that indebtedness and payable from those receipts, and the taxing authority of the district confirms the fiscal officer's estimate, which confirmation is approved by the superintendent of public instruction;

(2) The fiscal officer of the school district certifies, and the taxing authority of the district confirms, that the district, at the time of the certification and confirmation, reasonably expects to have sufficient revenue available for the purpose of operating such permanent improvements for their intended purpose upon acquisition or completion thereof, and the superintendent of public instruction approves the taxing authority's confirmation.

The maximum maturity of securities issued under division (H) of this section shall be the lesser of twenty years or the maximum maturity calculated under section 133.20 of the Revised Code.

(I) A school district may incur net indebtedness by the issuance of securities in accordance with the provisions of this chapter in excess of the limit specified in division (B) or (C) of this section when necessary to raise the school district portion of the basic project cost and any additional funds necessary to participate in a project under Chapter 3318. of the Revised Code, including the cost of items designated by the Ohio school facilities commission as required locally funded initiatives, the cost of other locally funded initiatives in an amount that does not exceed fifty per cent of the district's portion of the basic project cost, and the cost for site acquisition. The school facilities commission shall notify the superintendent of public instruction whenever a school district will exceed either limit pursuant to this division.

(J) A school district whose portion of the basic project cost of its classroom facilities project under sections 3318.01 to 3318.20 of the Revised Code is greater than or equal to one hundred million dollars may incur without a vote of the electors net indebtedness in an amount up to two per cent of its tax valuation through the issuance of general obligation securities in order to generate all or part of the amount of its portion of the basic project cost if the controlling board has approved the school facilities commission's conditional approval of the project under section 3318.04 of the Revised Code. The school district board and the Ohio school facilities commission shall include the dedication of the proceeds of such securities in the agreement entered into under section 3318.08 of the Revised Code. No state moneys shall be released for a project to which this section applies until the proceeds of any bonds issued under this section that are dedicated for the payment of the school district portion of the project are first deposited into the school district's project construction fund.

Sec. 135.22. (A) For purposes of this section:

(1) "Treasurer" has the same meaning as in section 135.01 of the Revised Code, but does not include a county treasurer or the treasurer of state. "Treasurer" includes any person whose duties include making investment decisions with respect to the investment or deposit of interim moneys.

(2) "Subdivision" has the same meaning as in section 135.01 of the Revised Code.

(B) To enhance the background and working knowledge of treasurers in investments, cash management, ~~and the collection of taxes,~~ ethics, and in any other subject area that the treasurer of state determines is reasonably related to the duties of a treasurer, the treasurer of state shall provide annual continuing education programs for treasurers. A treasurer annually shall complete the continuing education programs described in this section, unless the treasurer annually provides a notice of exemption described in division (E) of this section.

(C) The treasurer of state shall determine the manner, content, and length of the continuing education programs after consultation with appropriate statewide organizations of local government officials.

(D) Upon successful completion of a continuing education program required by this section, the treasurer of state shall issue a certificate indicating that the treasurer has successfully completed the continuing education program prescribed by the treasurer of state. The treasurer of state shall forward to the auditor of state any certificates issued pursuant to this division by the treasurer of state. The auditor of state shall maintain in the

auditor's records any certificates forwarded by the treasurer of state pursuant to this division. As part of the auditor of state's audit of the subdivision conducted in accordance with section 117.11 of the Revised Code, the auditor of state shall report whether the treasurer is in compliance with this section of the Revised Code.

(E) Division (B) of this section does not apply to any treasurer who annually provides a notice of exemption to the auditor of state. The notice shall be certified by the treasurer of state and shall provide that the treasurer is not subject to the continuing education requirements set forth in division (B) of this section, because the treasurer invests or deposits public moneys in the following investments only:

(1) Interim deposits pursuant to division (B)(3) of section 135.14 or section 135.145 of the Revised Code;

(2) No-load money market mutual funds pursuant to division (B)(5) of section 135.14 of the Revised Code;

(3) The Ohio subdivision's fund pursuant to division (B)(6) of section 135.14 of the Revised Code.

(F) In carrying out the duties required by this section, the treasurer of state may charge the subdivision served by the treasurer a registration fee that will meet actual and necessary expenses in connection with the training of the treasurer, including instruction fees, site acquisition costs, and the cost of course materials. Any necessary personal expenses of a treasurer incurred as a result of attending the continuing education courses shall be borne by the subdivision represented by the treasurer.

(G) The treasurer of state may allow any other interested person to attend any of the continuing education programs that are held pursuant to this section, provided that before attending any such continuing education program, the interested person has paid to the treasurer of state the full registration fee set for the continuing education program.

(H) All funds collected pursuant to this section shall be paid into the county treasurer education fund created pursuant to section 321.46 of the Revised Code, and the actual and necessary expenses of the treasurer of state in conducting the continuing education programs required by this section shall be paid from this fund.

(I) The treasurer of state may adopt reasonable rules not inconsistent with this section for the implementation of this section.

Sec. 135.61. As used in sections 135.61 to 135.67 of the Revised Code:

(A) "Eligible small business" means any person, including, but not limited to a person engaged in agriculture, that has all of the following characteristics:

- (1) Is headquartered in this state;
- (2) Maintains offices and operating facilities exclusively in this state and transacts business in this state;
- (3) Employs fewer than one hundred fifty employees, the majority of whom are residents of this state;
- (4) Is organized for profit.

(B) "Eligible lending institution" means a financial institution that is eligible to make commercial loans, is a public depository of state funds under section 135.03 of the Revised Code, and agrees to participate in the linked deposit program.

(C) "Linked deposit" means a certificate of deposit or other financial institution instrument placed by the treasurer of state with an eligible lending institution at a rate below current market rates, as determined and calculated by the treasurer of state, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided in division (C) of section 135.65 of the Revised Code, to eligible small businesses at a rate that reflects an equal percentage rate reduction below the present borrowing rate applicable to each specific business at the time of the deposit of state funds in the institution.

(D) "Other financial institution instrument" has the same meaning as in section 135.81 of the Revised Code.

(E) "Loan" means a contractual agreement under which an eligible lending institution agrees to lend money in the form of an upfront lump sum, a line of credit, or any other reasonable arrangement approved by the treasurer of state.

Sec. 135.71. As used in sections 135.71 to 135.76 of the Revised Code:

(A) "Eligible agricultural business" means any person engaged in agriculture that has all of the following characteristics:

- (1) Is headquartered and domiciled in this state;
- (2) Maintains land or facilities for agricultural purposes in this state provided that the land or facilities within this state comprise not less than fifty-one per cent of the total of all lands or facilities maintained by the person;
- (3) Is organized for profit.

(B) "Eligible lending institution" means a financial institution that is eligible to make commercial loans, agrees to participate in the agricultural linked deposit program, and:

- (1) Is a public depository of state funds under section 135.03 of the Revised Code; or
- (2) Notwithstanding sections 135.01 to 135.21 of the Revised Code, is

an institution of the farm credit system organized under the federal "Farm Credit Act of 1971," 85 Stat. 583, 12 U.S.C.A. 2001, as amended.

(C) "Agricultural linked deposit" means a certificate of deposit placed by the treasurer of state with an eligible lending institution under section 135.74 of the Revised Code or an investment in bonds, notes, debentures, or other obligations or securities issued by the federal farm credit bank with regard to an eligible lending institution.

(D) "Loan" means a contractual agreement under which an eligible lending institution agrees to lend money in the form of an upfront lump sum, a line of credit, or any other reasonable arrangement approved by the treasurer of state.

Sec. 135.80. (A) The legislative authority of a municipal corporation, by ordinance; the board of directors of a port authority or a lake facilities authority, by resolution; or the board of county commissioners, by resolution, may establish a linked deposit program authorizing the treasurer or governing board of the municipal corporation, the board of directors of the port authority or lake facilities authority, or the investing authority of the county, as created or designated by the ordinance or resolution, to place certificates of deposit at up to three per cent below market rates with an eligible lending institution applying for interim moneys as provided in section 135.08 of the Revised Code, selected to invest port authority or lake facilities authority moneys in linked deposit programs pursuant to section 4582.54 or 353.15 of the Revised Code, or applying for inactive moneys as provided in section 135.32 of the Revised Code, provided the institution agrees to lend the value of such deposit to eligible borrowers at up to three per cent below the present borrowing rate applicable to each borrower. The ordinance or resolution shall include requirements and provisions that are necessary to establish the program, including, but not limited to:

(1) Eligibility requirements for borrowers who may receive reduced rate loans under the program;

(2) Application procedures for borrowers and institutions wishing to participate in the program;

(3) Review procedures for applications and criteria for acceptance or rejection of applications for reduced rate loans;

(4) Necessary agreements between the eligible lending institution and the treasurer or governing board of the municipal corporation, the board of directors of the port authority or lake facilities authority, or the investing authority of the county to carry out the purposes of the linked deposit program;

(5) Annual reports regarding the operation of the program to be made by

the treasurer or governing board to the legislative authority, the eligible lending institution to the board of directors of the port authority or lake facilities authority, or the investing authority to the board of county commissioners.

(B) The municipal corporation and the treasurer or governing board, the port authority or lake facilities authority and the board of directors, and the county and the investing authority or the board of county commissioners, are not liable to any eligible lending institution in any manner for the payment of the principal or interest on any reduced rate loan made under the program, and any delay in payment or default on the part of any borrower does not in any manner affect the deposit agreement between the eligible lending institution and the treasurer or governing board, the board of directors, or the investing authority or board of county commissioners.

(C) For purposes of this section, ~~both of the following apply:~~

(1) "Investing authority" has the same meaning as in section 135.31 of the Revised Code.

(2) "Port authority" means a port authority created in accordance with section 4582.22 of the Revised Code.

(3) "Lake facilities authority" means a lake facilities authority created in accordance with section 353.02 of the Revised Code.

Sec. 135.81. As used in sections 135.81 to 135.87 of the Revised Code:

(A) "Eligible governmental subdivision" means a municipal corporation, port authority created in accordance with section 4582.22 of the Revised Code, or county in this state.

(B) "Eligible governmental subdivision housing linked deposit program" means any program established pursuant to section 135.80 of the Revised Code by the legislative authority of a municipal corporation, the board of directors of a port authority created in accordance with section 4582.22 of the Revised Code, or the board of county commissioners of a county, in which the program goals address specific housing issues relative to the geographic boundaries of that municipal corporation, port authority, or county. These program goals include, but are not limited to, home improvement, home restoration, energy efficiency, retention of historic significance, controlling urban sprawl, neighborhood revitalization, affordable housing, home ownership for persons unable to secure conventional financing, urban development, or economic revitalization of a residential area as a result of a natural disaster or other catastrophic occurrence.

(C) "Eligible housing linked deposit participant" means any person or small business that meets the requirements set forth in an eligible

governmental subdivision housing linked deposit program or set forth by the treasurer of state pursuant to division (B)(2) of section 135.82 of the Revised Code and that is a resident of this state.

(D) "Eligible lending institution" means a financial institution meeting all of the following:

(1) It is eligible to make commercial loans or residential loans.

(2) It is a public depository of state funds under section 135.03 of the Revised Code.

(3) It agrees to participate in a program to provide housing linked deposits.

(E) "Housing linked deposit" means a certificate of deposit or other financial institution instrument, described in section 135.85 of the Revised Code, placed by the treasurer of state with an eligible lending institution, in accordance with division (B) of section 135.84 of the Revised Code, provided that the institution agrees, at the time of the deposit of state funds and for the period of the deposit, to lend the value of the deposit according to the deposit agreement described in section 135.85 of the Revised Code to eligible housing linked deposit participants at a fixed interest rate of up to three hundred basis points below the present borrowing rate applicable to each participant in the absence of approval to participate in the programs described in division (B) of section 135.82 of the Revised Code.

(F) "Other financial institution instrument" means a fully collateralized product that otherwise would pay market rates of interest approved by the treasurer of state, for the purpose of providing eligible housing linked deposit participants with the benefits of a housing linked deposit.

(G) "Loan" means a contractual agreement under which an eligible lending institution agrees to lend money in the form of an upfront lump sum, a line of credit, or any other reasonable arrangement approved by the treasurer of state.

Sec. 135.85. (A) Upon placement of a housing linked deposit with an eligible lending institution pursuant to division (B) of section 135.84 of the Revised Code, the eligible lending institution shall do both of the following:

(1) Enter into a deposit agreement with the treasurer of state that includes all of the following:

(a) Any requirements necessary to carry out the purposes of sections 135.81 to 135.87 of the Revised Code;

(b) Provisions for any certificate of deposit or other financial institution instrument meeting the requirements described in division (B) of this section and placed for any maturity considered appropriate by the treasurer of state but not exceeding five years;

(c) A specification of the period of time in which the eligible lending institution is to provide the reduced interest rate to an approved applicant.

(2) Lend funds as provided in division (C) of this section and in accordance with the deposit agreement described in this section to each eligible housing linked deposit participant approved by the treasurer of state pursuant to division (A) of section 135.84 of the Revised Code.

(B) Both of the following apply to any certificate of deposit or other financial institution instrument described in division (A)(1)(b) of this section:

(1) The certificate of deposit or other financial institution instrument shall not be renewed upon final maturity.

(2) Interest shall be paid at the times and in the manner prescribed by the treasurer of state.

(C) The loan described in division (A)(2) of this section shall be at a fixed rate of up to three hundred basis points below the present borrowing rate that would apply to the eligible housing linked deposit participant in the absence of approval to participate in the programs described in division (B) of section 135.82 of the Revised Code.

(D) A certificate of compliance with this section in the form and manner prescribed by the treasurer of state shall be provided by the eligible lending institution.

(E)(1) Any delay in payments or default on the part of the eligible housing linked deposit participant does not in any manner affect the deposit agreement between the eligible lending institution and the treasurer of state.

(2) If an eligible lending institution changes the terms of a loan to an eligible housing linked deposit participant because of a delay in payments or default, the housing linked deposit amount shall be returned to the treasurer of state by the eligible lending institution. In which case, the deposit amount plus interest and without early withdrawal penalties shall be returned in a timely manner as prescribed by the treasurer of state.

(F) An eligible lending institution shall comply fully with sections 135.81 to 135.87 of the Revised Code.

Sec. 140.01. As used in this chapter:

(A) "Hospital agency" means any public hospital agency or any nonprofit hospital agency.

(B) "Public hospital agency" means any county, board of county hospital trustees established pursuant to section 339.02 of the Revised Code, county hospital commission established pursuant to section 339.14 of the Revised Code, municipal corporation, new community authority organized under Chapter 349. of the Revised Code, joint township hospital district,

state or municipal university or college operating or authorized to operate a hospital facility, or the state.

(C) "Nonprofit hospital agency" means a corporation or association not for profit, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, that has authority to own or operate a hospital facility or provides or is to provide services to one or more other hospital agencies.

(D) "Governing body" means, in the case of a county, the board of county commissioners or other legislative body; in the case of a board of county hospital trustees, the board; in the case of a county hospital commission, the commission; in the case of a municipal corporation, the council or other legislative authority; in the case of a new community authority, its board of trustees; in the case of a joint township hospital district, the joint township district hospital board; in the case of a state or municipal university or college, its board of trustees or board of directors; in the case of a nonprofit hospital agency, the board of trustees or other body having general management of the agency; and, in the case of the state, the director of development services or the Ohio higher educational facility commission.

(E) "Hospital facilities" means buildings, structures and other improvements, additions thereto and extensions thereof, furnishings, equipment, and real estate and interests in real estate, used or to be used for or in connection with one or more hospitals, emergency, intensive, intermediate, extended, long-term, or self-care facilities, diagnostic and treatment and out-patient facilities, facilities related to programs for home health services, clinics, laboratories, public health centers, research facilities, and rehabilitation facilities, for or pertaining to diagnosis, treatment, care, or rehabilitation of sick, ill, injured, infirm, impaired, disabled, or handicapped persons, or the prevention, detection, and control of disease, and also includes education, training, and food service facilities for health professions personnel, housing facilities for such personnel and their families, and parking and service facilities in connection with any of the foregoing; and includes any one, part of, or any combination of the foregoing; and further includes site improvements, utilities, machinery, facilities, furnishings, and any separate or connected buildings, structures, improvements, sites, utilities, facilities, or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, any one or more of such hospital facilities.

(F) "Costs of hospital facilities" means the costs of acquiring hospital

facilities or interests in hospital facilities, including membership interests in nonprofit hospital agencies, costs of constructing hospital facilities, costs of improving one or more hospital facilities, including reconstructing, rehabilitating, remodeling, renovating, and enlarging, costs of equipping and furnishing such facilities, and all financing costs pertaining thereto, including, without limitation thereto, costs of engineering, architectural, and other professional services, designs, plans, specifications and surveys, and estimates of cost, costs of tests and inspections, the costs of any indemnity or surety bonds and premiums on insurance, all related direct or allocable administrative expenses pertaining thereto, fees and expenses of trustees, depositories, and paying agents for the obligations, cost of issuance of the obligations and financing charges and fees and expenses of financial advisors, attorneys, accountants, consultants and rating services in connection therewith, capitalized interest on the obligations, amounts necessary to establish reserves as required by the bond proceedings, the reimbursement of all moneys advanced or applied by the hospital agency or others or borrowed from others for the payment of any item or items of costs of such facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to such facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of such facilities, the financing thereof, and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses, and means the costs of refinancing obligations issued by, or reimbursement of money advanced by, nonprofit hospital agencies or others the proceeds of which were used for the payment of costs of hospital facilities, if the governing body of the public hospital agency determines that the refinancing or reimbursement advances the purposes of this chapter, whether or not the refinancing or reimbursement is in conjunction with the acquisition or construction of additional hospital facilities.

(G) "Hospital receipts" means all moneys received by or on behalf of a hospital agency from or in connection with the ownership, operation, acquisition, construction, improvement, equipping, or financing of any hospital facilities, including, without limitation thereto, any rentals and other moneys received from the lease, sale, or other disposition of hospital facilities, and any gifts, grants, interest subsidies, or other moneys received under any federal program for assistance in financing the costs of hospital facilities, and any other gifts, grants, and donations, and receipts therefrom, available for financing the costs of hospital facilities.

(H) "Obligations" means bonds, notes, or other evidences of indebtedness or obligation, including interest coupons pertaining thereto, issued or issuable by a public hospital agency to pay costs of hospital facilities.

(I) "Bond service charges" means principal, interest, and call premium, if any, required to be paid on obligations.

(J) "Bond proceedings" means one or more ordinances, resolutions, trust agreements, indentures, and other agreements or documents, and amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms, including any variable interest rates, and conditions applicable to, or providing for the security of, obligations and the provisions contained in such obligations.

(K) "Nursing home" has the same meaning as in division (A)(1) of section 5701.13 of the Revised Code.

(L) "Residential care facility" has the same meaning as in division (A)(2) of section 5701.13 of the Revised Code.

(M) "Independent living facility" means any self-care facility or other housing facility designed or used as a residence for elderly persons. An "independent living facility" does not include a residential facility, or that part of a residential facility, that is any of the following:

(1) A hospital required to be certified by section 3727.02 of the Revised Code;

(2) A nursing home or residential care facility;

(3) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code and used for the program's hospice patients;

(4) A residential facility licensed by the department of ~~mental health~~ mental health and addiction services under section ~~5449.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;

(5) A residential facility licensed by the department of ~~mental health~~ mental health and addiction services under section ~~5449.22~~ 5119.34 of the Revised Code that is not a residential facility described in division (M)(4) of this section;

(6) A facility licensed to provide methadone treatment under section ~~3793.44~~ 5119.39 of the Revised Code;

(7) A facility certified as ~~an alcohol and drug~~ a community addiction ~~program~~ services provider under section ~~3793.06~~ 5119.36 of the Revised Code;

(8) A residential facility licensed under section 5123.19 of the Revised Code or a facility providing services under a contract with the department of

developmental disabilities under section 5123.18 of the Revised Code;

(9) A residential facility used as part of a hospital to provide housing for staff of the hospital or students pursuing a course of study at the hospital.

Sec. 140.03. (A) Two or more hospital agencies may enter into agreements for the acquisition, construction, reconstruction, rehabilitation, remodeling, renovating, enlarging, equipping, and furnishing of hospital facilities, or the management, operation, occupancy, use, maintenance, and repair of hospital facilities, or for participation in programs, projects, activities, and services useful to, connected with, supplementing, or otherwise related to the services provided by, or the operation of, hospital facilities operated by one or more participating hospital agencies, including any combination of such purposes, all in such manner as to promote the public purpose stated in section 140.02 of the Revised Code. A city health district; general health district; board of alcohol, drug addiction, and mental health services; county board of developmental disabilities; the department of ~~mental health~~ mental health and addiction services; the department of developmental disabilities; or any public body engaged in the education or training of health professions personnel may join in any such agreement for purposes related to its authority under laws applicable to it, and as such a participant shall be considered a public hospital agency or hospital agency for the purposes of this section.

(B) An agreement entered into under authority of this section shall, where appropriate, provide for:

(1) The manner in which the title to the hospital facilities, including the sites and interest in real estate pertaining thereto, is to be held, transferred, or disposed of;

(2) Unless provided for by lease pursuant to section 140.05 of the Revised Code, the method by which such hospital facilities are to be acquired, constructed, or otherwise improved and by which they shall be managed, occupied, maintained, and repaired, including the designation of one of the hospital agencies to have charge of the details of acquisition, construction, or improvement pursuant to the contracting procedures prescribed under the law applicable to one of the participating public hospital agencies;

(3) The management or administration of any such programs, projects, activities, or services, which may include management or administration by one of said hospital agencies or a board or agency thereof;

(4) Annual, or more frequent, reports to the participating hospital agencies as to the revenues and receipts pertaining to the subject of the agreement, the expenditures thereof, the status and application of other

funds contributed under such agreement, and such other matters as may be specified by or pursuant to such agreement;

(5) The manner of apportionment or sharing of costs of hospital facilities, any other applicable costs of management, operation, maintenance, and repair of hospital facilities, and costs for the programs, projects, activities, and services forming the subject of the agreement, which apportionment or sharing may be prescribed in fixed amounts, or determined by ratios, formulas, or otherwise, and paid as service charges, rentals, or in such other manner as provided in the agreement, and may include amounts sufficient to meet the bond service charges and other payments and deposits required under the bond proceedings for obligations issued to pay costs of hospital facilities. A hospital agency may commit itself to make such payments at least for so long as any such obligations are outstanding. In the apportionment, different classes of costs or expenses may be apportioned to one or more, all or less than all, of the participating hospital agencies as determined under such agreement.

(C) An agreement entered into under authority of this section may provide for:

(1) An orderly process for making determinations or advising as to planning, execution, implementation, and operation, which may include designating one of the hospital agencies, or a board thereof, for any of such purposes, provisions for a committee, board, or commission, and for representation thereon, or as may otherwise be provided;

(2) Securing necessary personnel, including participation of personnel from the respective hospital agencies;

(3) Standards or conditions for the admission or participation of patients and physicians;

(4) Conditions for admittance of other hospital agencies to participation under the agreement;

(5) Fixing or establishing the method of determining charges to be made for particular services;

(6) The manner of amending, supplementing, terminating, or withdrawal or removal of any party from, the agreement, and the term of the agreement, or an indefinite term;

(7) Designation of the applicants for or recipients of any federal, state, or other aid, assistance, or loans available by reason of any activities conducted under the agreement;

(8) Designation of one or more of the participating hospital agencies to maintain, prepare, and submit, on behalf of all parties to the agreement, any or all records and reports with regard to the activities conducted under the

agreement;

(9) Any incidental use of the hospital facilities, or services thereof, by participating public hospital agencies for any of their lawful purposes, which incidental use does not impair the character of the facilities as hospital facilities for any purpose of this chapter;

(10) Such other matters as the parties thereto may agree upon for the purposes of division (A) of this section.

(D) For the purpose of paying or contributing its share under an agreement made under this section, a public hospital agency may:

(1) Expend any moneys from its general fund, and from any other funds not otherwise restricted by law, but including funds for permanent improvements of hospital facilities of such public hospital agency where the contribution is to be made toward the costs of hospital facilities under the agreement, and including funds derived from levies for, or receipts available for, operating expenses of hospital facilities or services of such public hospital agency where the contribution or payment is to be made toward operating expenses of the hospital facilities or services under the agreement or for the services provided thereby;

(2) Issue obligations under Chapter 133. or section 140.06, 339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 3 of Article XVIII, Ohio Constitution, if applicable to such public hospital agency, to pay costs of hospital facilities, or issue obligations under any other provision of law authorizing such public hospital agency to issue obligations for any costs of hospital facilities;

(3) Levy taxes under Chapter 5705. or section 513.13 or 3709.29 of the Revised Code, if applicable to such public hospital agency, provided that the purpose of such levy may include the provision of funds for either or both permanent improvements and current expenses if required for the contribution or payment of such hospital agency under such agreement, and each such public hospital agency may issue notes in anticipation of any such levy, pursuant to the procedures provided in section 5705.191 of the Revised Code if the levy is solely for current expenses, and in section 5705.193 of the Revised Code if the levy is all or in part for permanent improvements;

(4) Contribute real and personal property or interest therein without necessity for competitive bidding or public auction on disposition of such property.

(E) Any funds provided by public hospital agencies that are parties to an agreement entered into under this section shall be transferred to and placed in a separate fund or funds of such participating public hospital agency as is designated under the agreement. The funds shall be applied for the purposes

provided in such agreement and are subject to audit. Pursuant to any determinations to be made under such agreement, the funds shall be deposited, invested, and disbursed under the provisions of law applicable to the public hospital agency in whose custody the funds are held. This division is subject to the provisions of any applicable bond proceedings under section 133.08, 140.06, 339.15, or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio Constitution. The records and reports of such public hospital agency under Chapter 117. of the Revised Code and sections 3702.51 to 3702.62 of the Revised Code, with respect to the funds shall be sufficient without necessity for reports thereon by the other public hospital agencies participating under such agreement.

(F)(1) Prior to its entry into any such agreement, the public hospital agency must determine, and set forth in a resolution or ordinance, that the contribution to be made by it under such agreement will be fair consideration for value and benefit to be derived by it under such agreement and that the agreement will promote the public purpose stated in section 140.02 of the Revised Code.

(2) If the agreement is with a board of county commissioners, board of county hospital trustees, or county hospital commission and is an initial agreement for the acquisition or operation of a county hospital operated by a board of county hospital trustees under section 339.06 of the Revised Code, the governing body of the public hospital agency shall submit the agreement, accompanied by the resolution or ordinance, to the board of county commissioners for review pursuant to section 339.091 of the Revised Code. The agreement may be entered into only if the board of county commissioners adopts a resolution under that section. The requirements of division (F)(2) of this section do not apply to the agreement if one or more hospitals classified as general hospitals by the director of health under section 3701.07 of the Revised Code are operating in the same county as the county hospital.

Sec. 140.05. (A)(1) A public hospital agency may lease any hospital facility to one or more hospital agencies for use as a hospital facility, or to one or more city or general health districts; boards of alcohol, drug addiction, and mental health services; county boards of developmental disabilities; the department of ~~mental health~~ mental health and addiction services; or the department of developmental disabilities, for uses which they are authorized to make thereof under the laws applicable to them, or any combination of them, and they may lease such facilities to or from a hospital agency for such uses, upon such terms and conditions as are agreed upon by the parties. Such lease may be for a term of fifty years or less and

may provide for an option of the lessee to renew for a term of fifty years or less, as therein set forth. Prior to entering into such lease, the governing body of any public hospital agency granting such lease must determine, and set forth in a resolution or ordinance, that such lease will promote the public purpose stated in section 140.02 of the Revised Code and that the lessor public hospital agency will be duly benefited thereby.

(2) If the lease is with a board of county commissioners, board of county hospital trustees, or county hospital commission and is an agreement for the initial lease of a county hospital operated by a board of county hospital trustees under section 339.06 of the Revised Code, the governing body of the public hospital agency shall submit the agreement, accompanied by the resolution or ordinance, to the board of county commissioners for review pursuant to section 339.091 of the Revised Code. The agreement may be entered into only if the board of county commissioners adopts a resolution under that section. The requirements of division (A)(2) of this section do not apply to the lease if one or more hospitals classified as general hospitals by the director of health under section 3701.07 of the Revised Code are operating in the same county as the county hospital.

(B) Any lease entered into pursuant to this section shall provide that in the event that the lessee fails faithfully and efficiently to administer, maintain, and operate such leased facilities as hospital facilities, or fails to provide the services thereof without regard to race, creed, color, or national origin, or fails to require that any hospital agency using such facilities or the services thereof shall not discriminate by reason of race, creed, color, or national origin, after an opportunity to be heard upon written charges, said lease may be terminated at the time, in the manner and with consequences therein provided. If any such lease does not contain terms to the effect provided in this division, it shall nevertheless be deemed to contain such terms which shall be implemented as determined by the governing body of the lessor.

(C) Such lease may provide for rentals commencing at any time agreed upon, or advance rental, and continuing for such period therein provided, notwithstanding and without diminution, rebate, or setoff by reason of time of availability of the hospital facility for use, delays in construction, failure of completion, damage or destruction of the hospital facilities, or for any other reason.

(D) Such lease may provide for the sale or transfer of title of the leased facilities pursuant to an option to purchase, lease-purchase, or installment purchase upon terms therein provided or to be determined as therein provided, which may include provision for the continued use thereof as a

hospital facility for some reasonable period, taking into account efficient useful life and other factors, as is provided therein.

(E) Such lease may be entered as part of or in connection with an agreement pursuant to section 140.03 of the Revised Code. Any hospital facilities which are the subject of an agreement entered into under section 140.03 of the Revised Code may be leased pursuant to this section.

(F) If land acquired by a public hospital agency for a hospital facility is adjacent to an existing hospital facility owned by another hospital agency, the public hospital agency may, in connection with such acquisition or the leasing of such land and hospital facilities thereon to one or more hospital agencies, enter into an agreement with the hospital agency which owns such adjacent hospital facility for the use of common walls in the construction, operation, or maintenance of hospital facilities of the public hospital agency. For the purpose of construction, operation, or maintenance of hospital facilities, a public hospital agency may acquire by purchase, gift, lease, lease with option to purchase, lease-purchase, or installment purchase, easement deed, or other agreement, real estate and interests in real estate, including rights to use space over, under or upon real property owned by others, and support, access, common wall, and other rights in connection therewith. Any public hospital agency or other political subdivision or any public agency, board, commission, institution, body, or instrumentality may grant such real estate, interests, or rights to any hospital agency upon such terms as are agreed upon without necessity for competitive bidding or public auction.

Sec. 145.01. As used in this chapter:

(A) "Public employee" means:

(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in division (A)(1) of this section, or employed and paid in whole or in part by the state or any of the authorities named in division (A)(1) of this section in any capacity not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code.

(2) A person who is a member of the public employees retirement system and who continues to perform the same or similar duties under the direction of a contractor who has contracted to take over what before the

date of the contract was a publicly operated function. The governmental unit with which the contract has been made shall be deemed the employer for the purposes of administering this chapter.

(3) Any person who is an employee of a public employer, notwithstanding that the person's compensation for that employment is derived from funds of a person or entity other than the employer. Credit for such service shall be included as total service credit, provided that the employee makes the payments required by this chapter, and the employer makes the payments required by sections 145.48 and 145.51 of the Revised Code.

(4) A person who elects in accordance with section 145.015 of the Revised Code to remain a contributing member of the public employees retirement system.

(5) A person who is an employee of the legal rights service on September 30, 2012, and continues to be employed by the nonprofit entity established under Section 319.20 of Am. Sub. H.B. 153 of the 129th general assembly. The nonprofit entity is the employer for the purpose of this chapter.

In all cases of doubt, the public employees retirement board shall determine under section 145.036, 145.037, or 145.038 of the Revised Code whether any person is a public employee, and its decision is final.

(B) "Member" means any public employee, other than a public employee excluded or exempted from membership in the retirement system by section 145.03, 145.031, 145.032, 145.033, 145.034, 145.035, or 145.38 of the Revised Code. "Member" includes a PERS retirant who becomes a member under division (C) of section 145.38 of the Revised Code. "Member" also includes a disability benefit recipient.

(C) "Head of the department" means the elective or appointive head of the several executive, judicial, and administrative departments, institutions, boards, and commissions of the state and local government as the same are created and defined by the laws of this state or, in case of a charter government, by that charter.

(D) "Employer" or "public employer" means the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state medical university, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the

units of local government named in this division not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. In addition, "employer" means the employer of any public employee.

(E) "Prior military service" also means all service credited for active duty with the armed forces of the United States as provided in section 145.30 of the Revised Code.

(F) "Contributor" means any person who has an account in the employees' savings fund created by section 145.23 of the Revised Code. When used in the sections listed in division (B) of section 145.82 of the Revised Code, "contributor" includes any person participating in a PERS defined contribution plan.

(G) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a member, contributor, or retiree, qualify for or are receiving some right or benefit under this chapter.

(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

(2) "One and one-half years of contributing service credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that all employees of that municipal retirement plan who have eighteen or more months of such employment, upon establishing membership in the public employees retirement system, shall make a payment of the contributions they would have paid had they been members of this system for the eighteen months of employment preceding the date membership was established. When that payment has been made by all such employee members, a corresponding payment shall be paid into the employers' accumulation fund by that municipal corporation as the employer of the employees.

(3) Where a member also is a member of the state teachers retirement

system or the school employees retirement system, or both, except in cases of retirement on a combined basis pursuant to section 145.37 of the Revised Code or as provided in section 145.383 of the Revised Code, service credit for any period shall be credited on the basis of the ratio that contributions to the public employees retirement system bear to total contributions in all state retirement systems.

(4) Not more than one year of credit may be given for any period of twelve months.

(5) "Ohio service credit" means credit for service that was rendered to the state or any of its political subdivisions or any employer.

(I) "Regular interest" means interest at any rates for the respective funds and accounts as the public employees retirement board may determine from time to time.

(J) "Accumulated contributions" means the sum of all amounts credited to a contributor's individual account in the employees' savings fund together with any interest credited to the contributor's account under section 145.471 or 145.472 of the Revised Code.

(K)(1) "Final average salary" means the greater of the following:

(a) The sum of the member's earnable salaries for the appropriate number of calendar years of contributing service, determined under section 145.017 of the Revised Code, in which the member's earnable salary was highest, divided by the same number of calendar years or, if the member has fewer than the appropriate number of calendar years of contributing service, the total of the member's earnable salary for all years of contributing service divided by the number of calendar years of the member's contributing service;

(b) The sum of a member's earnable salaries for the appropriate number of consecutive months, determined under section 145.017 of the Revised Code, that were the member's last months of service, up to and including the last month, divided by the appropriate number of years or, if the time between the first and final months of service is less than the appropriate number of consecutive months, the total of the member's earnable salary for all months of contributing service divided by the number of years between the first and final months of contributing service, including any fraction of a year, except that the member's final average salary shall not exceed the member's highest earnable salary for any twelve consecutive months.

(2) If contributions were made in only one calendar year, "final average salary" means the member's total earnable salary.

(L) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund as

provided in this chapter. All annuities shall be paid in twelve equal monthly installments.

(M) "Annuity reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant as provided in this chapter.

(N)(1) "Disability retirement" means retirement as provided in section 145.36 of the Revised Code.

(2) "Disability allowance" means an allowance paid on account of disability under section 145.361 of the Revised Code.

(3) "Disability benefit" means a benefit paid as disability retirement under section 145.36 of the Revised Code, as a disability allowance under section 145.361 of the Revised Code, or as a disability benefit under section 145.37 of the Revised Code.

(4) "Disability benefit recipient" means a member who is receiving a disability benefit.

(O) "Age and service retirement" means retirement as provided in sections 145.32, 145.33, 145.331, 145.332, 145.37, and 145.46 and former section 145.34 of the Revised Code.

(P) "Pensions" means annual payments for life derived from contributions made by the employer that at the time of retirement are credited into the annuity and pension reserve fund from the employers' accumulation fund and paid from the annuity and pension reserve fund as provided in this chapter. All pensions shall be paid in twelve equal monthly installments.

(Q) "Retirement allowance" means the pension plus that portion of the benefit derived from contributions made by the member.

(R)(1) Except as otherwise provided in division (R) of this section, "earnable salary" means all salary, wages, and other earnings paid to a contributor by reason of employment in a position covered by the retirement system. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 145.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes. "Earnable salary" includes the following:

(a) Payments made by the employer in lieu of salary, wages, or other earnings for sick leave, personal leave, or vacation used by the contributor;

(b) Payments made by the employer for the conversion of sick leave, personal leave, and vacation leave accrued, but not used if the payment is

made during the year in which the leave is accrued, except that payments made pursuant to section 124.383 or 124.386 of the Revised Code are not earnable salary;

(c) Allowances paid by the employer for maintenance, consisting of housing, laundry, and meals, as certified to the retirement board by the employer or the head of the department that employs the contributor;

(d) Fees and commissions paid under section 507.09 of the Revised Code;

(e) Payments that are made under a disability leave program sponsored by the employer and for which the employer is required by section 145.296 of the Revised Code to make periodic employer and employee contributions;

(f) Amounts included pursuant to former division (K)(3) and former division (Y) of this section and section 145.2916 of the Revised Code.

(2) "Earnable salary" does not include any of the following:

(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;

(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;

(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;

(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(e) Payments for accrued but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;

(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;

(g) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of

the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly;

(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in earnable salary if both of the following apply:

(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986;

(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments.

(i) The portion of any amount included in section 145.2916 of the Revised Code that represents employer contributions.

(3) The retirement board shall determine by rule whether any compensation not enumerated in division (R) of this section is earnable salary, and its decision shall be final.

(S) "Pension reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any retirement allowance or benefit in lieu of any retirement allowance, granted to a member or beneficiary under this chapter.

(T) "Contributing service" means both of the following:

(1) All service credited to a member of the system since January 1, 1935, for which contributions are made as required by sections 145.47, 145.48, and 145.483 of the Revised Code. In any year subsequent to 1934, credit for any service shall be allowed in accordance with section 145.016 of the Revised Code.

(2) Service credit received by election of the member under section 145.814 of the Revised Code.

(U) "State retirement board" means the public employees retirement board, the school employees retirement board, or the state teachers retirement board.

(V) "Retirant" means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33, 145.331, 145.332, and 145.46 and former section 145.34 of the Revised Code.

(W) "Employer contribution" means the amount paid by an employer as determined under section 145.48 of the Revised Code.

(X) "Public service terminates" means the last day for which a public employee is compensated for services performed for an employer or the date of the employee's death, whichever occurs first.

(Y) "Five years of service credit," for the exclusive purpose of satisfying the service credit requirements and of determining eligibility under section 145.33 or 145.332 of the Revised Code, means employment covered under this chapter or under a former retirement plan operated, recognized, or endorsed by the employer prior to coverage under this chapter or under a combination of the coverage.

(Z) "Deputy sheriff" means any person who is commissioned and employed as a full-time peace officer by the sheriff of any county, and has been so employed since on or before December 31, 1965; any person who is or has been commissioned and employed as a peace officer by the sheriff of any county since January 1, 1966, and who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code; or any person deputized by the sheriff of any county and employed pursuant to section 2301.12 of the Revised Code as a criminal bailiff or court constable who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code.

(AA) "Township constable or police officer in a township police department or district" means any person who is commissioned and employed as a full-time peace officer pursuant to Chapter 505. or 509. of the Revised Code, who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code.

(BB) "Drug agent" means any person who is either of the following:

(1) Employed full time as a narcotics agent by a county narcotics agency created pursuant to section 307.15 of the Revised Code and has received a certificate attesting to the satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code;

(2) Employed full time as an undercover drug agent as defined in section 109.79 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(CC) "Department of public safety enforcement agent" means a full-time employee of the department of public safety who is designated under section 5502.14 of the Revised Code as an enforcement agent and who is in compliance with section 109.77 of the Revised Code.

(DD) "Natural resources law enforcement staff officer" means a full-time employee of the department of natural resources who is designated a natural resources law enforcement staff officer under section 1501.013 of the Revised Code and is in compliance with section 109.77 of the Revised

Code.

(EE) "Park officer" means a full-time employee of the department of natural resources who is designated a park officer under section 1541.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(FF) "Forest officer" means a full-time employee of the department of natural resources who is designated a forest officer under section 1503.29 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(GG) "Preserve officer" means a full-time employee of the department of natural resources who is designated a preserve officer under section 1517.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(HH) "Wildlife officer" means a full-time employee of the department of natural resources who is designated a wildlife officer under section 1531.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(II) "State watercraft officer" means a full-time employee of the department of natural resources who is designated a state watercraft officer under section 1547.521 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(JJ) "Park district police officer" means a full-time employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(KK) "Conservancy district officer" means a full-time employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(LL) "Municipal police officer" means a member of the organized police department of a municipal corporation who is employed full time, is in compliance with section 109.77 of the Revised Code, and is not a member of the Ohio police and fire pension fund.

(MM) "Veterans' home police officer" means any person who is employed at a veterans' home as a police officer pursuant to section 5907.02 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(NN) "Special police officer for a mental health institution" means any person who is designated as such pursuant to section ~~5119.14~~ 5119.08 of the Revised Code and is in compliance with section 109.77 of the Revised

Code.

(OO) "Special police officer for an institution for the developmentally disabled" means any person who is designated as such pursuant to section 5123.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(PP) "State university law enforcement officer" means any person who is employed full time as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who is in compliance with section 109.77 of the Revised Code.

(QQ) "House sergeant at arms" means any person appointed by the speaker of the house of representatives under division (B)(1) of section 101.311 of the Revised Code who has arrest authority under division (E)(1) of that section.

(RR) "Assistant house sergeant at arms" means any person appointed by the house sergeant at arms under division (C)(1) of section 101.311 of the Revised Code.

(SS) "Regional transit authority police officer" means a person who is employed full time as a regional transit authority police officer under division (Y) of section 306.35 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(TT) "State highway patrol police officer" means a special police officer employed full time and designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person serving full time as a special police officer pursuant to that section on a permanent basis on October 21, 1997, who is in compliance with section 109.77 of the Revised Code.

(UU) "Municipal public safety director" means a person who serves full time as the public safety director of a municipal corporation with the duty of directing the activities of the municipal corporation's police department and fire department.

(VV) Notwithstanding section 2901.01 of the Revised Code, "PERS law enforcement officer" means a sheriff or any of the following whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the developmentally disabled,

state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer. "PERS law enforcement officer" also includes a person serving as a municipal public safety director at any time during the period from September 29, 2005, to March 24, 2009, if the duties of that service were to preserve the peace, protect life and property, and enforce the laws of this state.

(WW) "Hamilton county municipal court bailiff" means a person appointed by the clerk of courts of the Hamilton county municipal court under division (A)(3) of section 1901.32 of the Revised Code who is employed full time as a bailiff or deputy bailiff, who has received a certificate attesting to the person's satisfactory completion of the peace officer basic training described in division (D)(1) of section 109.77 of the Revised Code.

(XX) "PERS public safety officer" means a Hamilton county municipal court bailiff, or any of the following whose primary duties are other than to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the ~~mentally retarded and~~ developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer. "PERS public safety officer" also includes a person serving as a municipal public safety director at any time during the period from September 29, 2005, to March 24, 2009, if the duties of that service were other than to preserve the peace, protect life and property, and enforce the laws of this state.

(YY) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

(ZZ) "Actuary" means an individual who satisfies all of the following requirements:

- (1) Is a member of the American academy of actuaries;
- (2) Is an associate or fellow of the society of actuaries;
- (3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.

(AAA) "PERS defined benefit plan" means the plan described in sections 145.201 to 145.79 of the Revised Code.

(BBB) "PERS defined contribution plans" means the plan or plans established under section 145.81 of the Revised Code.

Sec. 145.012. (A) "Public employee," as defined in division (A) of section 145.01 of the Revised Code, does not include any person:

(1) Who is employed by a private, temporary-help service and performs services under the direction of a public employer or is employed on a contractual basis as an independent contractor under a personal service contract with a public employer;

(2) Who is an emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency;

(3) Who is employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501;

(4) Who is an appointed member of either the motor vehicle salvage dealers board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code;

(5) Who is employed as an election worker and paid less than five hundred dollars per calendar year for that service;

(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for the following:

(a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system;

(b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;

(c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.

(7) Who is a member of the board of health of a city or general health

district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;

(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;

(9) Who is a member of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code;

(10) Who is a member of the unemployment compensation advisory council;

(11) Who is an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code;

(12) Who is employed by the nonprofit entity established to provide advocacy services and a client assistance program for people with disabilities under Section 319.20 of Am. Sub. H.B. 153 of the 129th general assembly and whose employment begins on or after October 1, 2012.

(B) No inmate of a correctional institution operated by the department of rehabilitation and correction, no patient in a hospital for the mentally ill or criminally insane operated by the department of ~~mental health~~ mental health and addiction services, no resident in an institution for the mentally retarded operated by the department of developmental disabilities, no resident admitted as a patient of a veterans' home operated under Chapter 5907. of the Revised Code, and no resident of a county home shall be considered as a public employee for the purpose of establishing membership or calculating service credit or benefits under this chapter. Nothing in this division shall be construed to affect any service credit attained by any person who was a public employee before becoming an inmate, patient, or resident at any institution listed in this division, or the payment of any benefit for which such a person or such a person's beneficiaries otherwise would be eligible.

Sec. 145.037. (A) As used in this section and section 145.038 of the Revised Code, "business entity" means an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business.

A contract between a public employer and a business entity shall state that all individuals employed by the business entity who provide personal services to the public employer are not public employees for purposes of this chapter.

(B)(1) Except as provided in division (B)(2) of this section, an individual who provided personal services to a public employer on or before January 7, 2013, but was not classified as a public employee may request from the public employees retirement board a determination of whether the individual should have been classified as a public employee for purposes of this chapter. The request shall be made on a form provided by the board.

(2) Division (B)(1) of this section does not apply to an individual employed by a business entity under contract with a public employer to provide personal services to the employer.

(C)(1) Not later than ~~thirty~~ sixty days after ~~January 7, 2013~~ the effective date of this amendment, the board shall ~~notify each employer~~ have published in at least eight newspapers of general circulation in this state notice of the right of an individual described in division (B)(1) of this section to seek the determination described in that division. The notice also shall be ~~accompanied by copies of the form described in division (B)(1) of this section~~ posted on the web site of the public employees retirement system.

(2) ~~Not later than September 7, 2013, the employer shall send to each individual described in division (B)(1) of this section a copy of the form provided by the retirement system and written notice of the right to seek a determination of whether the individual should have been classified as a public employee. The notice shall be sent to the individual's last known address on record with the employer.~~

(3) ~~On~~ Except as provided in division (D) of this section, on receipt of a request for a determination on a properly completed form, the board shall determine whether the individual should have been classified as a public employee. If the board determines that the individual is not a public employee with regard to the services in question, for the purposes of this chapter, the individual shall not be considered an independent contractor a public employee with regard to the services in question. The board's determination is final.

(4)(3) The board shall notify the individual and the public employer of its determination. The determination shall apply to services performed before, on, or after January 7, 2013, for the same employer in the same capacity.

(D)(1) Regardless of whether an individual actually receives notice under this section, the request for a determination must be made not later than August 7, 2014, unless the individual can demonstrate to the board's satisfaction through medical records that on that date the individual was physically or mentally incapacitated and unable to request a determination.

(2) The board shall deny a request received after the effective date of this amendment if the board determines that the individual has had ten or more years of contributing service since the individual last performed the services that are the subject of the request.

Sec. 145.038. (A) A public employer who on or after ~~the effective date of this section~~ January 7, 2013, begins to receive personal services from an individual it classifies as an independent contractor or another classification other than public employee shall inform the individual of the classification and that no contributions will be made to the public employees retirement system for the services. Not later than thirty days after the services begin, the employer to whom the personal services will be rendered shall require the individual to acknowledge, in writing on a form provided by the system, that the individual has been informed that the employer does not consider the individual a public employee and no contributions will be made to the public employees retirement system for the services. The employer shall retain the acknowledgement for a period of five years after the date the services begin and immediately transmit a copy of it to the ~~system~~ public entity responsible for submitting to the system the reports required by section 145.47 of the Revised Code. The public entity shall transmit a copy of the acknowledgement to the system.

(B)(1) Regardless of whether the individual has made an acknowledgement under division (A) of this section and, except as provided in division (B)(2) of this section, an individual may request that the public employees retirement board determine whether the individual is a public employee for purposes of this chapter.

(2) Division (B)(1) of this section does not apply to an individual employed by a business entity under contract with a public employer to provide personal services to the employer.

(C) A request for a determination must be made not later than five years after the individual begins to provide personal services to the public employer, unless ~~one of the following is the case~~:

~~(1) The~~ the individual demonstrates to the board's satisfaction through medical records that at the time the five-year period ended the individual was physically or mentally incapacitated and unable to request a determination.

~~(2) The employer has not obtained or has failed to retain the acknowledgement required by division (A) of this section.~~

(D) On receipt of a request under division (B)(1) of this section, the board shall determine whether the individual is a public employee for the purposes of this chapter. If the board determines that the individual is not a

public employee for the services, for the purposes of this chapter, the individual shall not be considered ~~an independent contractor~~ a public employee with regard to the services in question. The board's determination is final.

The board shall notify the individual and the public employer of its determination. The determination shall apply to services performed before, on, or after ~~the effective date of this section~~ January 7, 2013, for the same employer in the same capacity.

(E) The board may adopt rules under section 145.09 of the Revised Code to implement this section and sections 145.036 and 145.037 of the Revised Code.

Sec. 145.22. (A) The public employees retirement board shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the public employees retirement system as established pursuant to this chapter. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

- (1) A summary of the benefit provisions evaluated;
- (2) A summary of the census data and financial information used in the valuation;
- (3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system;
- (4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;
- (5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;
- (6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the first day of September following the year for which the valuation was made.

(B) At such time as the public employees retirement board determines, and at least once in each five-year period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, contributors, and beneficiaries of the system to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

- (1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;
- (2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;
- (3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the last fiscal year of the period the report covers.

(C) The board may at any time request the actuary to make any studies or actuarial valuations to determine the adequacy of the contribution rate determined under section 145.48 of the Revised Code, and those rates may be adjusted by the board, as recommended by the actuary, effective as of the first of any year thereafter.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

- (1) A summary of the statutory changes that are being evaluated;
- (2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;
- (3) A description of the participant group or groups included in the report;
- (4) A statement of the financial impact of the legislation, including the

resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years;

(5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under sections 145.58 and 145.584 of the Revised Code. The report shall be made as of December 31, 1997, and the thirty-first day of December of each year thereafter. The report shall include the following:

(1) A description of the statutory authority for the benefits provided;

(2) A summary of the benefits;

(3) A summary of the eligibility requirements for the benefits;

(4) A statement of the number of participants eligible for the benefits;

(5) A description of the accounting, asset valuation, and funding method used to provide the benefits;

(6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;

(7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;

(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;

(9) A description of any significant changes that affect the comparability of the report required under this division;

(10) A statement of the amount paid under division (C) of section 145.58 of the Revised Code.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the

house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the thirtieth day of June following the year for which the report was made.

Sec. 149.01. Each elective state officer, the adjutant general, the adult parole authority, the department of agriculture, the director of administrative services, the public utilities commission, the superintendent of insurance, the superintendent of financial institutions, the superintendent of purchases and printing, the fire marshal, the industrial commission, the administrator of workers' compensation, the state department of transportation, the department of health, the state medical board, the state dental board, the board of embalmers and funeral directors, the Ohio commission for the blind, the accountancy board of Ohio, the state council of uniform state laws, the board of commissioners of the sinking fund, the department of taxation, the board of tax appeals, the division of liquor control, the director of state armories, the trustees of the Ohio state university, and every private or quasi-public institution, association, board, or corporation receiving state money for its use and purpose shall make annually, at the end of each fiscal year, in quadruplicate, a report of the transactions and proceedings of that office or department for that fiscal year, excepting receipts and disbursements unless otherwise specifically required by law. The report shall contain a summary of the official acts of the officer, board, council, commission, institution, association, or corporation and any suggestions and recommendations that are proper. ~~On the first day of August of each year, one~~

One of the reports shall be filed with the governor, one with the secretary of state, and one with the state library, and one shall be kept on file in the office of the officer, board, council, commission, institution, association, or corporation. The reports shall be so filed by the first day of August, except that the report of the treasurer of state shall be so filed by the thirty-first day of December.

Sec. 149.12. The state library board shall forward, free of charge, in a paper or electronic format, one copy of each legislative bulletin, daily house and senate journal, pamphlet law as described in section 149.09 of the Revised Code, and summary of enactments published by the legislative service commission, to the following libraries:

(A) Each library within the state that has been designated by the state library board under section 149.11 of the Revised Code as a depository for state publications;

(B) In each county containing no library described in division (A) of this section, to a public library designated by the state library board to

receive the journals, bulletins, and summaries described in this section. The state library board shall designate libraries that can best preserve the publications and are so located geographically that they can make the publications conveniently accessible to the residents of the county.

The state library board shall forward the daily house and senate journals once every week while the general assembly is in session and the legislative bulletin, each pamphlet law, and the summary of enactments as they are published.

Each library receiving publications under this section or under section 149.09 of the Revised Code shall make these publications accessible to the public.

Sec. 149.307. There is hereby created in the state treasury the Ohio history license plate contribution fund. The fund shall consist of the contributions that are paid to the registrar of motor vehicles by applicants who choose to obtain "Ohio history" license plates pursuant to section 4503.95 of the Revised Code.

The contributions deposited in the fund shall be used by the Ohio historical society to provide grants to historical organizations located in this state. An organization that receives a grant under this section shall use the grant only to host exhibits and increase access to its collection by the public.

The society shall establish and administer all aspects of the grant program, including eligibility requirements for receiving a grant under the program.

Not later than the last business day of January of each year, the society shall prepare and submit to the general assembly a written report, detailing all aspects of the grant program during the immediately preceding calendar year.

Sec. 149.311. (A) As used in this section:

(1) "Historic building" means a building, including its structural components, that is located in this state and that is either individually listed on the national register of historic places under 16 U.S.C. 470a, located in a registered historic district, and certified by the state historic preservation officer as being of historic significance to the district, or is individually listed as an historic landmark designated by a local government certified under 16 U.S.C. 470a(c).

(2) "Qualified rehabilitation expenditures" means expenditures paid or incurred during the rehabilitation period, and before and after that period as determined under 26 U.S.C. 47, by an owner or qualified lessee of an historic building to rehabilitate the building. "Qualified rehabilitation expenditures" includes architectural or engineering fees paid or incurred in

connection with the rehabilitation, and expenses incurred in the preparation of nomination forms for listing on the national register of historic places. "Qualified rehabilitation expenditures" does not include any of the following:

(a) The cost of acquiring, expanding, or enlarging an historic building;
(b) Expenditures attributable to work done to facilities related to the building, such as parking lots, sidewalks, and landscaping;

(c) New building construction costs.

(3) "Owner" of an historic building means a person holding the fee simple interest in the building. "Owner" does not include the state or a state agency, or any political subdivision as defined in section 9.23 of the Revised Code.

(4) "Qualified lessee" means a person subject to a lease agreement for a historic building and eligible for the federal rehabilitation tax credit under 26 U.S.C. 47. "Qualified lessee" does not include the state or a state agency or political subdivision as defined in section 9.23 of the Revised Code.

(5) "Certificate owner" means the owner or qualified lessee of an historic building to which a rehabilitation tax credit certificate was issued under this section.

(6) "Registered historic district" means an historic district listed in the national register of historic places under 16 U.S.C. 470a, an historic district designated by a local government certified under 16 U.S.C. 470a(c), or a local historic district certified under 36 C.F.R. 67.8 and 67.9.

(7) "Rehabilitation" means the process of repairing or altering an historic building or buildings, making possible an efficient use while preserving those portions and features of the building and its site and environment that are significant to its historic, architectural, and cultural values.

(8) "Rehabilitation period" means one of the following:

(a) If the rehabilitation initially was not planned to be completed in stages, a period chosen by the owner or qualified lessee not to exceed twenty-four months during which rehabilitation occurs;

(b) If the rehabilitation initially was planned to be completed in stages, a period chosen by the owner or qualified lessee not to exceed sixty months during which rehabilitation occurs. Each stage shall be reviewed as a phase of a rehabilitation as determined under 26 C.F.R. 1.48-12 or a successor to that section.

(9) "State historic preservation officer" or "officer" means the state historic preservation officer appointed by the governor under 16 U.S.C. 470a.

(B) The owner or qualified lessee of an historic building may apply to the director of development services for a rehabilitation tax credit certificate for qualified rehabilitation expenditures paid or incurred by such owner or qualified lessee after April 4, 2007, for rehabilitation of an historic building. If the owner of a an historic building enters a pass-through agreement with a qualified lessee for the purposes of the federal rehabilitation tax credit under 26 U.S.C. 47, the qualified rehabilitation expenditures paid or incurred by the owner after April 4, 2007, ~~shall~~ may be attributed to the qualified lessee.

The form and manner of filing such applications shall be prescribed by rule of the director. Each application shall state the amount of qualified rehabilitation expenditures the applicant estimates will be paid or incurred. The director may require applicants to furnish documentation of such estimates.

The director, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules that establish all of the following:

(1) Forms and procedures by which applicants may apply for rehabilitation tax credit certificates;

(2) Criteria for reviewing, evaluating, and approving applications for certificates within the limitations under division (D) of this section, criteria for assuring that the certificates issued encompass a mixture of high and low qualified rehabilitation expenditures, and criteria for issuing certificates under division (C)(3)(b) of this section;

(3) Eligibility requirements for obtaining a certificate under this section;

(4) The form of rehabilitation tax credit certificates;

(5) Reporting requirements and monitoring procedures;

(6) Procedures and criteria for conducting cost-benefit analyses of historic buildings that are the subjects of applications filed under this section. The purpose of a cost-benefit analysis shall be to determine whether rehabilitation of the historic building will result in a net revenue gain in state and local taxes once the building is used.

(7) Any other rules necessary to implement and administer this section.

(C) The director of development services shall review the applications with the assistance of the state historic preservation officer and determine whether all of the following criteria are met:

(1) That the building that is the subject of the application is an historic building and the applicant is the owner or qualified lessee of the building;

(2) That the rehabilitation will satisfy standards prescribed by the United States secretary of the interior under 16 U.S.C. 470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to that section;

(3) That receiving a rehabilitation tax credit certificate under this section is a major factor in:

- (a) The applicant's decision to rehabilitate the historic building; or
- (b) To increase the level of investment in such rehabilitation.

An applicant shall demonstrate to the satisfaction of the state historic preservation officer and director of development services that the rehabilitation will satisfy the standards described in division (C)(2) of this section before the applicant begins the physical rehabilitation of the historic building.

(D)(1) If the director of development services determines that an application meets the criteria in divisions (C)(1), (2), and (3) of this section, the director shall conduct a cost-benefit analysis for the historic building that is the subject of the application to determine whether rehabilitation of the historic building will result in a net revenue gain in state and local taxes once the building is used. The director shall consider the results of the cost-benefit analysis in determining whether to approve the application. The director shall also consider the potential economic impact and the regional distributive balance of the credits throughout the state. The director may approve an application only after completion of the cost-benefit analysis.

(2) A rehabilitation tax credit certificate shall not be issued for an amount greater than the estimated amount furnished by the applicant on the application for such certificate and approved by the director. The director shall not approve more than a total of sixty million dollars of rehabilitation tax credits per fiscal year but the director may reallocate unused tax credits from a prior fiscal year for new applicants and such reallocated credits shall not apply toward the dollar limit of this division.

(3) For rehabilitations with a rehabilitation period not exceeding twenty-four months as provided in division (A)(7)(a) of this section, a rehabilitation tax credit certificate shall not be issued before the rehabilitation of the historic building is completed.

(4) For rehabilitations with a rehabilitation period not exceeding sixty months as provided in division (A)(7)(b) of this section, a rehabilitation tax credit certificate shall not be issued before a stage of rehabilitation is completed. After all stages of rehabilitation are completed, if the director cannot determine that the criteria in division (C) of this section are satisfied for all stages of rehabilitations, the director shall certify this finding to the tax commissioner, and any rehabilitation tax credits received by the applicant shall be repaid by the applicant and may be collected by assessment as unpaid tax by the commissioner.

(5) The director of development services shall require the applicant to

provide a third-party cost certification by a certified public accountant of the actual costs attributed to the rehabilitation of the historic building when qualified rehabilitation expenditures exceed two hundred thousand dollars.

If an applicant whose application is approved for receipt of a rehabilitation tax credit certificate fails to provide to the director sufficient evidence of reviewable progress, including a viable financial plan, copies of final construction drawings, and evidence that the applicant has obtained all historic approvals within twelve months after the date the applicant received notification of approval, and if the applicant fails to provide evidence to the director that the applicant has secured and closed on financing for the rehabilitation within eighteen months after receiving notification of approval, the director may rescind the approval of the application. The director shall notify the applicant if the approval has been rescinded. Credits that would have been available to an applicant whose approval was rescinded shall be available for other qualified applicants. Nothing in this division prohibits an applicant whose approval has been rescinded from submitting a new application for a rehabilitation tax credit certificate.

(E) Issuance of a certificate represents a finding by the director of development services of the matters described in divisions (C)(1), (2), and (3) of this section only; issuance of a certificate does not represent a verification or certification by the director of the amount of qualified rehabilitation expenditures for which a tax credit may be claimed under section 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the Revised Code. The amount of qualified rehabilitation expenditures for which a tax credit may be claimed is subject to inspection and examination by the tax commissioner or employees of the commissioner under section 5703.19 of the Revised Code and any other applicable law. Upon the issuance of a certificate, the director shall certify to the tax commissioner, in the form and manner requested by the tax commissioner, the name of the applicant, the amount of qualified rehabilitation expenditures shown on the certificate, and any other information required by the rules adopted under this section.

(F)(1) On or before the first day of April each year, the director of development services and tax commissioner jointly shall submit to the president of the senate and the speaker of the house of representatives a report on the tax credit program established under this section and sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code. The report shall present an overview of the program and shall include information on the number of rehabilitation tax credit certificates issued under this section during the preceding fiscal year, an update on the status of

each historic building for which an application was approved under this section, the dollar amount of the tax credits granted under sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, and any other information the director and commissioner consider relevant to the topics addressed in the report.

(2) On or before December 1, 2015, the director of development services and tax commissioner jointly shall submit to the president of the senate and the speaker of the house of representatives a comprehensive report that includes the information required by division (F)(1) of this section and a detailed analysis of the effectiveness of issuing tax credits for rehabilitating historic buildings. The report shall be prepared with the assistance of an economic research organization jointly chosen by the director and commissioner.

(G) There is hereby created in the state treasury the historic rehabilitation tax credit operating fund. The director of development services is authorized to charge reasonable application and other fees in connection with the administration of tax credits authorized by this section and sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.44, and 5747.76 of the Revised Code. Any such fees collected shall be credited to the fund and used to pay reasonable costs incurred by the department of development services in administering this section and sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.44, and 5747.76 of the Revised Code.

The Ohio historic preservation office is authorized to charge reasonable fees in connection with its review and approval of applications under this section. Any such fees collected shall be credited to the fund and used to pay administrative costs incurred by the Ohio historic preservation office pursuant to this section.

Sec. 149.43. (A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

- (a) Medical records;
- (b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;
- (c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising

under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;

(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;

(m) Intellectual property records;

(n) Donor profile records;

(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;

(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) Records provided to, statements made by review board members

during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, and child fatality review data submitted by the child fatality review board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of ~~examiners executives of nursing home administrators~~ long-term services and supports administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

~~(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code;~~

~~(y)~~ Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

~~(z)~~(y) Records listed in section 5101.29 of the Revised Code;

~~(aa)~~(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;

~~(bb)~~(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

~~(ee)~~(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division.

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information" means any information that discloses any of the following about a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility

employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation:

(a) The address of the actual personal residence of a peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or an investigator of the bureau of criminal identification and investigation, except for the state or political subdivision in which the peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation resides;

(b) Information compiled from referral to or participation in an employee assistance program;

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer from the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based

correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's compensation unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

As used in divisions (A)(7) and (B)(9) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(5) of this section, "correctional employee" means any employee of the department of rehabilitation and correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

As used in divisions (A)(7) and (B)(5) of this section, "youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(9) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

As used in divisions (A)(7) and (B)(9) of this section, "investigator of the bureau of criminal identification and investigation" has the meaning

defined in section 2903.11 of the Revised Code.

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

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

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

(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.

(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.

(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the

public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

(3) If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The explanation shall not preclude the public office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under division (C) of this section.

(4) Unless specifically required or authorized by state or federal law or in accordance with division (B) of this section, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requestor's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's

identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

(7) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail or by any other means of delivery or transmission pursuant to this division. A public office that adopts a policy and procedures under this division shall comply with them in performing its duties under this division.

In any policy and procedures adopted under this division, a public office

may limit the number of records requested by a person that the office will transmit by United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(9)(a) Upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation shall disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation and, if the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's,

community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

(b) Division (B)(9)(a) of this section also applies to journalist requests for customer information maintained by a municipally owned or operated public utility, other than social security numbers and any private financial information such as credit reports, payment methods, credit card numbers, and bank account information.

(c) As used in division (B)(9) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(1) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

If a requestor transmits a written request by hand delivery or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or person responsible for the requested public records, except as otherwise provided in this section, the requestor shall be entitled to recover the amount

of statutory damages set forth in this division if a court determines that the public office or the person responsible for public records failed to comply with an obligation in accordance with division (B) of this section.

The amount of statutory damages shall be fixed at one hundred dollars for each business day during which the public office or person responsible for the requested public records failed to comply with an obligation in accordance with division (B) of this section, beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(2)(a) If the court issues a writ of mandamus that orders the public office or the person responsible for the public record to comply with division (B) of this section and determines that the circumstances described in division (C)(1) of this section exist, the court shall determine and award to the relator all court costs.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, the court may award reasonable attorney's fees subject to reduction as described in division (C)(2)(c) of this section. The court shall award reasonable attorney's fees, subject to reduction as described in division

(C)(2)(c) of this section when either of the following applies:

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(c) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records as described in division (C)(2)(c)(i) of this section would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. In addition, all public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public

office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

(2) The public office shall distribute the public records policy adopted by the public office under division (E)(1) of this section to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

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

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or ~~data base~~ database by a person who intends to use or forward the copies for surveys, marketing, solicitation,

or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) "Commercial" means profit-seeking production, buying, or selling of any good, service, or other product.

(d) "Special extraction costs" means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction. "Special extraction costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (F)(1) and (2) of this section, "surveys, marketing, solicitation, or resale for commercial purposes" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

Sec. 149.431. (A) Except as provided in sections 9.833 and ~~2744.08~~ 2744.081 of the Revised Code, any governmental entity or agency and any nonprofit corporation or association, except a corporation organized pursuant to Chapter 1719. of the Revised Code prior to January 1, 1980 or organized pursuant to Chapter 3941. of the Revised Code, that enters into a contract or other agreement with the federal government, a unit of state government, or a political subdivision or taxing unit of this state for the provision of services shall keep accurate and complete financial records of any moneys expended in relation to the performance of the services pursuant to such contract or agreement according to generally accepted accounting principles. Such contract or agreement and such financial records shall be deemed to be public records as defined in division (A)(1) of section 149.43 of the Revised Code and are subject to the requirements of division (B) of that section, except that:

(1) Any information directly or indirectly identifying a present or former individual patient or client or such an individual patient's or client's diagnosis, prognosis, or medical treatment, treatment for a mental or emotional disorder, treatment for mental retardation or a developmental disability, treatment for drug abuse or alcoholism, or counseling for personal or social problems is not a public record;

(2) If disclosure of the contract or agreement or financial records is requested at a time when confidential professional services are being

provided to a patient or client whose confidentiality might be violated if disclosure were made at that time, disclosure may be deferred if reasonable times are established when the contract or agreement or financial records will be disclosed.

(3) Any nonprofit corporation or association that receives both public and private funds in fulfillment of any such contract or other agreement is not required to keep as public records the financial records of any private funds expended in relation to the performance of services pursuant to the contract or agreement.

(B) Any nonprofit corporation or association that receives more than fifty per cent of its gross receipts excluding moneys received pursuant to Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, in a calendar year in fulfillment of a contract or other agreement for services with a governmental entity shall maintain information setting forth the compensation of any individual serving the nonprofit corporation or association in an executive or administrative capacity. Such information shall be deemed to be public records as defined in division (A)(1) of section 149.43 of the Revised Code and is subject to the requirements of division (B) of that section.

Nothing in this section shall be construed to otherwise limit the provisions of section 149.43 of the Revised Code.

Sec. 149.54. In order to ensure that archaeological survey and salvage work on public lands, dedicated archaeological preserves, and registered state archaeological landmarks is conducted in a scientific manner, the director of the Ohio historical society shall, in consultation with the Ohio archaeological council and the archaeological society of Ohio, adopt and may amend or rescind rules, in accordance with Chapter 119. of the Revised Code, prescribing minimum education, training, and experience requirements for personnel in charge of or otherwise engaging in archaeological survey and salvage work, and prescribing scientific methods for undertaking such activities.

No person shall engage in archaeological survey or salvage work on any land that is owned, controlled, or administered by the state or any political subdivision of the state, or at any archaeological preserve, dedicated under section 149.52 of the Revised Code, ~~or at any state archaeological landmark registered under section 149.51 of the Revised Code,~~ without first obtaining the written permission of the director. To obtain permission, the applicant shall submit written application to the director, which application shall indicate the proposed location, the qualifications of personnel who will be engaged in the archaeological survey or salvage work, the proposed methods

of survey or salvage, and such other information as the director requires by rule.

The director shall deny the applicant permission to engage in archaeological survey or salvage work at the proposed location if the applicant's proposed undertaking will not comply with the rules adopted under this section. The director shall by written order approve or deny permission to disturb the site. If the director decides to deny permission, the order shall state the reasons for denial, and the director shall afford the applicant an adjudication hearing under Chapter 119. of the Revised Code. The requirements of this section and of any rule adopted pursuant to this section shall not apply to any department, agency, unit, instrumentality, or political subdivision of the state.

Whoever violates this section is guilty of a misdemeanor of the second degree. Whoever violates or threatens to violate this section may be enjoined from violation.

Sec. 151.11. (A) As used in this section:

(1) "Costs of sites and facilities" includes related direct administrative expenses and allocable portions of the direct costs of those projects. "Costs of sites and facilities" includes "allowable costs" as defined in section 122.085 of the Revised Code.

(2) "Obligations" means obligations as defined in section 151.01 of the Revised Code issued to pay costs of sites and facilities in Ohio for and in support of industry, commerce, distribution, and research and development purposes as referred to in division (A)(3) of Section 2p of Article VIII, Ohio Constitution.

(B) The issuing authority shall issue general obligations of the state to pay costs of sites and facilities pursuant to division (B)(3) of Section 2p of Article VIII, Ohio Constitution, section 151.01 of the Revised Code, and this section. The issuing authority shall issue obligations in the amount determined by the issuing authority to be required for those purposes. The total principal amount of obligations issued under this section shall not exceed one hundred fifty million dollars.

(C) Net proceeds of obligations shall be deposited into the job ready site development fund created by section 122.0820 of the Revised Code.

(D) There is hereby created in the state treasury the job ready site development bond service fund. All moneys received by the state and required by the bond proceedings, consistent with section 151.01 of the Revised Code and this section, to be deposited, transferred, or credited to the bond service fund, and all other moneys transferred or allocated to or received for the purposes of that fund, shall be deposited and credited to the

bond service fund, subject to any applicable provisions of the bond proceedings, but without necessity for any act of appropriation. During the period beginning with the date of the first issuance of obligations and continuing during the time that any obligations are outstanding in accordance with their terms, so long as moneys in the bond service fund are insufficient to pay debt service when due on those obligations payable from that fund, except the principal amounts of bond anticipation notes payable from the proceeds of renewal notes or bonds anticipated, and due in the particular fiscal year, a sufficient amount of revenues of the state is committed and, without necessity for further act of appropriation, shall be paid to the bond service fund for the purpose of paying that debt service when due. All investment earnings on the cash balance in the fund shall be credited to the fund.

Sec. 152.09. (A) As used in sections 152.06 and 152.09 to 152.33 of the Revised Code:

(1) "Obligations" means bonds, notes, or other evidences of obligation, including interest coupons pertaining thereto, issued pursuant to sections 152.09 to 152.33 of the Revised Code.

(2) "State agencies" means the state of Ohio and branches, officers, boards, commissions, authorities, departments, divisions, courts, general assembly, or other units or agencies of the state. "State agency" also includes counties, municipal corporations, and governmental entities of this state that enter into leases with the Ohio building authority pursuant to section 152.31 of the Revised Code or that are designated by law as state agencies for the purpose of performing a state function that is to be housed by a capital facility for which the Ohio building authority is authorized to issue revenue obligations pursuant to sections 152.09 to 152.33 of the Revised Code.

(3) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the Ohio building authority on obligations.

(4) "Capital facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, within the state, and any one, part of, or combination of the foregoing, for housing of branches and agencies of state government, including capital facilities for the purpose of housing personnel, equipment, or functions, or any combination thereof that the state agencies are responsible for housing, for which the Ohio building authority is authorized to issue obligations pursuant to Chapter 152. of the Revised Code, and

includes storage and parking facilities related to such capital facilities. For purposes of sections 152.10 to 152.15 of the Revised Code, "capital facilities" includes community or technical college capital facilities.

(5) "Cost of capital facilities" means the costs of assessing, planning, acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, altering, maintaining, equipping, furnishing, repairing, painting, decorating, managing, or operating capital facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with capital facilities, the cost of participating in capital facilities pursuant to section 152.33 of the Revised Code, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the authority and lessee state agencies, cost of engineering and architectural services, designs, plans, specifications, surveys, and estimates of cost, legal fees, fees and expenses of trustees, depositories, and paying agents for the obligations, cost of issuance of the obligations and financing charges and fees and expenses of financial advisers and consultants in connection therewith, interest on obligations from the date thereof to the time when interest is to be covered from sources other than proceeds of obligations, amounts that represent the portion of investment earnings to be rebated or to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those obligations pursuant to section 148(f) of the Internal Revenue Code, amounts necessary to establish reserves as required by the resolutions or the obligations, trust agreements, or indentures, costs of audits, the reimbursement of all moneys advanced or applied by or borrowed from any governmental entity, whether to or by the authority or others, from whatever source provided, for the payment of any item or items of cost of the capital facilities, any share of the cost undertaken by the authority pursuant to arrangements made with governmental entities under division (J) of section 152.21 of the Revised Code, and all other expenses necessary or incident to assessing, planning, or determining the feasibility or practicability with respect to capital facilities, and such other expenses as may be necessary or incident to the assessment, planning, acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, alteration, maintenance, equipment, furnishing, repair, painting, decoration, management, or operation of capital facilities, the financing thereof and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(6) "Governmental entity" means any state agency, municipal corporation, county, township, school district, and any other political subdivision or special district in this state established pursuant to law, and, except where otherwise indicated, also means the United States or any of the states or any department, division, or agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(7) "Governing body" means:

(a) In the case of a county, the board of county commissioners or other legislative authority; in the case of a municipal corporation, the legislative authority; in the case of a township, the board of township trustees; in the case of a school district, the board of education;

(b) In the case of any other governmental entity, the officer, board, commission, authority, or other body having the general management of the entity or having jurisdiction or authority in the particular circumstances.

(8) "Available receipts" means fees, charges, revenues, grants, subsidies, income from the investment of moneys, proceeds from the sale of goods or services, and all other revenues or receipts received by or on behalf of any state agency for which capital facilities are financed with obligations issued under Chapter 152. of the Revised Code, any state agency participating in capital facilities pursuant to section 152.33 of the Revised Code, or any state agency by which the capital facilities are constructed or financed; revenues or receipts derived by the authority from the operation, leasing, or other disposition of capital facilities, and the proceeds of obligations issued under Chapter 152. of the Revised Code; and also any moneys appropriated by a governmental entity, gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges on such obligations.

(9) "Available community or technical college receipts" means all money received by a community or technical college or community or technical college district, including income, revenues, and receipts from the operation, ownership, or control of facilities, grants, gifts, donations, and pledges and receipts therefrom, receipts from fees and charges, the allocated state share of instruction as defined in section ~~3333.90~~ 3333.59 of the Revised Code, and the proceeds of the sale of obligations, including proceeds of obligations issued to refund obligations previously issued, but excluding any special fee, and receipts therefrom, charged pursuant to division (D) of section 154.21 of the Revised Code.

(10) "Community or technical college," "college," "community or technical college district," and "district" have the same meanings as in

section ~~3333.90~~ 3333.59 of the Revised Code.

(11) "Community or technical college capital facilities" means auxiliary facilities, education facilities, and housing and dining facilities, as those terms are defined in section 3345.12 of the Revised Code, to the extent permitted to be financed by the issuance of obligations under division (A)(2) of section 3357.112 of the Revised Code, that are authorized by sections 3354.121, 3357.112, and 3358.10 of the Revised Code to be financed by obligations issued by a community or technical college district, and for which the Ohio building authority is authorized to issue obligations pursuant to Chapter 152. of the Revised Code, and includes any one, part of, or any combination of the foregoing, and further includes site improvements, utilities, machinery, furnishings, and any separate or connected buildings, structures, improvements, sites, open space and green space areas, utilities, or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, such facilities.

(12) "Cost of community or technical college capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing community or technical college capital facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with community or technical college capital facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the authority, community or technical college or community or technical college district, cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, legal fees, fees and expenses of trustees, depositories, bond registrars, and paying agents for the obligations, cost of issuance of the obligations and financing costs and fees and expenses of financial advisers and consultants in connection therewith, interest on the obligations from the date thereof to the time when interest is to be covered by available receipts or other sources other than proceeds of the obligations, amounts that represent the portion of investment earnings to be rebated or to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those obligations pursuant to section 148(f) of the Internal Revenue Code, amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursements of all moneys advanced or applied by or borrowed from the community or technical college, community or technical college district, or others, from whatever source

provided, including any temporary advances from state appropriations, for the payment of any item or items of cost of community or technical college facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to such facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of community or technical college capital facilities, the financing thereof and the placing of them in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(B) Pursuant to the powers granted to the general assembly under Section 2i of Article VIII, Ohio Constitution, to authorize the issuance of revenue obligations and other obligations, the owners or holders of which are not given the right to have excises or taxes levied by the general assembly for the payment of principal thereof or interest thereon, the Ohio building authority may issue obligations, in accordance with Chapter 152. of the Revised Code, and shall cause the net proceeds thereof, after any deposits of accrued interest for the payment of bond service charges and after any deposit of all or such lesser portion as the authority may direct of the premium received upon the sale of those obligations for the payment of the bond service charges, to be applied to the costs of capital facilities designated by or pursuant to act of the general assembly for housing state agencies as authorized by Chapter 152. of the Revised Code. The authority shall provide by resolution for the issuance of such obligations. The bond service charges and all other payments required to be made by the trust agreement or indenture securing such obligations shall be payable solely from available receipts of the authority pledged thereto as provided in such resolution. The available receipts pledged and thereafter received by the authority are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the authority, irrespective of whether those parties have notice thereof, and creates a perfected security interest for all purposes of Chapter 1309. of the Revised Code and a perfected lien for purposes of any real property interest, all without the necessity for separation or delivery of funds or for the filing or recording of the resolution, trust agreement, indenture, or other agreement by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such available receipts is effective and the money therefrom and thereof may be applied to the purposes for which pledged. Every pledge, and every covenant and

agreement made with respect to the pledge, made in the resolution may therein be extended to the benefit of the owners and holders of obligations authorized by Chapter 152. of the Revised Code, the net proceeds of which are to be applied to the costs of capital facilities, and to any trustee therefor, for the further securing of the payment of the bond service charges, and all or any rights under any agreement or lease made under this section may be assigned for such purpose. Obligations may be issued at one time or from time to time, and each issue shall be dated, shall mature at such time or times as determined by the authority not exceeding forty years from the date of issue, and may be redeemable before maturity at the option of the authority at such price or prices and under such terms and conditions as are fixed by the authority prior to the issuance of the obligations. The authority shall determine the form of the obligations, fix their denominations, establish their interest rate or rates, which may be a variable rate or rates, or the maximum interest rate, and establish within or without this state a place or places of payment of bond service charges.

(C) The obligations shall be signed by the authority chairperson, vice-chairperson, and secretary-treasurer, and the authority seal shall be affixed. The signatures may be facsimile signatures and the seal affixed may be a facsimile seal, as provided by resolution of the authority. Any coupons attached may bear the facsimile signature of the chairperson. In case any officer who has signed any obligations, or caused the officer's facsimile signature to be affixed thereto, ceases to be such officer before such obligations have been delivered, such obligations may, nevertheless, be issued and delivered as though the person who had signed the obligations or caused the person's facsimile signature to be affixed thereto had not ceased to be such officer.

Any obligations may be executed on behalf of the authority by an officer who, on the date of execution, is the proper officer although on the date of such obligations such person was not the proper officer.

(D) All obligations issued by the authority shall have all the qualities and incidents of negotiable instruments and may be issued in coupon or in registered form, or both, as the authority determines. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion. The authority may sell its obligations in any manner and for such prices as it determines, except that

the authority shall sell obligations sold at public or private sale in accordance with section 152.091 of the Revised Code.

(E) The obligations of the authority, principal, interest, and any proceeds from their sale or transfer, are exempt from all taxation within this state.

(F) The authority is authorized to issue revenue obligations and other obligations under Section 2i of Article VIII, Ohio Constitution, for the purpose of paying the cost of capital facilities for housing of branches and agencies of state government, including capital facilities for the purpose of housing personnel, equipment, or functions, or any combination thereof that the state agencies are responsible for housing, as are authorized by Chapter 152. of the Revised Code, and that are authorized by the general assembly by the appropriation of lease payments or other moneys for such capital facilities or by any other act of the general assembly, but not including the appropriation of moneys for feasibility studies for such capital facilities. This division does not authorize the authority to issue obligations pursuant to Section 2i of Article VIII, Ohio Constitution, to pay the cost of capital facilities for mental hygiene and retardation, parks and recreation, or state-supported or state-assisted institutions of higher education.

(G) The authority is authorized to issue revenue obligations under Section 2i of Article VIII, Ohio Constitution, on behalf of a community or technical college district and shall cause the net proceeds thereof, after any deposits of accrued interest for the payment of bond service charges and after any deposit of all or such lesser portion as the authority may direct of the premium received upon the sale of those obligations for the payment of the bond service charges, to be applied to the cost of community or technical college capital facilities, provided that the issuance of such obligations is subject to the execution of a written agreement in accordance with division (C) of section ~~3333.90~~ 3333.59 of the Revised Code for the withholding and depositing of funds otherwise due the district, or the college it operates, in respect of its allocated state share of instruction.

The authority shall provide by resolution for the issuance of such obligations. The bond service charges and all other payments required to be made by the trust agreement or indenture securing the obligations shall be payable solely from available community or technical college receipts pledged thereto as provided in the resolution. The available community or technical college receipts pledged and thereafter received by the authority are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the authority,

irrespective of whether those parties have notice thereof, and creates a perfected security interest for all purposes of Chapter 1309. of the Revised Code and a perfected lien for purposes of any real property interest, all without the necessity for separation or delivery of funds or for the filing or recording of the resolution, trust agreement, indenture, or other agreement by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such available community or technical college receipts is effective and the money therefrom and thereof may be applied to the purposes for which pledged. Every pledge, and every covenant and agreement made with respect to the pledge, made in the resolution may therein be extended to the benefit of the owners and holders of obligations authorized by this division, and to any trustee therefor, for the further securing of the payment of the bond service charges, and all or any rights under any agreement or lease made under this section may be assigned for such purpose. Obligations may be issued at one time or from time to time, and each issue shall be dated, shall mature at such time or times as determined by the authority not exceeding forty years from the date of issue, and may be redeemable before maturity at the option of the authority at such price or prices and under such terms and conditions as are fixed by the authority prior to the issuance of the obligations. The authority shall determine the form of the obligations, fix their denominations, establish their interest rate or rates, which may be a variable rate or rates, or the maximum interest rate, and establish within or without this state a place or places of payment of bond service charges.

Sec. 153.692. For every design-build contract, the public authority planning to contract for design-build services shall first obtain the services of a criteria architect or engineer by doing either of the following:

(A) Contracting for the services consistent with sections 153.65 to 153.70 of the Revised Code;

(B) Obtaining the services through an architect or engineer who is an employee of the public authority and notifying the ~~department of administrative services~~ Ohio facilities construction commission before the services are performed.

Sec. 154.01. As used in this chapter:

(A) "Commission" means the Ohio public facilities commission created in section 151.02 of the Revised Code.

(B) "Obligations" means bonds, notes, or other evidences of obligation, including interest coupons pertaining thereto, issued pursuant to Chapter 154. of the Revised Code.

(C) "Bond proceedings" means the order or orders, resolution or

resolutions, trust agreement, indenture, lease, and other agreements, amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms and conditions applicable to, or providing for the security of, obligations issued pursuant to Chapter 154. of the Revised Code, and the provisions contained in such obligations.

(D) "State agencies" means the state of Ohio and officers, boards, commissions, departments, divisions, or other units or agencies of the state.

(E) "Governmental agency" means state agencies, state supported and assisted institutions of higher education, municipal corporations, counties, townships, school districts, and any other political subdivision or special district in this state established pursuant to law, and, except where otherwise indicated, also means the United States or any department, division, or agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(F) "Institutions of higher education" and "state supported or state assisted institutions of higher education" means the state universities identified in section 3345.011 of the Revised Code, the northeast Ohio medical university, state universities or colleges at any time created, community college districts, university branch districts, and technical college districts at any time established or operating under Chapter 3354., 3355., or 3357. of the Revised Code, and other institutions for education, including technical education, beyond the high school, receiving state support or assistance for their expenses of operation.

(G) "Governing body" means:

(1) In the case of institutions of higher education, the board of trustees, board of directors, commission, or other body vested by law with the general management, conduct, and control of one or more institutions of higher education;

(2) In the case of a county, the board of county commissioners or other legislative body; in the case of a municipal corporation, the council or other legislative body; in the case of a township, the board of township trustees; in the case of a school district, the board of education;

(3) In the case of any other governmental agency, the officer, board, commission, authority or other body having the general management thereof or having jurisdiction or authority in the particular circumstances.

(H) "Person" means any person, firm, partnership, association, or corporation.

(I) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the state on obligations.

If not prohibited by the applicable bond proceedings, bond service charges may include costs relating to credit enhancement facilities that are related to and represent, or are intended to provide a source of payment of or limitation on, other bond service charges.

(J) "Capital facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, within the state, and any one, part of, or combination of the foregoing, to serve the general purposes for which the issuing authority is authorized to issue obligations pursuant to Chapter 154. of the Revised Code, including, but not limited to, drives, roadways, parking facilities, walks, lighting, machinery, furnishings, utilities, landscaping, wharves, docks, piers, reservoirs, dams, tunnels, bridges, retaining walls, riprap, culverts, ditches, channels, watercourses, retention basins, standpipes and water storage facilities, waste treatment and disposal facilities, heating, air conditioning and communications facilities, inns, lodges, cabins, camping sites, golf courses, boat and bathing facilities, athletic and recreational facilities, and site improvements.

(K) "Costs of capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing capital facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with capital facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the commission or issuing authority and department of administrative services, or other designees of the commission under section 154.17 of the Revised Code, cost of engineering and architectural services, designs, plans, specifications, surveys, and estimates of cost, legal fees, fees and expenses of trustees, depositories, and paying agents for the obligations, cost of issuance of the obligations and financing charges and fees and expenses of financial advisers and consultants in connection therewith, interest on obligations, including but not limited to, interest from the date of their issuance to the time when interest is to be covered from sources other than proceeds of obligations, amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursement of all moneys advanced or applied by or borrowed from any governmental agency, whether to or by the commission or others, from whatever source provided, for the payment of any item or items of cost of the capital facilities, any share of the cost undertaken by the commission pursuant to arrangements made with governmental agencies under division (H) of section 154.06 of

the Revised Code, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to capital facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of capital facilities, the financing thereof and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(L) "Public service facilities" means inns, lodges, hotels, cabins, camping sites, scenic trails, picnic sites, restaurants, commissaries, golf courses, boating and bathing facilities and other similar facilities in state parks.

(M) "State parks" means:

(1) State reservoirs described and identified in section 1541.06 of the Revised Code;

(2) All lands or interests therein of the state identified as administered by the division of parks and recreation in the "inventory of state owned lands administered by the department of natural resources as of June 1, 1963," as recorded in the journal of the director, which inventory was prepared by the real estate section of the department and is supported by maps now on file in said real estate section;

(3) All lands or interests in lands of the state designated after June 1, 1963, as state parks in the journal of the director with the approval of the recreation and resources council.

State parks do not include any lands or interest in lands of the state administered jointly by two or more divisions of the department of natural resources. The designation of lands as state parks under divisions (M)(1) to (3) of this section is conclusive and such lands shall be under the control of and administered by the division of parks and recreation. No order or proceeding designating lands as state parks or park purchase areas is subject to any appeal or review by any officer, board, commission, or court.

(N) "Bond service fund" means the applicable fund created for and pledged to the payment of bond service charges under section 154.20, 154.21, 154.22, or 154.23 of the Revised Code, including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(O) "Improvement fund" means the applicable fund created for the payment of costs of capital facilities under section 123.201, 154.20, 154.21, or 154.22, ~~or 3383.09~~ of the Revised Code, including all moneys and investments, and earnings from investments, credited and to be credited

thereto.

(P) "Special funds" or "funds" means, except where the context does not permit, the bond service funds, the improvements funds, and any other funds for similar or different purposes created under bond proceedings, including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(Q) "Year" unless the context indicates a different meaning or intent, means a calendar year beginning on the first day of January and ending on the thirty-first day of December.

(R) "Fiscal year" means the period of twelve months beginning on the first day of July and ending on the thirtieth day of June.

(S) "Issuing authority" means the treasurer of state or the officer or employee who by law performs the functions of that office.

(T) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code.

(U) "Ohio cultural facility" and "Ohio sports facility" have the same meanings as in section ~~3383.01~~ 123.28 of the Revised Code.

Sec. 154.17. The departments of administrative services, ~~mental health~~ mental health and addiction services, developmental disabilities, rehabilitation and correction, and natural resources, the Ohio board of regents, institutions of higher education, and other state officers and state agencies shall cooperate with the commission in providing services and information requested by the commission for purposes of Chapter 154. of the Revised Code, and the commission may make mutually satisfactory arrangements therefor and may thereunder designate any governmental agency for the management or performance of particular functions of the commission, other than the authorization and issuance of obligations provided for in Chapter 154. of the Revised Code, pursuant to which designation, upon acceptance thereof by that governmental agency, that function may be carried out with the full force and effect as if performed by the commission. Any such designation shall be made only by formal action or written agreement of the commission. In the management of capital facilities or performance of other functions with respect thereto, a governmental agency may exercise all powers which it has under law with respect to other similar facilities under its jurisdiction.

Contracts relating to capital facilities shall be made in accordance with the law pertaining to the governmental agency designated under authority of this section to perform such contracting function, and in any other case shall be made in accordance with Chapter 153. of the Revised Code, for which purpose the commission shall be considered the owner, provided that the

commission may assign the function of owner to the department of administrative services or other governmental agency as it determines. The commission may acquire by assignment from any governmental agency contracts which are not completed and which involve acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing capital facilities, provided that such governmental agency has complied with the procedures prescribed by laws for its letting of such contract.

No contract shall be let or assignment thereof accepted under this section involving performance in accordance with plans and specifications until such plans and specifications have been submitted to and approved by the governmental agency to have responsibility for the management of the capital facilities provided for in such plans and specifications, which approval shall be considered to be given if no approval or disapproval is communicated in writing to the commission or its designee for such purpose within sixty days following such submission of plans and specifications. Approval by such governmental agency of changes in plans and specifications is not required if the director of administrative services or the designee of the commission for such purpose shall certify that such changes do not substantially change the location, character, or extent of such capital facilities.

Sec. 154.20. (A) Subject to authorization by the general assembly under section 154.02 of the Revised Code, the issuing authority may issue obligations pursuant to this chapter to pay costs of capital facilities for mental hygiene and retardation, including housing for mental hygiene and retardation patients and persons with substance use disorders.

(B) Any capital facilities for mental hygiene or retardation, including housing for mental hygiene and retardation patients and persons with substance use disorders, may be leased by the commission to the department of ~~mental health~~, mental health and addiction services or the department of developmental disabilities, ~~or the department of alcohol and drug addiction services~~, and other agreements may be made by the commission and any one or more of these departments with respect to the use or purchase of such capital facilities or, subject to the approval of the director of the department, the commission may lease such capital facilities to, and make or provide for other agreements with respect to the use or purchase thereof with, any governmental agency having authority under law to operate such capital facilities, and the director of the department may sublease such capital facilities to, and make other agreements with respect to the use or purchase thereof with, any such governmental agency, which may include provisions

for transmittal to the mental health bond service trust fund created under division (E) of this section, by such governmental agency or by a nonprofit corporation providing mental hygiene and retardation services for or under contract with or the supervision of that governmental agency, of receipts of that agency or nonprofit corporation from charges for the treatment or care of mental hygiene and retardation patients, all upon such terms and conditions as the parties may agree upon and pursuant to this chapter, notwithstanding any other provision of law affecting the leasing, acquisition, or disposition of capital facilities by the parties.

(C) For purposes of this section, "available receipts" means all receipts of the state from charges for the treatment or care of mental hygiene and retardation patients, including support payments received under Chapter 5121. of the Revised Code and moneys required to be transmitted to the mental health bond service trust fund pursuant to subleases and other agreements between any of the departments and another governmental agency pursuant to division (B) of this section as the subleases and other agreements may be further implemented for internal planning, budgeting, and accounting purposes pursuant to rules adopted by the director of ~~mental health~~, mental health and addiction services or director of developmental disabilities, ~~or director of alcohol and drug addiction services~~, any revenues or receipts derived by the commission from the operation, leasing, or other disposition of capital facilities financed under this section, the proceeds of obligations issued under this section and sections 154.11 and 154.12 of the Revised Code, and also means any gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges on such obligations. The issuing authority may pledge all, or such portion as that authority determines, of the available receipts to the payment of bond service charges on obligations issued under this section and under sections 154.11 and 154.12 of the Revised Code and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to such available receipts as authorized by this chapter, which provisions shall be controlling notwithstanding any other provision of law pertaining thereto.

(D) The issuing authority may covenant in the bond proceedings that the state and state agencies shall, so long as any obligations issued under this section are outstanding, cause to be charged and collected charges for the treatment or care of mental hygiene and retardation patients sufficient in amount to provide for the payment of bond service charges on such obligations and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and such covenants shall be controlling

notwithstanding any other provision of law pertaining to such charges.

(E) There is hereby created the mental health bond service trust fund, which shall be in the custody of the treasurer of state but shall be separate and apart from and not a part of the state treasury. All moneys received by or on account of the commission or issuing authority or state agencies and required by the applicable bond proceedings to be deposited, transferred, or credited to the fund, and all other moneys transferred or allocated to or received for the purposes of the fund, shall be deposited with the treasurer of state and credited to such fund, subject to applicable provisions of the bond proceedings, but without necessity for any act of appropriation. The mental health bond service trust fund is a trust fund and is hereby pledged to the payment of bond service charges on the obligations issued pursuant to this section and sections 154.11 and 154.12 of the Revised Code to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation.

(F) There is hereby created in the state treasury the mental health facilities improvement fund. Subject to the bond proceedings therefor, all of the proceeds of the sale of obligations pursuant to this section shall be credited to the fund, except that any accrued interest shall be credited to the mental health bond service fund. The mental health facilities improvement fund may also be comprised of gifts, grants, appropriated moneys, and other sums and securities received to the credit of such fund. All investment earnings on the cash balance in the fund shall be credited to the fund. The fund shall be applied only to the following purposes:

(1) Paying costs of capital facilities for mental hygiene and retardation, including housing for mental hygiene and retardation patients or for persons with substance use disorders, under the jurisdiction of the department of ~~mental health, mental health and addiction services~~ or department of developmental disabilities, ~~or department of alcohol and drug addiction services~~;

(2) Participating in capital facilities for mental hygiene and retardation, including housing for mental hygiene and retardation patients or for persons with substance use disorders, with the federal government, municipal corporations, counties, or other governmental agencies, or a nonprofit corporation specifically chartered to provide a mental health, substance use, or mental retardation service when such service fulfills a public purpose, which participation may be by grants or contributions to them for such capital facilities. Except as provided in division (G) of this section, the nonprofit corporation may act in concert with a limited partnership or a

limited liability company eligible to participate in the nonprofit set-aside described in section 42(h)(5) of the "Internal Revenue Code of 1986," 100 Stat. 2198, 26 U.S.C. 42, and the Ohio housing finance agency's housing tax credit program for the purpose of making use of low-income housing tax credits in support of housing for mental hygiene and retardation patients.

(G) A nonprofit corporation providing a mental retardation service must obtain written approval from the director of developmental disabilities before acting in concert with a limited partnership or limited liability company as described in division (F)(2) of this section. However, the director may issue one blanket approval for all such nonprofit corporations.

(H) This section is to be applied with other applicable provisions of this chapter.

Sec. 154.22. (A) Subject to authorization by the general assembly under section 154.02 of the Revised Code, the issuing authority may authorize and issue obligations pursuant to this chapter to pay costs of capital facilities for parks and recreation.

(B) Any capital facilities for parks and recreation may be leased by the commission to the department of natural resources and other agreements may be made by the commission and such department with respect to the use or purchase of such capital facilities or, subject to the approval of the director of such department, the commission may lease such capital facilities to, and make other agreements with respect to their use or purchase with, any governmental agency having authority under law to operate such capital facilities, and the director of such department may sublease such capital facilities to, and make other agreements with respect to the use or purchase thereof with, any such governmental agency, or such director may sublease or contract for the operation of such capital facilities in accordance with the applicable provisions of sections 1501.09, 1501.091, and 1501.10 of the Revised Code, all upon such terms and conditions as the parties may agree upon and pursuant to this chapter, notwithstanding any other provisions of law affecting the leasing, acquisition, or disposition of capital facilities by such parties.

(C) For purposes of this section, "available receipts" means all receipts, including fees, charges, and rentals, derived or to be derived from state parks and public service facilities in any state park or parks, any other receipts of state agencies with respect to parks and recreational facilities, any revenues or receipts derived by the commission from the operation, leasing, or other disposition of capital facilities financed under this section, the proceeds of obligations issued under this section and sections 154.11 and 154.12 of the Revised Code, and also means any gifts, grants, donations, and

pledges, and receipts thereon, available for the payment of bond service charges on obligations issued under this section. The issuing authority may pledge all, or such portion as it determines, of the available receipts to the payment of bond service charges on obligations issued under this section and sections 154.11 and 154.12 of the Revised Code and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to such available receipts as authorized by this chapter, which provisions shall be controlling notwithstanding any other provision of law pertaining thereto.

(D) The issuing authority may covenant in the bond proceeding that the state and state agencies shall, so long as any obligations issued under this section are outstanding, cause to be charged and collected fees, charges, and rentals for the use of state parks and public service facilities and other fees and charges with respect to parks and recreation sufficient in amount to provide for the payment of bond service charges on such obligations and for the establishment and maintenance of any reserves as provided in the bond proceedings, and such covenants shall be controlling notwithstanding any other provision of law pertaining to such charges except any provision of law prohibiting or limiting charges for the use of swimming facilities of state parks and public service facilities by persons under sixteen years of age.

(E) There is hereby created the parks and recreation bond service trust fund, which shall be in the custody of the treasurer of state but shall be separate and apart from and not a part of the state treasury. All moneys received by or on account of the commission or issuing authority or state agencies and required by the applicable bond proceedings to be deposited, transferred, or allocated to or received for the purposes of the trust fund shall be deposited with the treasurer of state and credited to such fund, subject to applicable provisions of the bond proceedings but without necessity for any act of appropriation. The trust fund is hereby pledged to the payment of bond service charges on the obligations issued pursuant to this section and sections 154.11 and 154.12 of the Revised Code to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation.

(F) There is hereby created in the state treasury the parks and recreation improvement fund. Subject to the bond proceedings therefor, all of the proceeds of the sale of obligations issued pursuant to this section shall be credited to such fund, except that any accrued interest received shall be

credited to the parks and recreation bond service trust fund. The parks and recreation improvement fund may also be comprised of gifts, grants, appropriated moneys, and other sums and securities received to the credit of such fund. Such fund shall be applied only to the purpose of paying costs of capital facilities for parks and recreation under the jurisdiction of the department of natural resources or for participation in capital facilities for parks and recreation with the federal government, municipal corporations, counties, or other governmental agencies, or any one or more of them, which participation may be by grants or contributions to them for such capital facilities. All investment earnings on the cash balance in the fund shall be credited to the fund.

(G) All state parks shall be exclusively under the control and administration of the division of parks and recreation. With the approval of the recreation and resources council, the director of natural resources may by order remove from the classification as state parks any of the lands or interests therein referred to in divisions (M)(2) and (3) of section 154.01 of the Revised Code, subject to the limitations, provisions, and conditions in any order authorizing state park revenue bonds, in any trust agreement securing such bonds, or in bond proceedings with respect to obligations issued pursuant to this section. Lands or interests therein so removed shall be transferred to other divisions of the department for administration or may be sold as provided by law. Proceeds of any sale shall be used or transferred as provided in the order authorizing state park revenue bonds or in such trust agreement, or in bond proceedings with respect to obligations issued pursuant to this section, and if no such provision is made shall be transferred to the state park fund created by section 1541.22 of the Revised Code.

(H) This section shall be applied with other applicable provisions of this chapter.

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

Sec. 154.23. (A) Subject to authorization by the general assembly under section 154.02 of the Revised Code, the issuing authority may issue obligations pursuant to this chapter to pay costs of capital facilities for Ohio cultural facilities and Ohio sports facilities.

(B) The Ohio public facilities commission may lease any capital facilities for Ohio cultural facilities or Ohio sports facilities to, and make or provide for other agreements with respect to the use or purchase of such capital facilities with, the Ohio ~~cultural~~ facilities construction commission and, with the Ohio ~~cultural~~ facilities construction commission's approval,

any governmental agency having authority under law to operate such capital facilities. ~~Any lease or agreement shall be subject to Chapter 3383. of the Revised Code.~~

(C) For purposes of this section, "available receipts" means any revenues or receipts derived by the Ohio public facilities commission from the operation, leasing, or other disposition of capital facilities financed under this section, the proceeds of obligations issued under this section and section 154.11 or 154.12 of the Revised Code, and also means any gifts, grants, donations, and pledges, and receipts thereon, available for the payment of bond service charges on obligations issued under this section. The issuing authority may pledge all, or such portion as it determines, of the available receipts to the payment of bond service charges on obligations issued under this section and section 154.11 or 154.12 of the Revised Code and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to such available receipts as authorized by this chapter, which provisions shall be controlling notwithstanding any other provision of law pertaining thereto.

(D) There is hereby created one or more funds, as determined by the issuing authority in the bond proceedings, designated as the "Ohio cultural facilities ~~commission~~ bond service fund" with, if more than one such fund, such further identifying name as the issuing authority determines, which shall be in the custody of the treasurer of state but shall be separate and apart from and not a part of the state treasury. All money received by or on account of the issuing authority or the Ohio ~~cultural~~ facilities construction commission and required by the applicable bond proceedings to be deposited, transferred, or credited to the Ohio cultural facilities ~~commission~~ bond service fund, and all other money transferred or allocated to or received for the purposes of that fund shall be deposited with the treasurer of state and credited to the applicable fund, subject to applicable provisions of the bond proceedings, but without necessity of any act or appropriation. The Ohio cultural facilities ~~commission~~ bond service funds are trust funds and are hereby pledged to the payment of bond service charges on the applicable obligations issued pursuant to this section and section 154.11 or 154.12 of the Revised Code to the extent provided in the applicable bond proceedings, and payment thereof from such funds shall be made or provided for by the treasurer of state in accordance with the applicable bond proceedings without necessity for any act or appropriation.

(E) This section is to be applied with other applicable provisions of this chapter.

Sec. 154.25. (A) As used in this section:

(1) "Available community or technical college receipts" means all money received by a community or technical college or community or technical college district, including income, revenues, and receipts from the operation, ownership, or control of facilities, grants, gifts, donations, and pledges and receipts therefrom, receipts from fees and charges, the allocated state share of instruction as defined in section ~~3333.90~~ 3333.59 of the Revised Code, and the proceeds of the sale of obligations, including proceeds of obligations issued to refund obligations previously issued, but excluding any special fee, and receipts therefrom, charged pursuant to division (D) of section 154.21 of the Revised Code.

(2) "Community or technical college," "college," "community or technical college district," and "district" have the same meanings as in section ~~3333.90~~ 3333.59 of the Revised Code.

(3) "Community or technical college capital facilities" means auxiliary facilities, education facilities, and housing and dining facilities, as those terms are defined in section 3345.12 of the Revised Code, to the extent permitted to be financed by the issuance of obligations under division (A)(2) of section 3357.112 of the Revised Code, that are authorized by sections 3354.121, 3357.112, and 3358.10 of the Revised Code to be financed by obligations issued by a community or technical college district, and for which the issuing authority is authorized to issue obligations pursuant to this section, and includes any one, part of, or any combination of the foregoing, and further includes site improvements, utilities, machinery, furnishings, and any separate or connected buildings, structures, improvements, sites, open space and green space areas, utilities, or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, such facilities.

(4) "Cost of community or technical college capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing community or technical college capital facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with community or technical college capital facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the commission and the issuing authority, community or technical college or community or technical college district, cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, legal fees, fees and expenses of trustees, depositories, bond registrars, and paying

agents for obligations, cost of issuance of obligations and financing costs and fees and expenses of financial advisers and consultants in connection therewith, interest on obligations from the date thereof to the time when interest is to be covered by available receipts or other sources other than proceeds of those obligations, amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursements of all moneys advanced or applied by or borrowed from the community or technical college, community or technical college district, or others, from whatever source provided, including any temporary advances from state appropriations, for the payment of any item or items of cost of community or technical college facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to such facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of community or technical college capital facilities, the financing thereof and the placing of them in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(5) "Capital facilities" includes community or technical college capital facilities.

(6) "Obligations" has the same meaning as in section 154.01 or 3345.12 of the Revised Code, as the context requires.

(B) The issuing authority is authorized to issue revenue obligations under Section 2i of Article VIII, Ohio Constitution, on behalf of a community or technical college district and shall cause the net proceeds thereof, after any deposits of accrued interest for the payment of bond service charges and after any deposit of all or such lesser portion as the issuing authority may direct of the premium received upon the sale of those obligations for the payment of the bond service charges, to be applied to the cost of community or technical college capital facilities, provided that the issuance of such obligations is subject to the execution of a written agreement in accordance with division (C) of section ~~3333.90~~ 3333.59 of the Revised Code for the withholding and depositing of funds otherwise due the district, or the college it operates, in respect of its allocated state share of instruction.

(C) The bond service charges and all other payments required to be made by the trust agreement or indenture securing the obligations shall be payable solely from available community or technical college receipts pledged thereto as provided in the resolution. The available community or technical college receipts pledged and thereafter received by the commission

are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the authority, irrespective of whether those parties have notice thereof, and creates a perfected security interest for all purposes of Chapter 1309. of the Revised Code and a perfected lien for purposes of any real property interest, all without the necessity for separation or delivery of funds or for the filing or recording of the resolution, trust agreement, indenture, or other agreement by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such available community or technical college receipts is effective and the money therefrom and thereof may be applied to the purposes for which pledged. Every pledge, and every covenant and agreement made with respect to the pledge, made in the resolution may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further securing of the payment of the bond service charges, and all or any rights under any agreement or lease made under this section may be assigned for such purpose.

(D) This section is to be applied with other applicable provisions of this chapter.

Sec. 156.02. The executive director of ~~administrative services~~ the Ohio facilities construction commission may contract with an energy or a water services company, architect, professional engineer, contractor, or other person experienced in the design and implementation of energy or water conservation measures for a report containing an analysis and recommendations pertaining to the implementation of energy or water conservation measures that result in energy, water, or wastewater cost savings, operating cost savings, or avoided capital costs for the institution. The report shall include estimates of all costs of such installations, including the costs of design, engineering, installation, maintenance, repairs, and debt service, and estimates of the energy, water, or wastewater cost savings, operating cost savings, and avoided capital costs created.

Sec. 156.03. (A) If the executive director of ~~administrative services~~ the Ohio facilities construction commission wishes to enter into an installment payment contract pursuant to section 156.04 of the Revised Code or any other contract to implement one or more energy or water saving measures, the executive director may proceed under Chapter 153. of the Revised Code, or, alternatively, the executive director may request the controlling board to exempt the contract from Chapter 153. of the Revised Code.

If the controlling board by a majority vote approves an exemption, that

chapter shall not apply to the contract and instead the executive director shall request proposals from at least three parties for the implementation of the energy or water saving measures. Prior to providing any interested party a copy of any such request, the executive director shall advertise, in a newspaper of general circulation in the county where the contract is to be performed, and may advertise by electronic means pursuant to rules adopted by the executive director, the executive director's intent to request proposals for the implementation of the energy or water saving measures. The notice shall invite interested parties to submit proposals for consideration and shall be published at least thirty days prior to the date for accepting proposals.

(B) Upon receiving the proposals, the executive director shall analyze them and, after considering the cost estimates of each proposal and the availability of funds to pay for each with current appropriations or by financing the cost of each through an installment payment contract under section 156.04 of the Revised Code, may select one or more proposals or reject all proposals. In selecting proposals, the executive director shall select the one or more proposals most likely to result in the greatest energy, water, or wastewater savings, operating costs savings, and avoided capital costs created.

(C) No contract shall be awarded to implement energy or water saving measures under this section, unless the executive director finds that both of the following circumstances exists:

(1) Not less than one-fifteenth of the costs of the contract shall be paid within two years from the date of purchase;

(2) In the case of a contract for a cogeneration system described in division (B)(8) of section 156.01 of the Revised Code, the remaining balance of the cost of the contract shall be paid within twenty years from the date of purchase, and, in the case of all other contracts, fifteen years.

Sec. 156.04. (A) In accordance with this section and section 156.03 of the Revised Code, the executive director of ~~administrative services~~ the Ohio facilities construction commission may enter into an installment payment contract for the implementation of one or more energy or water saving measures. If the executive director wishes an installment payment contract to be exempted from Chapter 153. of the Revised Code, the executive director shall proceed pursuant to section 156.03 of the Revised Code.

(B) Any installment payment contract under this section shall provide that all payments, except payments for repairs and obligations on termination of the contract prior to its expiration, are to be a stated percentage of calculated energy, water, or wastewater cost savings, operating costs, and avoided capital costs attributable to the one or more

measures over a defined period of time and are to be made only to the extent that those calculated amounts actually occur. No such contract shall contain either of the following:

(1) A requirement of any additional capital investment or contribution of funds, other than funds available from state or federal grants;

(2) In the case of a contract for a cogeneration system described in division (B)(8) of section 156.01 of the Revised Code, a payment term longer than twenty years, and, in the case of all other contracts, a payment term longer than fifteen years.

(C) Any installment payment contract entered into under this section shall terminate no later than the last day of the fiscal biennium for which funds have been appropriated to the ~~department of administrative services~~ Ohio facilities construction commission by the general assembly and shall be renewed in each succeeding fiscal biennium in which any balance of the contract remains unpaid, provided that both an appropriation for that succeeding fiscal biennium and the certification required by section 126.07 of the Revised Code are made.

(D) Any installment payment contract entered into under this section shall be eligible for financing provided through the Ohio air quality development authority under Chapter 3706. of the Revised Code.

Sec. 156.05. In accordance with Chapter 119. of the Revised Code, the executive director of ~~administrative services~~ the Ohio facilities construction commission shall adopt, and enforce rules necessary to administer sections 156.01 to 156.04 of the Revised Code. Rules adopted under this section shall establish procedures by which the executive director may authorize in ~~his~~ the executive director's stead the manager of any building owned by the state to enter into contracts authorized under sections 156.01 to 156.04 of the Revised Code.

Sec. 166.02. (A) The general assembly finds that many local areas throughout the state are experiencing economic stagnation or decline, and that the economic development programs provided for in this chapter will constitute deserved, necessary reinvestment by the state in those areas, materially contribute to their economic revitalization, and result in improving the economic welfare of all the people of the state. Accordingly, it is declared to be the public policy of the state, through the operations of this chapter and other applicable laws adopted pursuant to Section 2p or 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the establishment or development of eligible projects or assist and cooperate with any governmental agency in achieving such purpose.

(B) In furtherance of such public policy and to implement such purpose, the director of development may:

(1) After consultation with appropriate governmental agencies, enter into agreements with persons engaged in industry, commerce, distribution, or research and with governmental agencies to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, or furnish, or otherwise develop, eligible projects and make provision therein for project facilities and governmental actions, as authorized by this chapter and other applicable laws, subject to any required actions by the general assembly or the controlling board and subject to applicable local government laws and regulations;

(2) Provide for the guarantees and loans as provided for in sections 166.06 and 166.07 of the Revised Code;

(3) Subject to release of such moneys by the controlling board, contract for labor and materials needed for, or contract with others, including governmental agencies, to provide, project facilities the allowable costs of which are to be paid for or reimbursed from moneys in the facilities establishment fund, and contract for the operation of such project facilities;

(4) Subject to release thereof by the controlling board, from moneys in the facilities establishment fund acquire or contract to acquire by gift, exchange, or purchase, including the obtaining and exercise of purchase options, property, and convey or otherwise dispose of, or provide for the conveyance or disposition of, property so acquired or contracted to be acquired by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to and as the director determines to be appropriate to satisfy the objectives of sections 166.01 to 166.11 of the Revised Code;

(5) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and employees, agents, and independent contractors as are necessary in the director's judgment and fix the compensation for their services;

(6) Receive and accept from any person grants, gifts, and contributions of money, property, labor, and other things of value, to be held, used and applied only for the purpose for which such grants, gifts, and contributions are made;

(7) Enter into appropriate arrangements and agreements with any

governmental agency for the taking or provision by that governmental agency of any governmental action;

(8) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of this chapter;

(9) Adopt rules to implement any of the provisions of this chapter applicable to the director.

(C) The determinations by the director that facilities constitute eligible projects, that facilities are project facilities, that costs of such facilities are allowable costs, and all other determinations relevant thereto or to an action taken or agreement entered into shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under this chapter.

(D) Except as otherwise prescribed in this chapter, all expenses and obligations incurred by the director in carrying out the director's powers and in exercising the director's duties under this chapter, shall be payable solely from, as appropriate, moneys in the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan guarantee fund, the innovation Ohio loan fund, the research and development loan fund, the logistics and distribution infrastructure fund, ~~the logistics and distribution infrastructure taxable bond fund~~, or moneys appropriated for such purpose by the general assembly. This chapter does not authorize the director or the issuing authority under section 166.08 of the Revised Code to incur bonded indebtedness of the state or any political subdivision thereof, or to obligate or pledge moneys raised by taxation for the payment of any bonds or notes issued or guarantees made pursuant to this chapter.

(E) Any governmental agency may enter into an agreement with the director, any other governmental agency, or a person to be assisted under this chapter, to take or provide for the purposes of this chapter any governmental action it is authorized to take or provide, and to undertake on behalf and at the request of the director any action which the director is authorized to undertake pursuant to divisions (B)(3), (4), and (5) of this section or divisions (B)(3), (4), and (5) of section 166.12 of the Revised Code. Governmental agencies of the state shall cooperate with and provide assistance to the director of development and the controlling board in the exercise of their respective functions under this chapter.

Sec. 166.03. (A) There is hereby created the facilities establishment fund within the state treasury, consisting of proceeds from the issuance of obligations as specified under section 166.08 of the Revised Code; the moneys received by the state from the sources specified in section 166.09 of the Revised Code; service charges imposed under sections 166.06 and

166.07 of the Revised Code; any grants, gifts, or contributions of moneys received by the director of development services to be used for loans made under section 166.07 of the Revised Code or for the payment of the allowable costs of project facilities; and all other moneys appropriated or transferred to the fund. Moneys in the loan guarantee fund in excess of the loan guarantee reserve requirement, but subject to the provisions and requirements of any guarantee contracts, may be transferred to the facilities establishment fund by the treasurer of state upon the order of the director of development services. Moneys received by the state under Chapter 122. of the Revised Code, to the extent allocable to the utilization of moneys derived from proceeds of the sale of obligations pursuant to section 166.08 of the Revised Code, shall be credited to the facilities establishment fund. All investment earnings on the cash balance in the fund shall be credited to the fund.

(B) All moneys appropriated or transferred to the facilities establishment fund may be released at the request of the director of development services for payment of allowable costs or the making of loans under section 166.07 of the Revised Code, for transfer to the loan guarantee fund established in section 166.06 of the Revised Code, or for use for the purpose of or transfer to the funds established by sections 122.35, 122.42, 122.54, 122.55, 122.56, 122.561, 122.57, 122.601, and 122.80 of the Revised Code and, until July 1, 2003, the fund established by section 166.031 of the Revised Code, and, until July 1, 2007, the fund established by section 122.26 of the Revised Code, but only for such of those purposes as are within the authorization of Section 13 of Article VIII, Ohio Constitution, in all cases subject to the approval of the controlling board.

(C) The ~~department~~ of development services agency, in the administration of the facilities establishment fund, is encouraged to utilize and promote the utilization of, to the maximum practicable extent, the other existing programs, business incentives, and tax incentives that department is required or authorized to administer or supervise.

Sec. 166.04. (A) Prior to entering into each agreement to provide assistance under sections 166.02, 166.06, and 166.07 of the Revised Code, the director of development services shall determine whether the assistance will conform to the requirements of sections 166.01 to 166.11 of the Revised Code. Such determination, and the facts upon which it is based, shall be set forth, where required, by the director in submissions made to the controlling board when the director seeks a release of moneys under section 166.02 of the Revised Code. An agreement to provide assistance under sections 166.02, 166.06, and 166.07 of the Revised Code shall set forth such

determination, which shall be conclusive for purposes of the validity and enforceability of such agreement and any loan guarantees, loans, or other agreements entered into pursuant to such agreement to provide assistance.

(B) Whenever a person applies for financial assistance under sections 166.02, 166.06, and 166.07 of the Revised Code and the project for which assistance is requested is to relocate facilities that are currently being operated by the person and that are located in another county, municipal corporation, or township, the ~~director~~ person shall provide written notification of the relocation to the appropriate local governmental bodies ~~and state officials~~. Prior to entering into an agreement to provide the assistance, the director shall verify that such notification shall contain the following information:

(1) ~~The name of the person applying for financial assistance;~~

(2) ~~The county, and the municipal corporation or township, in which the project for which assistance is requested is located; and~~

(3) ~~The county, and the municipal corporation or township, in which the facility to be replaced is located~~ has been provided.

(C) As used in division (B) of this section:

(1) ~~"Appropriate~~ appropriate local governmental bodies" means:

(a)(1) ~~The boards~~ board of county commissioners or legislative authorities authority of the county in which the ~~project for which assistance is requested is located and of the county in which the facility to be replaced is located;~~

(b)(2) ~~The legislative authority of the municipal corporation or the board of township trustees of the township in which the project for which assistance is requested is located; and~~

(c) ~~The legislative authority of the municipal corporation or the board of township trustees of the township in which the facility to be replaced is located.~~

(2) ~~"State officials" means:~~

(a) ~~The state representative and state senator in whose districts the project for which assistance is requested is located;~~

(b) ~~The state representative and state senator in whose districts the facility to be replaced is located.~~

Sec. 166.08. (A) As used in this chapter:

(1) "Bond proceedings" means the resolution, order, trust agreement, indenture, lease, and other agreements, amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing or providing for the terms and conditions applicable to, or providing for the security or liquidity of, obligations issued pursuant to this section, and the

provisions contained in such obligations.

(2) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the state on obligations.

(3) "Bond service fund" means the applicable fund and accounts therein created for and pledged to the payment of bond service charges, which may be, or may be part of, the economic development bond service fund created by division (S) of this section including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(4) "Issuing authority" means the treasurer of state, or the officer who by law performs the functions of such officer.

(5) "Obligations" means bonds, notes, or other evidence of obligation including interest coupons pertaining thereto, issued pursuant to this section.

(6) "Pledged receipts" means all receipts of the state representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, after paying all costs and expenses of the division of liquor control and providing an adequate working capital reserve for the division of liquor control as provided in that division, but excluding the sum required by the second paragraph of section 4301.12 of the Revised Code, as in effect on May 2, 1980, to be paid into the state treasury; moneys accruing to the state from the lease, sale, or other disposition, or use, of project facilities, and from the repayment, including interest, of loans made from proceeds received from the sale of obligations; accrued interest received from the sale of obligations; income from the investment of the special funds; and any gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges.

(7) "Special funds" or "funds" means, except where the context does not permit, the bond service fund, and any other funds, including reserve funds, created under the bond proceedings, and the economic development bond service fund created by division (S) of this section to the extent provided in the bond proceedings, including all moneys and investments, and earnings from investment, credited and to be credited thereto.

(B) Subject to the limitations provided in section 166.11 of the Revised Code, the issuing authority, upon the certification by the director of development or, with respect to eligible advanced energy projects, the Ohio air quality development authority to the issuing authority of the amount of moneys or additional moneys needed in the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan fund, the innovation Ohio loan guarantee fund, the research and development loan fund, the logistics

and distribution infrastructure fund, ~~the logistics and distribution infrastructure taxable bond fund~~, the advanced energy research and development fund, or the advanced energy research and development taxable fund, as applicable, for the purpose of paying, or making loans for, allowable costs from the facilities establishment fund, allowable innovation costs from the innovation Ohio loan fund, allowable costs from the research and development loan fund, allowable costs from the logistics and distribution infrastructure fund, ~~allowable costs from the logistics and distribution infrastructure taxable bond fund~~, allowable costs from the advanced energy research and development fund, or allowable costs from the advanced energy research and development taxable fund, as applicable, or needed for capitalized interest, for funding reserves, and for paying costs and expenses incurred in connection with the issuance, carrying, securing, paying, redeeming, or retirement of the obligations or any obligations refunded thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section, or providing moneys for the loan guarantee fund or the innovation Ohio loan guarantee fund, as provided in this chapter or needed for the purposes of funds established in accordance with or pursuant to sections 122.35, 122.42, 122.54, 122.55, 122.56, 122.561, 122.57, and 122.80 of the Revised Code which are within the authorization of Section 13 of Article VIII, Ohio Constitution, or, with respect to certain eligible advanced energy projects, Section 2p of Article VIII, Ohio Constitution, shall issue obligations of the state under this section in the required amount; provided that such obligations may be issued to satisfy the covenants in contracts of guarantee made under section 166.06 or 166.15 of the Revised Code, notwithstanding limitations otherwise applicable to the issuance of obligations under this section. The proceeds of such obligations, except for the portion to be deposited in special funds, including reserve funds, as may be provided in the bond proceedings, shall as provided in the bond proceedings be deposited by the director of development to the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan guarantee fund, the innovation Ohio loan fund, the research and development loan fund, or the logistics and distribution infrastructure fund, ~~or the logistics and distribution infrastructure taxable bond fund~~, or be deposited by the Ohio air quality development authority to the advanced energy research and development fund or the advanced energy

research and development taxable fund. Bond proceedings for project financing obligations may provide that the proceeds derived from the issuance of such obligations shall be deposited into such fund or funds provided for in the bond proceedings and, to the extent provided for in the bond proceedings, such proceeds shall be deemed to have been deposited into the facilities establishment fund and transferred to such fund or funds. The issuing authority may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in the issuing authority's judgment to carry out this section. The costs of such services are allowable costs payable from the facilities establishment fund or the research and development loan fund, allowable innovation costs payable from the innovation Ohio loan fund, or allowable costs payable from the logistics and distribution infrastructure fund, ~~the logistics and distribution infrastructure taxable bond fund~~, the advanced energy research and development fund, or the advanced energy research and development taxable fund, as applicable.

(C) The holders or owners of such obligations shall have no right to have moneys raised by taxation obligated or pledged, and moneys raised by taxation shall not be obligated or pledged, for the payment of bond service charges. Such holders or owners shall have no rights to payment of bond service charges from any moneys accruing to the state from the lease, sale, or other disposition, or use, of project facilities, or from payment of the principal of or interest on loans made, or fees charged for guarantees made, or from any money or property received by the director, treasurer of state, or the state under Chapter 122. of the Revised Code, or from any other use of the proceeds of the sale of the obligations, and no such moneys may be used for the payment of bond service charges, except for accrued interest, capitalized interest, and reserves funded from proceeds received upon the sale of the obligations and except as otherwise expressly provided in the applicable bond proceedings pursuant to written directions by the director. The right of such holders and owners to payment of bond service charges is limited to all or that portion of the pledged receipts and those special funds pledged thereto pursuant to the bond proceedings in accordance with this section, and each such obligation shall bear on its face a statement to that effect.

(D) Obligations shall be authorized by resolution or order of the issuing authority and the bond proceedings shall provide for the purpose thereof and

the principal amount or amounts, and shall provide for or authorize the manner or agency for determining the principal maturity or maturities, not exceeding twenty-five years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest thereon, their denomination, and the establishment within or without the state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code are applicable to obligations issued under this section, subject to any applicable limitation under section 166.11 of the Revised Code. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The bond proceedings also shall provide, subject to the provisions of any other applicable bond proceedings, for the pledge of all, or such part as the issuing authority may determine, of the pledged receipts and the applicable special fund or funds to the payment of bond service charges, which pledges may be made either prior or subordinate to other expenses, claims, or payments, and may be made to secure the obligations on a parity with obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The pledged receipts and special funds so pledged and thereafter received by the state are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledges is valid and binding against all parties having claims of any kind against the state or any governmental agency of the state, irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement or other document with respect thereto; and the pledge of such pledged receipts and special funds is effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge, and every covenant and agreement made with respect thereto, made in the bond proceedings may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further security of the payment of the bond service charges.

(E) The bond proceedings may contain additional provisions as to:

(1) The redemption of obligations prior to maturity at the option of the issuing authority at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

(4) The terms of any trust agreement or indenture securing the obligations or under which the same may be issued;

(5) The deposit, investment and application of special funds, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this chapter, with respect to particular funds or moneys, provided that any bank or trust company which acts as depository of any moneys in the special funds may furnish such indemnifying bonds or may pledge such securities as required by the issuing authority;

(6) Any or every provision of the bond proceedings being binding upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(7) Any provision that may be made in a trust agreement or indenture;

(8) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security obtained or to be obtained for loans under section 122.43, 166.07, or 166.16 of the Revised Code.

(F) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations and any coupons pertaining to obligations shall be signed or bear the facsimile signature of the issuing authority. Any obligations or coupons may be executed by the person who, on the date of execution, is the proper issuing authority although on the date of such bonds or coupons such person was not the issuing authority. If the issuing authority whose signature or a facsimile of whose signature appears on any such obligation or coupon ceases to be the issuing authority before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the former issuing authority had remained the issuing authority until such delivery; and if the seal to be affixed to obligations has been changed after a facsimile of the seal has been imprinted on such obligations, such facsimile seal shall continue to be sufficient as to such obligations and obligations issued in substitution or exchange therefor.

(G) All obligations are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations may be issued in coupon or in registered form, or both, as the issuing authority determines. Provision may

be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(H) Obligations may be sold at public sale or at private sale, as determined in the bond proceedings.

Obligations issued to provide moneys for the loan guarantee fund or the innovation Ohio loan guarantee fund may, as determined by the issuing authority, be sold at private sale, and without publication of a notice of sale.

(I) Pending preparation of definitive obligations, the issuing authority may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(J) In the discretion of the issuing authority, obligations may be secured additionally by a trust agreement or indenture between the issuing authority and a corporate trustee which may be any trust company or bank having a place of business within the state. Any such agreement or indenture may contain the resolution or order authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions which are customary or appropriate in an agreement or indenture of such type, including, but not limited to:

(1) Maintenance of each pledge, trust agreement, indenture, or other instrument comprising part of the bond proceedings until the state has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the issuing authority made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

(3) The rights and remedies of the holders of obligations and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations;

(4) The replacement of any obligations that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the issuing authority agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(K) Any holders of obligations or trustees under the bond proceedings,

except to the extent that their rights are restricted by the bond proceedings, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights include the right to compel the performance of all duties of the issuing authority, the director of development, the Ohio air quality development authority, or the division of liquor control required by this chapter or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the issuing authority, the director of development, the Ohio air quality development authority, or the division of liquor control in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the pledged receipts and special funds, other than those in the custody of the treasurer of state, which are pledged to the payment of the bond service charges on such obligations or which are the subject of the covenant or agreement, with full power to pay, and to provide for payment of bond service charges on, such obligations, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge additional revenues or receipts or other income or moneys of the issuing authority or the state or governmental agencies of the state to the payment of such principal and interest and excluding the power to take possession of, mortgage, or cause the sale or otherwise dispose of any project facilities.

Each duty of the issuing authority and the issuing authority's officers and employees, and of each governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any agreement or lease, lease-purchase agreement, or loan made under authority of this chapter, and in every agreement by or with the issuing authority, is hereby established as a duty of the issuing authority, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

The person who is at the time the issuing authority, or the issuing authority's officers or employees, are not liable in their personal capacities on any obligations issued by the issuing authority or any agreements of or with the issuing authority.

(L) The issuing authority may authorize and issue obligations for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of any obligations previously issued by the issuing authority. Such obligations may be issued

in amounts sufficient for payment of the principal amount of the prior obligations, any redemption premiums thereon, principal maturities of any such obligations maturing prior to the redemption of the remaining obligations on a parity therewith, interest accrued or to accrue to the maturity dates or dates of redemption of such obligations, and any allowable costs including expenses incurred or to be incurred in connection with such issuance and such refunding, funding, and retirement. Subject to the bond proceedings therefor, the portion of proceeds of the sale of obligations issued under this division to be applied to bond service charges on the prior obligations shall be credited to an appropriate account held by the trustee for such prior or new obligations or to the appropriate account in the bond service fund for such obligations. Obligations authorized under this division shall be deemed to be issued for those purposes for which such prior obligations were issued and are subject to the provisions of this section pertaining to other obligations, except as otherwise provided in this section; provided that, unless otherwise authorized by the general assembly, any limitations imposed by the general assembly pursuant to this section with respect to bond service charges applicable to the prior obligations shall be applicable to the obligations issued under this division to refund, fund, advance refund or retire such prior obligations.

(M) The authority to issue obligations under this section includes authority to issue obligations in the form of bond anticipation notes and to renew the same from time to time by the issuance of new notes. The holders of such notes or interest coupons pertaining thereto shall have a right to be paid solely from the pledged receipts and special funds that may be pledged to the payment of the bonds anticipated, or from the proceeds of such bonds or renewal notes, or both, as the issuing authority provides in the resolution or order authorizing such notes. Such notes may be additionally secured by covenants of the issuing authority to the effect that the issuing authority and the state will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amount, and apply the proceeds thereof to the extent necessary, to make full payment of the principal of and interest on such notes at the time or times contemplated, as provided in such resolution or order. For such purpose, the issuing authority may issue bonds or renewal notes in such principal amount and upon such terms as may be necessary to provide funds to pay when required the principal of and interest on such notes, notwithstanding any limitations prescribed by or for purposes of this section. Subject to this division, all provisions for and references to obligations in this section are applicable to notes authorized under this division.

The issuing authority in the bond proceedings authorizing the issuance of bond anticipation notes shall set forth for such bonds an estimated interest rate and a schedule of principal payments for such bonds and the annual maturity dates thereof, and for purposes of any limitation on bond service charges prescribed under division (A) of section 166.11 of the Revised Code, the amount of bond service charges on such bond anticipation notes is deemed to be the bond service charges for the bonds anticipated thereby as set forth in the bond proceedings applicable to such notes, but this provision does not modify any authority in this section to pledge receipts and special funds to, and covenant to issue bonds to fund, the payment of principal of and interest and any premium on such notes.

(N) Obligations issued under this section are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund of the state, the administrator of workers' compensation, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any governmental agency of the state with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(O) Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the special funds established by or pursuant to this section may be invested by or on behalf of the issuing authority only in notes, bonds, or other obligations of the United States, or of any agency or instrumentality of the United States, obligations guaranteed as to principal and interest by the United States, obligations of this state or any political subdivision of this state, and certificates of deposit of any national bank located in this state and any bank, as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of banks. If the law or the instrument creating a trust pursuant to division (J) of this section expressly permits investment in direct obligations of the United States or an agency of the United States, unless expressly prohibited by the instrument, such moneys also may be invested in no-front-end-load money market mutual funds consisting exclusively of obligations of the United States or an agency of the United States and in repurchase agreements, including those issued by the fiduciary itself, secured by obligations of the United States or

an agency of the United States; and in common trust funds established in accordance with section 1111.20 of the Revised Code and consisting exclusively of any such securities, notwithstanding division (A)(4) of that section. The income from such investments shall be credited to such funds as the issuing authority determines, and such investments may be sold at such times as the issuing authority determines or authorizes.

(P) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges on obligations pertinent to such accounts and bond service fund and for other accounts therein within the general purposes of such fund. Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the several special funds established pursuant to this section shall be disbursed on the order of the treasurer of state, provided that no such order is required for the payment from the bond service fund when due of bond service charges on obligations.

(Q) The issuing authority may pledge all, or such portion as the issuing authority determines, of the pledged receipts to the payment of bond service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to pledged receipts as authorized by this chapter, which provisions are controlling notwithstanding any other provisions of law pertaining thereto.

(R) The issuing authority may covenant in the bond proceedings, and any such covenants are controlling notwithstanding any other provision of law, that the state and applicable officers and governmental agencies of the state, including the general assembly, so long as any obligations are outstanding, shall:

(1) Maintain statutory authority for and cause to be charged and collected wholesale and retail prices for spirituous liquor sold by the state or its agents so that the pledged receipts are sufficient in amount to meet bond service charges, and the establishment and maintenance of any reserves and other requirements provided for in the bond proceedings, and, as necessary, to meet covenants contained in contracts of guarantee made under section 166.06 of the Revised Code;

(2) Take or permit no action, by statute or otherwise, that would impair the exemption from federal income taxation of the interest on the obligations.

(S) There is hereby created the economic development bond service fund, which shall be in the custody of the treasurer of state but shall be

separate and apart from and not a part of the state treasury. All moneys received by or on account of the issuing authority or state agencies and required by the applicable bond proceedings, consistent with this section, to be deposited, transferred, or credited to a bond service fund or the economic development bond service fund, and all other moneys transferred or allocated to or received for the purposes of the fund, shall be deposited and credited to such fund and to any separate accounts therein, subject to applicable provisions of the bond proceedings, but without necessity for any act of appropriation. During the period beginning with the date of the first issuance of obligations and continuing during such time as any such obligations are outstanding, and so long as moneys in the pertinent bond service funds are insufficient to pay all bond services charges on such obligations becoming due in each year, a sufficient amount of the gross profit on the sale of spirituous liquor included in pledged receipts are committed and shall be paid to the bond service fund or economic development bond service fund in each year for the purpose of paying the bond service charges becoming due in that year without necessity for further act of appropriation for such purpose and notwithstanding anything to the contrary in Chapter 4301. of the Revised Code. The economic development bond service fund is a trust fund and is hereby pledged to the payment of bond service charges to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation.

(T) The obligations, the transfer thereof, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

Sec. 166.25. (A) The director of development services, with the approval of the controlling board and subject to the other applicable provisions of this chapter, may lend money in the logistics and distribution infrastructure fund ~~and the logistics and distribution infrastructure taxable bond fund~~ to persons for the purpose of paying allowable costs of eligible logistics and distribution projects.

(B) In determining the eligible logistics and distribution projects to be assisted and the nature, amount, and terms of assistance to be provided for an eligible logistics and distribution project, the director shall consult with appropriate governmental agencies, including the department of transportation and the Ohio rail development commission.

(C) Any loan made pursuant to this section shall be evidenced by a loan agreement, which shall contain such terms as the director determines

necessary or appropriate, including performance measures and reporting requirements. The director may take actions necessary or appropriate to collect or otherwise deal with any loan made under this section, including requiring a loan recipient to repay the amount of the loan plus interest at a rate of three per cent above the federal short term interest rate or any other rate determined by the director.

Sec. 167.03. (A) The council shall have the power to:

(1) Study such area governmental problems common to two or more members of the council as it deems appropriate, including but not limited to matters affecting health, safety, welfare, education, economic conditions, and regional development;

(2) Promote cooperative arrangements and coordinate action among its members, and between its members and other agencies of local or state governments, whether or not within Ohio, and the federal government;

(3) Make recommendations for review and action to the members and other public agencies that perform functions within the region;

(4) Promote cooperative agreements and contracts among its members or other governmental agencies and private persons, corporations, or agencies;

(5) Operate a public safety answering point in accordance with Chapter ~~5507~~ 128. of the Revised Code;

(6) Perform planning directly by personnel of the council, or under contracts between the council and other public or private planning agencies.

(B) The council may:

(1) Review, evaluate, comment upon, and make recommendations, relative to the planning and programming, and the location, financing, and scheduling of public facility projects within the region and affecting the development of the area;

(2) Act as an areawide agency to perform comprehensive planning for the programming, locating, financing, and scheduling of public facility projects within the region and affecting the development of the area and for other proposed land development or uses, which projects or uses have public metropolitan wide or interjurisdictional significance;

(3) Act as an agency for coordinating, based on metropolitan wide comprehensive planning and programming, local public policies, and activities affecting the development of the region or area.

(C) The council may, by appropriate action of the governing bodies of the members, perform such other functions and duties as are performed or capable of performance by the members and necessary or desirable for dealing with problems of mutual concern.

(D) The authority granted to the council by this section or in any agreement by the members thereof shall not displace any existing municipal, county, regional, or other planning commission or planning agency in the exercise of its statutory powers.

Sec. 169.02. Subject to division (B) of section 169.01 of the Revised Code, the following constitute unclaimed funds:

(A) Except as provided in division (R) of this section, any demand, savings, or matured time deposit account, or matured certificate of deposit, together with any interest or dividend on it, less any lawful claims, that is held or owed by a holder which is a financial organization, unclaimed for a period of five years;

(B) Any funds paid toward the purchase of withdrawable shares or other interest in a financial organization, and any interest or dividends on them, less any lawful claims, that is held or owed by a holder which is a financial organization, unclaimed for a period of five years;

(C) Except as provided in division (A) of section 3903.45 of the Revised Code, moneys held or owed by a holder, including a fraternal association, providing life insurance, including annuity or endowment coverage, unclaimed for three years after becoming payable as established from the records of such holder under any life or endowment insurance policy or annuity contract that has matured or terminated. An insurance policy, the proceeds of which are payable on the death of the insured, not matured by proof of death of the insured is deemed matured and the proceeds payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based.

Moneys otherwise payable according to the records of such holder are deemed payable although the policy or contract has not been surrendered as required.

(D) Any deposit made to secure payment or any sum paid in advance for utility services of a public utility and any amount refundable from rates or charges collected by a public utility for utility services held or owed by a holder, less any lawful claims, that has remained unclaimed for one year after the termination of the services for which the deposit or advance payment was made or one year from the date the refund was payable, whichever is earlier;

(E) Except as provided in division (R) of this section, any certificates, securities as defined in section 1707.01 of the Revised Code, nonwithdrawable shares, other instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum,

held or owed by a holder, including funds deposited with a fiscal agent or fiduciary for payment of them, and instruments representing an ownership interest, unclaimed for five years. Any underlying share or other intangible instrument representing an ownership interest in a business association, in which the issuer has recorded on its books the issuance of the share but has been unable to deliver the certificate to the shareholder, constitutes unclaimed funds if such underlying share is unclaimed for five years. In addition, an underlying share constitutes unclaimed funds if a dividend, distribution, or other sum payable as a result of the underlying share has remained unclaimed by the owner for five years.

This division shall not prejudice the rights of fiscal agents or fiduciaries for payment to return the items described in this division to their principals, according to the terms of an agency or fiduciary agreement, but such a return shall constitute the principal as the holder of the items and shall not interrupt the period for computing the time for which the items have remained unclaimed.

In the case of any such funds accruing and held or owed by a corporation under division (E) of section 1701.24 of the Revised Code, such corporation shall comply with this chapter, subject to the limitation contained in section 1701.34 of the Revised Code. The period of time for which such funds have gone unclaimed specified in section 1701.34 of the Revised Code shall be computed, with respect to dividends or distributions, commencing as of the dates when such dividends or distributions would have been payable to the shareholder had such shareholder surrendered the certificates for cancellation and exchange by the date specified in the order relating to them.

Capital credits of a cooperative which after January 1, 1972, have been allocated to members and which by agreement are expressly required to be paid if claimed after death of the owner are deemed payable, for the purpose of this chapter, fifteen years after either the termination of service by the cooperative to the owner or upon the nonactivity as provided in division (B) of section 169.01 of the Revised Code, whichever occurs later, provided that this provision does not apply if the payment is not mandatory.

(F) Any sum payable on certified checks or other written instruments certified or issued and representing funds held or owed by a holder, less any lawful claims, that are unclaimed for five years from the date payable or from the date of issuance if payable on demand; except that the unclaimed period for money orders that are not third party bank checks is seven years, and the unclaimed period for traveler's checks is fifteen years, from the date payable or from the date of issuance if payable on demand.

As used in this division, "written instruments" include, but are not limited to, certified checks, cashier's checks, bills of exchange, letters of credit, drafts, money orders, and traveler's checks.

If there is no address of record for the owner or other person entitled to the funds, such address is presumed to be the address where the instrument was certified or issued.

(G) Except as provided in division (R) of this section, all moneys, rights to moneys, or other intangible property, arising out of the business of engaging in the purchase or sale of securities, or otherwise dealing in intangibles, less any lawful claims, that are held or owed by a holder and are unclaimed for five years from the date of transaction.

(H) Except as provided in division (A) of section 3903.45 of the Revised Code, all moneys, rights to moneys, and other intangible property distributable in the course of dissolution or liquidation of a holder that are unclaimed for one year after the date set by the holder for distribution;

(I) All moneys, rights to moneys, or other intangible property removed from a safe-deposit box or other safekeeping repository located in this state or removed from a safe-deposit box or other safekeeping repository of a holder, on which the lease or rental period has expired, or any amount arising from the sale of such property, less any lawful claims, that are unclaimed for three years from the date on which the lease or rental period expired;

(J) Subject to division (M)(2) of this section, all moneys, rights to moneys, or other intangible property, and any income or increment on them, held or owed by a holder which is a fiduciary for the benefit of another, or a fiduciary or custodian of a qualified retirement plan or individual retirement arrangement under section 401 or 408 of the Internal Revenue Code, unclaimed for three years after the final date for distribution;

(K) All moneys, rights to moneys, or other intangible property held or owed in this state or held for or owed to an owner whose last known address is within this state, by the United States government or any state, as those terms are described in division (E) of section 169.01 of the Revised Code, unclaimed by the owner for three years, excluding any property in the control of any court in a proceeding in which a final adjudication has not been made;

(L) Amounts payable pursuant to the terms of any policy of insurance, other than life insurance, or any refund available under such a policy, held or owed by any holder, unclaimed for three years from the date payable or distributable;

(M)(1) Subject to division (M)(2) of this section, any funds constituting

rents or lease payments due, any deposit made to secure payment of rents or leases, or any sum paid in advance for rents, leases, possible damage to property, unused services, performance requirements, or any other purpose, held or owed by a holder unclaimed for one year;

(2) Any escrow funds, security deposits, or other moneys that are received by a licensed broker in a fiduciary capacity and that, pursuant to division (A)(26) of section 4735.18 of the Revised Code, are required to be deposited into and maintained in a special or trust, noninterest-bearing bank account separate and distinct from any personal or other account of the licensed broker, held or owed by the licensed broker unclaimed for two years.

(N) Any sum greater than fifty dollars payable as wages, any sum payable as salaries or commissions, any sum payable for services rendered, funds owed or held as royalties, oil and mineral proceeds, funds held for or owed to suppliers, and moneys owed under pension and profit-sharing plans, held or owed by any holder unclaimed for one year from date payable or distributable, and all other credits held or owed, or to be refunded to a retail customer, by any holder unclaimed for three years from date payable or distributable;

(O) Amounts held in respect of or represented by lay-aways sold after January 1, 1972, less any lawful claims, when such lay-aways are unclaimed for three years after the sale of them;

(P) All moneys, rights to moneys, and other intangible property not otherwise constituted as unclaimed funds by this section, including any income or increment on them, less any lawful claims, which are held or owed by any holder, other than a holder which holds a permit issued pursuant to Chapter 3769. of the Revised Code, and which have remained unclaimed for three years after becoming payable or distributable;

(Q) All moneys that arise out of a sale held pursuant to section 5322.03 of the Revised Code, that are held by a holder for delivery on demand to the appropriate person pursuant to division (I) of that section, and that are unclaimed for two years after the date of the sale.

(R)(1) Any funds that are subject to an agreement between the holder and owner providing for automatic reinvestment and that constitute dividends, distributions, or other sums held or owed by a holder in connection with a security as defined in section 1707.01 of the Revised Code, an ownership interest in an investment company registered under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended, or a certificate of deposit, unclaimed for a period of five years.

(2) The five-year period under division (R)(1) of this section

commences from the date a second shareholder notification or communication mailing to the owner of the funds is returned to the holder as undeliverable by the United States postal service or other carrier. The notification or communication mailing by the holder shall be no less frequent than quarterly.

All moneys in a personal allowance account, as defined by rules adopted by the medicaid director ~~of job and family services~~, up to and including the maximum resource limitation, of a medicaid ~~patient~~ recipient who has died after receiving care in a long-term care facility, and for whom there is no identifiable heir or sponsor, are not subject to this chapter.

Sec. 169.05. (A) Every holder required to file a report under section 169.03 of the Revised Code shall, at the time of filing, pay to the director of commerce ten per cent of the aggregate amount of unclaimed funds as shown on the report, except for aggregate amounts of fifty dollars or less in which case one hundred per cent shall be paid. The funds may be deposited by the director in the state treasury to the credit of the unclaimed funds trust fund, which is hereby created, or placed with a financial organization. Any interest earned on money in the trust fund shall be credited to the trust fund. The remainder of the aggregate amount of unclaimed funds as shown on the report, plus earnings accrued to date of payment to the director, shall, at the option of the director, be retained by the holder or paid to the director for deposit as agent for the mortgage funds with a financial organization as defined in section 169.01 of the Revised Code, with the funds to be in income-bearing accounts to the credit of the mortgage funds, or the holder may enter into an agreement with the director specifying the obligations of the United States in which funds are to be invested, and agree to pay the interest on the obligations to the state. Holders retaining any funds not in obligations of the United States shall enter into an agreement with the director specifying the classification of income-bearing account in which the funds will be held and pay the state interest on the funds at a rate equal to the prevailing market rate for similar funds. Moneys that the holder is required to pay to the director rather than to retain may be deposited with the treasurer of state, or placed with a financial organization.

Securities and other intangible property transferred to the director shall, within a reasonable time, be converted to cash and the proceeds deposited as provided for other funds.

One-half of the funds evidenced by agreements, in income-bearing accounts, or on deposit with the treasurer of state shall be allocated on the records of the director to the mortgage insurance fund created by section 122.561 of the Revised Code. Out of the remaining half, after allocation of

sufficient moneys to the minority business bonding fund to meet the provisions of division (B) of this section, the remainder shall be allocated on the records of the director to the housing development fund created by division (A) of section 175.11 of the Revised Code.

(B) The director shall serve as agent for the director of development and as agent for the Ohio housing finance agency in making deposits and withdrawals and maintaining records pertaining to the minority business bonding fund created by section 122.88 of the Revised Code, the mortgage insurance fund, and the housing development fund created by section 175.11 of the Revised Code. Funds from the mortgage insurance fund are available to the director of development when those funds are to be disbursed to prevent or cure, or upon the occurrence of, a default of a mortgage insured pursuant to section 122.451 of the Revised Code. Funds from the housing development fund are available upon request to the Ohio housing finance agency, in an amount not to exceed the funds allocated on the records of the director, for the purposes of section 175.05 of the Revised Code. Funds from the minority business bonding fund are available to the director of development upon request to pay obligations on bonds the director writes pursuant to section 122.88 of the Revised Code; except that, unless the general assembly authorizes additional amounts, the total maximum amount of moneys that may be allocated to the minority business bonding fund under this division is ten million dollars.

When funds are to be disbursed, the appropriate agency shall call upon the director to transfer the necessary funds to it. The director shall first withdraw the funds paid by the holders and deposited with the treasurer of state or in a financial institution as agent for the funds. Whenever these funds are inadequate to meet the request, the director shall provide for a withdrawal of funds, within a reasonable time and in the amount necessary to meet the request, from financial institutions in which the funds were retained or placed by a holder and from other holders who have retained funds, in an equitable manner as the director prescribes. In the event that the amount to be withdrawn from any one holder is less than five hundred dollars, the amount to be withdrawn is at the director's discretion. The director shall then transfer to the agency the amount of funds requested.

Funds deposited in the unclaimed funds trust fund are subject to call by the director when necessary to pay claims the director allows under section 169.08 of the Revised Code, in accordance with the director's rules, to defray the necessary costs of making publications this chapter requires and to pay other operating and administrative expenses the department of commerce incurs in the administration and enforcement of this chapter.

The unclaimed funds trust fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures the director of commerce prescribes and the director of budget and management approves. The assessment shall be paid from the unclaimed funds trust fund to the division of administration fund.

(C) Earnings on the accounts in financial organizations to the credit of the mortgage funds shall, at the option of the financial organization, be credited to the accounts at times and at rates as earnings are paid on other accounts of the same classification held in the financial organization or paid to the director. The director shall be notified annually, and at other times as the director may request, of the amount of the earnings credited to the accounts. Interest on unclaimed funds a holder retains shall be paid to the director or credited as specified in the agreement under which the organization retains the funds. Interest payable to the director under an agreement to invest unclaimed funds ~~and in income-bearing accounts or~~ obligations of the United States shall be paid annually by the holder to the director. Any earnings or interest the director receives under this division shall be deposited in and credited to the mortgage funds.

Sec. 169.07. (A) Upon the payment of unclaimed funds to the director of commerce under section 169.05 of the Revised Code the holder will be relieved of further responsibility for the safe-keeping thereof and will be held harmless by the state from any and all liabilities for any claim arising out of the transfer of such funds to the state.

(B) If legal proceedings are instituted against a holder which has paid unclaimed funds to the director or entered into an agreement as provided in section 169.05 of the Revised Code in respect to such funds, such holder shall notify the director in writing of the pendency of such proceedings and the director shall intervene and assume the defense of such proceedings. Failure to give such notice shall absolve the state from any and all liability which it may have with regard to such funds. If judgment is entered against such holder, the director shall, upon proof of satisfaction of such judgment, forthwith reimburse such organization for the amount of the judgment or enter into an agreement modified to reflect the satisfaction of such judgment, if the holder retained such funds, and shall reimburse such holder for any legal fees, costs and other expenses incurred in such proceedings in the manner provided for the payment of claims under ~~division~~ divisions (D) and (E) of section 169.08 of the Revised Code.

Sec. 169.08. (A) The director shall pay to the owner or other person who has established the right to payment under this section, funds from the unclaimed funds trust fund in an amount equal to the amount of property

delivered or reported to the director, or equal to the net proceeds if the securities or other property have been sold, together with interest earned by the state if required to be paid under division (D) of this section. Any person claiming a property interest in unclaimed funds delivered or reported to the state under Chapter 169. of the Revised Code, including the office of child support in the department of job and family services, pursuant to section 3123.88 of the Revised Code, may file a claim thereto on the form prescribed by the director of commerce.

(B) The director shall consider matters relevant to any claim filed under division (A) of this section and shall hold a formal hearing if requested or considered necessary and receive evidence concerning such claim. A finding and decision in writing on each claim filed shall be prepared, stating the substance of any evidence received or heard and the reasons for allowance or disallowance of the claim. The evidence and decision shall be a public record. No statute of limitations shall bar the allowance of a claim.

(C) For the purpose of conducting any hearing, the director may require the attendance of such witnesses and the production of such books, records, and papers as the director desires, and the director may take the depositions of witnesses residing within or without this state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the director may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned. The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Fees and mileage shall be paid from the unclaimed funds trust fund.

(D) Interest is not earned by the state shall be payable to claimants of unclaimed funds held by the state in accordance with final court orders derived from the *Sogg v. Zurz*, 121 Ohio St.3d 449 (2009), line of cases and final settlement agreement determining payment of interest on unclaimed funds. For properties received by the state on or before July 26, 1991, interest shall be paid at a rate of six per cent per annum from the date the state received the property up to and including July 26, 1991. No interest shall be payable on any properties for the period from July 27, 1991, up to and including August 2, 2000. For properties held by the state on August 3, 2000, or after, interest shall be paid at the applicable required rate per annum for the period held from August 3, 2000, or the date of receipt, whichever is later, up to and including the date the claim is paid. ~~Claims~~

(E) Claims shall be paid from the trust fund. If the amount available in the trust fund is not sufficient to pay pending claims, or other amounts disburseable from the trust fund, the treasurer of state shall certify such fact to the director, who shall then withdraw such amount of funds from the mortgage accounts as the director determines necessary to reestablish the trust fund to a level required to pay anticipated claims but not more than ten per cent of the net unclaimed funds reported to date.

The director may withdraw the funds paid to the director by the holders and deposited by the director with the treasurer of state or in a financial institution as agent for such funds. Whenever these funds are inadequate to meet the requirements for the trust fund, the director shall provide for a withdrawal of funds, within a reasonable time, in such amount as is necessary to meet the requirements, from financial institutions in which such funds were retained or placed by a holder and from other holders who have retained funds, in an equitable manner as prescribed by the director. In the event that the amount to be withdrawn from any one such holder is less than five hundred dollars, the amount to be withdrawn shall be at the discretion of the director. Such funds may be reimbursed in the amounts withdrawn when the trust fund has a surplus over the amount required to pay anticipated claims. Whenever the trust fund has a surplus over the amount required to pay anticipated claims, the director may transfer such surplus to the mortgage accounts.

~~(E)~~(F) If a claim which is allowed under this section relates to funds which have been retained by the reporting holder, and if the funds, on deposit with the treasurer of state pursuant to this chapter, are insufficient to pay claims, the director may notify such holder in writing of the payment of the claim and such holder shall immediately reimburse the state in the amount of such claim. The reimbursement shall be credited to the unclaimed funds trust fund.

~~(F)~~(G) Any person, including the office of child support, adversely affected by a decision of the director may appeal such decision in the manner provided in Chapter 119. of the Revised Code.

In the event the claimant prevails, the claimant shall be reimbursed for reasonable attorney's fees and costs.

~~(G)~~(H) Notwithstanding anything to the contrary in this chapter, any holder who has paid moneys to or entered into an agreement with the director pursuant to section 169.05 of the Revised Code on certified checks, cashiers' checks, bills of exchange, letters of credit, drafts, money orders, or travelers' checks, may make payment to any person entitled thereto, including the office of child support, and upon surrender of the document,

except in the case of travelers' checks, and proof of such payment, the director shall reimburse the holder for such payment without interest.

Sec. 171.05. The compensation of all employees of the Ohio retirement study council and other expenses of the council shall be paid upon vouchers approved by the director and the chairperson of the council.

The public employees retirement system, state teachers retirement system, school employees retirement system, state highway patrol retirement system, and Ohio police and fire pension fund shall pay the annual expenses of the council. The council shall prepare and submit to the retirement boards on or before the thirtieth day of June of each year an itemized estimate of the amounts necessary to pay the expenses of the council during the following year. Such expenses shall be charged to and paid by each of the retirement systems in the same ratio as the assets of each system, as of the preceding January first, bear to the total assets of all five systems on that date. The systems shall pay the expenses required under this section by electronic funds transfer or any other method or device of electronic payment.

The council shall establish policies and procedures for purchasing goods and services on a competitive basis and maintaining tangible personal property. The policies and procedures shall be designed to safeguard the use of funds received by the council. An audit performed under Chapter 117. of the Revised Code shall include a determination of the council's compliance with the policies and procedures.

The council is not subject to Chapters 123., 124., 125., 126., and 127. of the Revised Code.

The treasurer of state shall be the custodian of all funds of the council.

Sec. 173.03. (A) There is hereby created the Ohio advisory council for the aging, which shall consist of twelve members to be appointed by the governor with the advice and consent of the senate. Two ex officio members of the council shall be members of the house of representatives appointed by the speaker of the house of representatives and shall be members of two different political parties. Two ex officio members of the council shall be members of the senate appointed by the president of the senate and shall be members of two different political parties. The medicaid director and directors of ~~mental health~~ mental health and addiction services, developmental disabilities, health, and job and family services, or their designees, shall serve as ex officio members of the council. The council shall carry out its role as defined under the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C. 3001, as amended.

At the first meeting of the council, and annually thereafter, the members

shall select one of their members to serve as chairperson and one of their members to serve as vice-chairperson.

(B) Members of the council shall be appointed for a term of three years, except that for the first appointment members of the Ohio commission on aging who were serving on the commission immediately prior to July 26, 1984, shall become members of the council for the remainder of their unexpired terms. Thereafter, appointment to the council shall be for a three-year term by the governor. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. No member shall continue in office subsequent to the expiration date of the member's term unless reappointed under the provisions of this section, and no member shall serve more than three consecutive terms on the council.

(C) Membership of the council shall represent all areas of Ohio and shall be as follows:

(1) A majority of members of the council shall have attained the age of ~~sixty~~ fifty and have a knowledge of and continuing interest in the affairs and welfare of the older citizens of Ohio. The fields of business, labor, health, law, and human services shall be represented in the membership.

(2) No more than seven members shall be of the same political party.

(D) Any member of the council may be removed from office by the governor for neglect of duty, misconduct, or malfeasance in office after being informed in writing of the charges and afforded an opportunity for a hearing. Two consecutive unexcused absences from regularly scheduled meetings constitute neglect of duty.

(E) The director of aging may reimburse a member for actual and necessary traveling and other expenses incurred in the discharge of official duties. But reimbursement shall be made in the manner and at rates that do not exceed those prescribed by the director of budget and management for any officer, member, or employee of, or consultant to, any state agency.

(F) Council members are not limited as to the number of terms they may serve.

(G)(1) The department of aging may award grants to or enter into contracts with a member of the advisory council or an entity that the member represents if any of the following apply:

(a) The department determines that the member or the entity the member represents is capable of providing the goods or services specified under the terms of the grant or contract.

(b) The member has not taken part in any discussion or vote of the council related to whether the council should recommend that the department of aging award the grant to or enter into the contract with the member of the advisory council or the entity that the member represents.

(2) A member of the advisory council is not in violation of Chapter 102. or section 2921.42 of the Revised Code with regard to receiving a grant or entering into a contract under this section if the conditions of division (G)(1)(a) and (b) of this section have been met.

Sec. 173.14. As used in sections 173.14 to 173.27 of the Revised Code:

(A)(1) Except as otherwise provided in division (A)(2) of this section, "long-term care facility" includes any residential facility that provides personal care services for more than twenty-four hours for one or more unrelated adults, including all of the following:

(a) A "nursing home," "residential care facility," or "home for the aging" as defined in section 3721.01 of the Revised Code;

(b) A facility authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, including a long-term acute care hospital that provides medical and rehabilitative care to patients who require an average length of stay greater than twenty-five days and is classified by the centers for medicare and medicaid services as a long-term care hospital pursuant to 42 C.F.R. 412.23(e);

(c) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(d) A residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or accommodations and personal care services for only one or two adults who are ~~recipients under the receiving~~ residential state supplement program;

(e) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans.

(2) "Long-term care facility" does not include a residential facility licensed under section 5123.19 of the Revised Code.

(B) "Resident" means a resident of a long-term care facility and, where appropriate, includes a prospective, previous, or deceased resident of a long-term care facility.

(C) "Community-based long-term care services" means health and social services provided to persons in their own homes or in community care

settings, and includes any of the following:

- (1) Case management;
- (2) Home health care;
- (3) Homemaker services;
- (4) Chore services;
- (5) Respite care;
- (6) Adult day care;
- (7) Home-delivered meals;
- (8) Personal care;
- (9) Physical, occupational, and speech therapy;
- (10) Transportation;
- (11) Any other health and social services provided to persons that allow them to retain their independence in their own homes or in community care settings.

(D) "Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services.

(E) "Sponsor" means an adult relative, friend, or guardian who has an interest in or responsibility for the welfare of a resident or a recipient.

(F) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(G) "Regional long-term care ~~ombudsperson~~ ombudsman program" means an entity, either public or private and nonprofit, designated as a regional long-term care ~~ombudsperson~~ ombudsman program by the state long-term care ~~ombudsperson~~ ombudsman.

(H) "Representative of the office of the state long-term care ~~ombudsperson~~ ombudsman program" means the state long-term care ~~ombudsperson~~ ombudsman or a member of the ~~ombudsperson's~~ ombudsman's staff, or a person certified as a representative of the office under section 173.21 of the Revised Code.

(I) "Area agency on aging" means an area agency on aging established under the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C.A. 3001, as amended.

Sec. 173.17. (A) The state long-term care ~~ombudsperson~~ ombudsman shall do all of the following:

- (1) Appoint a staff and direct and administer the work of the staff;
- (2) Supervise the nursing home investigative unit established under division (I) of section 173.01 of the Revised Code;
- (3) Oversee the performance and operation of the office of the state long-term care ~~ombudsperson~~ ombudsman program, including the operation

of regional long-term care ~~ombudsperson~~ ombudsman programs;

(4) Establish and maintain a statewide uniform reporting system to collect and analyze information relating to complaints and conditions in long-term care facilities and complaints regarding the provision of community-based long-term care services for the purpose of identifying and resolving significant problems;

(5) Provide for public forums to discuss concerns and problems relating to action, inaction, or decisions that may adversely affect the health, safety, welfare, or rights of residents and recipients of services by providers of long-term care and their representatives, public agencies and entities, and social service agencies. This may include any of the following: conducting public hearings; sponsoring workshops and conferences; holding meetings for the purpose of obtaining information about residents and recipients, discussing and publicizing their needs, and advocating solutions to their problems; and promoting the development of citizen organizations.

(6) Encourage, cooperate with, and assist in the development and operation of services to provide current, objective, and verified information about long-term care;

(7) Develop and implement, with the assistance of regional programs, a continuing program to publicize, through the media and civic organizations, the office, its purposes, and its methods of operation;

(8) Maintain written descriptions of the duties and qualifications of representatives of the office;

(9) Evaluate and make known concerns and issues regarding long-term care by doing all of the following:

(a) Preparing an annual report containing information and findings regarding the types of problems experienced by residents and recipients and the complaints made by or on behalf of residents and recipients. The report shall include recommendations for policy, regulatory, and legislative changes to solve problems, resolve complaints, and improve the quality of care and life for residents and recipients and shall be submitted to the governor, the speaker of the house of representatives, the president of the senate, the directors of health and of job and family services, and the commissioner of the administration on aging of the United States department of health and human services.

(b) Monitoring and analyzing the development and implementation of federal, state, and local laws, rules, and policies regarding long-term care services in this state and recommending to officials changes the office considers appropriate in these laws, rules, and policies;

(c) Providing information and making recommendations to public

agencies, members of the general assembly, and others regarding problems and concerns of residents and recipients.

(10) Conduct training for employees and volunteers on ~~ombudsperson's~~ ombudsman's staff and for representatives of the office employed by regional programs;

(11) Monitor the training of representatives of the office who provide volunteer services to regional programs, and provide technical assistance to the regional programs in conducting the training;

(12) Issue certificates attesting to the successful completion of training and specifying the level of responsibility for which a representative of the office who has completed training is qualified;

(13) Register as a residents' rights advocate with the department of health under division (B) of section 3701.07 of the Revised Code;

(14) Perform other duties specified by the department of aging.

(B) The state ~~ombudsperson~~ ombudsman may delegate any of the ~~ombudsperson's~~ ombudsman's authority or duties under sections 173.14 to 173.26 of the Revised Code to any member of the ~~ombudsperson's~~ ombudsman's staff. The state ~~ombudsperson~~ ombudsman is responsible for any authority or duties the ~~ombudsperson~~ ombudsman delegates.

Sec. 173.19. (A) The office of the state long-term care ~~ombudsperson~~ ombudsman program, through the state long-term care ~~ombudsperson~~ ombudsman and the regional long-term care ~~ombudsperson~~ ombudsman programs, shall receive, investigate, and attempt to resolve complaints made by residents, recipients, sponsors, providers of long-term care, or any person acting on behalf of a resident or recipient, relating to either of the following:

(1) The health, safety, welfare, or civil rights of a resident or recipient or any violation of a resident's rights described in sections 3721.10 to 3721.17 of the Revised Code;

(2) Any action or inaction or decision by a provider of long-term care or representative of a provider, a governmental entity, or a private social service agency that may adversely affect the health, safety, welfare, or rights of a resident or recipient.

(B) The department of aging shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the handling of complaints received under this section, including procedures for conducting investigations of complaints. The rules shall include procedures to ensure that no representative of the office investigates any complaint involving a provider of long-term care with which the representative was once employed or associated.

The state ~~ombudsperson~~ ombudsman and regional programs shall

establish procedures for handling complaints consistent with the department's rules. Complaints shall be dealt with in accordance with the procedures established under this division.

(C) The office of the state long-term care ~~ombuds~~ombudsman program may decline to investigate any complaint if it determines any of the following:

(1) That the complaint is frivolous, vexatious, or not made in good faith;

(2) That the complaint was made so long after the occurrence of the incident on which it is based that it is no longer reasonable to conduct an investigation;

(3) That an adequate investigation cannot be conducted because of insufficient funds, insufficient staff, lack of staff expertise, or any other reasonable factor that would result in an inadequate investigation despite a good faith effort;

(4) That an investigation by the office would create a real or apparent conflict of interest.

(D) If a regional long-term care ~~ombuds~~ombudsman program declines to investigate a complaint, it shall refer the complaint to the state long-term care ~~ombuds~~ombudsman.

(E) Each complaint to be investigated by a regional program shall be assigned to a representative of the office of the state long-term care ~~ombuds~~ombudsman program. If the representative determines that the complaint is valid, the representative shall assist the parties in attempting to resolve it. If the representative is unable to resolve it, the representative shall refer the complaint to the state ~~ombuds~~ombudsman.

In order to carry out the duties of sections 173.14 to 173.26 of the Revised Code, a representative has the right to private communication with residents and their sponsors and access to long-term care facilities, including the right to tour resident areas unescorted and the right to tour facilities unescorted as reasonably necessary to the investigation of a complaint. Access to facilities shall be during reasonable hours or, during investigation of a complaint, at other times appropriate to the complaint.

When community-based long-term care services are provided at a location other than the recipient's home, a representative has the right to private communication with the recipient and the recipient's sponsors and access to the community-based long-term care site, including the right to tour the site unescorted. Access to the site shall be during reasonable hours or, during the investigation of a complaint, at other times appropriate to the complaint.

(F) The state ~~ombuds~~ombudsman shall determine whether

complaints referred to the ~~ombudsperson~~ ombudsman under division (D) or (E) of this section warrant investigation. The ~~ombudsperson's~~ ombudsman's determination in this matter is final.

Sec. 173.20. (A) If consent is given and unless otherwise prohibited by law, a representative of the office of the state long-term care ombudsman program shall have access to any records, including medical records, of a resident or a recipient that are reasonably necessary for investigation of a complaint. Consent may be given in any of the following ways:

- (1) In writing by the resident or recipient;
- (2) Orally by the resident or recipient, witnessed in writing at the time it is given by one other person, and, if the records involved are being maintained by a long-term care provider, also by an employee of the long-term care provider designated under division (E)(1) of this section;
- (3) In writing by the guardian of the resident or recipient;
- (4) In writing by the attorney in fact of the resident or recipient, if the resident or recipient has authorized the attorney in fact to give such consent;
- (5) In writing by the executor or administrator of the estate of a deceased resident or recipient.

(B) If consent to access to records is not refused by a resident or recipient or ~~his~~ the resident's or recipient's legal representative but cannot be obtained and any of the following circumstances exist, a representative of the office of the state long-term care ombudsman program, on approval of the state long-term care ombudsman, may inspect the records of a resident or a recipient, including medical records, that are reasonably necessary for investigation of a complaint:

- (1) The resident or recipient is unable to express written or oral consent and there is no guardian or attorney in fact;
- (2) There is a guardian or attorney in fact, but ~~he~~ the guardian or attorney in fact cannot be contacted within three working days;
- (3) There is a guardianship or durable power of attorney, but its existence is unknown by the long-term care provider and the representative of the office at the time of the investigation;
- (4) There is no executor or administrator of the estate of a deceased resident or recipient.

(C) If a representative of the office of the state long-term care ombudsman program has been refused access to records by a guardian or attorney in fact, but has reasonable cause to believe that the guardian or attorney in fact is not acting in the best interests of the resident or recipient, the representative may, on approval of the state long-term care ombudsman, inspect the records of the resident or recipient, including medical records,

that are reasonably necessary for investigation of a complaint.

(D) A representative of the office of the state long-term care ombudsman program shall have access to any records of a long-term care provider reasonably necessary to an investigation conducted under this section, including but not limited to: incident reports, dietary records, policies and procedures of a facility required to be maintained under section ~~5111.21~~ 5165.06 of the Revised Code, admission agreements, staffing schedules, any document depicting the actual staffing pattern of the provider, any financial records that are matters of public record, resident council and grievance committee minutes, and any waiting list maintained by a facility in accordance with section ~~5111.31~~ 5165.08 of the Revised Code, or any similar records or lists maintained by a provider of community-based long-term care services. Pursuant to division (E)(2) of this section, a representative shall be permitted to make or obtain copies of any of these records after giving the long-term care provider twenty-four hours' notice. A long-term care provider may impose a charge for providing copies of records under this division that does not exceed the actual and necessary expense of making the copies.

The state ombudsman shall take whatever action is necessary to ensure that any copy of a record made or obtained under this division is returned to the long-term care provider no later than three years after the date the investigation for which the copy was made or obtained is completed.

(E)(1) Each long-term care provider shall designate one or more of its employees to be responsible for witnessing the giving of oral consent under division (A) of this section. In the event that a designated employee is not available when a resident or recipient attempts to give oral consent, the provider shall designate another employee to witness the consent.

(2) Each long-term care provider shall designate one or more of its employees to be responsible for releasing records for copying to representatives of the office of the long-term care ombudsman program who request permission to make or obtain copies of records specified in division (D) of this section. In the event that a designated employee is not available when a representative of the office makes the request, the long-term care provider shall designate another employee to release the records for copying.

(F) A long-term care provider or any employee of such a provider is immune from civil or criminal liability or action taken pursuant to a professional disciplinary procedure for the release or disclosure of records to a representative of the office pursuant to this section.

(G) A state or local government agency or entity with records relevant

to a complaint or investigation being conducted by a representative of the office shall provide the representative access to the records.

(H) The state ombudsman, with the approval of the director of aging, may issue a subpoena to compel any person ~~he~~ the ombudsman reasonably believes may be able to provide information to appear before ~~him~~ the ombudsman or ~~his~~ the ombudsman's designee and give sworn testimony and to produce documents, books, records, papers, or other evidence the state ombudsman believes is relevant to the investigation. On the refusal of a witness to be sworn or to answer any question put to ~~him~~ the witness, or if a person disobeys a subpoena, the ombudsman shall apply to the Franklin county court of common pleas for a contempt order, as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify in the court.

(I) The state ombudsman may petition the court of common pleas in the county in which a long-term care facility is located to issue an injunction against any long-term care facility in violation of sections 3721.10 to 3721.17 of the Revised Code.

(J) Any suspected violation of Chapter 3721. of the Revised Code discovered during the course of an investigation may be reported to the department of health. Any suspected criminal violation discovered during the course of an investigation shall be reported to the attorney general or other appropriate law enforcement authorities.

(K) The department of aging shall adopt rules in accordance with Chapter 119. of the Revised Code for referral by the state ombudsman and regional long-term care ombudsman programs of complaints to other public agencies or entities. A public agency or entity to which a complaint is referred shall keep the state ombudsman or regional program handling the complaint advised and notified in writing in a timely manner of the disposition of the complaint to the extent permitted by law.

Sec. 173.21. (A) The office of the state long-term care ~~ombudsperson~~ ombudsman program, through the state long-term care ~~ombudsperson~~ ombudsman and the regional long-term care ~~ombudsperson~~ ombudsman programs, shall require each representative of the office to complete a training and certification program in accordance with this section and to meet the continuing education requirements established under this section.

(B) The department of aging shall adopt rules under Chapter 119. of the Revised Code specifying the content of training programs for representatives of the office of the state long-term care ~~ombudsperson~~ ombudsman program. Training for representatives other than those who are volunteers providing services through regional long-term care

~~ombudsperson~~ ombudsman programs shall include instruction regarding federal, state, and local laws, rules, and policies on long-term care facilities and community-based long-term care services; investigative techniques; and other topics considered relevant by the department and shall consist of the following:

(1) A minimum of forty clock hours of basic instruction, which shall be completed before the trainee is permitted to handle complaints without the supervision of a representative of the office certified under this section;

(2) An additional sixty clock hours of instruction, which shall be completed within the first fifteen months of employment;

(3) An internship of twenty clock hours, which shall be completed within the first twenty-four months of employment, including instruction in, and observation of, basic nursing care and long-term care provider operations and procedures. The internship shall be performed at a site that has been approved as an internship site by the state long-term care ~~ombudsperson~~ ombudsman.

(4) One of the following, which shall be completed within the first twenty-four months of employment:

(a) Observation of a survey conducted by the director of health to certify a nursing facility to ~~receive funds under sections 5111.20 to 5111.32 of the Revised Code~~ participate in the medicaid program;

(b) Observation of an inspection conducted by the director of ~~mental health~~ mental health and addiction services to license a residential facility under ~~section 5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(5) Any other training considered appropriate by the department.

(C) ~~Persons~~ Any person who for a period of at least six months prior to June 11, 1990, served as ~~ombudsmen~~ an ombudsman through the long-term care ~~ombudsperson~~ ombudsman program established by the department of aging under division (M) of section 173.01 of the Revised Code shall not be required to complete a training program. ~~These persons~~ Such a person and persons who complete a training program shall take an examination administered by the department of aging. On attainment of a passing score, the person shall be certified by the department as a representative of the office. The department shall issue the person an identification card, which the representative shall show at the request of any person with whom the representative deals while performing the representative's duties and which shall be surrendered at the time the representative separates from the office.

(D) The state ~~ombudsperson~~ ombudsman and each regional program

shall conduct training programs for volunteers on their respective staffs in accordance with the rules of the department of aging adopted under division (B) of this section. Training programs may be conducted that train volunteers to complete some, but not all, of the duties of a representative of the office. Each regional office shall bear the cost of training its representatives who are volunteers. On completion of a training program, the representative shall take an examination administered by the department of aging. On attainment of a passing score, a volunteer shall be certified by the department as a representative authorized to perform services specified in the certification. The department shall issue an identification card, which the representative shall show at the request of any person with whom the representative deals while performing the representative's duties and which shall be surrendered at the time the representative separates from the office. Except as a supervised part of a training program, no volunteer shall perform any duty unless he is certified as a representative having received appropriate training for that duty.

(E) The state ~~ombudsperson~~ ombudsman shall provide technical assistance to regional programs conducting training programs for volunteers and shall monitor the training programs.

(F) Prior to scheduling an observation of a certification survey or licensing inspection for purposes of division (B)(4) of this section, the state ~~ombudsperson~~ ombudsman shall obtain permission to have the survey or inspection observed from both the director of health and the long-term care facility at which the survey or inspection is to take place.

(G) The department of aging shall establish continuing education requirements for representatives of the office.

Sec. 173.23. (A) Representatives of the office of the state long-term care ~~ombudsperson~~ ombudsman program are immune from civil or criminal liability for any action taken in the good faith performance of their official duties under sections 173.14 to 173.26 of the Revised Code.

(B) A person acting in good faith is immune from civil or criminal liability incident to any of the following: providing information to the office, participating in registration of a complaint with the office, participating in investigation of a complaint by the office, or participating in an administrative or judicial proceeding resulting from a complaint.

(C) No person shall knowingly register a false complaint with the office, or knowingly swear or affirm the truth of a false complaint previously registered, when the statement is made with purpose to incriminate another.

(D) The attorney general shall provide legal counsel to the office of the state long-term care ~~ombudsperson~~ ombudsman program and to the regional

long-term care ~~ombudsman~~ ombudsman programs. The attorney general shall represent any representative of the office and any representative of a regional program against whom any legal action is brought in connection with the representative's official duties under sections 173.14 to 173.26 of the Revised Code.

Sec. 173.25. The office of the state long-term care ~~ombudsman~~ ombudsman program shall, in carrying out the provisions and purposes of sections 173.14 to 173.26 of the Revised Code, advise, consult, and cooperate with any agency, program, or other entity related to the purposes of the office. Any agency, program, or other entity related to the purposes of the office shall advise, consult, and cooperate with the office.

The office shall attempt to establish effective coordination with government-sponsored programs that provide legal services to the elderly and with protective and advocacy programs for individuals with developmental disabilities, mental retardation, or mental illness.

Sec. 173.26. (A) Each of the following facilities shall annually pay to the department of aging six dollars for each bed ~~maintained by the facility for use by a resident~~ was licensed or otherwise authorized to maintain during any part of the previous year:

(1) Nursing homes; and residential care facilities, ~~and homes for the aging~~ as defined in section 3721.01 of the Revised Code;

(2) Facilities authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, including a long-term acute care hospital that provides medical and rehabilitative care to patients who require an average length of stay greater than twenty-five days and is classified by the centers for medicare and medicaid services as a long-term care hospital pursuant to 42 C.F.R. 412.23(e);

(3) County homes and district homes operated pursuant to Chapter 5155. of the Revised Code;

(4) Residential facilities licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provide accommodations, supervision, and personal care services for three to sixteen unrelated adults;

(5) Facilities approved by the Veterans Administration under Section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans.

The department shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish deadlines for payments required by this section. A facility that fails, within ninety days after the established

deadline, to pay a payment required by this section shall be assessed at two times the original invoiced payment.

(B) All money collected under this section shall be deposited in the state treasury to the credit of the office of the state long-term care ~~ombudsperson~~ ombudsman program fund, which is hereby created. Money credited to the fund shall be used solely to pay the costs of operating the regional long-term care ~~ombudsperson~~ ombudsman programs.

(C) The state long-term care ~~ombudsperson~~ ombudsman and the regional programs may solicit and receive contributions to support the operation of the office or a regional program, except that no contribution shall be solicited or accepted that would interfere with the independence or objectivity of the office or program.

Sec. 173.27. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment ~~with the office of the state long-term care ombudsperson program~~ by a responsible party in a full-time, part-time, or temporary position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients. "Applicant" includes a person who is under final consideration for employment as the state long-term care ~~ombudsperson~~ ombudsman or the head of a regional long-term care ~~ombudsperson~~ ombudsman program. "Applicant" does not include a person seeking to provide ~~ombudsperson~~ ombudsman services to residents and recipients as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

(4) "Employee" means a person employed by ~~the office of the state long-term care ombudsperson program~~ a responsible party in a full-time, part-time, or temporary position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients. "Employee" includes the person employed as the state long-term care ~~ombudsperson~~ ombudsman and a person employed as the head of a regional long-term care ~~ombudsperson~~ ombudsman program. "Employee" does not include a person who provides ~~ombudsperson~~ ombudsman services to residents and recipients as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(5) "Responsible ~~entity~~ party" means the following:

(a) In the case of an applicant who is under final consideration for employment as the state long-term care ~~ombudsperson~~ ombudsman or the person employed as the state long-term care ~~ombudsperson~~ ombudsman, the director of aging;

(b) In the case of any other applicant who is under final consideration for employment with the state long-term care ombudsman program or any other employee of the state long-term care ombudsman program, the state long-term care ~~ombudsperson~~ ombudsman or the ~~ombudsperson's designee~~ ombudsman;

(c) In the case of an applicant who is under final consideration for employment with a regional long-term care ombudsman program (including as the head of the regional program) or an employee of a regional long-term care ombudsman program (including the head of a regional program), the regional long-term care ombudsman program.

~~(B) The office of the state long-term care ombudsperson program~~ A responsible party may not employ an applicant or continue to employ an employee in a position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the ~~office~~ responsible party from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients.

(2) After the applicant or employee is provided, pursuant to division (E)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) ~~Except as provided~~ Unless the applicant or employee meets standards specified in rules adopted under this section, the applicant or

employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) ~~The~~ A responsible entity party or a responsible party's designee shall inform each applicant of both of the following at the time of the applicant's initial application for employment in a position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the ~~office of the state long-term care ombudsperson program~~ responsible party is prohibited by division (B)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(D) As a condition of any applicant's being employed by ~~the office of the state long-term care ombudsperson program~~ a responsible party in a position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients, the responsible ~~entity party or designee~~ shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the responsible ~~entity party or designee~~ shall conduct a database review of an employee in accordance with the rules as a condition of the ~~office's~~ responsible party continuing to employ the employee in a position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended;

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(E)(1) As a condition of any applicant's being employed by ~~the office of the state long term care ombudsperson program~~ a responsible party in a position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients, the responsible ~~entity~~ party or designee shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules adopted under this section so require, the responsible ~~entity~~ party or designee shall request that the superintendent conduct a criminal records check of an employee at times specified in the rules as a condition of the ~~office's~~ responsible party continuing to employ the employee in a position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients. However, the responsible ~~entity~~ party or designee is not required to request the criminal records check of the applicant or employee if the ~~office~~ responsible party is prohibited by division (B)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the responsible ~~entity~~ party or designee shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check. Even if an applicant or employee for whom a criminal records check request is required by this section presents proof of having been a resident of this state for the five-year period, the responsible ~~entity~~ party or designee may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) ~~The~~ A responsible ~~entity~~ party or designee shall do all of the following:

(a) Provide to each applicant and employee for whom a criminal records check request is required by this section a copy of the form prescribed

pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and standard impression sheet from the applicant or employee;

(c) Forward the completed form and standard impression sheet to the superintendent.

(3) ~~The office of the state long term care ombudsperson program~~ A responsible party shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the responsible ~~entity party or the responsible party's designee~~ requests under this section. The ~~office~~ responsible party may charge an applicant a fee not exceeding the amount the ~~office~~ responsible party pays to the bureau under this section if the responsible ~~entity party or designee~~ notifies the applicant at the time of initial application for employment of the amount of the fee.

(F)(1) ~~The office of the state long term care ombudsperson program~~ A responsible party may employ conditionally an applicant for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the office following apply:

(a) The responsible party is not prohibited by division (B)(1) of this section from employing the applicant in a position that involves providing ~~ombudsperson~~ ombudsman services to residents and recipients ~~and the;~~

(b) The responsible entity party or designee requests the criminal records check in accordance with division (E) of this section not later than five business days after the applicant begins conditional employment.

(2) ~~The office of the state long term care ombudsperson program~~ A responsible party shall terminate the employment of an applicant employed conditionally under division (F)(1) of this section if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the ~~office~~ responsible party shall terminate the applicant's employment unless ~~circumstances~~ the applicant meets standards specified in rules adopted under this section that permit the ~~office~~ responsible party to employ the applicant ~~exist~~ and the ~~office~~ responsible party chooses to employ the applicant. Termination of

employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the ~~office~~ responsible party or designee about the applicant's criminal record.

(G) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The responsible entity party or ~~the responsible entity's representative designee~~;

(3) ~~If the state long-term care ombudsperson designates the head or other employee of~~ In the case of a criminal records check conducted for an applicant who is under final consideration for employment with a regional long-term care ombudsperson ombudsman program to request a criminal records check under this section (including as the head of the regional program) or an employee of a regional long-term care ombudsman program (including the head of a regional program), the state long-term care ombudsman or a representative of the office of the state long-term care ~~ombudsperson ombudsman~~ program who is responsible for monitoring the regional program's compliance with this section;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program or a program the department of aging administers.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an applicant or employee who ~~the office of the state long-term care ombudsperson program~~ a responsible party employs in a position that involves providing ~~ombudsperson ombudsman~~ services to residents and recipients, all of the following shall apply:

(1) If the ~~office~~ responsible party employed the applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the ~~office~~ responsible party shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate.

(2) If the ~~office~~ responsible party employed the applicant in good faith on a conditional basis pursuant to division (F) of this section, the ~~office~~ responsible party shall not be found negligent solely because it employed the applicant prior to receiving the report of a criminal records check requested under this section.

(3) If the ~~office~~ responsible party in good faith employed the applicant or employee ~~according to~~ because the ~~personal character~~ applicant or employee meets standards established specified in rules adopted under this section, the ~~office~~ responsible party shall not be found negligent solely because the applicant or employee has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(I) The state long-term care ombudsman may not act as the director of aging's designee for the purpose of this section. The head of a regional long-term care ombudsman program may not act as the regional program's designee for the purpose of this section if the head is the employee for whom a database review or criminal records check is being conducted.

(J) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The procedures for conducting database reviews under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which ~~the office of the state long-term care ombudsman program~~ a responsible party is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

~~(d) Circumstances under which the office of the state long-term care~~

~~ombudsperson program may employ~~ Standards that an applicant or employee ~~who~~ must meet for a responsible party to be permitted to employ the applicant or continue to employ the employee in a position that involves providing ombudsman services to residents and recipients if the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense ~~but meets personal character standards.~~

Sec. 173.28. (A)(1) As used in this division, "incident" means the occurrence of a violation with respect to a resident or recipient, as those terms are defined in section 173.14 of the Revised Code. A violation is a separate incident for each day it occurs and for each resident who is subject to it.

In lieu of the fine that may be imposed under division (A) of section 173.99 of the Revised Code, the director of aging may, under Chapter 119. of the Revised Code, fine a long-term care provider or other entity, or a person employed by a long-term care provider or other entity, for a violation of division (C) of section 173.24 of the Revised Code. The fine shall not exceed one thousand dollars per incident.

(2) In lieu of the fine that may be imposed under division (C) of section 173.99 of the Revised Code, the director may, under Chapter 119. of the Revised Code, fine a long-term care provider or other entity, or a person employed by a long-term care provider or other entity, for violating division (E) of section 173.19 of the Revised Code by denying a representative of the office of the state long-term care ~~ombudsperson~~ ombudsman program the access required by that division. The fine shall not exceed five hundred dollars for each day the violation continued.

(B) On request of the director, the attorney general shall bring and prosecute to judgment a civil action to collect any fine imposed under division (A)(1) or (2) of this section that remains unpaid thirty days after the violator's final appeal is exhausted.

(C) All fines collected under this section shall be deposited into the state treasury to the credit of the state long-term care ~~ombudsperson~~ ombudsman program fund created under section 173.26 of the Revised Code.

~~Sec. 173.394~~ 173.38. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment with a ~~community-based long-term care agency~~ responsible party in a full-time, part-time, or temporary direct-care position ~~that involves providing direct care to an individual~~ or is referred to a ~~community-based long-term care agency~~ responsible party by an

employment service for such a position. "Applicant" does not include a person ~~who provides direct care to an individual being considered for a direct-care position~~ as a volunteer ~~without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.~~

(2) "Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.

(3) "Community-based long-term care services" means community-based long-term care services, as defined in section 173.14 of the Revised Code, that are provided under a program the department of aging administers.

(4) "Consumer" means an individual who receives community-based long-term care services.

(5) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(6)(a) "Direct-care position" means an employment position in which an employee has either or both of the following:

(i) In-person contact with one or more consumers;

(ii) Access to one or more consumers' personal property or records.

(b) "Direct-care position" does not include a person whose sole duties are transporting individuals under Chapter 306. of the Revised Code.

(7) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

(8) "Employee" means a person employed by a ~~community-based long-term care agency~~ responsible party in a full-time, part-time, or temporary ~~direct-care~~ position ~~that involves providing direct care to an individual~~ and a person who works in such a position due to being referred to a ~~community-based long-term care agency~~ responsible party by an employment service. "Employee" does not include a person who ~~provides direct care to an individual~~ works in a ~~direct-care position~~ as a volunteer ~~without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.~~

(9) "PASSPORT administrative agency" has the same meaning as in section 173.42 of the Revised Code.

(10) "Provider" has the same meaning as in section 173.39 of the Revised Code.

(11) "Responsible party" means the following:

(a) An area agency on aging in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or

temporary direct-care position or is referred to the agency by an employment service for such a position;

(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the agency by an employment service.

(b) A PASSPORT administrative agency in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position;

(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the agency by an employment service.

(c) A provider in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for employment with the provider in a full-time, part-time, or temporary direct-care position or is referred to the provider by an employment service for such a position;

(ii) A person who is an employee because the person is employed by the provider in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the provider by an employment service.

(d) A subcontractor in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for employment with the subcontractor in a full-time, part-time, or temporary direct-care position or is referred to the subcontractor by an employment service for such a position;

(ii) A person who is an employee because the person is employed by the subcontractor in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the subcontractor by an employment service.

(12) "Subcontractor" has the meaning specified in rules adopted under this section.

(13) "Volunteer" means a person who serves in a direct-care position without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(14) "Waiver agency" has the same meaning as in section 5111.033

5164.342 of the Revised Code.

(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 3701.881 of the Revised Code or to any individual who is subject to a criminal records check under section 3721.121 of the Revised Code. If a ~~community-based long-term care agency provider or subcontractor~~ also is a waiver agency, the ~~agency provider or subcontractor~~ may provide for applicants and employees to undergo database reviews and criminal records checks in accordance with section ~~5111.033~~ 5164.342 of the Revised Code rather than this section.

(C) No ~~community-based long-term care agency~~ responsible party shall employ an applicant or continue to employ an employee in a direct-care position ~~that involves providing direct care to an individual~~ if any of the following apply:

(1) A review of the databases listed in division (E) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (E)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the ~~agency~~ responsible party from employing an applicant or continuing to employ an employee included in such a database in a direct-care position ~~that involves providing direct care to an individual~~.

(2) After the applicant or employee is provided, pursuant to division (F)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) ~~Except as provided~~ Unless the applicant or employee meets standards specified in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(D) Except as provided by division (G) of this section, the chief administrator of a ~~community-based long-term care agency~~ responsible

party shall inform each applicant of both of the following at the time of the applicant's initial application for employment or referral to the ~~agency~~ responsible party by an employment service for a direct-care position ~~that involves providing direct care to an individual~~:

(1) That a review of the databases listed in division (E) of this section will be conducted to determine whether the ~~agency~~ responsible party is prohibited by division (C)(1) of this section from employing the applicant in the direct-care position;

(2) That, unless the database review reveals that the applicant may not be employed in the direct-care position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(E) As a condition of employing any applicant in a direct-care position ~~that involves providing direct care to an individual~~, the chief administrator of a ~~community-based long-term care~~ agency responsible party shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a ~~community-based long-term care~~ agency responsible party shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a direct-care position ~~that involves providing direct care to an individual~~. However, a chief administrator is not required to conduct a database review of an applicant or employee if division (G) of this section applies. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to ~~section 1128 of the "Social Security Act," 94 Stat. 2619 (1980)~~ sections 1128 and 1156, 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5; as amended;

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section

5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(F)(1) As a condition of employing any applicant in a direct-care position ~~that involves providing direct care to an individual~~, the chief administrator of a ~~community-based long-term care agency~~ responsible party shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules adopted under this section so require, the chief administrator of a ~~community-based long-term care agency~~ responsible party shall request that the superintendent conduct a criminal records check of an employee at times specified in the rules as a condition of continuing to employ the employee in a direct-care position ~~that involves providing direct care to an individual~~. However, the chief administrator is not required to request the criminal records check of the applicant or employee if division (G) of this section applies or the ~~agency~~ responsible party is prohibited by division (C)(1) of this section from employing the applicant or continuing to employ the employee in a direct-care position ~~that involves providing direct care to an individual~~. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check. Even if an applicant or employee for whom a criminal records check request is required by this section presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The chief administrator shall do all of the following:

(a) Provide to each applicant and employee for whom a criminal records check request is required by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and standard impression sheet from the applicant or employee;

(c) Forward the completed form and standard impression sheet to the superintendent.

(3) A ~~community-based long-term care agency~~ responsible party shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the agency responsible party requests under this section. ~~An agency~~ A responsible party may charge an applicant a fee not exceeding the amount the agency responsible party pays to the bureau under this section if both of the following apply:

(a) The agency responsible party notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(b) The medicaid program ~~established under Chapter 5111. of the Revised Code~~ does not ~~reimburse~~ pay the agency responsible party for the fee it pays to the bureau under this section.

(G) Divisions (D) to (F) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a ~~community-based long-term agency~~ responsible party by an employment service that supplies full-time, part-time, or temporary staff for direct-care positions ~~that involve providing direct care to an individual~~ and both of the following apply:

(1) The chief administrator of the agency responsible party receives from the employment service confirmation that a review of the databases listed in division (E) of this section was conducted of the applicant or employee.

(2) The chief administrator of the agency responsible party receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding the following:

(a) In the case of an applicant, the date of the applicant's referral by the employment service to the agency responsible party;

(b) In the case of an employee, the date by which the agency responsible party would otherwise have to request a criminal records check of the employee under division (F) of this section.

(H)(1) A ~~community-based long-term care agency~~ responsible party may employ conditionally an applicant for whom a criminal records check request is required by this section prior to obtaining the results of the

criminal records check if the agency responsible party is not prohibited by division (C)(1) of this section from employing the applicant in a direct-care position ~~that involves providing direct care to an individual~~ and either of the following applies:

(a) The chief administrator of the agency responsible party requests the criminal records check in accordance with division (F) of this section not later than five business days after the applicant begins conditional employment.

(b) The applicant is referred to the agency responsible party by an employment service, the employment service or the applicant provides the chief administrator of the agency responsible party a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following:

(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant;

(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;

(iii) That the employment service has not received the results of the criminal records check as of the date set forth on the letter;

(iv) That the employment service promptly will send a copy of the results of the criminal records check to the chief administrator of the agency responsible party when the employment service receives the results.

(2) If a ~~community-based long-term care~~ agency responsible party employs an applicant conditionally pursuant to division (H)(1)(b) of this section, the employment service, on its receipt of the results of the criminal records check, promptly shall send a copy of the results to the chief administrator of the agency responsible party.

(3) A ~~community-based long-term care~~ agency responsible party that employs an applicant conditionally pursuant to division (H)(1)(a) or (b) of this section shall terminate the applicant's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the agency responsible party shall

terminate the applicant's employment unless ~~circumstances~~ the applicant meets standards specified in rules adopted under this section that permit the ~~agency responsible party~~ to employ the applicant ~~exist~~ and the ~~agency responsible party~~ chooses to employ the applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the ~~agency responsible party~~ about the applicant's criminal record.

(I) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The chief administrator of the ~~community-based long-term care agency~~ responsible party requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides ~~direct care to individuals~~ community-based long-term care services that is owned or operated by the same entity that owns or operates the ~~community-based long-term care agency~~ responsible party that requested the criminal records check;

(4) The employment service that requested the criminal records check;

(5) The director of aging or a person authorized by the director to monitor a ~~community-based long-term care agency's~~ responsible party's compliance with this section;

(6) The medicaid director ~~of job and family services~~ and the staff of the department of ~~job and family services~~ medicaid who are involved in the administration of the medicaid program if either of the following apply:

(a) In the case of a criminal records check requested by a ~~community-based long-term care agency~~ provider or subcontractor, the ~~agency~~ provider or subcontractor also is a waiver agency;

(b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a ~~community-based long-term care agency~~ provider or subcontractor that also is a waiver agency.

(7) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or

employee;

(c) A civil or criminal action regarding the medicaid program or a program the department of aging administers.

(J) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an applicant or employee who a ~~community-based long-term care agency responsible party~~ employs in a direct-care position ~~that involves providing direct care to individuals~~, all of the following shall apply:

(1) If the agency responsible party employed the applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the agency responsible party shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate.

(2) If the agency responsible party employed the applicant in good faith on a conditional basis pursuant to division (H) of this section, the agency responsible party shall not be found negligent solely because it employed the applicant prior to receiving the report of a criminal records check requested under this section.

(3) If the agency responsible party in good faith employed the applicant or employee ~~according to~~ because the ~~personal character~~ applicant or employee meets standards ~~established~~ specified in rules adopted under this section, the agency responsible party shall not be found negligent solely because the applicant or employee has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(K) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (E)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The meaning of the term "subcontractor";

(b) The procedures for conducting database reviews under this section;

~~(b)~~(c) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

~~(e)~~(d) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a ~~community-based long-term care agency~~ responsible party is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

~~(d) Circumstances under which a community-based long-term care agency may employ~~ (e) Standards that an applicant or employee who must meet for a responsible party to be permitted to employ the applicant or continue to employ the employee in a direct-care position if the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets personal character standards.

Sec. 173.39. (A) As used in sections 173.39 to ~~173.394~~ 173.393 of the Revised Code:

(1) "~~Community-based long-term care agency~~ Provider" means a person or government entity that provides community-based long-term care services under a program the department of aging administers, ~~regardless of whether the person or government entity is certified under section 173.391 or authorized to receive payment for the services from the department under section 173.392 of the Revised Code.~~ "Community-based long-term care agency Provider" includes a person or government entity that provides home and community-based services to older adults through the PASSPORT program ~~created under as defined in section 173.40~~ 173.51 of the Revised Code.

(2) "Community-based long-term care services" has the same meaning as in section 173.14 of the Revised Code.

(B) Except as provided in section 173.392 of the Revised Code, the department of aging may not pay a ~~person or government entity~~ provider for providing community-based long-term care services under a program the department administers unless the ~~person or government entity~~ provider is certified under section 173.391 of the Revised Code and provides the services.

Sec. 173.391. (A) The department of aging or its designee shall do all of the following in accordance with Chapter 119. of the Revised Code:

(1) Certify a ~~person or government entity~~ provider to provide community-based long-term care services under a program the department

administers if the ~~person or government entity~~ provider satisfies the requirements for certification established by rules adopted under division (B) of this section and pays the fee, if any, established by rules adopted under division (G) of this section;

(2) When required to do so by rules adopted under division (B) of this section, take one or more of the following disciplinary actions against a ~~person or government entity~~ provider certified under division (A)(1) of this section:

- (a) Issue a written warning;
- (b) Require the submission of a plan of correction or evidence of compliance with requirements identified by the department;
- (c) Suspend referrals;
- (d) Remove clients;
- (e) Impose a fiscal sanction such as a civil monetary penalty or an order that unearned funds be repaid;
- (f) Suspend the certification;
- (g) Revoke the certification;
- (h) Impose another sanction.

(3) Except as provided in division (E) of this section, hold hearings when there is a dispute between the department or its designee and a ~~person or government entity~~ provider concerning actions the department or its designee takes regarding a decision not to certify the ~~person or government entity~~ provider under division (A)(1) of this section or a disciplinary action under divisions (A)(2)(e) to (h) of this section.

(B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and standards for determining which type of disciplinary action to take under division (A)(2) of this section in individual situations. The rules shall establish procedures for all of the following:

- (1) Ensuring that ~~community-based long-term care agencies~~ providers comply with section ~~173.394~~ 173.38 of the Revised Code;
- (2) Evaluating the services provided by the ~~agencies~~ providers to ensure that the services are provided in a quality manner advantageous to the individual receiving the services;
- (3) Determining when to take disciplinary action under division (A)(2) of this section and which disciplinary action to take;
- (4) Determining what constitutes another sanction for purposes of division (A)(2)(h) of this section.

(C) The procedures established in rules adopted under division (B)(2) of this section shall require that all of the following be considered as part of an

evaluation described in division (B)(2) of this section:

(1) The ~~community-based long-term care agency's~~ provider's experience and financial responsibility;

(2) The ~~agency's~~ provider's ability to comply with standards for the community-based long-term care services that the ~~agency~~ provider provides under a program the department administers;

(3) The ~~agency's~~ provider's ability to meet the needs of the individuals served;

(4) Any other factor the director considers relevant.

(D) The rules adopted under division (B)(3) of this section shall specify that the reasons disciplinary action may be taken under division (A)(2) of this section include good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or other conduct the director determines is injurious, or poses a threat, to the health or safety of individuals being served.

(E) Subject to division (F) of this section, the department is not required to hold hearings under division (A)(3) of this section if any of the following conditions apply:

(1) Rules adopted by the director of aging pursuant to this chapter require the ~~community-based long-term care agency~~ provider to be a party to a provider agreement; hold a license, certificate, or permit; or maintain a certification, any of which is required or issued by a state or federal government entity other than the department of aging, and either of the following is the case:

(a) The provider agreement has not been entered into or the license, certificate, permit, or certification has not been obtained or maintained.

(b) The provider agreement, license, certificate, permit, or certification has been denied, revoked, not renewed, or suspended or has been otherwise restricted.

(2) The ~~agency's~~ provider's certification under this section has been denied, suspended, or revoked for any of the following reasons:

(a) A government entity of this state, other than the department of aging, has terminated or refused to renew any of the following held by, or has denied any of the following sought by, a ~~community-based long-term care agency~~ provider: a provider agreement, license, certificate, permit, or certification. Division (E)(2)(a) of this section applies regardless of whether the ~~agency~~ provider has entered into a provider agreement in, or holds a license, certificate, permit, or certification issued by, another state.

(b) The ~~agency~~ provider or a principal owner or manager of the ~~agency~~ provider who provides direct care has entered a guilty plea for, or has been

convicted of, an offense materially related to the medicaid program.

(c) The agency provider or a principal owner or manager of the agency provider who provides direct care has entered a guilty plea for, been convicted of, or been found eligible for intervention in lieu of conviction for an offense listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code, but only if ~~none of the personal character~~ the provider, principal owner, or manager does not meet standards established specified by the director in rules adopted under section ~~173.394~~ 173.38 of the Revised Code ~~apply~~.

(d) The United States department of health and human services has taken adverse action against the agency provider and that action impacts the agency's provider's participation in the medicaid program.

(e) The agency provider has failed to enter into or renew a provider agreement with the PASSPORT administrative agency, as that term is defined in section 173.42 of the Revised Code, that administers programs on behalf of the department of aging in the region of the state in which the agency provider is certified to provide services.

(f) The agency provider has not billed or otherwise submitted a claim to the department for payment under the medicaid program in at least two years.

(g) The agency provider denied or failed to provide the department or its designee access to the agency's provider's facilities during the agency's provider's normal business hours for purposes of conducting an audit or structural compliance review.

(h) The agency provider has ceased doing business.

(i) The agency provider has voluntarily relinquished its certification for any reason.

(3) The agency's provider's provider agreement with the department of ~~job and family services~~ medicaid has been suspended under division (C) of section ~~5111.031~~ 5164.37 of the Revised Code.

(4) The agency's provider's provider agreement with the department of ~~job and family services~~ medicaid is denied or revoked because the agency provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended under section ~~5111.031~~ 5164.37 of the Revised Code.

(F) If the department does not hold hearings when any condition described in division (E) of this section applies, the department may send a notice to the agency provider describing a decision not to certify the agency provider under division (A)(1) of this section or the disciplinary action the

department proposes to take under division (A)(2)(e) to (h) of this section. The notice shall be sent to the ~~agency's~~ provider's address that is on record with the department and may be sent by regular mail.

(G) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code establishing a fee to be charged by the department of aging or its designee for certification issued under this section.

All fees collected by the department or its designee under this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby created. Money credited to the fund shall be used to pay for community-based long-term care services, administrative costs associated with ~~community-based long-term care agency~~ provider certification under this section, and administrative costs related to the publication of the Ohio long-term care consumer guide.

Sec. 173.392. (A) The department of aging may pay a ~~person or government entity~~ provider for providing community-based long-term care services under a program the department administers, even though the ~~person or government entity~~ provider is not certified under section 173.391 of the Revised Code, if all of the following are the case:

(1) The ~~person or government entity~~ provider has a contract with the department of aging or the department's designee to provide the services in accordance with the contract or has received a grant from the department or its designee to provide the services in accordance with a grant agreement;

(2) The contract or grant agreement includes detailed conditions of participation for ~~providers of services under a program the department administers~~ the provider and service standards that the ~~person or government entity~~ provider is required to satisfy;

(3) The ~~person or government entity~~ provider complies with the contract or grant agreement;

(4) The contract or grant is not for medicaid-funded services, other than services provided under the PACE program administered by the department of aging under section 173.50 of the Revised Code.

(B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code governing both of the following:

(1) Contracts and grant agreements between the department of aging or its designee and ~~persons and government entities~~ regarding community-based long-term care services provided under a program the department administers providers;

(2) The department's payment for community-based long-term care services under this section.

Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the Revised

Code:

(1) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging.

(2) "Department of aging-administered medicaid waiver component" means each of the following:

(a) The medicaid-funded component of the PASSPORT program created under section ~~173.40~~ 173.52 of the Revised Code;

(b) The choices program created under section ~~173.403~~ 173.53 of the Revised Code;

(c) The medicaid-funded component of the assisted living program created under section ~~5111.89~~ 173.54 of the Revised Code;

(d) Any other medicaid waiver component, as defined in section ~~5111.85~~ 5166.01 of the Revised Code, that the department of aging administers pursuant to an interagency agreement with the department of ~~job and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the Revised Code.

(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following:

(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component;

(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section ~~5111.02~~ 5164.02 of the Revised Code:

(i) Home health services;

(ii) Private duty nursing services;

(iii) Durable medical equipment;

(iv) Services of a clinical nurse specialist;

(v) Services of a certified nurse practitioner.

(c) Services available to a participant of the PACE program.

(4) "Long-term care consultation" or "consultation" means the consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section.

(5) ~~"Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.~~

(6) "Nursing facility" has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised Code.

~~(7)~~(6) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.

~~(8)~~(7) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program.

~~(9)~~(8) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.

~~(10)~~(9) "Representative" means a person acting on behalf of an individual specified in division (G) of this section. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual.

(B) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations provided under the program may be provided at any appropriate time, as permitted or required under this section and the rules adopted under it, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility or granted assistance in receiving home and community-based services covered by medicaid components the department of aging administers.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may have the program administered on a regional basis by one or more program administrators. The department and each program administrator shall administer the program in such a manner that all of the following are included:

(1) Coordination and collaboration with respect to all available funding sources for long-term care services;

(2) Assessments of individuals regarding their long-term care service needs;

(3) Assessments of individuals regarding their on-going eligibility for long-term care services;

(4) Procedures for assisting individuals in obtaining access to, and coordination of, health and supportive services, including department of aging-administered medicaid waiver components;

(5) Priorities for using available resources efficiently and effectively.

(D) The program's long-term care consultations shall be provided by individuals certified by the department under section 173.422 of the Revised Code.

(E) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following:

- (1) The availability of any long-term care options open to the individual;
- (2) Sources and methods of both public and private payment for long-term care services;
- (3) Factors to consider when choosing among the available programs, services, and benefits;
- (4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community.

(F) An individual's long-term care consultation may include an assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections ~~5111.202, 5119.061 5119.40, and 5123.021, and 5165.03~~ of the Revised Code and may be provided concurrently with the assessment required under section ~~5111.204 173.546 or 5165.04~~ of the Revised Code.

(G)(1) Unless an exemption specified in division (I) of this section is applicable, each of the following shall be provided with a long-term care consultation:

- (a) An individual who applies or indicates an intention to apply for admission to a nursing facility, regardless of the source of payment to be used for the individual's care in a nursing facility;
- (b) An individual who requests a long-term care consultation;
- (c) An individual identified by the department or a program administrator as being likely to benefit from a long-term care consultation.

(2) In addition to the individuals specified in division (G)(1) of this section, a long-term care consultation may be provided to a nursing facility resident regardless of the source of payment being used for the resident's care in the nursing facility.

(H)(1) Except as provided in division (H)(2) or (3) of this section, a long-term care consultation provided pursuant to division (G) of this section shall be provided as follows:

- (a) If the individual for whom the consultation is being provided has applied for medicaid and the consultation is being provided concurrently with the assessment required under section ~~5111.204 5165.04~~ of the Revised

Code, the consultation shall be completed in accordance with the applicable time frames specified in that section for providing a level of care determination based on the assessment.

(b) In all other cases, the consultation shall be provided not later than five calendar days after the department or program administrator receives notice of the reason for which the consultation is to be provided pursuant to division (G) of this section.

(2) An individual or the individual's representative may request that a long-term care consultation be provided on a date that is later than the date required under division (H)(1)(a) or (b) of this section.

(3) If a long-term care consultation cannot be completed within the number of days required by division (H)(1) or (2) of this section, the department or program administrator may do any of the following:

(a) In the case of an individual specified in division (G)(1) of this section, exempt the individual from the consultation pursuant to rules that may be adopted under division (L) of this section;

(b) In the case of an applicant for admission to a nursing facility, provide the consultation after the individual is admitted to the nursing facility;

(c) In the case of a resident of a nursing facility, provide the consultation as soon as practicable.

(I) An individual is not required to be provided a long-term care consultation under division (G)(1) of this section if any of the following apply:

(1) The department or program administrator has attempted to provide the consultation, but the individual or the individual's representative refuses to cooperate;

(2) The individual is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code;

(3) The individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, a residential facility licensed under ~~section 5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, or an independent living arrangement;

(4) The individual is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code;

(5) The individual is seeking admission to a facility that is not a nursing

facility with a provider agreement under section ~~5111.22~~ 5165.07, ~~5111.671~~ 5165.511, or ~~5111.672~~ 5165.512 of the Revised Code;

(6) The individual is exempted from the long-term care consultation requirement by the department or the program administrator pursuant to rules that may be adopted under division (L) of this section.

(J) As part of the long-term care consultation program, the department or program administrator shall assist an individual or individual's representative in accessing all sources of care and services that are appropriate for the individual and for which the individual is eligible, including all available home and community-based services covered by medicaid components the department of aging administers. The assistance shall include providing for the conduct of assessments or other evaluations and the development of individualized plans of care or services under section 173.424 of the Revised Code.

(K) No nursing facility for which an operator has a provider agreement under section ~~5111.22~~ 5165.07, ~~5111.671~~ 5165.511, or ~~5111.672~~ 5165.512 of the Revised Code shall admit any individual as a resident, unless the nursing facility has received evidence that a long-term care consultation has been completed for the individual or division (I) of this section is applicable to the individual.

(L) The director of aging may adopt any rules the director considers necessary for the implementation and administration of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and may specify any or all of the following:

(1) Procedures for providing long-term care consultations pursuant to this section;

(2) Information to be provided through long-term care consultations regarding long-term care services that are available;

(3) Criteria and procedures to be used to identify and recommend appropriate service options for an individual receiving a long-term care consultation;

(4) Criteria for exempting individuals from the long-term care consultation requirement;

(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;

(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation;

(7) A description of the types of information from a nursing facility that is needed under the long-term care consultation program to assist a resident

with relocation from the facility;

(8) Standards to prevent conflicts of interest relative to the referrals made by a person who performs a long-term care consultation, including standards that prohibit the person from being employed by a provider of long-term care services;

(9) Procedures for providing notice and an opportunity for a hearing under division (N) of this section.

(M) To assist the department and each program administrator with identifying individuals who are likely to benefit from a long-term care consultation, the department and program administrator may ask to be given access to nursing facility resident assessment data collected through the use of the resident assessment instrument specified in rules ~~adopted under~~ authorized by section 5111.02 5165.191 of the Revised Code for purposes of the medicaid program. Except when prohibited by state or federal law, the department of health, department of ~~job and family services~~ medicaid, or nursing facility holding the data shall grant access to the data on receipt of the request from the department of aging or program administrator.

(N)(1) The director of aging, after providing notice and an opportunity for a hearing, may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code for any of the following reasons:

(a) The nursing facility admits an individual, without evidence that a long-term care consultation has been provided, as required by this section;

(b) The nursing facility denies a person attempting to provide a long-term care consultation access to the facility or a resident of the facility;

(c) The nursing facility denies the department of aging or program administrator access to the facility or a resident of the facility, as the department or administrator considers necessary to administer the program.

(2) In accordance with section ~~5111.62~~ 5162.66 of the Revised Code, all fines collected under division (N)(1) of this section shall be deposited into the state treasury to the credit of the residents protection fund.

Sec. 173.43. (A) ~~Subject to section 173.433 of the Revised Code, the~~ The department of aging shall enter into an interagency agreement with the department of ~~job and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the Revised Code under which the department of aging is required to establish for each biennium a unified long-term care budget for home and community-based services covered by medicaid components the department of aging administers. The interagency agreement shall require the department of aging to do all of the following:

(1) Administer the unified long-term care budget in accordance with

sections 173.43 to 173.434 of the Revised Code and the general assembly's appropriations for home and community-based services covered by medicaid components the department of aging administers for the applicable biennium;

(2) Contract with each PASSPORT administrative agency for assistance in the administration of the unified long-term care budget;

(3) Provide individuals who are eligible for home and community-based services covered by medicaid components the department of aging administers a choice of services that meet the individuals' needs and improve their quality of life;

(4) Provide a continuum of services that meet the life-long needs of individuals who are eligible for home and community-based services covered by medicaid components the department of aging administers.

(B) The director of budget and management shall create new appropriation items as necessary for establishment of the unified long-term care budget.

Sec. 173.431. ~~Subject to section 173.433 of the Revised Code, the~~ The department of aging shall ensure that the unified long-term care budget established under section 173.43 of the Revised Code is administered in a manner that provides medicaid coverage of and expands access to all of the following as necessary to meet the needs of individuals receiving home and community-based services covered by medicaid components the department of aging administers:

(A) To the extent permitted by the medicaid waivers authorizing department of aging-administered medicaid waiver components, all of the following medicaid waiver services provided under department of aging-administered medicaid waiver components:

- (1) Personal care services;
- (2) Home-delivered meals;
- (3) Adult day-care;
- (4) Homemaker services;
- (5) Emergency response services;
- (6) Medical equipment and supplies;
- (7) Chore services;
- (8) Social work counseling;
- (9) Nutritional counseling;
- (10) Independent living assistance;
- (11) Medical transportation;
- (12) Nonmedical transportation;
- (13) Home care attendant services;

(14) Assisted living services;
(15) Community transition services;
(16) Enhanced community living services;
(17) All other medicaid waiver services provided under department of aging-administered medicaid waiver components.

(B) All of the following state medicaid plan services as specified in rules adopted under section ~~5111.02~~ 5164.02 of the Revised Code:

- (1) Home health services;
- (2) Private duty nursing services;
- (3) Durable medical equipment;
- (4) Services of a clinical nurse specialist;
- (5) Services of a certified nurse practitioner.

(C) The services that the PACE program provides.

Sec. 173.432. ~~Subject to section 173.433 of the Revised Code, the~~ The department of aging or its designee shall provide care management and authorization services with regard to the state plan services specified in division (B) of section 173.431 of the Revised Code that are provided to participants of department of aging-administered medicaid waiver components. The department or its designee shall ensure that no person providing the care management and authorization services performs an activity that may not be performed without a valid certificate or license issued by an agency of this state unless the person holds the valid certificate or license.

Sec. 173.434. ~~The director of job and family services shall adopt~~ To the extent authorized by rules under authorized by section 5111.85 5162.021 of the Revised Code to authorize, the director of aging ~~to shall~~ adopt rules that are needed to implement sections 173.43 to 173.432 of the Revised Code. ~~The director of aging's rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 173.45. As used in this section and in sections 173.46 to 173.49 of the Revised Code:

(A) "Residential facility" means a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) "Community-based long-term care services" has the same meaning as in section 173.14 of the Revised Code.

(C) "Long-term care facility" means a nursing home or residential care facility.

(D) "Nursing home" and "residential care facility" have the same

meanings as in section 3721.01 of the Revised Code.

(E) "Nursing facility" has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised Code.

Sec. 173.47. (A) For purposes of publishing the Ohio long-term care consumer guide, the department of aging shall conduct or provide for the conduct of an annual customer satisfaction survey of each long-term care facility. The results of the surveys may include information obtained from long-term care facility residents, their families, or both. A survey that is to include information obtained from nursing facility residents shall include the questions specified in divisions (C)(7)(a) and (b) and (18) ~~and (D)(7)(a) and (b)~~ of section ~~5111.244~~ 5165.25 of the Revised Code. A survey that is to include information obtained from the families of nursing facility residents shall include the questions specified in divisions (C)(8)(a) and (b) and (19) ~~and (D)(8)(a) and (b)~~ of section ~~5111.244~~ 5165.25 of the Revised Code.

(B) Each long-term care facility shall cooperate in the conduct of its annual customer satisfaction survey.

Sec. 173.48. (A)(1) The department of aging may charge annual fees to long-term care facilities for the publication of the Ohio long-term care consumer guide. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with division (B) of this section.

(2) The annual fees charged under this section shall not exceed the following amounts:

(a) Six hundred fifty dollars for each long-term care facility that is a nursing home;

(b) Three hundred dollars for each long-term care facility that is a residential care facility.

(3) Fees paid by a long-term care facility that is a nursing facility shall be reimbursed through the medicaid program ~~operated under Chapter 5111 of the Revised Code.~~

(B) There is hereby created in the state treasury the long-term care consumer guide fund. Money collected from the fees charged for the publication of the Ohio long-term care consumer guide under division (A) of this section shall be credited to the fund. The department shall use money in the fund for costs associated with publishing the Ohio long-term care consumer guide, including, but not limited to, costs incurred in conducting or providing for the conduct of customer satisfaction surveys.

Sec. 173.50. (A) Pursuant to a contract entered into with the department of ~~job and family services~~ medicaid as an interagency agreement under

section ~~5111.91~~ 5162.35 of the Revised Code, the department of aging shall carry out the day-to-day administration of the component of the medicaid program ~~established under Chapter 5111. of the Revised Code~~ known as the program of all-inclusive care for the elderly or PACE. The department of aging shall carry out its PACE administrative duties in accordance with the provisions of the interagency agreement and all applicable federal laws, including the "Social Security Act," ~~79 Stat. 286 (1965)~~ section 1934, 42 U.S.C. 1396u-4, ~~as amended.~~

(B) ~~The department~~ To the extent authorized by rules authorized by section 5162.021 of the Revised Code, the director of aging may adopt rules in accordance with Chapter 119. of the Revised Code regarding the PACE program, including rules establishing priorities for enrolling in the program pursuant to section 173.501 of the Revised Code. ~~The department's rules are subject to both of the following:~~

~~(1) The rules shall be authorized by rules adopted by the department of job and family services.~~

~~(2) The rules shall address only those issues that are not addressed in rules adopted by the department of job and family services~~ medicaid director for the PACE program.

Sec. 173.501. (A) As used in this section:

"Nursing facility" has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised Code.

"PACE provider" has the same meaning as in the "Social Security Act," section 1934(a)(3), 42 U.S.C. 1396u-4(a)(3).

(B) The department of aging shall establish a home first component of the PACE program under which eligible individuals may be enrolled in the PACE program in accordance with this section. An individual is eligible for the PACE program's home first component if both of the following apply:

(1) The individual has been determined to be eligible for the PACE program.

(2) At least one of the following applies:

(a) The individual has been admitted to a nursing facility.

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PACE program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PACE program, the individual is

to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PACE program, the individual should be admitted to a nursing facility.

(C) Each month, the department of aging shall identify individuals who are eligible for the home first component of the PACE program. When the department identifies such an individual, the department shall notify the PACE provider serving the area in which the individual resides. The PACE provider shall determine whether the PACE program is appropriate for the individual and whether the individual would rather participate in the PACE program than continue or begin to reside in a nursing facility. If the PACE provider determines that the PACE program is appropriate for the individual and the individual would rather participate in the PACE program than continue or begin to reside in a nursing facility, the PACE provider shall so notify the department of aging. On receipt of the notice from the PACE provider, the department of aging shall approve the individual's enrollment in the PACE program in accordance with priorities established in rules adopted under section 173.50 of the Revised Code.

Sec. 173.51. As used in sections 173.51 to 173.56 of the Revised Code:

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.

"Assisted living program" means the program that consists of a medicaid-funded component created under section 173.54 of the Revised Code and a state-funded component created under section 173.543 of the Revised Code and provides assisted living services to individuals who meet the program's applicable eligibility requirements.

"Assisted living services" means the following home and community-based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.

"Assisted living waiver" means the federal medicaid waiver granted by

the United States secretary of health and human services that authorizes the medicaid-funded component of the assisted living program.

"Choices program" means the program created under section 173.53 of the Revised Code.

"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code.

"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.

"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.

"Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

"Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

"PASSPORT program" means the preadmission screening system providing options and resources today program (PASSPORT) that consists of a medicaid-funded component created under section 173.52 of the Revised Code and a state-funded component created under section 173.522 of the Revised Code and provides home and community-based services as an alternative to nursing facility placement for individuals who are aged and disabled and meet the program's applicable eligibility requirements.

"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the PASSPORT program.

"Representative" means a person acting on behalf of an applicant for the medicaid-funded component or state-funded component of the assisted living program. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant.

"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5166.14 of the Revised Code.

~~Sec. 173.40 173.52. (A) As used in sections 173.40 to 173.402 of the Revised Code:~~

~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

~~"PASSPORT program" means the program created under this section.~~

~~"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the PASSPORT program.~~

~~"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.~~

~~(B) There is hereby created The department of medicaid shall create the medicaid-funded component of the preadmission screening system providing options and resources today program, or PASSPORT program. The PASSPORT program shall provide home and community-based services as an alternative to nursing facility placement for individuals who are aged and disabled and meet the program's applicable eligibility requirements. Subject to division (C) of this section, the program shall have a medicaid-funded component and a state-funded component. In creating the medicaid-funded component, the department of medicaid shall collaborate with the department of aging.~~

~~(C)(1)(B) Unless the medicaid-funded component of the PASSPORT program is terminated under division (C)(2) of this section, all of the following apply:~~

~~(a)(1) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of ~~job and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the Revised Code.~~

~~(b)(2) The medicaid-funded component shall be operated as a separate medicaid waiver component.~~

~~(c)(3) For an individual to be eligible for the medicaid-funded component, the individual must be a medicaid recipient and meet the additional eligibility requirements applicable to the individual established in rules adopted under division ~~(C)(1)(d)~~ (B)(4) of this section.~~

~~(d) The director of job and family services shall adopt (4) To the extent authorized by rules under authorization by section 5111.85 5162.021 of the Revised Code and, the director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the medicaid-funded component.~~

~~(2)(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and ~~job and family services~~ medicaid shall work together to determine whether the medicaid-funded component of the PASSPORT program should continue to operate as a separate medicaid waiver component or be terminated. If the departments~~

determine that the medicaid-funded component of the PASSPORT program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify.

~~(D)(1) The department of aging shall administer the state-funded component of the PASSPORT program. The state-funded component shall not be administered as part of the medicaid program.~~

~~(2) For an individual to be eligible for the state-funded component, the individual must meet one of the following requirements and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (D)(4) of this section:~~

~~(a) The individual must have been enrolled in the state-funded component on September 1, 1991, (as the state-funded component was authorized by uncodified law in effect at that time) and have had one or more applications for enrollment in the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid-waiver component) denied.~~

~~(b) The individual must have had the individual's enrollment in the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid-waiver component) terminated and the individual must still need the home and community-based services provided under the PASSPORT program to protect the individual's health and safety.~~

~~(c) The individual must have an application for the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid-waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid-waiver component) and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid-waiver component).~~

~~(3) An individual who is eligible for the state-funded component because the individual meets the requirement of division (D)(2)(c) of this section may participate in the component on that basis for not more than ninety days.~~

~~(4) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component. The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (D)(2)(a), (b), and (c) of this section.~~

~~Sec. 173.401 173.521. (A) As used in this section:~~

~~"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.~~

~~"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.~~

~~"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.~~

~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

~~(B) Subject Unless the medicaid-funded component of the PASSPORT program is terminated pursuant to division (C)(2) of section 173.40 173.52 of the Revised Code, the department shall establish a home first component of the PASSPORT program under which eligible individuals may be enrolled in the medicaid-funded component of the PASSPORT program in accordance with this section. An individual is eligible for the PASSPORT program's home first component if both of the following apply:~~

~~(1) The individual has been determined to be eligible for the medicaid-funded component of the PASSPORT program.~~

~~(2) At least one of the following applies:~~

~~(a) The individual has been admitted to a nursing facility.~~

~~(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.~~

~~(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual is to be transported directly from the hospital to a nursing facility and admitted.~~

~~(d) Both of the following apply:~~

~~(i) The individual is the subject of a report made under section 5101.61~~

of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual should be admitted to a nursing facility.

~~(C)~~(B) Each month, each area agency on aging shall identify individuals residing in the area that the agency serves who are eligible for the home first component of the PASSPORT program. When an area agency on aging identifies such an individual, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides. The administrator shall determine whether the PASSPORT program is appropriate for the individual and whether the individual would rather participate in the PASSPORT program than continue or begin to reside in a nursing facility. If the administrator determines that the PASSPORT program is appropriate for the individual and the individual would rather participate in the PASSPORT program than continue or begin to reside in a nursing facility, the administrator shall so notify the department of aging. On receipt of the notice from the administrator, the department shall approve the individual's enrollment in the medicaid-funded component of the PASSPORT program regardless of the unified waiting list established under section ~~473.404~~ 173.55 of the Revised Code, unless the enrollment would cause the component to exceed any limit on the number of individuals who may be enrolled in the component as set by the United States secretary of health and human services in the PASSPORT waiver.

Sec. 173.522. (A) The department of aging shall create and administer the state-funded component of the PASSPORT program. The state-funded component shall not be administered as part of the medicaid program.

(B) For an individual to be eligible for the state-funded component of the PASSPORT program, the individual must meet one of the following requirements and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (D) of this section:

(1) The individual must have been enrolled in the state-funded component on September 1, 1991, (as the state-funded component was authorized by uncodified law in effect at that time) and have had one or more applications for enrollment in the medicaid-funded component of the PASSPORT program (or, if the medicaid-funded component is terminated

under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component) denied.

(2) The individual must have had the individual's enrollment in the medicaid-funded component of the PASSPORT program (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component) terminated and the individual must still need the home and community-based services provided under the PASSPORT program to protect the individual's health and safety.

(3) The individual must have an application for the medicaid-funded component of the PASSPORT program (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component).

(C) An individual who is eligible for the state-funded component of the PASSPORT program because the individual meets the requirement of division (B)(3) of this section may participate in the component on that basis for not more than ninety days.

(D) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component of the PASSPORT program. The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (B)(1), (2), and (3) of this section.

Sec. 173.523. (A) An individual who is an applicant for or participant or former participant in the state-funded component of the PASSPORT program may appeal an adverse action taken or proposed to be taken by the department of aging or an entity designated by the department concerning participation in or services provided under the component if the action will result in any of the following:

(1) Denial of enrollment or continued enrollment in the component;

(2) Denial of or reduction in the amount of services requested by or

offered to the individual under the component:

(3) Assessment of any patient liability payment pursuant to rules adopted by the department under this section.

The appeal shall be made in accordance with section 173.56 of the Revised Code and rules adopted pursuant to that section.

(B) An individual who is an applicant for or participant or former participant in the state-funded component of the PASSPORT program may not bring an appeal under this or any other section of the Revised Code if any of the following is the case:

(1) The individual has voluntarily withdrawn the application for enrollment in the component;

(2) The individual has voluntarily terminated enrollment in the component;

(3) The individual agrees with the action being taken or proposed;

(4) The individual fails to submit a written request for a hearing to the director of aging within the time specified in the rules adopted pursuant to section 173.56 of the Revised Code;

(5) The individual has received services under the component for the maximum time permitted by this section.

~~Sec. 173.402~~ 173.524. An individual enrolled in the PASSPORT program may request that home-delivered meals provided to the individual under the PASSPORT program be kosher. If such a request is made, the department of aging or the department's designee shall ensure that each home-delivered meal provided to the individual under the PASSPORT program is kosher. In complying with this requirement, the department or department's designee shall require each entity that provides home-delivered meals to the individual to provide the individual with meals that meet, as much as possible, the requirements established in rules adopted under ~~section 173.40~~ sections 173.52 and 173.522 of the Revised Code governing the home-delivered meal service while complying with kosher practices for meal preparation and dietary restrictions.

An entity that provides a kosher home-delivered meal to a PASSPORT program enrollee pursuant to this section shall be reimbursed for the meal at a rate equal to the rate for home-delivered meals furnished to PASSPORT program enrollees requiring a therapeutic diet.

~~Sec. 173.403~~ 173.53. (A) ~~As used in this section:~~

~~"Choices program" means the program created under this section.~~

~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

~~"Unified long term services and support medicaid waiver component"~~

~~means the medicaid waiver component authorized by section 5111.864 of the Revised Code.~~

~~(B) Subject to division (C) of this section, there is hereby created The department of medicaid shall create the choices program. In creating the choices program, the department of medicaid shall collaborate with the department of aging. Subject to division (B) of this section:~~

~~(1) The choices program shall provide home and community-based services. The;~~

~~(2) The department of aging shall administer the choices program through a contract entered into with the department of ~~job and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the Revised Code. Subject to federal approval, the;~~

~~(3) The choices program shall be available statewide.~~

~~(C)(B) If the unified long-term services and support medicaid waiver component is created, the departments of aging and ~~job and family services~~ medicaid shall ~~work together~~ collaborate to determine whether the choices program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the choices program should be terminated, the program shall cease to exist on a date the departments shall specify.~~

~~(C) If the choices program is terminated pursuant to division (B) of this section or for another reason, not sooner than six months before the date on which the program ceases to exist, the director of aging may do both of the following:~~

~~(1) Suspend new enrollments in the choices program;~~

~~(2) Transfer participants of the choices program to the following:~~

~~(a) Except as provided in division (C)(2)(b) of this section, the medicaid-funded component of the PASSPORT program created under section 173.52 of the Revised Code;~~

~~(b) If the medicaid-funded component of the PASSPORT program is terminated pursuant to division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component.~~

~~Sec. ~~5111.89~~ 173.54. (A) As used in sections ~~5111.89 to 5111.894~~ of the Revised Code:~~

~~"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.~~

~~"Assisted living program" means the program created under this section.~~

~~"Assisted living services" means the following home and community-based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational~~

programming.

~~"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the assisted living program.~~

~~"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code.~~

~~"Long term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.~~

~~"Long term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long term care consultation program for a particular area, that agency or entity.~~

~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

~~"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.~~

~~"Unified long term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.~~

~~(B) There is hereby created The department of medicaid shall create the medicaid-funded component of the assisted living program. The program shall provide assisted living services to individuals who meet the program's applicable eligibility requirements. Subject to division (C) of this section, the program shall have a medicaid-funded component and a state-funded component In creating the medicaid-funded component, the department of medicaid shall collaborate with the department of aging.~~

~~(C)(1)(B) Unless the medicaid-funded component of the assisted living program is terminated under division (C)(2) of this section, all of the following apply:~~

~~(a)(1) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of ~~job and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the Revised Code.~~

~~(b)(2) The contract shall include an estimate of the medicaid-funded component's costs.~~

~~(e)(3) The medicaid-funded component shall be operated as a separate medicaid waiver component.~~

~~(d)~~(4) The medicaid-funded component may not serve more individuals than is set by the United States secretary of health and human services in the assisted living waiver.

~~(e) The director of job and family services may adopt rules under section 5111.85 of the Revised Code regarding the medicaid-funded component.~~

~~(f) The~~ (5) To the extent authorized by rules authorized by section 5162.021 of the Revised Code, the director of aging may adopt rules under Chapter 119. of the Revised Code regarding the medicaid-funded component ~~that the rules adopted by the director of job and family services under division (C)(1)(e) of this section authorize the director of aging to adopt.~~

~~(2)~~(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and ~~job and family services~~ medicaid shall ~~work together~~ collaborate to determine whether the medicaid-funded component of the assisted living program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the medicaid-funded component of the assisted living program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify.

~~(D) The department of aging shall administer the state-funded component of the assisted living program. The state-funded component shall not be administered as part of the medicaid program.~~

~~An individual who is eligible for the state-funded component may participate in the component for not more than ninety days.~~

~~The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component.~~

Sec. ~~5111.891~~ 173.541. To be eligible for the medicaid-funded component of the assisted living program, an individual must meet all of the following requirements:

(A) Need an intermediate level of care as determined ~~under rule 5101:3-3-06~~ by an assessment conducted under section 173.546 of the Administrative Revised Code;

(B) While receiving assisted living services under the medicaid-funded component, reside in a residential care facility that is authorized by a valid medicaid provider agreement to participate in the component, including both of the following:

(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating

subsidy or rental assistance for the residents of the facility;

(2) A county or district home licensed as a residential care facility.

(C) Meet all other eligibility requirements for the medicaid-funded component established in rules adopted ~~pursuant to division (C) of~~ under section ~~5111.89~~ 173.54 of the Revised Code.

Sec. ~~5111.894~~ 173.542. (A) ~~Subject~~ Unless the medicaid-funded component of the assisted living program is terminated pursuant to division (C)~~(2)~~ of section ~~5111.89~~ 173.54 of the Revised Code, the department of aging shall establish a home first component of the assisted living program under which eligible individuals may be enrolled in the medicaid-funded component of the assisted living program in accordance with this section. An individual is eligible for the assisted living program's home first component if both of the following apply:

(1) The individual has been determined to be eligible for the medicaid-funded component of the assisted living program.

(2) At least one of the following applies:

(a) The individual has been admitted to a nursing facility.

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the assisted living program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual is to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual should be admitted to a nursing facility.

(B) Each month, each area agency on aging shall identify individuals residing in the area that the area agency on aging serves who are eligible for

the home first component of the assisted living program. When an area agency on aging identifies such an individual and determines that there is a vacancy in a residential care facility participating in the medicaid-funded component of the assisted living program that is acceptable to the individual, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides. The administrator shall determine whether the assisted living program is appropriate for the individual and whether the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility. If the administrator determines that the assisted living program is appropriate for the individual and the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility, the administrator shall so notify the department of aging. On receipt of the notice from the administrator, the department shall approve the individual's enrollment in the medicaid-funded component of the assisted living program regardless of the unified waiting list established under section ~~173.404~~ 173.55 of the Revised Code, unless the enrollment would cause the component to exceed any limit on the number of individuals who may participate in the component as set by the United States secretary of health and human services in the assisted living waiver.

Sec. 173.543. The department of aging shall create and administer the state-funded component of the assisted living program. The state-funded component shall not be administered as part of the medicaid program.

An individual who is eligible for the state-funded component may participate in the component for not more than ninety days.

The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component.

Sec. ~~5111.892~~ 173.544. To be eligible for the state-funded component of the assisted living program, an individual must meet all of the following requirements:

(A) The individual must need an intermediate level of care as determined ~~under rule 5101:3-3-06~~ by an assessment conducted under section 173.546 of the Administrative Revised Code;

(B) The individual must have an application for the medicaid-funded component of the assisted living program (or, if the medicaid-funded component is terminated under division (C)(~~2~~) of section ~~5111.89~~ 173.54 of the Revised Code, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the

medicaid-funded component is terminated under division (C)~~(2)~~ of section ~~5111.89~~ 173.54 of the Revised Code, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)~~(2)~~ of section ~~5111.89~~ 173.54 of the Revised Code, the unified long-term services and support medicaid waiver component).

(C) While receiving assisted living services under the state-funded component, the individual must reside in a residential care facility that is authorized by a valid provider agreement to participate in the component, including both of the following:

(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;

(2) A county or district home licensed as a residential care facility.

(D) The individual must meet all other eligibility requirements for the state-funded component established in rules adopted under ~~division (D)~~ of section ~~5111.89~~ 173.54 of the Revised Code.

Sec. 173.545. (A) An individual who is an applicant for or participant or former participant in the state-funded component of the assisted living program may appeal an adverse action taken or proposed to be taken by the department of aging or an entity designated by the department concerning participation in or services provided under the component if the action will result in any of the following:

(1) Denial of enrollment or continued enrollment in the component;

(2) Denial of or reduction in the amount of services requested by or offered to the individual under the component;

(3) Assessment of any patient liability payment pursuant to rules adopted by the department under this section.

The appeal shall be made in accordance with section 173.56 of the Revised Code and rules adopted pursuant to that section.

(B) An individual who is an applicant for or participant or former participant in the state-funded component of the assisted living program may not bring an appeal under this or any other section of the Revised Code if any of the following is the case:

(1) The individual has voluntarily withdrawn the application for enrollment in the component;

(2) The individual has voluntarily terminated enrollment in the

component:

(3) The individual agrees with the action being taken or proposed;

(4) The individual fails to submit a written request for a hearing to the director of aging within the time specified in the rules adopted pursuant to section 173.56 of the Revised Code;

(5) The individual has received services under the component for the maximum time permitted by this section.

Sec. 173.546. (A) Each applicant for the assisted living program shall undergo an assessment to determine whether the applicant needs an intermediate level of care. The department of medicaid or an agency under contract pursuant to division (C) of this section shall conduct the assessment. The assessment may be performed concurrently with a long-term care consultation provided under section 173.42 of the Revised Code.

(B) An applicant or applicant's representative has the right to appeal an assessment's findings. Section 5160.31 of the Revised Code applies to appeals regarding the medicaid-funded component of the assisted living program. The department or an agency under contract to conduct the assessment shall provide written notice of this right to the applicant or applicant's representative and the residential care facility in which the applicant intends to reside if enrolled in the assisted living program. The notice shall include an explanation of the appeal procedures. The department or agency under contract to conduct the assessment shall represent the state in any appeal of an assessment's findings.

(C) The department may contract with one or more agencies to perform assessments under this section. A contract shall specify the agency's responsibilities regarding the assessments.

Sec. ~~5111.893~~ 173.547. A residential care facility providing services covered by the assisted living program to an individual enrolled in the program shall have staff on-site twenty-four hours each day who are able to do all of the following:

(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence;

(B) Provide supervision services for those individuals;

(C) Help keep the individuals safe and secure.

Sec. ~~173.404~~ 173.55. (A) As used in this section:

(1) "Department of aging-administered medicaid waiver component" means each of the following:

(a) The medicaid-funded component of the PASSPORT program

~~created under section 173.40 of the Revised Code;~~

~~(b) The choices program created under section 173.403 of the Revised Code;~~

~~(c) The medicaid-funded component of the assisted living program created under section 5111.89 of the Revised Code.~~

(2) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.

(B) If the department of aging determines that there are insufficient funds to enroll all individuals who have applied and been determined eligible for department of aging-administered medicaid waiver components and the PACE program, the department shall establish a unified waiting list for the components and program. Only individuals eligible for a department of aging-administered medicaid waiver component or the PACE program may be placed on the unified waiting list. An individual who may be enrolled in a department of aging-administered medicaid waiver component or the PACE program through a home first component established under section ~~173.401~~, 173.501, 173.521 or ~~5111.894~~ 173.542 of the Revised Code may be so enrolled without being placed on the unified waiting list.

Sec. 173.56. (A) The department of aging shall adopt rules in accordance with section 111.15 of the Revised Code governing appeals brought under section 173.523 or 173.545 of the Revised Code. The rules shall require notice and the opportunity for a hearing. The rules may allow an appeal hearing to be conducted by telephone and permit the department to record hearings conducted by telephone. Chapter 119. of the Revised Code applies to a hearing under section 173.523 or 173.545 of the Revised Code only to the extent provided in rules the department adopts under this section.

(B) An appeal shall be commenced by submission of a written request for a hearing to the director of aging within the time specified in the rules adopted under this section. The hearing may be recorded, but neither the recording nor a transcript of the recording is part of the official record of the proceeding. The director shall notify the individual bringing the appeal of the director's decision and of the procedure for appealing the decision.

(C) The director's decision may be appealed to a court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by that section except as follows:

(1) The appeal shall be in the court of common pleas of the county in which the individual who brings the appeal resides or, if the individual does not reside in this state, to the Franklin county court of common pleas.

(2) The notice of appeal must be mailed to the department and filed with the court not later than thirty days after the department mails notice of the director's decision. For good cause shown, the court may extend the time for mailing and filing the notice of appeal, but the time cannot exceed six months from the date the department mails the notice of the director's decision.

(3) If an individual applies to the court for designation as an indigent and the court grants the application, the individual shall not be required to furnish the costs of the appeal.

(4) The department is required to file a transcript of the testimony of the state hearing with the court only if the court orders that the transcript be filed. The court shall make such an order only if it finds that the department and the individual bringing the appeal are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after such an order is issued.

Sec. 173.60. (A) As used in this section:

(1) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(2) "Person-centered care" means a relationship-based approach to care that honors and respects the opinions of individuals receiving care and those working closely with them.

(B) The department of aging shall implement a nursing home quality initiative to improve the provision of person-centered care in nursing homes. The office of the state long-term care ombudsman program shall assist the department with the initiative. The initiative shall include quality improvement projects that provide nursing homes with resources and on-site education promoting person-centered care strategies and positive resident outcomes, as well as other assistance designed to improve the quality of nursing home services. The department may offer any of the projects.

(C) The department shall make available a list of quality improvement projects that may be used by nursing homes in meeting the requirements of section 3721.072 of the Revised Code. In addition to any of the projects offered by the department pursuant to division (B) of this section, the list may include projects offered by any of the following:

(1) Other state agencies;

(2) A quality improvement organization under contract with the United States secretary of health and human services to carry out in this state the functions described in the "Social Security Act," section 1154, 42 U.S.C. 1320c-3;

(3) The Ohio person-centered care coalition:

(4) Any other academic, research, or health care entity identified by the department.

(D) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

Sec. 173.99. (A) A long-term care provider, person employed by a long-term care provider, other entity, or employee of such other entity that violates division (C) of section 173.24 of the Revised Code is subject to a fine not to exceed one thousand dollars for each violation.

(B) Whoever violates division (C) of section 173.23 of the Revised Code is guilty of registering a false complaint, a misdemeanor of the first degree.

(C) A long-term care provider, other entity, or person employed by a long-term care provider or other entity that violates division (E) of section 173.19 of the Revised Code by denying a representative of the office of the state long-term care ombudsman program the access required by that division is subject to a fine not to exceed five hundred dollars for each violation.

(D) Whoever violates division (C) of section 173.44 of the Revised Code is subject to a fine of one hundred dollars.

Sec. 183.16. There is hereby created the southern Ohio agricultural and community development foundation endowment fund, which shall be in the custody of the treasurer of state but shall not be a part of the state treasury. The endowment fund shall consist of ~~amounts appropriated from the southern Ohio agricultural and community development trust fund, as well as~~ grants and donations made to the southern Ohio agricultural and community development foundation and investment earnings of the fund. The endowment fund shall be used by the foundation to carry out its duties.

The foundation is the trustee of the endowment fund. Disbursements from the fund shall be paid by the treasurer of state only upon instruments duly authorized by the board of trustees of the foundation. At the request of The foundation, the treasurer of state shall select and contract with one or more investment managers to invest all money credited to the fund that is not currently needed for carrying out the functions of the foundation. The eligible list of investments shall be the same as for the public employees retirement system under section 145.11 of the Revised Code. All investments shall be subject to the same limitations and requirements as the retirement system under that section and sections 145.112 and 145.113 of the Revised Code.

No money from the southern Ohio agricultural and community

development foundation endowment fund shall be used for the direct production costs of growing tobacco.

Sec. 183.33. No money shall be appropriated or transferred from the general revenue fund to the law enforcement improvements trust fund, ~~southern Ohio agricultural and community development trust fund~~, southern Ohio agricultural and community development foundation endowment fund, Ohio's public health priorities trust fund, biomedical research and technology transfer trust fund, education facilities trust fund, or education technology trust fund.

Sec. 187.10. (A) No person, with purpose to corrupt a director, officer, or employee of JobsOhio, shall promise, offer, or give any valuable thing or valuable benefit.

(B) No person who is a director, officer, or employee of JobsOhio, either before or after being appointed, qualified, or employed in that capacity, shall knowingly solicit or accept for self or another person any valuable thing or valuable benefit to corrupt or improperly influence the person or another director, officer, or employee of JobsOhio with respect to the discharge of the person's or the other director's, officer's, or employee's duty.

(C) Whoever violates division (A) or (B) of this section is guilty of the offense of bribery, as set forth in section 2921.02 of the Revised Code.

Sec. 191.01. As used in this chapter:

(A) "Administrative safeguards," "availability," "confidentiality," "integrity," "physical safeguards," and "technical safeguards" have the same meanings as in 45 C.F.R. 164.304.

(B) "Business associate," "covered entity," "health plan," "individually identifiable health information," and "protected health information" have the same meanings as in 45 C.F.R. 160.103.

(C) "Executive director of the office of health transformation" or "executive director" means the executive director of the office of health transformation or the chief administrative officer of a successor governmental entity responsible for health system oversight in this state.

(D) "Government program providing public benefits" means any program administered by a state agency that has been identified, pursuant to section 191.02 of the Revised Code, by the executive director of the office of health transformation in consultation with the individuals specified in that section.

(E) "Office of health transformation" means the office of health transformation created by executive order 2011-02K.

(F) "Operating protocol" means a protocol adopted by the executive

director of the office of health transformation or the executive director's designee under division (D) of section 191.06 of the Revised Code.

(G) "Participating agency" means a state agency that participates in a health transformation initiative as specified in the one or more operating protocols adopted for the initiative under division (D) of section 191.06 of the Revised Code.

(H) "Personally identifiable information" means information that meets both of the following criteria:

(1) It identifies an individual or there is a reasonable basis to believe that it may be used to identify an individual;

(2) It relates to an individual's eligibility for, application for, or receipt of public benefits from a government program providing public benefits.

(I) "State agency" means each of the following:

(1) The department of administrative services;

(2) The department of aging;

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

(3) ~~The department of development services agency;~~

(4) The department of developmental disabilities;

(5) The department of education;

(6) The department of health;

(7) The department of insurance;

(8) The department of job and family services;

(9) The department of medicaid;

~~(10) The department of mental health~~ mental health and addiction services;

~~(10)~~(11) The department of rehabilitation and correction;

~~(11)~~(12) The department of taxation;

~~(12)~~(13) The department of veterans services;

~~(13)~~(14) The department of youth services.

(J) "Unsecured" has the same meaning as in 16 C.F.R. 318.2.

Sec. 191.02. The executive director of the office of health transformation, in consultation with all of the following individuals, shall identify each government program administered by a state agency that is to be considered a government program providing public benefits for purposes of section 191.04 of the Revised Code:

(A) The director of administrative services;

(B) The director of aging;

~~(B) The director of alcohol and drug addiction services;~~

(C) The director of development services;

(D) The director of developmental disabilities;

- (E) The director of health;
- (F) The director of job and family services;
- (G) The director of medicaid;
- (H) The director of ~~mental health~~ mental health and addiction services;
- ~~(H)~~(I) The director of rehabilitation and correction;
- ~~(J)~~(J) The director of veterans services;
- ~~(J)~~(K) The director of youth services;
- ~~(K)~~(L) The ~~administrator~~ executive director of the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency;
- ~~(L)~~(M) The administrator of workers' compensation;
- ~~(M)~~(N) The superintendent of insurance;
- ~~(N)~~(O) The superintendent of public instruction;
- ~~(O)~~(P) The tax commissioner.

Sec. 191.04. (A) In accordance with federal laws governing the confidentiality of individually identifiable health information, including the "Health Insurance Portability and Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States department of health and human services to implement the act, a state agency may exchange protected health information with another state agency relating to eligibility for or enrollment in a health plan or relating to participation in a government program providing public benefits if the exchange of information is necessary for either or both of the following:

- (1) Operating a health plan;
- (2) Coordinating, or improving the administration or management of, the health care-related functions of at least one government program providing public benefits.

(B) For fiscal ~~year~~ years 2013, 2014, and 2015 only, a state agency also may exchange personally identifiable information with another state agency for purposes related to and in support of a health transformation initiative identified by the executive director of the office of health transformation pursuant to division (C) of section 191.06 of the Revised Code.

(C) With respect to a state agency that uses or discloses personally identifiable information, all of the following conditions apply:

- (1) The state agency shall use or disclose the information only as permitted or required by state and federal law. In addition, if the information is obtained during fiscal year 2013, 2014, or 2015 from an exchange of personally identifiable information permitted under division (B) of this section, the agency shall also use or disclose the information in accordance with all operating protocols that apply to the use or disclosure.

(2) If the state agency is a state agency other than the department of ~~job and family services~~ medicaid and it uses or discloses protected health information that is related to a medicaid recipient and obtained from the department of ~~job and family services~~ medicaid or another agency operating a component of the medicaid program, the state agency shall comply with all state and federal laws that apply to the department of ~~job and family services~~ medicaid when that department, as the state's single state agency to supervise the medicaid program ~~as specified in section 5111.01 of the Revised Code~~, uses or discloses protected health information.

(3) A state agency shall implement administrative, physical, and technical safeguards for the purpose of protecting the confidentiality, integrity, and availability of personally identifiable information the creation, receipt, maintenance, or transmittal of which is affected or governed by this section.

(4) If a state agency discovers an unauthorized use or disclosure of unsecured protected health information or unsecured individually identifiable health information, the state agency shall, not later than seventy-two hours after the discovery, do all of the following:

(a) Identify the individuals who are the subject of the protected health information or individually identifiable health information;

(b) Report the discovery and the names of all individuals identified pursuant to division (C)(4)(a) of this section to all other state agencies and the executive director of the office of health transformation or the executive director's designee;

(c) Mitigate, to the extent reasonably possible, any potential adverse effects of the unauthorized use or disclosure.

(5) A state agency shall make available to the executive director of the office of health transformation or the executive director's designee, and to any other state or federal governmental entity required by law to have access on that entity's request, all internal practices, records, and documentation relating to personally identifiable information it receives, uses, or discloses that is affected or governed by this section.

(6) On termination or expiration of an operating protocol and if feasible, a state agency shall return or destroy all personally identifiable information received directly from or received on behalf of another state agency. If the personally identifiable information is not returned or destroyed, the state agency maintaining the information shall extend the protections set forth in this section for as long as it is maintained.

(7) If a state agency enters into a subcontract or, when required by 45 C.F.R. 164.502(e)(2), a business associate agreement, the subcontract or

business associate agreement shall require the subcontractor or business associate to comply with the terms of this section as if the subcontractor or business associate were a state agency.

Sec. 191.06. (A) The provisions of this section shall apply only for fiscal ~~year~~ years 2013, 2014, and 2015.

(B) The executive director of the office of health transformation or the executive director's designee may facilitate the coordination of operations and exchange of information between state agencies. The purpose of the executive director's authority under this section is to support agency collaboration for health transformation purposes, including modernization of the medicaid program, streamlining of health and human services programs in this state, and improving the quality, continuity, and efficiency of health care and health care support systems in this state.

(C) In furtherance of the authority of the executive director of the office of health transformation under division (B) of this section, the executive director or the executive director's designee shall identify each health transformation initiative in this state that involves the participation of two or more state agencies and that permits or requires an interagency agreement to be entered into for purposes of specifying each participating agency's role in coordinating, operating, or funding the initiative, or facilitating the exchange of data or other information for the initiative. The executive director shall publish a list of the identified health transformation initiatives on the internet web site maintained by the office of health transformation.

(D) For each health transformation initiative that is identified under division (C) of this section, the executive director or the executive director's designee shall, in consultation with each participating agency, adopt one or more operating protocols. Notwithstanding any law enacted by the general assembly or rule adopted by a state agency, the provisions in a protocol shall supersede any provisions in an interagency agreement, including an interagency agreement entered into under section 5101.10 or ~~511.94~~ 5162.35 of the Revised Code, that differ from the provisions of the protocol.

(E)(1) An operating protocol adopted under division (D) of this section shall include both of the following:

(a) All terms necessary to meet the requirements of "other arrangements" between a covered entity and a business associate that are referenced in 45 C.F.R. 164.314(a)(2)(ii);

(b) If known, the date on which the protocol will terminate or expire.

(2) In addition, a protocol may specify the extent to which each participating agency is responsible and accountable for completing the tasks necessary for successful completion of the initiative, including tasks relating

to the following components of the initiative:

(a) Workflow;

(b) Funding;

(c) Exchange of data or other information that is confidential pursuant to state or federal law.

(F) An operating protocol adopted under division (D) of this section shall have the same force and effect as an interagency agreement or data sharing agreement, and each participating agency shall comply with it.

~~(G) The director of job and family services shall determine whether a waiver of federal medicaid requirements or a medicaid state plan amendment is necessary to fulfill the requirements of this section. If the director determines a waiver or medicaid state plan amendment is necessary, the director shall apply to the United States secretary of health and human services for the waiver or amendment.~~

Sec. 301.28. (A) As used in this section:

(1) "Financial transaction device" includes a credit card, debit card, charge card, or prepaid or stored value card, or automated clearinghouse network credit, debit, or e-check entry that includes, but is not limited to, accounts receivable and internet-initiated, point of purchase, and telephone-initiated applications or any other device or method for making an electronic payment or transfer of funds.

(2) "County expenses" includes fees, costs, taxes, assessments, fines, penalties, payments, or any other expense a person owes or otherwise pays to a county office under the authority of a county official, other than dog registration and kennel fees required to be paid under Chapter 955. of the Revised Code. "County expenses" includes payment to a county office of money confiscated during the commitment of an individual to a county jail, of bail, of money for a prisoner's inmate account, and of money for goods and services obtained by or for the use of an individual incarcerated by a county sheriff.

(3) "County official" includes the county auditor, county treasurer, county engineer, county recorder, county prosecuting attorney, county sheriff, county coroner, county park district and board of county commissioners, the clerk of the probate court, the clerk of the juvenile court, the clerks of court for all divisions of the courts of common pleas, and the clerk of the court of common pleas, the clerk of a county-operated municipal court, and the clerk of a county court.

The term "county expenses" includes county expenses owed to the board of health of the general health district or a combined health district in the county. If the board of county commissioners authorizes county

expenses to be paid by financial transaction devices under this section, then the board of health and the general health district and the combined health district may accept payments by financial transaction devices under this section as if the board were a "county official" and the district were a county office. However, in the case of a general health district formed by unification of general health districts under section 3709.10 of the Revised Code, this entitlement applies only if all the boards of county commissioners of all counties in the district have authorized payments to be accepted by financial transaction devices.

(B) Notwithstanding any other section of the Revised Code and except as provided in division (D) of this section, a board of county commissioners may adopt a resolution authorizing the acceptance of payments by financial transaction devices for county expenses. The resolution shall include the following:

(1) A specification of those county officials who, and of the county offices under those county officials that, are authorized to accept payments by financial transaction devices;

(2) A list of county expenses that may be paid for through the use of a financial transaction device;

(3) Specific identification of financial transaction devices that the board authorizes as acceptable means of payment for county expenses. Uniform acceptance of financial transaction devices among different types of county expenses is not required.

(4) The amount, if any, authorized as a surcharge or convenience fee under division (E) of this section for persons using a financial transaction device. Uniform application of surcharges or convenience fees among different types of county expenses is not required.

(5) A specific provision as provided in division (G) of this section requiring the payment of a penalty if a payment made by means of a financial transaction device is returned or dishonored for any reason.

The board's resolution shall also designate the county treasurer as an administrative agent to solicit proposals, within guidelines established by the board in the resolution and in compliance with the procedures provided in division (C) of this section, from financial institutions, issuers of financial transaction devices, and processors of financial transaction devices, to make recommendations about those proposals to the board, and to assist county offices in implementing the county's financial transaction devices program. The county treasurer may decline this responsibility within thirty days after receiving a copy of the board's resolution by notifying the board in writing within that period. If the treasurer so notifies the board, the board shall

perform the duties of the administrative agent.

If the county treasurer is the administrative agent and fails to administer the county financial transaction devices program in accordance with the guidelines in the board's resolution, the board shall notify the treasurer in writing of the board's findings, explain the failures, and give the treasurer six months to correct the failures. If the treasurer fails to make the appropriate corrections within that six-month period, the board may pass a resolution declaring the board to be the administrative agent. The board may later rescind that resolution at its discretion.

(C) The county shall follow the procedures provided in this division whenever it plans to contract with financial institutions, issuers of financial transaction devices, or processors of financial transaction devices for the purposes of this section. The administrative agent shall request proposals from at least three financial institutions, issuers of financial transaction devices, or processors of financial transaction devices, as appropriate in accordance with the resolution adopted under division (B) of this section. Prior to sending any financial institution, issuer, or processor a copy of any such request, the county shall advertise its intent to request proposals in a newspaper of general circulation in the county once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall state that the county intends to request proposals; specify the purpose of the request; indicate the date, which shall be at least ten days after the second publication, on which the request for proposals will be mailed to financial institutions, issuers, or processors; and require that any financial institution, issuer, or processor, whichever is appropriate, interested in receiving the request for proposals submit written notice of this interest to the county not later than noon of the day on which the request for proposals will be mailed.

Upon receiving the proposals, the administrative agent shall review them and make a recommendation to the board of county commissioners on which proposals to accept. The board of county commissioners shall consider the agent's recommendation and review all proposals submitted, and then may choose to contract with any or all of the entities submitting proposals, as appropriate. The board shall provide any financial institution, issuer, or processor that submitted a proposal, but with which the board does not enter into a contract, notice that its proposal is rejected. The notice shall state the reasons for the rejection, indicate whose proposals were accepted, and provide a copy of the terms and conditions of the successful bids.

(D) A board of county commissioners adopting a resolution under this section shall send a copy of the resolution to each county official in the

county who is authorized by the resolution to accept payments by financial transaction devices. After receiving the resolution and before accepting payments by financial transaction devices, a county official shall provide written notification to the board of county commissioners of the official's intent to implement the resolution within the official's office. Each county office subject to the board's resolution adopted under division (B) of this section may use only the financial institutions, issuers of financial transaction devices, and processors of financial transaction devices with which the board of county commissioners contracts, and each such office is subject to the terms of those contracts.

If a county office under the authority of a county official is directly responsible for collecting one or more county expenses and the county official determines not to accept payments by financial transaction devices for one or more of those expenses, the office shall not be required to accept payments by financial transaction devices, notwithstanding the adoption of a resolution by the board of county commissioners under this section.

Any office of a clerk of the court of common pleas that accepts financial transaction devices on or before July 1, 1999, and any other county office that accepted such devices before January 1, 1998, may continue to accept such devices without being subject to any resolution passed by the board of county commissioners under division (B) of this section, or any other oversight by the board of the office's financial transaction devices program. Any such office may use surcharges or convenience fees in any manner the county official in charge of the office determines to be appropriate, and, if the county treasurer consents, may appoint the county treasurer to be the office's administrative agent for purposes of accepting financial transaction devices. In order not to be subject to the resolution of the board of county commissioners adopted under division (B) of this section, a county office shall notify the board in writing within thirty days after March 30, 1999, that it accepted financial transaction devices prior to January 1, 1998, or, in the case of the office of a clerk of the court of common pleas, the clerk has accepted or will accept such devices on or before July 1, 1999. Each such notification shall explain how processing costs associated with financial transaction devices are being paid and shall indicate whether surcharge or convenience fees are being passed on to consumers.

(E) A board of county commissioners may establish a surcharge or convenience fee that may be imposed upon a person making payment by a financial transaction device. The surcharge or convenience fee shall not be imposed unless authorized or otherwise permitted by the rules prescribed by an agreement governing the use and acceptance of the financial transaction

device.

If a surcharge or convenience fee is imposed, every county office accepting payment by a financial transaction device, regardless of whether that office is subject to a resolution adopted by a board of county commissioners, shall clearly post a notice in that office and shall notify each person making a payment by such a device about the surcharge or fee. Notice to each person making a payment shall be provided regardless of the medium used to make the payment and in a manner appropriate to that medium. Each notice shall include all of the following:

(1) A statement that there is a surcharge or convenience fee for using a financial transaction device;

(2) The total amount of the charge or fee expressed in dollars and cents for each transaction, or the rate of the charge or fee expressed as a percentage of the total amount of the transaction, whichever is applicable;

(3) A clear statement that the surcharge or convenience fee is nonrefundable.

(F) If a person elects to make a payment to the county by a financial transaction device and a surcharge or convenience fee is imposed, the payment of the surcharge or fee shall be considered voluntary and the surcharge or fee is not refundable.

(G) If a person makes payment by financial transaction device and the payment is returned or dishonored for any reason, the person is liable to the county for payment of a penalty over and above the amount of the expense due. The board of county commissioners shall determine the amount of the penalty, which may be either a fee not to exceed twenty dollars or payment of the amount necessary to reimburse the county for banking charges, legal fees, or other expenses incurred by the county in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies provided by law.

(H) No person making any payment by financial transaction device to a county office shall be relieved from liability for the underlying obligation except to the extent that the county realizes final payment of the underlying obligation in cash or its equivalent. If final payment is not made by the financial transaction device issuer or other guarantor of payment in the transaction, the underlying obligation shall survive and the county shall retain all remedies for enforcement that would have applied if the transaction had not occurred.

(I) A county official or employee who accepts a financial transaction device payment in accordance with this section and any applicable state or

local policies or rules is immune from personal liability for the final collection of such payments.

Sec. 305.23. (A) As used in this section:

(1) "County office" means the offices of the county commissioner, county auditor, county treasurer, county engineer, county recorder, county prosecuting attorney, county sheriff, county coroner, county park district, veterans service commission, clerk of the juvenile court, clerks of court for all divisions of the courts of common pleas, including the clerk of the court of common pleas, clerk of a county-operated municipal court, and clerk of a county court, and any agency, department, or division under the authority of, or receiving funding in whole or in part from, any of those county offices.

(2) "Human resources" means any and all functions relating to human resource management, including civil service, employee benefits administration, collective bargaining, labor relations, risk management, workers' compensation, unemployment compensation, and any human resource management function required by state or federal law, but "human resources" does not authorize a board of county commissioners to adopt a resolution establishing a centralized human resource service that requires any county office to conform to any classification and compensation plan, position descriptions, or organizational structure; to determine the rate of compensation of any employee appointed by the appointing authority of a county office or the salary ranges for positions of a county office within the aggregate limits set in the appropriation resolution of the board of county commissioners; to determine the number of or the terms of employment of any employee appointed by the appointing authority of a county office within the aggregate limits set in the board's appropriation resolution; or to exercise powers relating to the hiring, qualifications, evaluation, suspension, demotion, disciplinary action, layoff, furloughing, establishment of a modified work-week schedule, or the termination of any employee appointed by the appointing authority of any county office.

(B) Subject to division (C) of this section, a board of county commissioners may adopt a resolution establishing centralized purchasing, printing, transportation, vehicle maintenance, human resources, revenue collection, and mail operation services for a county office. Before adopting a resolution under this section, the board of county commissioners, in a written notice, shall inform any other county office that will be impacted by the resolution of the board's desire to establish a centralized service or services. The written notice shall include a statement that provides the rationale and the estimated savings anticipated for centralizing a service or services. In addition, the board may request any other county office to serve

as the agent and responsible party for administering a centralized service or services. That county office may enter into an agreement with the board of county commissioners to administer the centralized service or services under such terms and conditions as are included in the agreement, but nothing in this section authorizes the board of county commissioners to require a county office to serve as the agent and responsible party for administering a centralized service or services at the board's request.

A resolution establishing a centralized service or services shall specify all of the following:

(1) The name of the county office that will be the agent and responsible party for administering a centralized service or services, and if the agent and responsible party is not the board of county commissioners, the designation of the county office that has entered into an agreement under division (B) of this section with the board to be the agent and responsible party;

(2) Which county offices are required to use the centralized services;

(3) If not all of the centralized services, which centralized service each county office must use;

(4) A list of rates and charges the county office shall pay for the centralized services;

(5) The date upon which each county office specified in the resolution shall begin using the centralized services.

Not later than ten days after a resolution is adopted under this section, the clerk of the board of county commissioners shall send a copy of the resolution to each county office that is specified in the resolution.

(C) A board of county commissioners shall not adopt a resolution that establishes a centralized service or services regarding any of the following:

(1) Purchases made for contract services with moneys from the ~~special fund designated as "general county recorder's technology fund moneys to supplement the equipment needs of the county recorder"~~ established under section 317.321 of the Revised Code or from the funds that are paid out of the general fund of the county under sections 325.071 and 325.12 of the Revised Code;

(2) Purchases made with moneys from the real estate assessment fund established under section 325.31 of the Revised Code;

(3) Purchases of financial software used by the county auditor;

(4) The printing of county property tax bills;

(5) The collection of any taxes, assessments, and fees the county treasurer is required by law to collect;

(6) Purchases of software used by the county recorder.

(D) Nothing in this section authorizes the board of county

commissioners to have control or authority over funds that are received directly by a county office under another section of the Revised Code, or to control, or have authority regarding, the expenditure or use of such funds.

Sec. 307.07. (A) The board of county commissioners, by resolution, may create an office of economic development, to develop and promote plans and programs designed to assure that county resources are efficiently used, economic growth is properly balanced, and that county economic development is coordinated with that of the state and other local governments. For this purpose, the board may appropriate moneys from the county general fund, or, pursuant to section 307.64 of the Revised Code, moneys derived from a tax levied pursuant to division (EE) of section 5705.19 of the Revised Code. The moneys so appropriated may be used for the creation and operation of the office, for, any economic development purpose of the office, and to provide for the establishment and operation of a program of economic development, including in support of a county land reutilization corporation organized under Chapter 1724. of the Revised Code. In support of a county land reutilization corporation, the board of county commissioners may enter into a contract with the corporation to provide employees to provide services to the corporation. An employee of the board who provides services to a county land reutilization corporation under such a contract shall not be considered an employee of the corporation during the provision of services, but shall remain an employee of the county. The board may hire a director of economic development, who shall be a member of the unclassified civil service, and fix the director's compensation; or may do any of the following:

(1) Enter into an agreement with a county planning commission within the county, created under section 713.22 of the Revised Code, or a regional planning commission, created under section 713.21 of the Revised Code, regardless of whether the county is a member of the commission, to carry out all of the functions and duties of a director of economic development under division (B) of this section. Any agreement shall set forth the procedure by which the county or regional planning commission shall gain the approval of the board of county commissioners for any actions, functions, and duties under division (B) of this section. Any agreement may continue in effect for a period of one to three years and may be renewed with the consent of all parties. The civil service status of planning commission staff shall not be affected by any agreement under this division.

(2) Enter into an agreement with ~~the Ohio cooperative~~ OSU extension ~~service~~, providing for the use of employees hired by the Ohio state university under section 3335.36 of the Revised Code to carry out all of the

functions and duties of a director of economic development under division (B) of this section. Any agreement shall set forth the procedure by which ~~the Ohio cooperative OSU extension service~~ shall gain the approval of the board of county commissioners for any actions, functions, and duties under division (B) of this section. Any agreement may continue in effect for a period of one to three years and may be renewed with the consent of all parties. The employment classification of ~~Ohio cooperative OSU extension service~~ employees shall not be affected by any agreement under this division.

Any moneys appropriated by the board of county commissioners to execute an agreement for the provision of services pursuant to this section by ~~the Ohio cooperative OSU extension service~~ shall be paid to the Ohio state university to the credit of the ~~Ohio cooperative OSU extension service~~ fund created under section 3335.35 of the Revised Code.

(3) Enter into an agreement with a public or private nonprofit organization to carry out all of the functions and duties of a director of economic development under division (B) of this section. The agreement shall set forth the procedure by which the nonprofit organization shall gain the approval of the board of county commissioners for any actions, functions, and duties under that division. The agreement may continue in effect for a period of one to three years and may be renewed with the consent of all parties. The employment classification of the nonprofit organization's employees shall not be affected by an agreement under this division.

(B) The director of economic development may:

(1) With the approval of the board, hire such staff and employ such technical and advisory personnel as the director sees fit to enable the director to carry out the functions and duties of the office;

(2) With the approval of the board, contract for services necessary to enable the director to carry out the functions and duties of the office;

(3) With the approval of the board, enter into agreements with federal, state, and local governments and agencies thereof, and with public, private, or nonprofit organizations to carry out the functions and duties of the office;

(4) Maintain membership in development organizations;

(5) With the approval of the board, make loans or grants and provide other forms of financial assistance for the purpose of economic development, including financial assistance for permanent public improvements, in compliance with applicable laws of this state, and fix the rate of interest and charges to be made for such financial assistance;

(6) With the approval of the board, receive and accept grants, gifts, and

contributions of money, property, labor, and other things of value, to be held, used, and applied only for the purpose for which they are made, from individuals, private and public corporations, the United States government or any agency thereof, from the state or any agency thereof, or from any political subdivision or any agency thereof, and may agree to repay any contribution of money or return any property contributed or the value thereof in amounts, and on terms and conditions, excluding the payment of interest, as the director determines, and may evidence the obligations by written evidence;

(7) Establish with the board any funds that are necessary for the deposit and disbursement of gifts or contributions of money accepted for economic development purposes;

(8) With the approval of the board, design, implement, monitor, oversee, and evaluate economic development plans, programs, strategies, and policies;

(9) Purchase real property to convey to a county land reutilization corporation to be used in accordance with its public purposes;

(10) Perform all acts necessary to fulfill the functions and duties of the office.

(C) The boards of county commissioners of two or more counties, by resolution, may create a joint office of economic development for the purposes set forth in division (A) of this section. The counties participating in a joint office of economic development shall enter into an agreement that sets forth the contribution of funds, services, and property to the joint office from each participating county; establishes the person, public agency, or nonprofit organization that shall carry out the functions and duties of the office; and discloses any other terms by which the joint office shall operate.

The boards of county commissioners of counties participating in a joint office of economic development may appropriate moneys from their respective county general funds, or, pursuant to section 307.64 of the Revised Code, moneys derived from a tax levied pursuant to division (EE) of section 5705.19 of the Revised Code, for the creation and operation of the joint office, for any economic development purpose of the office, and to provide for the establishment and operation of a program of economic development. The participating counties may hire a director of economic development for the joint office or enter into an agreement with a public agency or nonprofit organization in a manner set forth in division (A) of this section to carry out the functions and duties set forth in division (B) of this section.

Any agreement establishing a joint office of economic development

shall set forth the procedure by which the person, public agency, or nonprofit organization carrying out the functions and duties of the office shall gain the approval of the participating boards of county commissioners for any actions, functions, and duties under division (B) of this section.

(D) As used in this section, "economic development" has the same meaning as in section 307.64 of the Revised Code.

Sec. 307.515. (A) All fines and penalties collected by, and moneys arising from forfeited bail in, a municipal court for offenses and misdemeanors brought for prosecution in the name of a municipal corporation under one of its penal ordinances, where there is in force a state statute under which the offense might be prosecuted, or brought for prosecution in the name of the state, except a portion of those fines, penalties, and moneys that, plus all costs collected monthly in those state cases, equal the compensation allowed by the board of county commissioners to the judges of the municipal court, its clerk, and the prosecuting attorney of that court in state cases, shall be retained by the clerk of that municipal court and shall be deposited by the clerk each month in the county law library resources fund that is created under section 307.514 of the Revised Code in the county in which that municipal corporation is located. The sum that the clerk of the municipal court deposits in the county law library resources fund shall in no month be less than twenty-five per cent of the amount of such fines, penalties, and moneys received in that month, without deducting the amount of the allowance of the board of county commissioners to the judges, clerk, and prosecuting attorney.

The total amount paid under this section in any one calendar year by the clerks of all municipal courts in any one county to the county law library resources fund shall in no event exceed the following amounts:

(1) In counties having a population of fifty thousand or less, seventy-five hundred dollars and the maximum amount paid by any of such courts shall not exceed four thousand dollars in any calendar year.

(2) In counties having a population in excess of fifty thousand but not in excess of one hundred thousand, eight thousand dollars and the maximum amount paid by any of such courts shall not exceed five thousand five hundred dollars in any calendar year.

(3) In counties having a population in excess of one hundred thousand but not in excess of one hundred fifty thousand, ten thousand dollars and the maximum amount paid by any of such courts shall not exceed seven thousand dollars in any calendar year.

(4) In counties having a population of in excess of one hundred fifty

thousand, fifteen thousand dollars in any calendar year. The maximum amount to be paid by each clerk shall be determined by the county auditor in December of each year for the next succeeding calendar year and shall bear the same ratio to the total amount payable under this section from the clerks of all municipal courts in such county as the total fines, costs, and forfeitures received by the corresponding municipal court, bear to the total fines, costs, and forfeitures received by all the municipal courts in the county, as shown for the last complete year of actual receipts, on the latest available budgets of such municipal courts. Payments in the full amounts provided in this section shall be made monthly by each clerk in each calendar year until the maximum amount for such year has been paid. When that amount, so determined by the auditor, has been paid to the county law library resources fund, then no further payments shall be required in that calendar year from the clerk of that court.

(5) This section does not apply to fines collected by a municipal court for violations of division (B) of section 4513.263 of the Revised Code, or for violations of any municipal ordinance that is substantively comparable to that division, all of which shall be forwarded to the treasurer of state as provided in division (E) of section 4513.263 of the Revised Code.

(B) The county treasurer, upon the voucher of the county auditor, shall deposit fifty per cent of all moneys collected by a county court accruing from fines, penalties, and forfeited bail, unless otherwise distributed by law, in the county law library resources fund in that county that is created under section 307.514 of the Revised Code. The county treasurer shall deposit those moneys into that fund within thirty days after those moneys have been paid into the county treasury by the clerk of the county court.

This section does not apply to fines collected by a county court for violations of division (B) of section 4513.263 of the Revised Code, or for violations of any municipal ordinance that is substantively comparable to that division, all of which shall be forwarded to the treasurer of state as provided in division (E) of section 4513.263 of the Revised Code.

(C) In each county of the state, the clerk of the court of common pleas and the clerk of the probate court shall retain all fines and penalties collected by, and moneys arising from forfeited bail in, the court of common pleas and the probate court of that county for offenses and misdemeanors brought for prosecution in those courts in the name of the state and monthly shall deposit those moneys in the county law library resources fund in that county that is created under section 307.514 of the Revised Code. The total sums so deposited shall not exceed twelve hundred fifty dollars per annum, and when that amount has been deposited in the fund in accordance with this

section then no further payments shall be required under this section in that calendar year from the clerks of those respective courts.

This section does not apply to fines collected by a court of common pleas for violations of division (B) of section 4513.263 of the Revised Code, all of which shall be forwarded to the treasurer of state as provided in division (E) of that section.

This section does not apply to fines imposed under division (B)(9) of section 2929.18 of the Revised Code and collected by a court of common pleas, all of which shall be forwarded by the court to the treasurer of state not later than the twentieth day of the month after the month in which they are collected for deposit into the state treasury to the credit of the rape crisis program trust fund created by section 109.921 of the Revised Code.

(D) In each county, the treasurer of the county or the treasurer of the municipal corporation shall deposit monthly fifty per cent of all fines and penalties collected by, and fifty per cent of moneys arising from forfeited bail in, any court in that county for offenses brought for prosecution under Chapters 4301. and 4303. of the Revised Code and the state traffic laws in the county legal resources fund in that county that is created under section 307.514 of the Revised Code. The sum so deposited in that fund by each treasurer shall not exceed twelve hundred dollars per annum under Chapters 4301. and 4303. of the Revised Code, and when that amount has been deposited in that fund in accordance with this section, then no further deposits shall be required under this section in that calendar year from those treasurers.

As used in this section, "state traffic laws" does not include division (B) of section 4513.263 of the Revised Code.

Sec. 307.673. This section applies only in a county in which a tax is levied under section 307.697, 4301.421, 5743.024, or 5743.323 of the Revised Code on ~~the effective date of this amendment~~ July 19, 1995.

(A) As used in this section:

(1) "County taxes" means taxes levied by a board of county commissioners under division (D) of section 307.697, division (B) of section 4301.421, division (C) of section 5743.024, and section 5743.323 of the Revised Code.

(2) "Corporation" means a nonprofit corporation organized under the laws of this state and that includes among the purposes for which it is incorporated the authority to acquire, construct, renovate, repair, equip, lease, manage, or operate a sports facility.

(3) "Cooperative agreement" means an agreement entered into pursuant to this section.

(4) "Cost of a sports facility" means the cost of acquiring, constructing, renovating, repairing, equipping, or improving one or more sports facilities, including reconstructing, rehabilitating, remodeling, and enlarging; the cost of equipping and furnishing such a facility; and all financing costs pertaining thereto, including the cost of engineering, architectural, and other professional services, designs, plans, specifications and surveys, and estimates of costs; the costs of refinancing obligations issued by, or reimbursement of money advanced by, the parties to the cooperative agreement or other persons, the proceeds of which obligations were used to pay the costs of the sports facility; the cost of tests and inspections; the cost of any indemnity or surety bonds and premiums on insurance, all related direct and administrative costs pertaining thereto, fees and expenses of trustees, depositories, and paying agents for the obligations, capitalized interest on the obligations, amounts necessary to establish reserves as required by the obligation proceedings, the reimbursement of money advanced or applied by the parties to the cooperative agreement or other persons for the payment of any item of costs of the sports facility, and all other expenses necessary or incident to planning or determining the feasibility or practicability with respect to the sports facility; and any other such expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, repair, enlargement, improvement, equipping, and furnishing of the sports facility, the financing of the sports facility, placing the sports facility in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(5) "Financing costs" has the same meaning as in section 133.01 of the Revised Code.

(6) "Obligations" means obligations issued or incurred to pay the cost of a sports facility, including bonds, notes, certificates of indebtedness, commercial paper, and other instruments in writing, anticipatory securities as defined in section 133.01 of the Revised Code, issued or incurred by an issuer pursuant to Chapter 133. or 4582. of the Revised Code or this section, or otherwise, to evidence the issuer's obligation to repay borrowed money, or to pay interest, by, or to pay at any future time other money obligations of, the issuer of the obligations, including obligations of an issuer or lessee to make payments under an installment sale, lease, lease-purchase, or similar agreement.

(7) "Owner" means any person that owns or operates a professional athletic or sports team, that is party to a cooperative agreement, or that has a lease or other agreement with a party to a cooperative agreement, and that

commits to use the sports facility that is the subject of the cooperative agreement for all of the team's home games for the period specified in that agreement.

(8) "Payments," when used with reference to obligations, means payments of the principal, including any mandatory sinking fund deposits and mandatory redemption payments, interest and any redemption premium, and lease rentals, lease-purchase payments and other amounts payable under obligations in the form of installment sale, lease, lease-purchase, or similar agreements.

(9) "Person" has the same meaning as defined in section 133.01 of the Revised Code.

(10) "Port authority" means a port authority created under Chapter 4582. of the Revised Code.

(11) "Sports facility" means a facility, including a stadium, that is intended to house or provide a site for one or more major league professional athletic or sports teams or activities, together with all spectator facilities, parking facilities, walkways, and auxiliary facilities, real and personal property, property rights, easements, leasehold estates, and interests that may be appropriate for, or used in connection with, the operation of the sports facility.

(B) The board of county commissioners of a county, the legislative authority of a municipal corporation, a port authority, a corporation, and an owner, or any combination thereof, may enter into one or more cooperative agreements under which the parties enter into one or more of the agreements described in divisions (B)(1) to (5) of this section.

(1) The board of county commissioners agrees to do one or more of the following:

(a) Levy a tax under division (D) of section 307.697, division (B) of section 4301.421, division (C) of section 5743.024, and section 5743.323 of the Revised Code and make available all or a portion of the revenue from those taxes for the payment of the cost of the sports facility or to make payments on obligations;

(b) Issue or incur obligations of the county pursuant to Chapter 133. of the Revised Code or this section;

(c) Make available all or a portion of the revenue from those taxes or of the proceeds from the issuance of those obligations to the municipal corporation, port authority, corporation, or otherwise for the payment of the cost of a sports facility or the payment of obligations;

(d) Acquire, construct, renovate, repair, equip, lease to or from another person, and operate, directly or by a lease or management contract with

another person, one or more sports facilities;

(e) To the extent provided in the cooperative agreement or a lease with respect to a sports facility, authorize the municipal corporation, port authority, corporation, or owner to administer contracts for designing, planning, acquiring, constructing, renovating, repairing, or equipping a sports facility.

(2) The port authority agrees to do one or more of the following:

(a) Issue or incur obligations of the port authority pursuant to Chapter 133. or 4582. of the Revised Code or this section;

(b) Make available all or a portion of the proceeds from the issuance of those obligations to the municipal corporation, county, or corporation for the payment of the cost of a sports facility or the payment of obligations;

(c) Acquire, construct, renovate, repair, equip, lease to or from another person, and operate, directly or by a lease or management contract with another person, one or more sports facilities;

(d) To the extent provided in the cooperative agreement or a lease with respect to a sports facility, authorize the municipal corporation, county, corporation, or owner to administer contracts for designing, planning, acquiring, constructing, renovating, repairing, or equipping a sports facility.

(3) The legislative authority of the municipal corporation agrees to do one or more of the following:

(a) Make available the revenue from taxes levied by the legislative authority for the payment of the cost of a sports facility or to make payments on obligations;

(b) Issue or incur obligations of the municipal corporation pursuant to Chapter 133. of the Revised Code or otherwise;

(c) Make available all or a portion of the proceeds from the issuance of those obligations to the county, port authority, corporation, or otherwise for the payment of the cost of a sports facility or the payment of obligations;

(d) Acquire, construct, renovate, repair, equip, lease to or from another person, and operate, directly or by a lease or management contract with another person, one or more sports facilities;

(e) To the extent provided in the cooperative agreement or a lease with respect to a sports facility, authorize the county, port authority, corporation, or owner to administer contracts for designing, planning, acquiring, constructing, renovating, repairing, or equipping a sports facility.

(4) The corporation agrees to do one or more of the following:

(a) Issue or incur obligations;

(b) Make available all or a portion of the proceeds from the issuance of those obligations to the county, port authority, municipal corporation, or

otherwise for the payment of the cost of a sports facility or the payment of obligations;

(c) Acquire, construct, renovate, repair, equip, lease to or from another person, and operate, directly or by a lease or management contract with another person, one or more sports facilities;

(d) To the extent provided in the cooperative agreement or a lease with respect to a sports facility, agree that the corporation will administer contracts for designing, planning, acquiring, constructing, renovating, repairing, or equipping a sports facility.

(5) The owner agrees to do one or more of the following:

(a) Use the sports facility that is the subject of the cooperative agreement for all of the home games of the owner's professional athletic or sports team for a specified period;

(b) Administer contracts for designing, planning, acquiring, constructing, renovating, repairing, or equipping a sports facility.

(C) Any obligations may be secured by a trust agreement between the issuer of obligations and a corporate trustee that is a trust company or bank having the powers of a trust company in or outside this state and authorized to exercise corporate trust powers in this state. Proceeds from the issuance of any obligations or the taxes levied and collected by any party to the cooperative agreement may be deposited with and administered by a trustee pursuant to the trust agreement.

(D) Any contract for the acquisition, construction, renovation, repair, or equipping of a sports facility entered into, assigned, or assumed under this section shall provide that all laborers and mechanics employed in the acquisition, construction, renovation, repair, or equipping of the sports facility shall be paid at the prevailing rates of wages of laborers and mechanics for the class of work called for, as those wages are determined in accordance with Chapter 4115. of the Revised Code.

Sec. 307.674. (A) As used in this section:

(1) "Bonds" means:

(a) Revenue bonds of the port authority described in division (B)(2)(a) of this section;

(b) Securities as defined in division (KK) of section 133.01 of the Revised Code issued by the host municipal corporation, described in division (B)(3)(a) of this section;

(c) Any bonds issued to refund any of those revenue bonds or securities.

(2) "Corporation" means a nonprofit corporation that is organized under the laws of this state and that includes within the purposes for which it is incorporated the authorization to lease and operate facilities such as a port

authority educational and cultural performing arts facility.

(3) "Cost," as applied to a port authority educational and cultural performing arts facility, means the cost of acquiring, constructing, renovating, rehabilitating, equipping, or improving the facility, or any combination of those purposes, collectively referred to in this section as "construction," and the cost of acquisition of all land, rights of way, property rights, easements, franchise rights, and interests required for those purposes, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which those buildings or structures may be moved, the cost of public utility and common carrier relocation or duplication, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for not more than three years after completion of construction, costs arising under guaranty agreements, reimbursement agreements, or other credit enhancement agreements relating to bonds, engineering, expenses of research and development with respect to such facility, legal expenses, plans, specifications, surveys, studies, estimates of costs and revenues, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the facility, administrative expense, and other expenses as may be necessary or incident to that acquisition or construction and the financing of such acquisition or construction, including, with respect to the revenue bonds of a port authority, amounts to be paid into any special funds from the proceeds of those bonds, and repayments to the port authority, host county, host municipal corporation, or corporation of any amounts advanced for the foregoing purposes.

(4) "Debt service charges" means, for any period or payable at any time, the principal of and interest and any premium due on bonds for that period or payable at that time whether due at maturity or upon mandatory redemption, together with any required deposits to reserves for the payment of principal of and interest on those bonds, and includes any payments required by the port authority to satisfy any of its obligations under or arising from any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of this section.

(5) "Host county" means the county within the boundaries of which the port authority educational and cultural performing arts facility is or will be located.

(6) "Host municipal corporation" means the municipal corporation within the boundaries of which the port authority educational and cultural performing arts facility is or will be located.

(7) "Port authority" means a port authority created pursuant to section

4582.22 of the Revised Code.

(8) "Port authority educational and cultural performing arts facility" means a facility that consists of a center for music or other performing arts, a theater or other facilities to provide programs of an educational, recreational, or cultural nature, or any combination of those purposes as determined by the parties to the cooperative agreement for which provision is made in division (B) of this section to fulfill the public educational, recreational, and cultural purposes set forth therein, together with all parking facilities, walkways, and other auxiliary facilities, real and personal property, property rights, easements, and interests that may be appropriate for, or used in connection with, the operation of the facility.

(B) A host county, a host municipal corporation, and a port authority may enter into a cooperative agreement with a corporation under which, as further provided for in that agreement:

(1) The host county may agree to do any or all of the following:

(a) Levy and collect a tax under division (E) and division (F) of section 5739.09 of the Revised Code for the purposes, and in an amount sufficient for those purposes, described in divisions (B)(1)(b) and (c) of this section;

(b) Pay to the port authority all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to be used to pay a portion of the costs of acquiring, constructing, renovating, rehabilitating, equipping, or improving the port authority educational and cultural performing arts facility;

(c) Pledge and pay to the corporation all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to be used to pay a portion of the costs to the corporation of leasing the port authority educational and cultural performing arts facility from the port authority.

(2) The port authority may agree to do any or all of the following:

(a) Issue its revenue bonds pursuant to section 4582.48 of the Revised Code for the purpose of paying all or a portion of the costs of the port authority educational and cultural performing arts facility;

(b) Acquire, construct, renovate, rehabilitate, equip, and improve the port authority educational and cultural performing arts facility;

(c) Lease the port authority educational and cultural performing arts facility to the corporation;

(d) To the extent provided for in the cooperative agreement or the lease to the corporation, authorize the corporation to administer on behalf of the port authority the contracts for acquiring, constructing, renovating,

rehabilitating, or equipping the port authority educational and cultural performing arts facility;

(e) Use the revenue derived from the lease of the port authority educational and cultural performing arts facility to the corporation solely to pay debt service charges on revenue bonds of the port authority issued pursuant to division (B)(2)(a) of this section and to pay its obligations under or arising from any guaranty agreements, reimbursement agreements, or other credit enhancement agreements provided for in this section.

(3) The host municipal corporation may agree to do either or both of the following:

(a) Issue its bonds for the purpose of paying all or a portion of the costs of the port authority educational and cultural performing arts facility, and pay the proceeds from the issuance to the port authority for that purpose;

(b) Enter into a guaranty agreement, a reimbursement agreement, or other credit enhancement agreement with the port authority to provide a guaranty or other credit enhancement of the port authority revenue bonds referred to in division (B)(2)(a) of this section pledging taxes, other than ad valorem property taxes, or other revenues for the purpose of providing the funds required to satisfy the host municipal corporation's obligations under that agreement.

The cooperative agreement may provide that the proceeds of such securities or of such guaranty agreement, reimbursement agreement, or other credit enhancement agreement be deposited with and administered by the trustee pursuant to the trust agreement authorized in division (C) of this section.

(4) The corporation may agree to do any or all of the following:

(a) Lease the port authority educational and cultural performing arts facility from the port authority;

(b) Operate and maintain the port authority educational and cultural performing arts facility pursuant to the lease;

(c) To the extent provided for in the cooperative agreement or the lease from the port authority, administer on behalf of the port authority the contracts for acquiring, constructing, renovating, rehabilitating, or equipping the port authority educational and cultural performing arts facility.

(C) The pledge and payments referred to in divisions (B)(1)(b) and (c) of this section and provided for in the cooperative agreement shall be for the period stated in the cooperative agreement but shall not extend longer than the period necessary to provide for the final retirement of the port authority revenue bonds referred to in division (B)(2)(a) of this section, and for the satisfaction by the port authority of any of its obligations under or arising

from any guaranty agreements, reimbursement agreements, or other credit enhancement agreements relating to those bonds or to the revenues pledged to them. The cooperative agreement shall provide for the termination of the cooperative agreement, including the pledge and payment referred to in division (B)(1)(c) of this section, if the port authority revenue bonds referred to in division (B)(2)(a) of this section have not been issued, sold, and delivered within five years of the effective date of the cooperative agreement.

The cooperative agreement shall provide that any port authority revenue bonds shall be secured by a trust agreement between the port authority and a corporate trustee that is a trust company or bank having the powers of a trust company within or outside the state but authorized to exercise trust powers within the state. The host county may be a party to that trust agreement for the purpose of better securing the pledge by the host county of its payment to the corporation pursuant to division (B)(1)(c) of this section. A tax levied pursuant to section 5739.09 of the Revised Code for the purposes specified in division (B)(1)(b) or (c) of this section is not subject to diminution by initiative or referendum or diminution by statute, unless provision is made for an adequate substitute reasonably satisfactory to the trustee under the trust agreement that secures the port authority revenue bonds.

(D) A pledge of money by a host county under this section shall not be net indebtedness of the host county for purposes of section 133.07 of the Revised Code. A guaranty or other credit enhancement by a host municipal corporation under this section shall not be net indebtedness of the host municipal corporation for purposes of section 133.05 of the Revised Code.

(E) If the terms of the cooperative agreement so provide, any contract for the acquisition, construction, renovation, rehabilitation, equipping, or improving of a port authority educational and cultural performing arts facility shall be made in such manner as is determined by the board of directors of the port authority, and unless the cooperative agreement provides otherwise, such a contract is not subject to division (R)(2) of section 4582.31 of the Revised Code. The port authority may take the assignment of and assume any contracts for the acquisition, construction, renovation, rehabilitation, equipping, or improving of a port authority educational and cultural performing arts facility that had previously been authorized by any of the host county, the host municipality, or the corporation. Such contracts are not subject to division (R)(2) of section 4582.31 of the Revised Code.

Any contract for the acquisition, construction, renovation, rehabilitation, equipping, or improving of a port authority educational and cultural

performing arts facility entered into, assigned, or assumed pursuant to this division shall provide that all laborers and mechanics employed for the acquisition, construction, renovation, rehabilitation, equipping, or improving of that facility shall be paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by the port authority educational and cultural performing arts facility, which wages shall be determined in accordance with the requirements of Chapter 4115. of the Revised Code for the determination of prevailing wage rates.

Notwithstanding any provisions to the contrary in section ~~3383.07~~ 123.281 of the Revised Code, construction services and general building services for a port authority educational and cultural performing arts facility funded completely or in part with money appropriated by the state to the Ohio ~~cultural~~ facilities construction commission may be provided by a port authority or a corporation that occupies, will occupy, or is responsible for that facility, as determined by the commission. The construction services and general building services to be provided by the port authority or the corporation shall be specified in an agreement between the commission and the port authority or corporation. That agreement, or any actions taken under it, are not subject to Chapters 123. or 153. of the Revised Code, but are subject to Chapter 4115. of the Revised Code.

Sec. 307.696. (A) As used in this section:

(1) "County taxes" means taxes levied by the county pursuant to sections 307.697, 4301.421, 5743.024, and 5743.323 of the Revised Code.

(2) "Corporation" means a nonprofit corporation that is organized under the laws of this state for the purposes of operating or constructing and operating a sports facility in the county and that may also be organized under the laws of this state for the additional purposes of conducting redevelopment and economic development activities within the host municipal corporation.

(3) "Sports facility" means a sports facility that is intended to house major league professional athletic teams, including a stadium, together with all parking facilities, walkways, and other auxiliary facilities, real and personal property, property rights, easements, and interests that may be appropriate for, or used in connection with, the operation of the facility.

(4) "Construction" includes, but is not limited to, providing fixtures, furnishings, and equipment and providing for capital repairs and improvements.

(5) "Debt service charges" means the interest, principal, premium, if any, carrying and redemption charges, and expenses on bonds issued by either the county or the corporation to:

(a) Construct a sports facility or provide for related redevelopment or economic development as provided in this section;

(b) Acquire real and personal property, property rights, easements, or interests that may be appropriate for, or used in connection with, the operation of the facility; and

(c) Make site improvements to real property, including, but not limited to, demolition, excavation, and installation of footers, pilings, and foundations.

(6) "Host municipal corporation" means the municipal corporation within the boundaries of which the sports facility is located, and with which a national football league, major league baseball, or national basketball association sports franchise is associated on ~~the effective date of this amendment~~ March 20, 1990.

(B) A board of county commissioners of a county that levies a tax under section 307.697, 4301.421, or 5743.024 of the Revised Code may enter into an agreement with a corporation operating in the county, and, if there is a host municipal corporation all or a part of which is located in the county, shall enter into an agreement with a corporation operating in the county and the host municipal corporation, under which:

(1)(a) The corporation agrees to construct and operate a sports facility in the county and to pledge and contribute all or any part of the revenues derived from its operation, as specified in the agreement, for the purposes described in division (C)(1) of this section; and

(b) The board agrees to levy county taxes and pledge and contribute any part or all of the revenues therefrom, as specified in the agreement, for the purposes described in division (C)(1) of this section; or

(2)(a) The corporation agrees to operate a sports facility constructed by the county and to pledge and contribute all or any part of the revenues derived from its operation, as specified in the agreement, for the purposes described in division (C)(2) of this section; and

(b) The board agrees to issue revenue bonds of the county, use the proceeds from the sale of the bonds to construct a sports facility in the county, and to levy county taxes and pledge and contribute all or any part of the revenues therefrom, as specified in the agreement, for the purposes described in division (C)(2) of this section; and, if applicable

(3) The host municipal corporation agrees to expend the unused pledges and contributions and surplus revenues as described in divisions (C)(1) and (2) of this section for redevelopment and economic development purposes related to the sports facility.

(C)(1) The primary purpose of the pledges and contributions described

in division (B)(1) of this section is payment of debt service charges. To the extent the pledges and contributions are not used by the county or corporation for payment of debt service charges, the county or corporation, pursuant to the agreement provided for in division (B) of this section, shall provide the unused pledges and contributions, together with surplus revenues of the sports facility not needed for debt service charges or the operation and maintenance of the sports facility, to the host municipal corporation, or a nonprofit corporation, which may be the corporation acting on behalf of the host municipal corporation, for redevelopment and economic development purposes related to the sports facility. If the county taxes are also levied for the purpose of making permanent improvements, the agreement shall include a schedule of annual pledges and contributions by the county for the payment of debt service charges. The county's pledge and contribution provided for in the agreement shall be for the period stated in the agreement but not to exceed twenty years. The agreement shall provide that any such bonds and notes shall be secured by a trust agreement between the corporation or other bond issuer and a corporate trustee that is a trust company or bank having the powers of a trust company within or without the state, and the trust agreement shall pledge or assign to the retirement of the bonds or notes, all moneys paid by the county for that purpose under this section. A county tax, all or any part of the revenues from which are pledged under an agreement entered into by a board of county commissioners under this section shall not be subject to diminution by initiative or referendum, or diminution by statute, unless provision is made therein for an adequate substitute therefor reasonably satisfactory to the trustee under the trust agreement that secures the bonds and notes.

(2) The primary purpose of the pledges and contributions described in division (B)(2) of this section is payment of debt service charges. To the extent the pledges and contributions are not used by the county for payment of debt service charges, the county or corporation, pursuant to the agreement provided for in division (B) of this section, shall provide the unused pledges and contributions, together with surplus revenues of the sports facility not needed for debt service charges or the operation and maintenance of the sports facility, to the host municipal corporation, or a nonprofit corporation, which may be the corporation, acting on behalf of the host municipal corporation, for redevelopment and economic development purposes related to the sports facility. The corporation's pledge and contribution provided for in the agreement shall be until all of the bonds issued for the construction of the facility have been retired.

(D) A pledge of money by a county under this section shall not be

indebtedness of the county for purposes of Chapter 133. of the Revised Code.

(E) If the terms of the agreement so provide, the board of county commissioners may acquire, make site improvements to, including, but not limited to, demolition, excavation, and installation of footers, pilings, and foundations, and lease real property for the sports facility to a corporation that constructs a sports facility under division (B)(1) of this section. The agreement shall specify the term, which shall not exceed thirty years and shall be on such terms as are set forth in the agreement. The purchase, improvement, and lease may be the subject of an agreement between the county and a municipal corporation located within the county pursuant to section 153.61 or 307.15 of the Revised Code, and are not subject to the limitations of sections 307.02 and 307.09 of the Revised Code.

(F) The corporation shall not enter into any construction contract or contract for the purchase of services for use in connection with the construction of a sports facility prior to the corporation's adoption and implementation of a policy on the set aside of contracts for bidding by or award to minority business enterprises, as defined in division (E)(1) of section 122.71 of the Revised Code. Sections 4115.03 to 4115.16 of the Revised Code apply to a sports facility constructed under this section.

(G) Not more than one-half of the total costs, including debt service charges and cost of operation, of a project undertaken pursuant to an agreement entered into under division (B) of this section shall be paid from county taxes. Nothing in this section authorizes the use of revenues from county taxes or proceeds from the sale of bonds issued by the board of county commissioners for payment of costs of operation of a sports facility.

Sec. 307.697. (A) For the purpose of section 307.696 of the Revised Code and to pay any or all of the charge the board of elections makes against the county to hold the election on the question of levying the tax, or for those purposes and to provide revenues to the county for permanent improvements, the board of county commissioners of a county may levy a tax not to exceed three dollars on each gallon of spirituous liquor sold to or purchased by liquor permit holders for resale, and sold at retail by the ~~division of liquor control~~ state or pursuant to a transfer agreement entered into under Chapter 4313. of the Revised Code, in the county. The tax shall be levied on the number of gallons so sold. The tax may be levied for any number of years not exceeding twenty.

The tax shall be levied pursuant to a resolution of the board of county commissioners approved by a majority of the electors in the county voting on the question of levying the tax, which resolution shall specify the rate of

the tax, the number of years the tax will be levied, and the purposes for which the tax is levied. The election may be held on the date of a general or special election held not sooner than ninety days after the date the board certifies its resolution to the board of elections. If approved by the electors, the tax takes effect on the first day of the month specified in the resolution but not sooner than the first day of the month that is at least sixty days after the certification of the election results by the board of elections. A copy of the resolution levying the tax shall be certified to the division of liquor control at least sixty days prior to the date on which the tax is to become effective.

(B) A resolution under this section may be joined on the ballot as a single question with a resolution adopted under section 4301.421 or 5743.024 of the Revised Code to levy a tax for the same purposes, and for the purpose of paying the expenses of administering that tax.

(C) The form of the ballot in an election held pursuant to this section or section 4301.421 or 5743.024 of the Revised Code shall be as follows or in any other form acceptable to the secretary of state:

"For the purpose of paying not more than one-half of the costs of providing a public sports facility together with related redevelopment and economic development projects, shall (an) excise tax(es) be levied by county at the rate of (dollars on each gallon of spirituous liquor sold in the county ~~by the Ohio division of liquor control~~, cents per gallon on the sale of beer at wholesale in the county, cents per gallon on the sale of wine and mixed beverages at wholesale in the county, cents per gallon on the sale of cider at wholesale in the county, or mills per cigarette on the sale of cigarettes at wholesale in the county), for years?

	Yes
	No

For an election in which questions under this section or section 4301.421 or 5743.024 of the Revised Code are joined as a single question, the form of the ballot shall be as above, except each of the proposed taxes shall be listed.

(D) The board of county commissioners of a county in which a tax is imposed under this section on ~~July 19, 1995~~, the effective date of the amendment of this section by H.B. 59 of the 130th general assembly may levy a tax for the purpose of section 307.673 of the Revised Code regardless of whether or not the cooperative agreement authorized under that section has been entered into prior to the day the resolution adopted under division

(D)(1) or (2) of this section is adopted, ~~and~~ for the purpose of reimbursing a county for costs incurred in the construction of a sports facility pursuant to an agreement entered into by the county under section 307.696 of the Revised Code, or for the purpose of paying the costs of capital repairs of and improvements to a sports facility, or both. The tax shall be levied and approved in one of the manners prescribed by division (D)(1) or (2) of this section.

(1) The tax may be levied pursuant to a resolution adopted by a majority of the members of the board of county commissioners not later than forty-five days after July 19, 1995. A board of county commissioners approving a tax under division (D)(1) of this section may approve a tax under division (B)(1) of section 4301.421 or division (C)(1) of section 5743.024 of the Revised Code at the same time. Subject to the resolution being submitted to a referendum under sections 305.31 to 305.41 of the Revised Code, the resolution shall take effect immediately, but the tax levied pursuant to the resolution shall not be levied prior to the day following the last day ~~the~~ that any tax previously levied pursuant to ~~divisions (A), (B), and (C) of this section~~ this division may be levied.

(2) The tax may be levied pursuant to a resolution adopted by a majority of the members of the board of county commissioners not later than ~~forty-five days after July 19, 1995~~ September 1, 2015, and approved by a majority of the electors of the county voting on the question of levying the tax ~~at the next succeeding general election following July 19, 1995.~~ The board of county commissioners shall certify a copy of the resolution to the board of elections immediately upon adopting a resolution under division (D)(2) of this section, ~~and the board of elections shall place the question of levying the tax on the ballot at that election.~~ The election may be held on the date of a general or special election held not sooner than ninety days after the date the board certifies its resolution to the board of elections. The form of the ballot shall be as prescribed by division (C) of this section, except that the phrase "paying not more than one-half of the costs of providing a sports facility together with related redevelopment and economic development projects" shall be replaced by the phrase "paying the costs of constructing ~~or~~ renovating, improving, or repairing a sports facility and reimbursing a county for costs incurred by the county in the construction of a sports facility," and the phrase ", beginning" (here insert the earliest date the tax would take effect)" shall be appended after "years." A board of county commissioners submitting the question of a tax under division (D)(2) of this section may submit the question of a tax under division (B)(2) of section 4301.421 or division (C)(2) of section 5743.024 of the Revised Code as a

single question, and the form of the ballot shall include each of the proposed taxes.

If approved by a majority of electors voting on the question, the tax shall take effect on the day specified on the ballot, which shall not be earlier than the day following the last day ~~the~~ that any tax previously levied pursuant to ~~divisions (A), (B), and (C) of this section~~ division may be levied.

The rate of a tax levied pursuant to division (D)(1) or (2) of this section shall not exceed the rate specified in division (A) of this section. A tax levied pursuant to division (D)(1) or (2) of this section may be levied for any number of years not exceeding twenty.

A board of county commissioners adopting a resolution under division (D)(1) or (2) of this section shall certify a copy of the resolution to the division of liquor control immediately upon adoption of the resolution.

(E) No tax shall be levied under division (A) of this section on or after September 23, 2008. This division does not apply to a tax levied under division (D) of this section, and does not prevent the collection of any tax levied under this section before ~~that date~~ September 23, 2008, so long as that tax remains effective.

Sec. 307.86. Anything to be purchased, leased, leased with an option or agreement to purchase, or constructed, including, but not limited to, any product, structure, construction, reconstruction, improvement, maintenance, repair, or service, except the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser, by or on behalf of the county or contracting authority, as defined in section 307.92 of the Revised Code, at a cost in excess of fifty thousand dollars, except as otherwise provided in division (D) of section 713.23 and in sections 9.48, 125.04, 125.60 to 125.6012, 307.022, 307.041, 307.861, 339.05, 340.03, ~~340.033~~, 4115.31 to 4115.35, ~~5119.16~~ 5119.44, 5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall be obtained through competitive bidding. However, competitive bidding is not required when any of the following applies:

(A) The board of county commissioners, by a unanimous vote of its members, makes a determination that a real and present emergency exists, and that determination and the reasons for it are entered in the minutes of the proceedings of the board, when either of the following applies:

(1) The estimated cost is less than one hundred thousand dollars.

(2) There is actual physical disaster to structures, radio communications equipment, or computers.

For purposes of this division, "unanimous vote" means all three

members of a board of county commissioners when all three members are present, or two members of the board if only two members, constituting a quorum, are present.

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding under division (A)(1) of this section because the estimated cost is less than one hundred thousand dollars, but the estimated cost is fifty thousand dollars or more, the county or contracting authority shall solicit informal estimates from no fewer than three persons who could perform the contract, before awarding the contract. With regard to each such contract, the county or contracting authority shall maintain a record of such estimates, including the name of each person from whom an estimate is solicited. The county or contracting authority shall maintain the record for the longer of at least one year after the contract is awarded or the amount of time the federal government requires.

(B)(1) The purchase consists of supplies or a replacement or supplemental part or parts for a product or equipment owned or leased by the county, and the only source of supply for the supplies, part, or parts is limited to a single supplier.

(2) The purchase consists of services related to information technology, such as programming services, that are proprietary or limited to a single source.

(C) The purchase is from the federal government, the state, another county or contracting authority of another county, or a board of education, educational service center, township, or municipal corporation.

(D) The purchase is made by a county department of job and family services under section 329.04 of the Revised Code and consists of family services duties or workforce development activities or is made by a county board of developmental disabilities under section 5126.05 of the Revised Code and consists of program services, such as direct and ancillary client services, child care, case management services, residential services, and family resource services.

(E) The purchase consists of criminal justice services, social services programs, family services, or workforce development activities by the board of county commissioners from nonprofit corporations or associations under programs funded by the federal government or by state grants.

(F) The purchase consists of any form of an insurance policy or contract authorized to be issued under Title XXXIX of the Revised Code or any form of health care plan authorized to be issued under Chapter 1751. of the Revised Code, or any combination of such policies, contracts, plans, or services that the contracting authority is authorized to purchase, and the

contracting authority does all of the following:

(1) Determines that compliance with the requirements of this section would increase, rather than decrease, the cost of the purchase;

(2) Requests issuers of the policies, contracts, plans, or services to submit proposals to the contracting authority, in a form prescribed by the contracting authority, setting forth the coverage and cost of the policies, contracts, plans, or services as the contracting authority desires to purchase;

(3) Negotiates with the issuers for the purpose of purchasing the policies, contracts, plans, or services at the best and lowest price reasonably possible.

(G) The purchase consists of computer hardware, software, or consulting services that are necessary to implement a computerized case management automation project administered by the Ohio prosecuting attorneys association and funded by a grant from the federal government.

(H) Child care services are purchased for provision to county employees.

(I)(1) Property, including land, buildings, and other real property, is leased for offices, storage, parking, or other purposes, and all of the following apply:

(a) The contracting authority is authorized by the Revised Code to lease the property.

(b) The contracting authority develops requests for proposals for leasing the property, specifying the criteria that will be considered prior to leasing the property, including the desired size and geographic location of the property.

(c) The contracting authority receives responses from prospective lessors with property meeting the criteria specified in the requests for proposals by giving notice in a manner substantially similar to the procedures established for giving notice under section 307.87 of the Revised Code.

(d) The contracting authority negotiates with the prospective lessors to obtain a lease at the best and lowest price reasonably possible considering the fair market value of the property and any relocation and operational costs that may be incurred during the period the lease is in effect.

(2) The contracting authority may use the services of a real estate appraiser to obtain advice, consultations, or other recommendations regarding the lease of property under this division.

(J) The purchase is made pursuant to section 5139.34 or sections 5139.41 to 5139.46 of the Revised Code and is of programs or services that provide case management, treatment, or prevention services to any felony or

misdemeanant delinquent, unruly youth, or status offender under the supervision of the juvenile court, including, but not limited to, community residential care, day treatment, services to children in their home, or electronic monitoring.

(K) The purchase is made by a public children services agency pursuant to section 307.92 or 5153.16 of the Revised Code and consists of family services, programs, or ancillary services that provide case management, prevention, or treatment services for children at risk of being or alleged to be abused, neglected, or dependent children.

(L) The purchase is to obtain the services of emergency medical service organizations under a contract made by the board of county commissioners pursuant to section 307.05 of the Revised Code with a joint emergency medical services district.

(M) The county contracting authority determines that the use of competitive sealed proposals would be advantageous to the county and the contracting authority complies with section 307.862 of the Revised Code.

Any issuer of policies, contracts, plans, or services listed in division (F) of this section and any prospective lessor under division (I) of this section may have the issuer's or prospective lessor's name and address, or the name and address of an agent, placed on a special notification list to be kept by the contracting authority, by sending the contracting authority that name and address. The contracting authority shall send notice to all persons listed on the special notification list. Notices shall state the deadline and place for submitting proposals. The contracting authority shall mail the notices at least six weeks prior to the deadline set by the contracting authority for submitting proposals. Every five years the contracting authority may review this list and remove any person from the list after mailing the person notification of that action.

Any contracting authority that negotiates a contract under division (F) of this section shall request proposals and negotiate with issuers in accordance with that division at least every three years from the date of the signing of such a contract, unless the parties agree upon terms for extensions or renewals of the contract. Such extension or renewal periods shall not exceed six years from the date the initial contract is signed.

Any real estate appraiser employed pursuant to division (I) of this section shall disclose any fees or compensation received from any source in connection with that employment.

Sec. 309.09. (A) The prosecuting attorney shall be the legal adviser of the board of county commissioners, board of elections, all other county officers and boards, and all tax-supported public libraries, and any of them

may require written opinions or instructions from the prosecuting attorney in matters connected with their official duties. The prosecuting attorney shall prosecute and defend all suits and actions that any such officer, board, or tax-supported public library directs or to which it is a party, and no county officer may employ any other counsel or attorney at the expense of the county, except as provided in section 305.14 of the Revised Code.

(B)(1) The prosecuting attorney shall be the legal adviser for all township officers, boards, and commissions, unless, subject to division (B)(2) of this section, the township has adopted a limited home rule government pursuant to Chapter 504. of the Revised Code and has not entered into a contract to have the prosecuting attorney serve as the township law director, in which case, subject to division (B)(2) of this section, the township law director, whether serving full-time or part-time, shall be the legal adviser for all township officers, boards, and commissions. When the board of township trustees finds it advisable or necessary to have additional legal counsel, it may employ an attorney other than the township law director or the prosecuting attorney of the county, either for a particular matter or on an annual basis, to represent the township and its officers, boards, and commissions in their official capacities and to advise them on legal matters. No such legal counsel may be employed, except on the order of the board of township trustees, duly entered upon its journal, in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the township fund.

Nothing in this division confers any of the powers or duties of a prosecuting attorney under section 309.08 of the Revised Code upon a township law director.

(2)(a) If any township in the county served by the prosecuting attorney has adopted any resolution regarding the operation of adult entertainment establishments pursuant to the authority that is granted under section 503.52 of the Revised Code or if a resolution of that nature has been adopted under section 503.53 of the Revised Code in a township in the county served by the prosecuting attorney, all of the following apply:

(i) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(c) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township in the trial and argument in any court or tribunal of any challenge to the validity of the resolution. If the challenge to the validity of the resolution is before a federal court, the prosecuting attorney may request the attorney general to assist the prosecuting attorney in prosecuting and defending the challenge

and, upon the prosecuting attorney's making of such a request, the attorney general shall assist the prosecuting attorney in performing that service if the resolution was drafted in accordance with legal guidance provided by the attorney general as described in division (B)(2) of section 503.52 of the Revised Code. The attorney general shall provide this assistance without charge to the township for which the service is performed. If a township adopts a resolution without the legal guidance of the attorney general, the attorney general is not required to provide assistance as described in this division to a prosecuting attorney.

(ii) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(a) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township a civil action to enjoin the violation of the resolution in question.

(iii) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(b) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township a civil action under Chapter 3767. of the Revised Code to abate as a nuisance the place in the unincorporated area of the township at which the resolution is being or has been violated. Proceeds from the sale of personal property or contents seized pursuant to the action shall be applied and deposited in accordance with division (E)(1)(b) of section 503.52 of the Revised Code.

(b) The provisions of division (B)(2)(a) of this section apply regarding all townships, including townships that have adopted a limited home rule government pursuant to Chapter 504. of the Revised Code, and regardless of whether a township that has so adopted a limited home rule government has entered into a contract with the prosecuting attorney as described in division (B) of section 504.15 of the Revised Code or has appointed a law director as described in division (A) of that section.

The prosecuting attorney shall prosecute and defend in the actions and proceedings described in division (B)(2)(a) of this section without charge to the township for which the services are performed.

(C) Whenever the board of county commissioners employs an attorney other than the prosecuting attorney of the county, without the authorization of the court of common pleas as provided in section 305.14 of the Revised Code, either for a particular matter or on an annual basis, to represent the board in its official capacity and to advise it on legal matters, the board shall enter upon its journal an order of the board in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid

from the county general fund. The total compensation paid, in any year, by the board for legal services under this division shall not exceed the total annual compensation of the prosecuting attorney for that county.

(D) The prosecuting attorney and the board of county commissioners jointly may contract with a board of park commissioners under section 1545.07 of the Revised Code for the prosecuting attorney to provide legal services to the park district the board of park commissioners operates.

(E) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint fire district created under section 505.371 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county ~~commissioner~~ commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(F) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint ambulance district created under section 505.71 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(G) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint emergency medical services district created under section 307.052 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(H) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a fire and ambulance district created under section 505.375 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(I) All money received pursuant to a contract entered into under division (D), (E), (F), (G), or (H) of this section shall be deposited into the prosecuting attorney's legal services fund, which shall be established in the county treasury of each county in which such a contract exists. Moneys in that fund may be appropriated only to the prosecuting attorney for the

purpose of providing legal services to a park district, joint fire district, joint ambulance district, joint emergency medical services district, or a fire and ambulance district, as applicable, under a contract entered into under the applicable division.

(J) The prosecuting attorney shall be the legal advisor of a lake facilities authority as provided in section 353.02 of the Revised Code.

Sec. 311.172. (A) The sheriff shall charge a one-time fee of one hundred dollars when a person who, on or after the effective date of this section, is convicted of an offense for which registration is required under section 2950.04 or 2950.041 of the Revised Code registers for the first time. The fee shall be in addition to any fee that may be charged under section 311.171 of the Revised Code.

(B) The sheriff shall not refuse to register a person who does not pay the fee required by this section. At the end of each calendar year, the sheriff shall report to the attorney general all fees that have been due and unpaid for more than one year and that the sheriff has not previously reported. The attorney general may recover those fees in a civil action.

(C) The sheriff shall transmit on or before the twentieth day of the following month all money collected during a month under this section to the county treasurer. Within sixty days after receipt, the county treasurer shall transmit the money to the treasurer of state to be credited to the rape crisis program trust fund created by section 109.921 of the Revised Code.

Sec. 317.06. (A) Each county recorder who is newly elected to a full term of office shall attend and successfully complete at least fifteen hours of continuing education courses during the first year of the recorder's term of office and complete at least another eight hours of such courses each year of the remaining term. Each county recorder who is elected to a subsequent term of office shall attend and successfully complete at least eight hours of such courses in each year of any subsequent term of office. To be counted toward the continuing education hours required by this section, a course must be approved by the Ohio recorders' association. Any county recorder who teaches an approved course shall be entitled to credit for the course in the same manner as if the county recorder had attended the course.

The Ohio recorders' association shall record and, upon request, verify the completion of required course work for each county recorder and issue a statement to each county recorder of the number of hours of continuing education the county recorder has successfully completed. Each year the association shall send a list of the continuing education courses, and the number of hours each county recorder has successfully completed, to the auditor of state and shall provide a copy of this list to any other individual

who requests it.

The association shall issue a "failure to complete notice" to any county recorder required to complete continuing education courses under this section who fails to successfully complete at least fifteen hours of continuing education courses during the first year of the county recorder's first term of office or to complete a total of at least thirty-nine hours of such courses, including the fifteen hours completed in the first year of the first term, by the end of that term. The association shall issue a "failure to complete notice" to any county recorder required to complete continuing education courses under this section who fails to successfully complete at least eight hours of continuing education courses each year of any subsequent term of office or to complete a total of at least thirty-two hours of such courses, by the end of that subsequent term. The notice is for informational purposes only and does not affect any individual's ability to hold the office of county recorder.

~~(B) Each board of county commissioners shall approve, from money appropriated to the county recorder, a reasonable amount requested by the county recorder of its county to cover the~~ The costs the county recorder must incur to meet the requirements of division (A) of this section, including registration fees, lodging and meal expenses, and travel expenses shall be paid from the county recorder's technology fund, if such a fund has been established under section 317.321 of the Revised Code.

Sec. 317.08. (A) Except as provided in divisions (C), (D), and (E) of this section, the county recorder shall keep six separate sets of records as follows:

(1) A record of deeds, in which shall be recorded all deeds and other instruments of writing for the absolute and unconditional sale or conveyance of lands, tenements, and hereditaments; all notices as provided in sections 5301.47 to 5301.56 of the Revised Code; all judgments or decrees in actions brought under section 5303.01 of the Revised Code; all declarations and bylaws, and all amendments to declarations and bylaws, as provided in Chapter 5311. of the Revised Code; affidavits as provided in sections 5301.252 and 5301.56 of the Revised Code; all certificates as provided in section 5311.17 of the Revised Code; all articles dedicating archaeological preserves accepted by the director of the Ohio historical society under section 149.52 of the Revised Code; all articles dedicating nature preserves accepted by the director of natural resources under section 1517.05 of the Revised Code; ~~all agreements for the registration of lands as archaeological or historic landmarks under section 149.51 or 149.55 of the Revised Code;~~ all conveyances of conservation easements and agricultural easements under

section 5301.68 of the Revised Code; all instruments extinguishing agricultural easements under section 901.21 or 5301.691 of the Revised Code or pursuant to terms of such an easement granted to a charitable organization under section 5301.68 of the Revised Code; all instruments or orders described in division (B)(2)(b) of section 5301.56 of the Revised Code; all no further action letters issued under section 122.654 or 3746.11 of the Revised Code; all covenants not to sue issued under section 3746.12 of the Revised Code, including all covenants not to sue issued pursuant to section 122.654 of the Revised Code; any restrictions on the use of property contained in a no further action letter issued under section 122.654 of the Revised Code, any restrictions on the use of property identified pursuant to division (C)(3)(a) of section 3746.10 of the Revised Code, and any restrictions on the use of property contained in a deed or other instrument as provided in division (E) or (F) of section 3737.882 of the Revised Code; any easement executed or granted under section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code; any environmental covenant entered into in accordance with sections 5301.80 to 5301.92 of the Revised Code; all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that describe specific real property; and all agreements entered into under division (A) of section 1506.44 of the Revised Code;

(2) A record of mortgages, in which shall be recorded all of the following:

(a) All mortgages, including amendments, supplements, modifications, and extensions of mortgages, or other instruments of writing by which lands, tenements, or hereditaments are or may be mortgaged or otherwise conditionally sold, conveyed, affected, or encumbered;

(b) All executory installment contracts for the sale of land executed after September 29, 1961, that by their terms are not required to be fully performed by one or more of the parties to them within one year of the date of the contracts;

(c) All options to purchase real estate, including supplements, modifications, and amendments of the options, but no option of that nature shall be recorded if it does not state a specific day and year of expiration of its validity;

(d) Any tax certificate sold under section 5721.33 of the Revised Code, or memorandum of it, that is presented for filing of record.

(3) A record of powers of attorney, including all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that do not describe specific real property;

(4) A record of plats, in which shall be recorded all plats and maps of

town lots, of the subdivision of town lots, and of other divisions or surveys of lands, any center line survey of a highway located within the county, the plat of which shall be furnished by the director of transportation or county engineer, and all drawings and amendments to drawings, as provided in Chapter 5311. of the Revised Code;

(5) A record of leases, in which shall be recorded all leases, memoranda of leases, and supplements, modifications, and amendments of leases and memoranda of leases;

(6) A record of declarations executed pursuant to section 2133.02 of the Revised Code and durable powers of attorney for health care executed pursuant to section 1337.12 of the Revised Code.

(B) All instruments or memoranda of instruments entitled to record shall be recorded in the proper record in the order in which they are presented for record. The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in sections 1513.33, 1513.37, 3752.13, ~~5111.022~~ 5164.56, and 5311.18 of the Revised Code.

The recording of an option to purchase real estate, including any supplement, modification, and amendment of the option, under this section shall serve as notice to any purchaser of an interest in the real estate covered by the option only during the period of the validity of the option as stated in the option.

(C) In lieu of keeping the six separate sets of records required in divisions (A)(1) to (6) of this section and the records required in divisions (D) and (E) of this section, a county recorder may record all the instruments required to be recorded by this section in two separate sets of record books. One set shall be called the "official records" and shall contain the instruments listed in divisions (A)(1), (2), (3), (5), and (6) and (D) and (E) of this section. The second set of records shall contain the instruments listed in division (A)(4) of this section.

(D) Except as provided in division (C) of this section, the county recorder shall keep a separate set of records containing all corrupt activity lien notices filed with the recorder pursuant to section 2923.36 of the Revised Code and a separate set of records containing all medicaid fraud lien notices filed with the recorder pursuant to section 2933.75 of the Revised Code.

(E)(1) The county recorder shall keep a separate set of records containing all transfers, conveyances, or assignments of any type of tangible or intangible personal property or any rights or interests in that property if and to the extent that any person wishes to record that personal property transaction and if the applicable instrument is acknowledged before a notary public. If the transferor is a natural person, the notice of personal property transfer shall be recorded in the county in this state in which the transferor maintains the transferor's principal residence. If the transferor is not a natural person, the notice of personal property transfer shall be recorded in the county in this state in which the transferor maintains its principal place of business. If the transferor does not maintain a principal residence or a principal place of business in this state and the transfer is to a trustee of a legacy trust formed pursuant to Chapter 5816. of the Revised Code, the notice of personal property transfer shall be recorded in the county in this state where that trustee maintains a principal residence or principal place of business. In all other instances, the notice of personal property transfer shall be recorded in the county in this state where the property described in the notice is located.

(2) The records described in division (E)(1) of this section shall be maintained in or as part of the "official records" under division (C) of this section.

Sec. 317.32. The county recorder shall charge and collect the following fees, to include, except as otherwise provided in division (A)(2) of this section, base fees for the recorder's services and housing trust fund fees collected pursuant to section 317.36 of the Revised Code:

(A)(1) Except as otherwise provided in division (A)(2) of this section, for recording and indexing an instrument if the photocopy or any similar process is employed, a base fee of fourteen dollars for the first two pages and a housing trust fund fee of fourteen dollars, and a base fee of four dollars and a housing trust fund fee of four dollars for each subsequent page, size eight and one-half inches by fourteen inches, or fraction of a page, including the caption page, of such instrument;

(2) For recording and indexing an instrument described in division (E)(1) of section 317.08 of the Revised Code if the photocopy or any similar process is employed, a fee of twenty-eight dollars for the first two pages to be deposited ~~into the county treasury to the credit of the special fund designated as "general fund moneys to supplement the equipment needs of the county recorder" under section 317.321 of the Revised Code~~ as specified elsewhere in this division, and a fee of eight dollars to be deposited in the same manner for each subsequent page, size eight and one-half inches by

fourteen inches, or fraction of a page, including the caption page, of that instrument; If the county recorder's technology fund has been established under section 317.321 of the Revised Code, of the twenty-eight dollars, fourteen dollars shall be deposited into the county treasury to the credit of the county recorder's technology fund and fourteen dollars shall be deposited into the county treasury to the credit of the county general fund. If the county recorder's technology fund has not been established, the twenty-eight dollars shall be deposited into the county treasury to the credit of the county general fund.

(B) For certifying a photocopy from the record previously recorded, a base fee of one dollar and a housing trust fund fee of one dollar per page, size eight and one-half inches by fourteen inches, or fraction of a page; for each certification if the recorder's seal is required, except as to instruments issued by the armed forces of the United States, a base fee of fifty cents and a housing trust fund fee of fifty cents;

(C) For manual or typewritten recording of assignment or satisfaction of mortgage or lease or any other marginal entry, a base fee of four dollars and a housing trust fund fee of four dollars;

(D) For entering any marginal reference by separate recorded instrument, a base fee of two dollars and a housing trust fund fee of two dollars for each marginal reference set out in that instrument, in addition to the fees set forth in division (A)(1) of this section;

(E) For indexing in the real estate mortgage records, pursuant to section 1309.519 of the Revised Code, financing statements covering crops growing or to be grown, timber to be cut, minerals or the like, including oil and gas, accounts subject to section 1309.301 of the Revised Code, or fixture filings made pursuant to section 1309.334 of the Revised Code, a base fee of two dollars and a housing trust fund fee of two dollars for each name indexed;

(F) For recording manually any plat not exceeding six lines, a base fee of two dollars and a housing trust fund fee of two dollars, and for each additional line, a base fee of ten cents and a housing trust fund fee of ten cents;

(G) For filing zoning resolutions, including text and maps, in the office of the recorder as required under sections 303.11 and 519.11 of the Revised Code, a base fee of twenty-five dollars and a housing trust fund fee of twenty-five dollars, regardless of the size or length of the resolutions;

(H) For filing zoning amendments, including text and maps, in the office of the recorder as required under sections 303.12 and 519.12 of the Revised Code, a base fee of ten dollars and a housing trust fund fee of ten dollars regardless of the size or length of the amendments;

(I) For photocopying a document, other than at the time of recording and indexing as provided for in division (A)(1) or (2) of this section, a base fee of one dollar and a housing trust fund fee of one dollar per page, size eight and one-half inches by fourteen inches, or fraction thereof;

(J) For local facsimile transmission of a document, a base fee of one dollar and a housing trust fund fee of one dollar per page, size eight and one-half inches by fourteen inches, or fraction thereof; for long distance facsimile transmission of a document, a base fee of two dollars and a housing trust fund fee of two dollars per page, size eight and one-half inches by fourteen inches, or fraction thereof;

(K) For recording a declaration executed pursuant to section 2133.02 of the Revised Code or a durable power of attorney for health care executed pursuant to section 1337.12 of the Revised Code, or both a declaration and a durable power of attorney for health care, a base fee of at least fourteen dollars but not more than twenty dollars and a housing trust fund fee of at least fourteen dollars but not more than twenty dollars.

In any county in which the recorder employs the photostatic or any similar process for recording maps, plats, or prints the recorder shall determine, charge, and collect for the recording or rerecording of any map, plat, or print, a base fee of five cents and a housing trust fund fee of five cents per square inch, for each square inch of the map, plat, or print filed for that recording or rerecording, with a minimum base fee of twenty dollars and a minimum housing trust fund fee of twenty dollars; for certifying a copy from the record, a base fee of two cents and a housing trust fund fee of two cents per square inch of the record, with a minimum base fee of two dollars and a minimum housing trust fund fee of two dollars.

The fees provided in this section shall be paid upon the presentation of the instruments for record or upon the application for any certified copy of the record, except that the payment of fees associated with the filing and recording of, or the copying of, notices of internal revenue tax liens and notices of other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code and certificates of discharge or release of those liens, shall be governed by section 317.09 of the Revised Code, and the payment of fees for providing copies of instruments conveying or extinguishing agricultural easements to the office of farmland preservation in the department of agriculture under division (H) of section 5301.691 of the Revised Code shall be governed by that division.

Sec. 317.321. (A) Not later than the first day of October of any year, the county recorder may submit to the board of county commissioners a proposal for funding any of the following:

(1) The acquisition ~~or~~ and maintenance of ~~micrographic or~~ imaging and other technological equipment ~~or for~~ and contract services ~~or a proposal to~~ therefor;

(2) To reserve funds for the office's future ~~equipment~~ technology needs if the county recorder has no immediate plans for the acquisition of ~~imaging and other technological~~ equipment or ~~contract~~ services, or to use the county recorder's technology fund as a dedicated revenue source to repay debt to purchase any imaging and other technological equipment before the accumulation of adequate resources to purchase the equipment with cash. ~~Either~~

(3) Subject to division (G) of this section, for other expenses associated with the acquisition and maintenance of imaging and other technological equipment and contract services.

(B) The proposal shall be in writing and shall include at least the following:

(1) A request that an amount not to exceed ~~seven~~ eight dollars of the fee total base fees collected for filing or recording a document for which a fee is charged as required by division (A)(1) of section 317.32 ~~of the Revised Code~~ or by section 1309.525 or 5310.15 of the Revised Code ~~and the amount of the fees collected under division (A)(2) of section 317.32 of the Revised Code~~ be placed in the county treasury and designated as "general to the credit of the county recorder's technology fund ~~moneys to supplement the equipment needs of the county recorder~~";

(2) ~~The~~ Except as provided in division (E)(3) of this section, the number of years, not to exceed five, for which the county recorder requests that the amount requested under division (A)(1) of this section be given the designation specified in that division;

(3) An estimate of the total amount of fees that will be generated for filing or recording a document for which a fee is charged as required by division (A)(1) or (2) of section 317.32 of the Revised Code or by section 1309.525 or 5310.15 of the Revised Code;

(4) An estimate of the total amount of fees for filing or recording a document for which a fee is charged as required by division (A)(1) or (2) of section 317.32 ~~of the Revised Code~~ or by section 1309.525 or 5310.15 of the Revised Code that will be ~~designated as "general~~ credited to the county recorder's technology fund ~~moneys to supplement the equipment needs of the county recorder~~" if the request submitted under division ~~(A)~~(B)(1) of this section is approved by the board of county commissioners.

(C) A proposal for the ~~acquisition or maintenance of micrographic or other equipment or for contract services~~ may purposes of division (A)(1) of

this section shall include a description or summary of the ~~micrographic or imaging and~~ other ~~technological~~ equipment, ~~or maintenance of the micrographic or other equipment,~~ that the county recorder proposes to acquire and maintain, ~~or~~ and the nature of contract services that the county recorder proposes to utilize, if the proposal is for those purposes. A proposal to reserve funds for the office's future equipment needs if the county recorder has no immediate plans for the acquisition of equipment or services purposes of division (A)(2) of this section shall explain the general future technology needs of the office for ~~imaging and other technological equipment, or for revenue to repay debt, if the proposal is for those purposes.~~ A proposal for the purposes of division (A)(3) of this section shall identify the other expenses associated with the acquisition and maintenance of imaging and other technological equipment and contract services that the county recorder proposes to pay with moneys in the county recorder's technology fund, if the proposal is for those purposes.

~~(B)(D)~~ The board of county commissioners shall receive either a proposal and the clerk shall enter it on the journal. At the same time, the board shall establish a date, not sooner than fifteen or later than thirty days after the ~~board's receipt of~~ board receives the proposal, on which to meet with the recorder to review the proposal.

~~(C)(E)(1)~~ Not Except as provided in division (E)(3) of this section, not later than the fifteenth day of December of any year in which a proposal for the acquisition or maintenance of micrographic or other equipment or for contract services is submitted under division (A) of this section, the board of county commissioners shall approve, reject, or modify the proposal and notify the county recorder of its action on the proposal. If the board rejects or modifies the proposal, it shall make a written finding that the request is for a purpose other than for ~~acquiring, leasing, or otherwise obtaining micrographic or other equipment or contracts for use by the county recorder~~ a purpose in division (A) of this section, or that the amount requested for the acquisition or maintenance of micrographic or other equipment or for contract services is excessive as determined by the board. ~~If the board approves the proposal, it shall request the establishment of a special fund under section 5705.12 of the Revised Code for any fees designated as "general fund moneys to supplement the equipment needs of the county recorder."~~

~~(2)~~ Not later than the fifteenth day of December of any year in which a proposal to reserve funds for the office's future equipment needs is submitted under division (A) of this section, the board of county commissioners shall approve the proposal, notify the county recorder of its

action on the proposal, and request the establishment of a special fund under section 5705.12 of the Revised Code for any fees designated as "general A proposal submitted under division (A) of this section that was approved by the board of county commissioners before, and is in effect on, the effective date of this amendment shall continue in effect until January 1, 2019, notwithstanding the number of years of funding specified in the approved proposal.

(3) A proposal submitted under division (A) of this section between October 1, 2013, and October 1, 2017, may request that an amount that does not exceed three dollars be credited to the county recorder's technology fund, in addition to the amount previously approved by the board of county commissioners in a proposal described in division (E)(2) of this section. The proposal may be submitted each year during that time period, but shall be limited to funding in the following fiscal year. If the total of the amount under division (E)(2) of this section and the amount requested under this division does not exceed eight dollars, the board shall approve the proposal and notify the county recorder of its approval.

(4) If the total amount of fees provided for in divisions (B), (E)(2), and (E)(3) of this section is less than eight dollars, a proposal requesting additional fees may be submitted to the board of county commissioners under division (E)(1) of this section, as long as the total amount of the fees in divisions (B) and (E)(2), (3), and (4) of this section that are to be credited to the county recorder's technology fund does not exceed eight dollars, and the proposal is for a number of years, not to exceed five.

(5) When a proposal is approved by the board of county commissioners under division (E) of this section, the county recorder's technology fund moneys to supplement the equipment needs of the county recorder." is established in the county treasury, and, beginning on the following first day of January, the fees approved shall be deposited in that fund.

~~(D)~~(F) The acquisition ~~or~~ and maintenance of ~~micrographic or~~ imaging and other technological equipment, and the acquisition of other associated expenses and contract services therefor, shall be specifically governed by sections 307.80 to 307.806, 307.84 to 307.846, 307.86 to 307.92, and 5705.38, and by division (D) of section 5705.41 of the Revised Code.

(G) If the use of the county recorder's technology fund for the purposes of division (A)(3) of this section includes associated expenses for personnel, the use of the fund for personnel shall be strictly confined to personnel directly related to imaging and other technological equipment, and any compensation increases for those personnel shall not exceed the average of the annual aggregate percentage increase or decrease in the compensation

fixed by the board of county commissioners for their employees, and for the officers in section 325.27 of the Revised Code. Use of the fund for compensation bonuses, or for recognizing outstanding employee performance in a manner described in section 325.25 of the Revised Code, is prohibited.

(H) If a county is under a fiscal caution under section 118.025 of the Revised Code, or is under a fiscal watch or fiscal emergency as defined in section 118.01 of the Revised Code, the board of county commissioners, notwithstanding sections 5705.14 to 5705.16 of the Revised Code, may transfer from the county recorder's technology fund any moneys the board deems necessary.

Sec. 317.36. (A) The county recorder shall collect the low- and moderate-income housing trust fund fee as specified in sections 317.114, 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, ~~5111.022~~ 5164.56, 5310.15, 5703.93, 5719.07, 5727.56, 5733.18, 5733.22, 6101.09, and 6115.09 of the Revised Code. The amount of any housing trust fund fee the recorder is authorized to collect is equal to the amount of any base fee the recorder is authorized to collect for services. The housing trust fund fee shall be collected in addition to the base fee.

(B) The recorder shall certify the amounts collected as housing trust fund fees pursuant to division (A) of this section into the county treasury as housing trust fund fees to be paid to the treasurer of state pursuant to section 319.63 of the Revised Code.

Sec. 319.10. The county auditor may enter into a contract with a county land reutilization corporation organized under Chapter 1724. of the Revised Code to provide employees of the auditor to provide services to the corporation. An employee of the auditor who provides services to a county land reutilization corporation under such a contract shall not be considered an employee of the corporation during the provision of services, but shall remain an employee of the county during provision of services pursuant to the contract.

Sec. 319.302. (A)(1) Real property that is not intended primarily for use in a business activity shall qualify for a partial exemption from real property taxation. For purposes of this partial exemption, "business activity" includes all uses of real property, except farming; leasing property for farming; occupying or holding property improved with single-family, two-family, or three-family dwellings; leasing property improved with single-family, two-family, or three-family dwellings; or holding vacant land that the county auditor determines will be used for farming or to develop single-family, two-family, or three-family dwellings. For purposes of this

partial exemption, "farming" does not include land used for the commercial production of timber that is receiving the tax benefit under section 5713.23 or 5713.31 of the Revised Code and all improvements connected with such commercial production of timber.

(2) Each year, the county auditor shall review each parcel of real property to determine whether it qualifies for the partial exemption provided for by this section as of the first day of January of the current tax year.

(B) After complying with section 319.301 of the Revised Code, the county auditor shall reduce the remaining sums to be levied by qualifying levies against each parcel of real property that is listed on the general tax list and duplicate of real and public utility property for the current tax year and that qualifies for partial exemption under division (A) of this section, and against each manufactured and mobile home that is taxed pursuant to division (D)(2) of section 4503.06 of the Revised Code and that is on the manufactured home tax list for the current tax year, by ten per cent, to provide a partial exemption for that parcel or home. ~~Except~~ For the purposes of this division:

(1) "Qualifying levy" means a levy approved at an election held before the effective date of the amendment of this section by H.B. 59 of the 130th general assembly; a levy within the ten-mill limitation, or provided for by the charter of a municipal corporation, that was levied on the tax list for tax year 2013; a subsequent renewal of any such levy; or a subsequent substitute for such a levy under section 5705.199 of the Revised Code.

(2) "Qualifying levy" does not include any replacement imposed under section 5705.192 of the Revised Code of any levy described in division (B)(1) of this section.

(C) Except as otherwise provided in sections 323.152, 323.158, 505.06, and 715.263 of the Revised Code, the amount of the taxes remaining after any such reduction shall be the real and public utility property taxes charged and payable on each parcel of real property, including property that does not qualify for partial exemption under division (A) of this section, and the manufactured home tax charged and payable on each manufactured or mobile home, and shall be the amounts certified to the county treasurer for collection. Upon receipt of the real and public utility property tax duplicate, the treasurer shall certify to the tax commissioner the total amount by which the real property taxes were reduced under this section, as shown on the duplicate. Such reduction shall not directly or indirectly affect the determination of the principal amount of notes that may be issued in anticipation of any tax levies or the amount of bonds or notes for any planned improvements. If after application of sections 5705.31 and 5705.32

of the Revised Code and other applicable provisions of law, including divisions (F) and (I) of section 321.24 of the Revised Code, there would be insufficient funds for payment of debt charges on bonds or notes payable from taxes reduced by this section, the reduction of taxes provided for in this section shall be adjusted to the extent necessary to provide funds from such taxes.

~~(C)~~(D) The tax commissioner may adopt rules governing the administration of the partial exemption provided for by this section.

~~(D)~~(E) The determination of whether property qualifies for partial exemption under division (A) of this section is solely for the purpose of allowing the partial exemption under division (B) of this section.

Sec. 321.35. Upon demand of the treasurer of state while holding a school district, county, township, or municipal corporation obligation purchased under division (G)(1) of section 135.143 of the Revised Code, in making any payment under section 321.31 or 321.34 of the Revised Code, the county auditor shall withhold funds of the school district, county, township, or municipal corporation in an amount sufficient to pay debt service charges on that obligation and any of the fee for the agreement to purchase that obligation, less any amount deposited for that purpose under division (D) of section 3317.18 of the Revised Code. The county auditor shall promptly pay to the treasurer of state the amount withheld.

Sec. 321.44. (A)(1) A county probation services fund shall be established in the county treasury of each county. The fund a county establishes under this division shall contain all moneys paid to the treasurer of the county under section 2951.021 of the Revised Code for deposit into the fund. The moneys paid into the fund shall be deposited by the treasurer of the county into the appropriate account established under divisions (A)(1)(a) to (d) of this section. Separate accounts shall be maintained in accordance with the following criteria in the fund a county establishes under this division:

(a) If a county department of probation is established in the county, a separate account shall be maintained in the fund for the county department of probation.

(b) If the judges of the court of common pleas of the county have affiliated with the judges of the court of common pleas of one or more other counties and have established a multicounty department of probation, a separate account shall be maintained in the fund for the multicounty department of probation.

(c) If a department of probation is established in a county-operated municipal court that has jurisdiction within the county, a separate account

shall be maintained in the fund for the municipal court department of probation.

(d) If a county department of probation has not been established in the county and if the court of common pleas of the county, pursuant to section 2301.32 of the Revised Code, has entered into an agreement with the adult parole authority under which the court may place defendants under a community control sanction in charge of the authority, a separate account shall be maintained in the fund for the court of common pleas.

(2) For any county, if a county department of probation is established in the county or if a department of probation is established in a county-operated municipal court that has jurisdiction within the county, the board of county commissioners of the county shall appropriate to the county department of probation or municipal court department of probation all money that is contained in the department's account in the county probation services fund established in the county for use only for specialized staff, purchase of equipment, purchase of services, reconciliation programs for offenders and victims, other treatment programs, including ~~alcohol and drug~~ community addiction programs services providers certified under section ~~3793.06~~ 5119.36 of the Revised Code, determined to be appropriate by the chief probation officer of the department of probation, and other similar expenses related to placing offenders under a community control sanction.

For any county, if the judges of the court of common pleas of the county have affiliated with the judges of the court of common pleas of one or more other counties and have established a multicounty department of probation to serve the counties, the board of county commissioners of the county shall appropriate and the county treasurer shall transfer to the multicounty probation services fund established for the multicounty department of probation under division (B) of this section all money that is contained in the multicounty department of probation account in the county probation services fund established in the county for use in accordance with that division.

For any county, if a county department of probation has not been established in the county and if the court of common pleas of the county, pursuant to section 2301.32 of the Revised Code, has entered into an agreement with the adult parole authority under which the court may place defendants under a community control sanction in charge of the authority, the board of county commissioners of the county shall appropriate to the court all money that is contained in the court's account in the county probation services fund established in the county for use only for specialized staff, purchase of equipment, purchase of services, reconciliation programs

for offenders and victims, other treatment and recovery support services, including properly credentialed treatment and recovery support services program providers or those certified under section ~~3793.06~~ 5119.36 of the Revised Code, determined to be appropriate by the authority, and other similar uses related to placing offenders under a community control sanction.

(B) If the judges of the courts of common pleas of two or more counties have established a multicounty department of probation, a multicounty probation services fund shall be established in the county treasury of the county whose treasurer, in accordance with section 2301.27 of the Revised Code, is designated by the judges of the courts of common pleas as the treasurer to whom monthly supervision fees are to be appropriated and transferred under division (A)(2) of this section for deposit into the fund. The fund shall contain all moneys that are paid to the treasurer of any member county under section 2951.021 of the Revised Code for deposit into the county's probation services fund and that subsequently are appropriated and transferred to the multicounty probation services fund under division (A)(2) of this section. The board of county commissioners of the county in which the multicounty probation services fund is established shall appropriate the money contained in that fund to the multicounty department of probation, for use only for specialized staff, purchase of equipment, purchase of services, reconciliation programs for offenders and victims, other treatment programs, including ~~alcohol and drug~~ community addiction programs ~~services providers~~ certified under section ~~3793.06~~ 5119.36 of the Revised Code, determined to be appropriate by the chief probation officer, and for other similar expenses related to placing offenders under a community control sanction.

(C) Any money in a county or multicounty probation services fund at the end of a fiscal year shall not revert to the general fund of the county but shall be retained in the fund.

(D) As used in this section:

(1) "County-operated municipal court" has the same meaning as in section 1901.03 of the Revised Code.

(2) "Multicounty department of probation" means a probation department established under section 2301.27 of the Revised Code to serve more than one county.

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

Sec. 321.49. The county treasurer may enter into a contract with a county land reutilization corporation organized under Chapter 1724. of the

Revised Code to provide employees of the treasurer to provide services to the corporation. An employee of the treasurer who provides services to a county land reutilization corporation under such a contract shall not be considered an employee of the corporation during the provision of services, but shall remain an employee of the county during provision of services pursuant to the contract.

Sec. 323.151. As used in sections 323.151 to 323.159 of the Revised Code:

(A)(1) "Homestead" means either of the following:

(a) A dwelling, including a unit in a multiple-unit dwelling and a manufactured home or mobile home taxed as real property pursuant to division (B) of section 4503.06 of the Revised Code, owned and occupied as a home by an individual whose domicile is in this state and who has not acquired ownership from a person, other than the individual's spouse, related by consanguinity or affinity for the purpose of qualifying for the real property tax reduction provided in section 323.152 of the Revised Code.

(b) A unit in a housing cooperative that is occupied as a home, but not owned, by an individual whose domicile is in this state.

(2) The homestead shall include so much of the land surrounding it, not exceeding one acre, as is reasonably necessary for the use of the dwelling or unit as a home. An owner includes a holder of one of the several estates in fee, a vendee in possession under a purchase agreement or a land contract, a mortgagor, a life tenant, one or more tenants with a right of survivorship, tenants in common, and a settlor of a revocable or irrevocable inter vivos trust holding the title to a homestead occupied by the settlor as of right under the trust. The tax commissioner shall adopt rules for the uniform classification and valuation of real property or portions of real property as homesteads.

(B) "Sixty-five years of age or older" means a person who has attained age sixty-four prior to the first day of January of the year of application for reduction in real estate taxes.

(C) "Total income" means Ohio adjusted gross income of the owner and the owner's spouse for the year preceding the year in which application for a reduction in taxes is made, as determined under division (A) of section 5747.01 of the Revised Code.

(D) "Permanently and totally disabled" means a person who has, on the first day of January of the year of application for reduction in real estate taxes, some impairment in body or mind that makes the person unable to work at any substantially remunerative employment that the person is reasonably able to perform and that will, with reasonable probability,

continue for an indefinite period of at least twelve months without any present indication of recovery therefrom or has been certified as permanently and totally disabled by a state or federal agency having the function of so classifying persons.

~~(D)~~(E) "Housing cooperative" means a housing complex of at least two units that is owned and operated by a nonprofit corporation that issues a share of the corporation's stock to an individual, entitling the individual to live in a unit of the complex, and collects a monthly maintenance fee from the individual to maintain, operate, and pay the taxes of the complex.

Sec. 323.152. In addition to the reduction in taxes required under section 319.302 of the Revised Code, taxes shall be reduced as provided in divisions (A) and (B) of this section.

(A)(1) Division (A) of this section applies to any of the following persons:

- (a) A person who is permanently and totally disabled;
- (b) A person who is sixty-five years of age or older;

(c) A person who is the surviving spouse of a deceased person who was permanently and totally disabled or sixty-five years of age or older and who applied and qualified for a reduction in taxes under this division in the year of death, provided the surviving spouse is at least fifty-nine but not sixty-five or more years of age on the date the deceased spouse dies.

(2) Real property taxes on a homestead owned and occupied, or a homestead in a housing cooperative occupied, by a person to whom division (A) of this section applies shall be reduced for each year for which an application for the reduction has been approved. The reduction shall equal ~~the greater of the reduction granted for the tax year preceding the first tax year to which this section applies pursuant to Section 803.06 of Am. Sub. H.B. 119 of the 127th general assembly, if the taxpayer received a reduction for that preceding tax year, or~~ one of the following amounts, as applicable to the person:

(a) If the person received a reduction under division (A) of this section for tax year 2006, the greater of the reduction for that tax year or the amount computed under division (A)(3) of this section;

(b) If the person received a reduction under division (A) of this section for tax year 2013 or under section 4503.066 of the Revised Code for tax year 2014, the amount computed under division (A)(3) of this section. For purposes of divisions (A)(2)(b) and (c) of this section, a person receives a reduction under division (A) of this section or under section 4503.065 of the Revised Code for tax year 2013 or 2014, respectively, if the person files a late application for that respective tax year that is approved by the county

auditor under section 323.153 or 4503.066 of the Revised Code.

(c) If the person did not receive a reduction under division (A) of this section or under section 4503.066 of the Revised Code for tax year 2013 and the person's total income does not exceed thirty thousand dollars, as adjusted under division (A)(4) of this section, the amount computed under division (A)(3) of this section.

(3) The amount of the reduction under division (A)(3) of this section equals the product of the following:

(a) Twenty-five thousand dollars of the true value of the property in money;

(b) The assessment percentage established by the tax commissioner under division (B) of section 5715.01 of the Revised Code, not to exceed thirty-five per cent;

(c) The effective tax rate used to calculate the taxes charged against the property for the current year, where "effective tax rate" is defined as in section 323.08 of the Revised Code;

(d) The quantity equal to one minus the sum of the percentage reductions in taxes received by the property for the current tax year under section 319.302 of the Revised Code and division (B) of section 323.152 of the Revised Code.

(4) Each calendar year, the tax commissioner shall adjust the total income threshold described in division (A)(2)(c) of this section by completing the following calculations in September of each year:

(a) Determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce from the first day of January of the preceding calendar year to the last day of December of the preceding calendar year;

(b) Multiply that percentage increase by the total income threshold for the current tax year;

(c) Add the resulting product to the total income threshold for the current tax year;

(d) Round the resulting sum to the nearest multiple of one hundred dollars.

The commissioner shall certify the amount resulting from the adjustment to each county auditor not later than the first day of December each year. The certified amount applies to the following tax year for persons described in division (A)(2)(c) of this section. The commissioner shall not make the adjustment in any calendar year in which the amount resulting from the adjustment would be less than the total income threshold for the current tax year.

(B) To provide a partial exemption, real property taxes on any homestead, and manufactured home taxes on any manufactured or mobile home on which a manufactured home tax is assessed pursuant to division (D)(2) of section 4503.06 of the Revised Code, shall be reduced for each year for which an application for the reduction has been approved. The amount of the reduction shall equal two and one-half per cent of the amount of taxes to be levied by qualifying levies on the homestead or the manufactured or mobile home after applying section 319.301 of the Revised Code. For the purposes of this division, "qualifying levy" has the same meaning as in section 319.302 of the Revised Code.

(C) The reductions granted by this section do not apply to special assessments or respread of assessments levied against the homestead, and if there is a transfer of ownership subsequent to the filing of an application for a reduction in taxes, such reductions are not forfeited for such year by virtue of such transfer.

(D) The reductions in taxable value referred to in this section shall be applied solely as a factor for the purpose of computing the reduction of taxes under this section and shall not affect the total value of property in any subdivision or taxing district as listed and assessed for taxation on the tax lists and duplicates, or any direct or indirect limitations on indebtedness of a subdivision or taxing district. If after application of sections 5705.31 and 5705.32 of the Revised Code, including the allocation of all levies within the ten-mill limitation to debt charges to the extent therein provided, there would be insufficient funds for payment of debt charges not provided for by levies in excess of the ten-mill limitation, the reduction of taxes provided for in sections 323.151 to 323.159 of the Revised Code shall be proportionately adjusted to the extent necessary to provide such funds from levies within the ten-mill limitation.

(E) No reduction shall be made on the taxes due on the homestead of any person convicted of violating division (D) or (E) of section 323.153 of the Revised Code for a period of three years following the conviction.

Sec. 323.153. (A) To obtain a reduction in real property taxes under division (A) or (B) of section 323.152 of the Revised Code or in manufactured home taxes under division (B) of section 323.152 of the Revised Code, the owner shall file an application with the county auditor of the county in which the owner's homestead is located.

To obtain a reduction in real property taxes under division (A) of section 323.152 of the Revised Code, the occupant of a homestead in a housing cooperative shall file an application with the nonprofit corporation that owns and operates the housing cooperative, in accordance with this

paragraph. Not later than the first day of March each year, the corporation shall obtain applications from the county auditor's office and provide one to each new occupant. Not later than the first day of May, any occupant who may be eligible for a reduction in taxes under division (A) of section 323.152 of the Revised Code shall submit the completed application to the corporation. Not later than the fifteenth day of May, the corporation shall file all completed applications, and the information required by division (B) of section 323.159 of the Revised Code, with the county auditor of the county in which the occupants' homesteads are located. Continuing applications shall be furnished to an occupant in the manner provided in division (C)(4) of this section.

(1) An application for reduction based upon a physical disability shall be accompanied by a certificate signed by a physician, and an application for reduction based upon a mental disability shall be accompanied by a certificate signed by a physician or psychologist licensed to practice in this state, attesting to the fact that the applicant is permanently and totally disabled. The certificate shall be in a form that the tax commissioner requires and shall include the definition of permanently and totally disabled as set forth in section 323.151 of the Revised Code. An application for reduction based upon a disability certified as permanent and total by a state or federal agency having the function of so classifying persons shall be accompanied by a certificate from that agency.

An application for a reduction under division (A) of section 323.152 of the Revised Code constitutes a continuing application for a reduction in taxes for each year in which the dwelling is the applicant's homestead.

(2) An application for a reduction in taxes under division (B) of section 323.152 of the Revised Code shall be filed only if the homestead or manufactured or mobile home was transferred in the preceding year or did not qualify for and receive the reduction in taxes under that division for the preceding tax year. The application for homesteads transferred in the preceding year shall be incorporated into any form used by the county auditor to administer the tax law in respect to the conveyance of real property pursuant to section 319.20 of the Revised Code or of used manufactured homes or used mobile homes as defined in section 5739.0210 of the Revised Code. The owner of a manufactured or mobile home who has elected under division (D)(4) of section 4503.06 of the Revised Code to be taxed under division (D)(2) of that section for the ensuing year may file the application at the time of making that election. The application shall contain a statement that failure by the applicant to affirm on the application that the dwelling on the property conveyed is the applicant's homestead prohibits the

owner from receiving the reduction in taxes until a proper application is filed within the period prescribed by division (A)(3) of this section. Such an application constitutes a continuing application for a reduction in taxes for each year in which the dwelling is the applicant's homestead.

(3) Failure to receive a new application filed under division (A)(1) or (2) or notification under division (C) of this section after an application for reduction has been approved is prima-facie evidence that the original applicant is entitled to the reduction in taxes calculated on the basis of the information contained in the original application. The original application and any subsequent application, including any late application, shall be in the form of a signed statement and shall be filed after the first Monday in January and not later than the first Monday in June. The original application and any subsequent application for a reduction in real property taxes shall be filed in the year for which the reduction is sought. The original application and any subsequent application for a reduction in manufactured home taxes shall be filed in the year preceding the year for which the reduction is sought. The statement shall be on a form, devised and supplied by the tax commissioner, which shall require no more information than is necessary to establish the applicant's eligibility for the reduction in taxes and the amount of the reduction, and, except for homesteads that are units in a housing cooperative, shall include an affirmation by the applicant that ownership of the homestead was not acquired from a person, other than the applicant's spouse, related to the owner by consanguinity or affinity for the purpose of qualifying for the real property or manufactured home tax reduction provided for in division (A) or (B) of section 323.152 of the Revised Code. The form shall contain a statement that conviction of willfully falsifying information to obtain a reduction in taxes or failing to comply with division (C) of this section results in the revocation of the right to the reduction for a period of three years. In the case of an application for a reduction in taxes for persons described in division (A)(2)(c) of section 323.152 of the Revised Code, the form shall contain a statement that signing the application constitutes a delegation of authority by the applicant to the tax commissioner or the county auditor, individually or in consultation with each other, to examine any tax or financial records relating to the income of the applicant as stated on the application for the purpose of determining eligibility for the exemption or a possible violation of division (D) or (E) of this section.

(B) A late application for a tax reduction for the year preceding the year in which an original application is filed, or for a reduction in manufactured home taxes for the year in which an original application is filed, may be

filed with the original application. If the county auditor determines the information contained in the late application is correct, the auditor shall determine the amount of the reduction in taxes to which the applicant would have been entitled for the preceding tax year had the applicant's application been timely filed and approved in that year.

The amount of such reduction shall be treated by the auditor as an overpayment of taxes by the applicant and shall be refunded in the manner prescribed in section 5715.22 of the Revised Code for making refunds of overpayments. On the first day of July of each year, the county auditor shall certify the total amount of the reductions in taxes made in the current year under this division to the tax commissioner, who shall treat the full amount thereof as a reduction in taxes for the preceding tax year and shall make reimbursement to the county therefor in the manner prescribed by section 323.156 of the Revised Code, from money appropriated for that purpose.

(C)(1) If, in any year after an application has been filed under division (A)(1) or (2) of this section, the owner does not qualify for a reduction in taxes on the homestead or on the manufactured or mobile home set forth on such application, the owner shall notify the county auditor that the owner is not qualified for a reduction in taxes.

(2) If, in any year after an application has been filed under division (A)(1) of this section, the occupant of a homestead in a housing cooperative does not qualify for a reduction in taxes on the homestead, the occupant shall notify the county auditor that the occupant is not qualified for a reduction in taxes or file a new application under division (A)(1) of this section.

(3) If the county auditor or county treasurer discovers that the owner of property not entitled to the reduction in taxes under division (B) of section 323.152 of the Revised Code failed to notify the county auditor as required by division (C)(1) of this section, a charge shall be imposed against the property in the amount by which taxes were reduced under that division for each tax year the county auditor ascertains that the property was not entitled to the reduction and was owned by the current owner. Interest shall accrue in the manner prescribed by division (B) of section 323.121 or division (G)(2) of section 4503.06 of the Revised Code on the amount by which taxes were reduced for each such tax year as if the reduction became delinquent taxes at the close of the last day the second installment of taxes for that tax year could be paid without penalty. The county auditor shall notify the owner, by ordinary mail, of the charge, of the owner's right to appeal the charge, and of the manner in which the owner may appeal. The owner may appeal the imposition of the charge and interest by filing an

appeal with the county board of revision not later than the last day prescribed for payment of real and public utility property taxes under section 323.12 of the Revised Code following receipt of the notice and occurring at least ninety days after receipt of the notice. The appeal shall be treated in the same manner as a complaint relating to the valuation or assessment of real property under Chapter 5715. of the Revised Code. The charge and any interest shall be collected as other delinquent taxes.

(4) Each year during January, the county auditor shall furnish by ordinary mail a continuing application to each person receiving a reduction under division (A) of section 323.152 of the Revised Code. The continuing application shall be used to report changes in total income, ownership, occupancy, disability, and other information earlier furnished the auditor relative to the reduction in taxes on the property. The continuing application shall be returned to the auditor not later than the first Monday in June; provided, that if such changes do not affect the status of the homestead exemption or the amount of the reduction to which the owner is entitled under division (A) of section 323.152 of the Revised Code or to which the occupant is entitled under section 323.159 of the Revised Code, the application does not need to be returned.

(5) Each year during February, the county auditor, except as otherwise provided in this paragraph, shall furnish by ordinary mail an original application to the owner, as of the first day of January of that year, of a homestead or a manufactured or mobile home that transferred during the preceding calendar year and that qualified for and received a reduction in taxes under division (B) of section 323.152 of the Revised Code for the preceding tax year. In order to receive the reduction under that division, the owner shall file the application with the county auditor not later than the first Monday in June. If the application is not timely filed, the auditor shall not grant a reduction in taxes for the homestead for the current year, and shall notify the owner that the reduction in taxes has not been granted, in the same manner prescribed under section 323.154 of the Revised Code for notification of denial of an application. Failure of an owner to receive an application does not excuse the failure of the owner to file an original application. The county auditor is not required to furnish an application under this paragraph for any homestead for which application has previously been made on a form incorporated into any form used by the county auditor to administer the tax law in respect to the conveyance of real property or of used manufactured homes or used mobile homes, and an owner who previously has applied on such a form is not required to return an application furnished under this paragraph.

(D) No person shall knowingly make a false statement for the purpose of obtaining a reduction in the person's real property or manufactured home taxes under section 323.152 of the Revised Code.

(E) No person shall knowingly fail to notify the county auditor of changes required by division (C) of this section that have the effect of maintaining or securing a reduction in taxes under section 323.152 of the Revised Code.

(F) No person shall knowingly make a false statement or certification attesting to any person's physical or mental condition for purposes of qualifying such person for tax relief pursuant to sections 323.151 to 323.159 of the Revised Code.

Sec. 329.04. (A) The county department of job and family services shall have, exercise, and perform the following powers and duties:

(1) Perform any duties assigned by the state department of job and family services or department of medicaid regarding the provision of public family services, including the provision of the following services to prevent or reduce economic or personal dependency and to strengthen family life:

(a) Services authorized by a Title IV-A program, as defined in section 5101.80 of the Revised Code;

(b) Social services authorized by Title XX of the "Social Security Act" and provided for by section 5101.46 or 5101.461 of the Revised Code;

(c) If the county department is designated as the child support enforcement agency, services authorized by Title IV-D of the "Social Security Act" and provided for by Chapter 3125. of the Revised Code. The county department may perform the services itself or contract with other government entities, and, pursuant to division (C) of section 2301.35 and section 2301.42 of the Revised Code, private entities, to perform the Title IV-D services.

(d) Duties assigned under section ~~5111.98~~ 5162.031 of the Revised Code.

(2) Administer disability financial assistance, as required by the state department of job and family services under section 5115.03 of the Revised Code;

(3) Administer burials insofar as the administration of burials was, prior to September 12, 1947, imposed upon the board of county commissioners and if otherwise required by state law;

(4) Cooperate with state and federal authorities in any matter relating to family services and to act as the agent of such authorities;

(5) Submit an annual account of its work and expenses to the board of county commissioners and to the state department of job and family services

and department of medicaid at the close of each fiscal year;

(6) Exercise any powers and duties relating to family services duties or workforce development activities imposed upon the county department of job and family services by law, by resolution of the board of county commissioners, or by order of the governor, when authorized by law, to meet emergencies during war or peace;

~~(7) Determine the eligibility for medical assistance of recipients of aid under Title XVI of the "Social Security Act";~~

~~(8) If assigned by the state director of job and family services under section 5101.515 or 5101.525 of the Revised Code, determine applicants' eligibility for health assistance under the children's health insurance program part II or part III;~~

~~(9) Enter into a plan of cooperation with the board of county commissioners under section 307.983, consult with the board in the development of the transportation work plan developed under section 307.985, establish with the board procedures under section 307.986 for providing services to children whose families relocate frequently, and comply with the contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the county department;~~

~~(10)(8) For the purpose of complying with a grant agreement the board of county commissioners enters into under sections 307.98 and 5101.21 of the Revised Code, exercise the powers and perform the duties the grant agreement assigns to the county department;~~

~~(11)(9) If the county department is designated as the workforce development agency, provide the workforce development activities specified in the contract required by section 330.05 of the Revised Code.~~

(B) The powers and duties of a county department of job and family services are, and shall be exercised and performed, under the control and direction of the board of county commissioners. The board may assign to the county department any power or duty of the board regarding family services duties and workforce development activities. If the new power or duty necessitates the state department of job and family services or department of medicaid changing its federal cost allocation plan, the county department may not implement the power or duty unless the United States department of health and human services approves the changes.

Sec. 329.051. The county department of job and family services shall make voter registration applications as prescribed by the secretary of state under section 3503.10 of the Revised Code available to persons who are applying for, receiving assistance from, or participating in any of the following:

(A) The disability financial assistance program established under Chapter 5115. of the Revised Code;

(B) The ~~medical assistance~~ medicaid program established under ~~Chapter 5111. of the Revised Code~~;

(C) The Ohio works first program established under Chapter 5107. of the Revised Code;

(D) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code.

Sec. 329.06. (A) Except as provided in division (C) of this section and section 6301.08 of the Revised Code, the board of county commissioners shall establish a county family services planning committee. The board shall appoint a member to represent the county department of job and family services; an employee in the classified civil service of the county department of job and family services, if there are any such employees; and a member to represent the public. The board shall appoint other individuals to the committee in such a manner that the committee's membership is broadly representative of the groups of individuals and the public and private entities that have an interest in the family services provided in the county. The board shall make appointments in a manner that reflects the ethnic and racial composition of the county. The following groups and entities may be represented on the committee:

(1) Consumers of family services;

(2) The public children services agency;

(3) The child support enforcement agency;

(4) The county family and children first council;

(5) Public and private colleges and universities;

(6) Public entities that provide family services, including boards of health, boards of education, the county board of developmental disabilities, and the board of alcohol, drug addiction, and mental health services that serves the county;

(7) Private nonprofit and for-profit entities that provide family services in the county or that advocate for consumers of family services in the county, including entities that provide services to or advocate for victims of domestic violence;

(8) Labor organizations;

(9) Any other group or entity that has an interest in the family services provided in the county, including groups or entities that represent any of the county's business, urban, and rural sectors.

(B) The county family services planning committee shall do all of the following:

(1) Serve as an advisory body to the board of county commissioners with regard to the family services provided in the county, including assistance under Chapters 5107. and 5108. of the Revised Code, publicly funded child care under Chapter 5104. of the Revised Code, and social services provided under section 5101.46 of the Revised Code;

(2) At least once a year, review and analyze the county department of job and family services' implementation of the programs established under Chapters 5107. and 5108. of the Revised Code. In its review, the committee shall use information available to it to examine all of the following:

(a) Return of assistance groups to participation in either program after ceasing to participate;

(b) Teen pregnancy rates among the programs' participants;

(c) The other types of assistance the programs' participants receive, including ~~medicaid under Chapter 5111. of the Revised Code~~, publicly funded child care under Chapter 5104. of the Revised Code, supplemental nutrition assistance program benefits under section 5101.54 of the Revised Code, and energy assistance under Chapter 5117. of the Revised Code;

(d) Other issues the committee considers appropriate.

The committee shall make recommendations to the board of county commissioners and county department of job and family services regarding the committee's findings.

(3) Conduct public hearings on proposed county profiles for the provision of social services under section 5101.46 of the Revised Code;

(4) At the request of the board, make recommendations and provide assistance regarding the family services provided in the county;

(5) At any other time the committee considers appropriate, consult with the board and make recommendations regarding the family services provided in the county. The committee's recommendations may address the following:

(a) Implementation and administration of family service programs;

(b) Use of federal, state, and local funds available for family service programs;

(c) Establishment of goals to be achieved by family service programs;

(d) Evaluation of the outcomes of family service programs;

(e) Any other matter the board considers relevant to the provision of family services.

(C) If there is a committee in existence in a county on October 1, 1997, that the board of county commissioners determines is capable of fulfilling the responsibilities of a county family services planning committee, the board may designate the committee as the county's family services planning

committee and the committee shall serve in that capacity.

Sec. 329.14. (A) An individual whose household income does not exceed two hundred per cent of the federal poverty line is eligible to participate in an individual development account program established by the county department of job and family services of the county in which the individual resides. An eligible individual seeking to be a participant in the program shall enter into an agreement with the fiduciary organization administering the program. The agreement shall specify the terms and conditions of uses of funds deposited, financial documentation required to be maintained by the participant, expectations and responsibilities of the participant, and services to be provided by the fiduciary organization.

(B) A participant may deposit earned income, as defined in 26 U.S.C. 911(d)(2), as amended, into the account. The fiduciary organization may deposit into the account an amount not exceeding four times the amount deposited by the participant except that a fiduciary organization may not, pursuant to an agreement with an employer, deposit an amount into an account held by a participant who is employed by the employer. An account may have no more than ten thousand dollars in it at any time.

(C) Notwithstanding eligibility requirements established in or pursuant to Chapter 5107.; or 5108.; ~~or 5111.~~ of the Revised Code, to the extent permitted by federal statutes and regulations, money in an individual development account, including interest, is exempt from consideration in determining whether the participant or a member of the participant's assistance group is eligible for assistance under Chapter 5107.; or 5108.; ~~or 5111.~~ of the Revised Code and the amount of assistance the participant or assistance group is eligible to receive.

(D)(1) Except as provided in division (D)(2) of this section, an individual development account program participant may use money in the account only for the following purposes:

(a) Postsecondary educational expenses paid directly from the account to an eligible education institution or vendor;

(b) Qualified acquisition expenses of a principal residence, as defined in 26 U.S.C. 1034, as amended, paid directly from the account to the person or government entity to which the expenses are due;

(c) Qualified business capitalization expenses made in accordance with a qualified business plan that has been approved by a financial institution or by a nonprofit microenterprise program having demonstrated business expertise and paid directly from the account to the person to whom the expenses are due.

(2) A fiduciary organization shall permit a participant to withdraw

money deposited by the participant if it is needed to deal with a personal emergency of the participant or a member of the participant's family or household. Withdrawal shall result in the loss of any matching funds in an amount equal to the amount of the withdrawal.

(3) Regardless of the reason for the withdrawal, a withdrawal from an individual development account may be made only with the approval of the fiduciary organization.

Sec. 333.01. As used in this chapter:

(A) "County sales and use tax" means the tax levied by a county under division (A) of section 5739.021 or division (A) of section 5741.021 of the Revised Code that is returned or distributed to the county under section 5739.21 or 5741.03 of the Revised Code.

(B) "Impact facility" means a permanent structure, including all interior or exterior square footage used for educational or exhibition activities, that meets all of the following criteria:

(1) It is used for the sale of tangible personal property or services;

(2) At least ten per cent of the facility's total square footage is dedicated to educational or exhibition activities;

(3) At least ~~fifty~~ thirty million dollars is invested in land, buildings, infrastructure, and equipment for the facility at the site of the facility over a period of not more than two years;

(4) An annualized average of at least one hundred fifty new full-time equivalent positions will be created and maintained at the facility;

(5) More than fifty per cent of the visitors to the facility are reasonably anticipated to live at least ~~one hundred~~ fifty miles from the facility.

(C) "Qualifying investment" means a person's investment in land, buildings, infrastructure, and equipment for creating an impact facility.

(D) "Full-time equivalent positions" means the total number of hours worked at a facility in a work week, divided by forty hours per week.

Sec. 333.02. Before June 1, ~~2007~~ 2015, a board of county commissioners of a county that levies a county sales and use tax may enter into an agreement with any person that proposes to construct an impact facility in the county to provide payments to that person of up to seventy-five per cent of the county sales and use tax collected on each retail sale made by that person at the facility, for a term of up to ten years, or until the person's qualifying investment in the impact facility has been realized through the payments, whichever occurs first.

Sec. 333.03. (A) A person seeking to enter into an agreement and obtain payments under section 333.02 of the Revised Code shall provide both of the following to the board of county commissioners:

(1) A certification by the person's chief financial officer, or the equivalent if that position does not exist, that the criteria listed in division (B) of section 333.01 of the Revised Code will be met; and

(2) An application on a form or in a format acceptable to the board that describes the proposed impact facility, including the projected level of investment in and new jobs to be created at the facility, the rationale used for determining that more than fifty per cent of the facility's visitors live at least ~~one hundred~~ fifty miles from the facility, the types of activities to be conducted at the facility, the projected levels of sales to occur at the facility, a calculation of the facility's square footage that will be dedicated to educational or exhibition activities, and any other information the board of county commissioners reasonably requests about the expected operations of the facility.

(B) The board of county commissioners shall request the director of development services to certify that the proposed facility meets the criteria for an impact facility listed in division (B) of section 333.01 of the Revised Code. The board of county commissioners may, but need not, make findings of fact that a proposed facility meets the criteria for an impact facility listed in division (B) of section 333.01 of the Revised Code before or after requesting the certification. If the director of development services certifies a proposed facility as an impact facility under this section, and if the board makes such findings, the findings and certification are conclusive and not subject to reopening at any time.

Sec. 333.04. (A) After review of the items submitted under division (A) of section 333.03 of the Revised Code, and after receipt of the certification from the director of development services under division (B) of that section, a board of county commissioners, before June 1, ~~2007~~ 2015, may enter into an agreement under section 333.02 of the Revised Code, provided that the board has determined all of the following:

(1) The proposed impact facility is economically sound;

(2) Construction of the proposed impact facility has not begun prior to the day the agreement is entered into;

(3) The impact facility will benefit the county by increasing employment opportunities and strengthening the local and regional economy; and

(4) Receiving payments from the board of county commissioners is a major factor in the person's decision to go forward with construction of the impact facility.

(B) An agreement entered into under this section shall include all of the following:

(1) A description of the impact facility that is the subject of the agreement, including the existing investment level, if any, the proposed amount of investments, the scheduled starting and completion dates for the facility, and the number and type of full-time equivalent positions to be created at the facility;

(2) The percentage of the county sales and use tax collected at the impact facility that will be used to make payments to the person entering into the agreement;

(3) The term of the payments and the first calendar quarter in which the person may apply for a payment under section 333.06 of the Revised Code;

(4) A requirement that the amount of payments made to the person during the term established under division (B)(3) of this section shall not exceed the person's qualifying investment, and that all payments cease when that amount is reached;

(5) A requirement that the person maintain operations at the impact facility for at least the term established under division (B)(3) of this section;

(6) A requirement that the person annually certify to the board of county commissioners, on or before a date established by the board in the agreement, the level of investment in, the number of employees and type of full-time equivalent positions at, and the amount of county sales and use tax collected and remitted to the tax commissioner or treasurer of state from sales made at, the facility;

(7) A provision stating that the creation of the proposed impact facility does not involve the relocation of ~~more than ten~~ any full-time equivalent positions ~~and two million dollars in taxable assets~~ or any tangible personal property to the impact facility from another facility owned by the person, or a related member of the person, that is located in another political subdivision of this state, other than the political subdivision in which the impact facility is or will be located;

(8) ~~A provision stating that the person will not relocate more than ten full-time equivalent positions and two million dollars in taxable assets to the impact facility from another facility in another political subdivision of this state during the term of the payments without the written approval of the director of development;~~

(9) A detailed explanation of how the person determined that more than fifty per cent of the visitors to the facility live at least ~~one hundred~~ fifty miles from the facility.

(C) ~~For purposes of this section, the transfer of a full-time equivalent position or taxable asset from another political subdivision in this state to the political subdivision in which the impact facility is or will be located~~

~~shall be considered a relocation, unless the person refills the full-time equivalent position, or replaces the taxable asset with an asset of equal or greater taxable value, within six months after the transfer. The person may not receive a payment under this chapter for any year in which more than ten relocations occurred without the written consent of the board of county commissioners~~ No payment may be made under this chapter to a person that is found to be in violation of the provision described in division (B)(7) of this section.

Sec. 333.05. (A) ~~If~~ Except as otherwise provided in this division, if a person fails to meet or comply with any provision of an agreement entered into under section 333.02 of the Revised Code, the board of county commissioners may amend the agreement to reduce the percentage or term, or both, of the payments the person is entitled to receive under the agreement. The reduction shall commence in the calendar quarter immediately following the calendar quarter in which the board amends the agreement. If a person fails to comply with the provision described in division (B)(7) of section 333.04 of the Revised Code, no payments may be made under this chapter to that person after the person is found to be in violation.

(B) A board of county commissioners shall submit to the department of development and to the tax commissioner a copy of each agreement entered into under section 333.02 of the Revised Code and any modifications to an agreement within thirty days after finalization or modification of the agreement.

Sec. 339.02. (A) As used in this section, "area served by the hospital" means the geographic area, whether or not included within the county, from which a county hospital regularly draws patients.

(B) Unless a board of county hospital trustees for the county is in existence in accordance with this section, such board shall be created pursuant to this section after the board of county commissioners first determines by resolution to establish a county hospital. Copies of such resolution shall be certified to the probate judge of the county senior in point of service and to the judge, other than a probate judge, of the court of common pleas of the county senior in point of service. The board of county commissioners together with the probate judge of the county senior in point of service and the judge of the court of common pleas of the county senior in point of service shall, within ten days after such certification, appoint a board of county hospital trustees.

(C) In making appointments to a board of county hospital trustees, ~~all~~ both of the following apply with respect to the individuals who may be

appointed:

(1) Members shall be electors and representative of the area served by the hospital, except that not more than two members may be electors of the area served by the hospital that is outside the county in which the hospital is located.

~~(2) In no case shall more than one half of the members be independents or be members of any one political party.~~

~~(3)~~ A physician may serve as a member, including a physician who is authorized to admit and treat patients at the hospital, except as follows:

(a) Not more than two physicians may serve as members at the same time;

(b) No physician who is employed by the hospital may serve as a member.

(D) A board of county hospital trustees shall be composed of six members, unless the board of county commissioners determines that the board of trustees can more effectively function with eight or ten members in which case there may be eight or ten members, as designated by the board of county commissioners.

(E) With respect to the initial appointment of members to a board of county hospital trustees, all of the following apply:

(1) When the board is composed of six members, their terms of office shall be one for one year, one for two years, one for three years, one for four years, one for five years, and one for six years from the first Monday of March thereafter.

(2) When the board is composed of eight members, their terms of office shall be one for one year, one for two years, two for three years, one for four years, one for five years, and two for six years from the first Monday of March thereafter.

(3) When the board is composed of ten members, their terms of office shall be two for one year, one for two years, two for three years, two for four years, one for five years, and two for six years from the first Monday of March thereafter.

(F) Except as provided in division (G)(2) of this section, all of the following apply with respect to vacancies on a board of county hospital trustees:

(1) Annually, on the first Monday of March, the board of county commissioners together with the probate judge of the county senior in point of service and the judge of the court of common pleas of the county senior in point of service shall appoint or reappoint for a term of six years a sufficient number of members to replace those members whose terms have

expired.

(2) The appointing authority shall fill a vacancy not later than six months after the vacancy occurs. If the vacancy remains unfilled on that date, the remaining members of the board, by majority vote, shall appoint an individual to fill the vacancy.

(3) The appointing authority may fill a vacancy by seeking nominations from a selection committee consisting of one county commissioner designated by the board of county commissioners, the chair of the board of county hospital trustees, and the county hospital administrator. If nominations for filling a vacancy are sought from a selection committee, the committee shall nominate at least three individuals for the vacancy. The appointing authority may fill the vacancy by appointing one of the nominated individuals or by appointing another individual selected by the appointing authority.

(4) Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term.

(G)(1) The board of county commissioners together with the probate judge senior in point of service and the judge of the court of common pleas senior in point of service in any county in which a board of county hospital trustees has been appointed may expand the number of members to eight or to ten. When the number of members is increased to eight, one shall be appointed for a three-year and one for a six-year term from the first Monday of March thereafter. When the number of members is increased from six to ten, the term for additional members shall be: one for one year, one for three years, one for four years, and one for six years from the first Monday of March thereafter. When the number of members is increased from eight to ten, the term for additional members shall be: one for one year and one for four years from the first Monday of March thereafter. Thereafter except as provided in division (G)(2) of this section, upon the expiration of the term of office of each member, the vacancy shall be filled in the manner specified in division (F) of this section.

(2) The board of county commissioners together with the probate judge senior in point of service and the judge of the court of common pleas senior in point of service may reduce the number of members of a board of county hospital trustees to eight or to six. The reduction shall occur on expiration of a member's term of office, at which time no appointment shall be made. While the board of county commissioners and the judges are in the process of reducing the number of members, the board of county hospital trustees may consist of nine or seven members for one year.

(H) Any member of a board of county hospital trustees may be removed from office by the appointing authority for neglect of duty, misconduct, or malfeasance in office. The member shall be informed in writing of the charges and afforded an opportunity for a hearing before the appointing authority. The appointing authority shall not remove a member from office for political reasons.

(I) The board of county commissioners may provide members of a board of county hospital trustees shall a stipend for their service or require the members to serve without compensation, ~~but~~. The members shall be allowed their necessary and reasonable expenses incurred in the performance of their duties, including the cost of their participation in any continuing education programs or developmental programs that the members consider necessary. Allowable stipends and expenses shall be paid out of the funds provided for the county hospital.

(J) The persons selected to be members of a board of county hospital trustees shall forthwith be notified, by mail, of their appointment. When a board is initially appointed, the notice shall state a time, not more than ten days later, when such board shall meet at the county seat of such county to organize. On the date stated, the board shall meet and organize.

(K) A board of county hospital trustees shall organize by electing one of its number as chairperson and such other officers as specified in the board's rules. Four members of a six-member board constitute a quorum, five members constitute a quorum of an eight-member board, and six members constitute a quorum of a ten-member board.

A board of county hospital trustees shall hold meetings at least ~~once a month~~ quarterly, shall adopt necessary rules of procedure, and shall keep a record of its proceedings and a strict account of all its receipts, disbursements, and expenditures. On completion of the construction and equipping of a county hospital, the board shall file such account with the board of county commissioners and make final settlement with the board of county commissioners for the construction and equipping of the hospital.

Sec. 339.05. (A) A board of county hospital trustees may adopt, annually, bidding procedures and purchasing or leasing policies ~~for services~~ provided through a joint purchasing arrangement sponsored by a nonprofit organization, ~~and~~ for services, supplies, and equipment, that are routinely used in the operation of the hospital and that cost in excess of the amount specified in section 307.86 of the Revised Code as the amount above which purchases must be competitively bid. If a board of county hospital trustees adopts those policies and procedures, and if the board of county commissioners approves them, the board of county hospital trustees may

follow those policies and procedures in lieu of following the competitive bidding procedures of sections 307.86 to 307.92 of the Revised Code.

(B) Notwithstanding section 307.86 of the Revised Code, the board of county hospital trustees is exempt from competitive bidding as required under that section if the board, by a unanimous vote of its members, makes a determination that a real and present emergency exists, and either of the following applies:

(1) The estimated cost is less than one hundred thousand dollars.

(2) There is actual physical damage to structures or equipment.

The board shall enter the determination of emergency and the reasons for it in the minutes of its proceedings.

For purposes of this section, a vote is unanimous if all members of a board of county hospital trustees are present, or a lesser number of members of the board if not all members are present, provided that the number of members present constitutes a quorum.

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding because the estimated cost is less than one hundred thousand dollars, but the estimated cost is fifty thousand dollars or more, the board shall solicit informal estimates from not fewer than three persons who could perform the contract, before awarding the contract. With regard to each such contract, the board shall maintain a record of the informal estimates, including the name of each person from whom an informal estimate was solicited. The board shall maintain the record for the longer of at least one year after the contract is awarded or an amount of time required by the federal government.

Sec. 339.06. (A) The board of county hospital trustees, upon completion of construction or leasing and equipping of a county hospital, shall assume and continue the operation of the hospital.

(B) The board of county hospital trustees shall have the entire management and control of the county hospital. The board may in writing delegate its management and control of the county hospital to the administrator of the county hospital employed under section 339.07 of the Revised Code. The board shall establish such rules for the hospital's government, management, control, and the admission of persons as are expedient.

(C) The board of county hospital trustees has control of the property of the county hospital, including management and disposal of surplus property other than real estate or an interest in real estate.

(D) With respect to the use of funds by the board of county hospital trustees and its accounting for the use of funds, all of the following apply:

(1) The board of county hospital trustees has control of all funds used in the county hospital's operation, including moneys received from the operation of the hospital, moneys appropriated for its operation by the board of county commissioners, and moneys resulting from special levies submitted by the board of county commissioners as provided for in section 5705.22 of the Revised Code.

(2) Of the funds used in the county hospital's operation, all or part of any amount determined not to be necessary to meet current demands on the hospital may be invested by the board of county hospital trustees or its designee in any classifications of securities and obligations eligible for deposit or investment of county moneys pursuant to section 135.35 of the Revised Code, subject to the approval of the board's written investment policy by the county investment advisory committee established pursuant to section 135.341 of the Revised Code.

(3) Annually, not later than sixty days before the end of the fiscal year used by the county hospital, the board of county hospital trustees shall submit its proposed budget for the ensuing fiscal year to the board of county commissioners for that board's review. The board of county commissioners shall review and approve the proposed budget by the first day of the fiscal year to which the budget applies. If the board of county commissioners has not approved the budget by the first day of the fiscal year to which the budget applies, the budget is deemed to have been approved by the board on the first day of that fiscal year.

(4) The board of county hospital trustees shall not expend funds received from taxes collected pursuant to any tax levied under section 5705.22 of the Revised Code or the amount appropriated to the county hospital by the board of county commissioners in the annual appropriation measure for the county until its budget for the applicable fiscal year is approved in accordance with division (C)(3) of this section. At any time the amount received from those sources differs from the amount shown in the approved budget, the board of county commissioners may require the board of county hospital trustees to revise the county hospital budget accordingly.

(5) Funds under the control of the board of county hospital trustees may be disbursed by the board, consistent with the approved budget, for the uses and purposes of the county hospital; for the replacement of necessary equipment; for the acquisition, leasing, or construction of permanent improvements to county hospital property; or for making a donation authorized by division (E) of this section. Each disbursement of funds shall be made on a voucher signed by signatories designated and approved by the board of county hospital trustees.

(6) The head of a board of county hospital trustees is not required to file an estimate of contemplated revenue and expenditures for the ensuing fiscal year under section 5705.28 of the Revised Code unless the board of county commissioners levies a tax for the county hospital, or such a tax is proposed, or the board of county hospital trustees desires that the board of county commissioners make an appropriation to the county hospital for the ensuing fiscal year.

(7) All moneys appropriated by the board of county commissioners or from special levies by the board of county commissioners for the operation of the hospital, when collected shall be paid to the board of county hospital trustees on a warrant of the county auditor and approved by the board of county commissioners.

(8) The board of county hospital trustees shall provide for the conduct of an annual financial audit of the county hospital. Not later than thirty days after it receives the final report of an annual financial audit, the board shall file a copy of the report with the board of county commissioners.

(E) For the public purpose of improving the health, safety, and general welfare of the community, the board of county hospital trustees may donate to a nonprofit entity any of the following:

(1) Moneys and other financial assets determined not to be necessary to meet current demands on the hospital;

(2) Surplus hospital property, including supplies, equipment, office facilities, and other property that is not real estate or an interest in real estate;

(3) Services rendered by the hospital.

(F)(1) For purposes of division (F)(2) of this section:

(a) "Bank" has the same meaning as in section 1101.01 of the Revised Code.

(b) "Savings and loan association" has the same meaning as in section 1151.01 of the Revised Code.

(c) "Savings bank" has the same meaning as in section 1161.01 of the Revised Code.

(2) The board of county hospital trustees may enter into a contract for a secured line of credit with a bank, savings and loan association, or savings bank if the contract meets all of the following requirements:

(a) The term of the contract does not exceed one year, except that the contract may provide for the automatic renewal of the contract for up to four additional one-year periods if, on the date of automatic renewal, the aggregate outstanding draws remaining unpaid under the secured line of credit do not exceed fifty per cent of the maximum amount that can be

drawn under the secured line of credit.

(b) The contract provides that the bank, savings and loan association, or savings bank shall not commence a civil action against the board of county commissioners, any member of the board, or the county to recover the principal, interest, or any charges or other amounts that remain outstanding on the secured line of credit at the time of any default by the board of county hospital trustees.

(c) The contract provides that no assets other than those of the county hospital can be used to secure the line of credit.

(d) The terms and conditions of the contract comply with all state and federal statutes and rules governing the extension of a secured line of credit.

(3) Any obligation incurred by a board of county hospital trustees under division (F)(2) of this section is an obligation of that board only and not a general obligation of the board of county commissioners or the county within the meaning of division (Q) of section 133.01 of the Revised Code.

(4) Notwithstanding anything to the contrary in the Revised Code, the board of county hospital trustees may secure the line of credit authorized under division (F)(2) of this section by the grant of a security interest in any part or all of its tangible personal property and intangible personal property, including its deposit accounts, accounts receivable, or both.

(5) No board of county hospital trustees shall at any time have more than one secured line of credit under division (F)(2) of this section.

(G) The board of county hospital trustees shall establish a schedule of charges for all services and treatment rendered by the county hospital. It may provide for the free treatment in the hospital of soldiers, sailors, and marines of the county, under such conditions and rules as it prescribes.

(H) The board of county hospital trustees may designate the amounts and forms of insurance protection to be provided, and the board of county commissioners shall assist in obtaining such protection. The expense of providing the protection shall be paid from hospital operating funds.

(I) The board of county hospital trustees may authorize a county hospital and each of its units, hospital board members, designated hospital employees, and medical staff members to be a member of and maintain membership in any local, state, or national group or association organized and operated for the promotion of the public health and welfare or advancement of the efficiency of hospital administration and in connection therewith to use tax funds for the payment of dues and fees and related expenses but nothing in this section prohibits the board from using receipts from hospital operation, other than tax funds, for the payment of such dues and fees.

(J) The following apply to the board of county hospital trustees in relation to its employees and the employees of the county hospital:

(1) The board shall adopt the wage and salary schedule for employees.

(2) The board may employ the hospital's administrator pursuant to section 339.07 of the Revised Code, and the administrator may employ individuals for the hospital in accordance with that section.

(3) The board may employ assistants as necessary to perform its clerical work, superintend properly the construction of the county hospital, and pay the hospital's expenses. Such employees may be paid from funds provided for the county hospital.

(4) The board may hire, by contract or as salaried employees, such management consultants, accountants, attorneys, engineers, architects, construction managers, and other professional advisors as it determines are necessary and desirable to assist in the management of the programs and operation of the county hospital. Such professional advisors may be paid from county hospital operating funds.

(5) Notwithstanding section 325.19 of the Revised Code, the board may grant to employees any fringe benefits the board determines to be customary and usual in the nonprofit hospital field in its community, including, but not limited to:

(a) Additional vacation leave with full pay for full-time employees, including full-time hourly rate employees, after service of one year;

(b) Vacation leave and holiday pay for part-time employees on a pro rata basis;

(c) Leave with full pay due to death in the employee's immediate family, which shall not be deducted from the employee's accumulated sick leave;

(d) Premium pay for working on holidays listed in section 325.19 of the Revised Code;

(e) Moving expenses for new employees;

(f) Discounts on hospital supplies and services.

(6) The board may provide holiday leave by observing Martin Luther King day, Washington-Lincoln day, Columbus day, and Veterans' day on days other than those specified in section 1.14 of the Revised Code.

(7) The board may grant to employees the insurance benefits authorized by section 339.16 of the Revised Code.

(8) Notwithstanding section 325.19 of the Revised Code, the board may grant to employees, including hourly rate employees, such personal holidays as the board determines to be customary and usual in the hospital field in its community.

(9) The board may provide employee recognition awards and hold

employee recognition dinners.

(10) The board may grant to employees the recruitment and retention benefits specified under division (K) of this section.

(K) Notwithstanding sections 325.191 and 325.20 of the Revised Code, the board of county hospital trustees may provide, without the prior authorization of the board of county commissioners, scholarships for education in the health care professions, tuition reimbursement, and other staff development programs to enhance the skills of health care professionals for the purpose of recruiting or retaining qualified employees.

The board of county hospital trustees may pay reasonable expenses for recruiting or retaining physicians and other appropriate health care practitioners.

(L) The board of county hospital trustees may retain counsel and institute legal action in its own name for the collection of delinquent accounts. The board may also employ any other lawful means for the collection of delinquent accounts.

Sec. 339.07. (A) The board of county hospital trustees shall provide for the administration of the county hospital by directly employing a hospital administrator or by entering into a contract for the management of the hospital under which an administrator is provided. When an administrator is employed directly, the board shall adopt a job description delineating the administrator's powers and duties and the board may pay the administrator's salary and other benefits from funds provided for the hospital.

(B) During the construction and equipping of the hospital, the administrator shall act in an advisory capacity to the board of county hospital trustees. After the hospital is completed, the administrator shall serve as the chief executive officer and shall carry out the administration of the county hospital according to the policies set forth by the board and any written delegation.

The administrator shall administer the county hospital, make reports, and take any other action that the administrator determines is necessary for the operation of the hospital.

At the end of each fiscal year, the administrator shall submit to the board a complete financial statement showing the receipts, revenues, and expenditures in detail for the entire fiscal year.

The administrator shall ensure that the hospital has such physicians, nurses, and other employees as are necessary for the proper care, control, and management of the county hospital and its patients. The physicians, nurses, and other employees may be suspended or removed by the administrator at any time the welfare of the hospital warrants suspension or

removal. The administrator may obtain physicians, nurses, and other employees by direct employment, entering into contracts, or granting authority to practice in the hospital. Persons employed directly shall be in the unclassified civil service, pursuant to section 124.11 of the Revised Code.

Sec. 340.01. (A) As used in this chapter, "addiction," "addiction services," "alcohol and drug addiction services," ~~and~~ "community addiction services provider," "community mental health services provider," ~~"alcohol and drug addiction programs~~ "gambling addiction services," "mental health services," and "mental illness" have the same meanings as in section ~~3793.04~~ 5119.01 of the Revised Code.

(B) An alcohol, drug addiction, and mental health service district shall be established in any county or combination of counties having a population of at least fifty thousand to provide ~~alcohol and drug~~ addiction services and mental health services. With the approval of the ~~directors~~ director of ~~mental health and alcohol and drug addiction services~~ mental health and addiction services, any county or combination of counties having a population of less than fifty thousand may establish such a district. Districts comprising more than one county shall be known as joint-county districts.

The board of county commissioners of any county participating in a joint-county district may submit a resolution requesting withdrawal from the district together with a comprehensive plan or plans that are in compliance with rules adopted by the director of ~~mental health~~ mental health and addiction services under section ~~5119.61~~ 5119.22 of the Revised Code ~~and rules adopted by the department of alcohol and drug addiction services under section 3793.05 of the Revised Code~~, and that provide for the equitable adjustment and division of all services, assets, property, debts, and obligations, if any, of the joint-county district to the board of alcohol, drug addiction, and mental health services, to the boards of county commissioners of each county in the district, and to the directors. No county participating in a joint-county service district may withdraw from the district without the consent of the ~~directors~~ director of ~~mental health and alcohol and drug addiction services~~ mental health and addiction services nor earlier than one year after the submission of such resolution unless all of the participating counties agree to an earlier withdrawal. Any county withdrawing from a joint-county district shall continue to have levied against its tax list and duplicate any tax levied by the district during the period in which the county was a member of the district until such time as the levy expires or is renewed or replaced.

Sec. 340.011. (A) This chapter shall be interpreted to accomplish all of

the following:

(1) Establish a unified system of treatment for mentally ill persons and persons with addictions;

(2) Establish a community support system available for every alcohol, drug addiction, and mental health service district;

(3) Protect the personal liberty of mentally ill persons so that they may be treated in the least restrictive environment;

(4) Encourage the development of high quality, cost effective, and comprehensive services, including culturally sensitive services;

(5) Foster the development of comprehensive community mental health services, based on recognized local needs, especially for severely mentally disabled children, adolescents, and adults;

(6) Ensure that services provided meet minimum standards established by the director of ~~mental health or the department of alcohol and drug addiction services~~ mental health and addiction services;

(7) Promote the delivery of high quality and cost-effective ~~alcohol and drug addiction and mental health~~ alcohol and drug addiction and mental health services;

(8) Promote the participation of ~~consumers of~~ persons receiving mental health services and ~~alcohol and drug~~ addiction services in the planning, delivery, and evaluation of these services.

(B) Nothing in Chapter 340., ~~3793.~~, 5119., or 5122. of the Revised Code shall be construed as requiring a board of county commissioners to provide resources beyond the total amount set forth in a community budget and statement of services to be provided by the alcohol, drug addiction, and mental health plan services board, as developed and submitted under section ~~340.03~~ 340.08 of the Revised Code, ~~to provide the services listed in section 340.09 of the Revised Code, and nothing in those chapters shall be construed as requiring a board of county commissioners to provide resources beyond the total amount set forth in a plan for alcohol and drug addiction services, prepared and submitted in accordance with sections 340.033 and 3793.05 of the Revised Code, to provide alcohol and drug addiction services.~~

Sec. 340.02. ~~As used in this section, "mental health professional" means a person who is qualified to work with mentally ill persons, pursuant to standards established by the director of mental health under section 5119.611 of the Revised Code.~~

(A) For each alcohol, drug addiction, and mental health service district, there shall be appointed a board of alcohol, drug addiction, and mental health services consisting of eighteen members or fourteen members. Should the board of alcohol, drug addiction, and mental health services elect

to remain at eighteen members, as provided under section 340.02 of the Revised Code as it existed immediately prior to the date of this amendment, the board of alcohol, drug addiction, and mental health services and the board of county commissioners shall not be required to take any action. Should the board of alcohol, drug addiction, and mental health services elect a recommendation to become a fourteen-member board, that recommendation must be approved by the board of county commissioners of the county in which the alcohol, drug addiction, and mental health district is located in order for the transition to a fourteen-member board to occur. Not later than September 30, 2013, each board of alcohol, drug addiction, and mental health services wishing to become a fourteen-member board shall notify the board of county commissioners of that recommendation. Failure of the board of county commissioners to take action within thirty days after receipt of the recommendation shall be deemed agreement by the board of county commissioners to transition to a fourteen-member board of alcohol, drug addiction, and mental health services. Should the board of county commissioners reject the recommendation, the board of county commissioners shall adopt a resolution stating that rejection within thirty days after receipt of the recommendation. Upon adoption of the resolution, the board of county commissioners shall meet with the board of alcohol, drug addiction, and mental health services to discuss the matter. After the meeting, the board of county commissioners shall notify the department of mental health and addiction services of its election not later than January 1, 2014. In a joint-county district, a majority of the boards of county commissioners must not reject the recommendation of a joint-county board to become a fourteen-member board in order for the transition to a fourteen-member board to occur. Should the joint-county district have an even number of counties, and the boards of county commissioners of these counties tie in terms of whether or not to accept the recommendation of the alcohol, drug addiction, and mental health services board, the recommendation of the alcohol, drug addiction, and mental health service board to become a fourteen-member board shall prevail. The election shall be final. Failure to provide notice of its election to the department on or before January 1, 2014, shall constitute an election to continue to operate as an eighteen-member board, which election shall also be final. If an existing board provides timely notice of its election to transition to operate as a fourteen-member board, the number of board members may decline from eighteen to fourteen by attrition as current members' terms expire. However, the composition of the board must reflect the requirements set forth in this section for fourteen-member boards. ~~Nine~~ For all boards, half of the

members shall be interested in mental health ~~programs and facilities~~ services and ~~nine other~~ half of the members shall be interested in alcohol ~~or~~ drug, or gambling addiction ~~programs~~ services. All members shall be residents of the service district. The membership shall, as nearly as possible, reflect the composition of the population of the service district as to race and sex.

~~The (B) For boards operating as eighteen-member boards, the director of mental health~~ mental health and addiction services shall appoint ~~four~~ eight members of the board; ~~the director of alcohol and drug addiction services shall appoint four members;~~ and the board of county commissioners shall appoint ten members. For boards operating as fourteen-member boards, the director of mental health and addiction services shall appoint six members of the board and the board of county commissioners shall appoint eight members. In a joint-county district, the county commissioners of each participating county shall appoint members in as nearly as possible the same proportion as that county's population bears to the total population of the district, except that at least one member shall be appointed from each participating county.

~~(C) The director of mental health~~ mental health and addiction services shall ensure that at least one member of the board is a ~~psychiatrist and one member of the board is a mental health professional.~~ psychiatrist. ~~If the appointment of a psychiatrist is not possible, as determined under rules adopted by the director, a licensed physician may be appointed in place of the psychiatrist. If the appointment of a licensed physician is not possible, the director of mental health may waive the requirement that the psychiatrist or licensed physician be a resident of the service district and appoint a psychiatrist or licensed physician from a contiguous county. The director of mental health shall ensure that~~ clinician with experience in the delivery of mental health services, at least one member of the board is a person who has received or is receiving mental health services paid for by public funds ~~and,~~ at least one member of the board is a parent or other relative of such a person.

~~The director of alcohol and drug addiction services shall ensure that at least one member of the board is a professional in the field of alcohol or drug addiction services and one member of the board is an advocate for persons receiving treatment for alcohol or drug addiction. Of the members appointed by the director of alcohol and drug addiction services, at least one~~ member of the board is a clinician with experience in the delivery of addiction services, at least one ~~shall be~~ member of the board is a person who has received or is receiving ~~services for alcohol or drug addiction~~ services paid for by public funds, and at least one ~~shall be~~ member of the board is a parent or other relative of such a person. A single member who meets both

qualifications may fulfill the requirement for a clinician with experience in the delivery of mental health services and a clinician with experience in the delivery of addiction services.

(D) No member or employee of a board of alcohol, drug addiction, and mental health services shall serve as a member of the board of any agency provider with which the board of alcohol, drug addiction, and mental health services has entered into a contract for the provision of services or facilities. No member of a board of alcohol, drug addiction, and mental health services shall be an employee of any agency provider with which the board has entered into a contract for the provision of services or facilities, ~~unless the board member's employment duties with the agency consist of providing, only outside the district the board serves, services for which the medicaid program pays.~~ No person shall be an employee of a board and such an agency a provider unless the board and agency provider both agree in writing.

(E) No person shall serve as a member of the board of alcohol, drug addiction, and mental health services whose spouse, child, parent, brother, sister, grandchild, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a member of the board of any agency provider with which the board of alcohol, drug addiction, and mental health services has entered into a contract for the provision of services or facilities. No person shall serve as a member or employee of the board whose spouse, child, parent, brother, sister, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law serves as a county commissioner of a county or counties in the alcohol, drug addiction, and mental health service district.

(F) Each year each board member shall attend at least one inservice training session provided or approved by the department of ~~mental health or the department of alcohol and drug addiction services~~ mental health and addiction services. ~~Such training sessions shall not be considered to be regularly scheduled meetings of the board.~~

~~Each~~ (G) For boards operating as eighteen-member boards, each member shall be appointed for a term of four years, commencing the first day of July, except that one-third of initial appointments to a newly established board, and to the extent possible to expanded boards, shall be for terms of two years, one-third of initial appointments shall be for terms of three years, and one-third of initial appointments shall be for terms of four years. For boards operating as fourteen-member boards, each member shall be appointed for a term of four years, commencing the first day of July,

except that four of the initial appointments to a newly established board, and to the extent possible to expanded boards, shall be for terms of two years, five initial appointments shall be for terms of three years, and five initial appointments shall be for terms of four years. No member shall serve more than two consecutive four-year terms under the same appointing authority. A member may serve for three consecutive terms under the same appointing authority only if one of the terms is for less than two years. A member who has served two consecutive four-year terms or three consecutive terms totaling less than ten years is eligible for reappointment by the same appointing authority one year following the end of the second or third term, respectively.

When a vacancy occurs, appointment for the expired or unexpired term shall be made in the same manner as an original appointment. The appointing authority shall be notified by certified mail of any vacancy and shall fill the vacancy within sixty days following that notice.

Any member of the board may be removed from office by the appointing authority for neglect of duty, misconduct, or malfeasance in office, and shall be removed by the appointing authority if the member is barred by this section from serving as a board member. The member shall be informed in writing of the charges and afforded an opportunity for a hearing. Upon the absence of a member within one year from either four board meetings or from two board meetings without prior notice, the board shall notify the appointing authority, which may vacate the appointment and appoint another person to complete the member's term.

Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties, as defined by rules of the ~~departments~~ department of ~~mental health and alcohol and drug addiction services~~ mental health and addiction services.

Sec. 340.021. (A) ~~In an alcohol, drug addiction, and mental health service district comprised of a county with a population of two hundred fifty thousand or more on October 10, 1989, the board of county commissioners shall, within thirty days of October 10, 1989, establish an alcohol and drug addiction services board as the entity responsible for providing alcohol and drug addiction services in the county, unless, prior to that date, the board adopts a resolution providing that the entity responsible for providing the services is a board of alcohol, drug addiction, and mental health services. If where the board of county commissioners establishes~~ has established an alcohol and drug addiction services board, the community mental health board established under former section 340.02 of the Revised Code shall

serve as the entity responsible for providing mental health services in the county. A community mental health board has all the powers, duties, and obligations of a board of alcohol, drug addiction, and mental health services with regard to mental health services. An alcohol and drug addiction services board has all the powers, duties, and obligations of a board of alcohol, drug addiction, and mental health services with regard to ~~alcohol and drug~~ addiction services. Any provision of the Revised Code that refers to a board of alcohol, drug addiction, and mental health services with regard to mental health services also refers to a community mental health board and any provision that refers to a board of alcohol, drug addiction, and mental health services with regard to alcohol and drug addiction services also refers to an alcohol and drug addiction services board.

An alcohol and drug addiction services board shall consist of eighteen members or fourteen members, six of whom at the election of the board. Not later than January 1, 2014, each alcohol and drug addiction services board shall notify the department of mental health and addiction services of its election to operate as an eighteen-member board or to operate as a fourteen-member board. The election shall be final. Failure to provide notice of its election to the department on or before January 1, 2014, shall constitute an election to continue to operate as an eighteen-member board. If an existing board provides timely notice of its election to operate as a fourteen-member board, the number of board members may decline from eighteen to fourteen by attrition as current members' terms expire. However, the composition of the board must reflect the requirements set forth in this section and in applicable provisions of section 340.02 of the Revised Code for fourteen-member boards. For boards operating as eighteen-member boards, six members shall be appointed by the director of ~~alcohol and drug addiction services~~ mental health and addiction services and twelve ~~of whom~~ members shall be appointed by the board of county commissioners. ~~Of the members appointed by the~~ The director, ~~one shall be of mental health and addiction services shall ensure that at least one member of the board is a person who has received or is receiving services for alcohol or, drug, or gambling addiction paid for with public funds, at least one shall be member~~ is a parent or relative of such a person, and at least one shall be member is a professional in the field of alcohol or drug clinician with experience in the delivery of addiction services, and one shall be an advocate for persons receiving treatment for alcohol or drug addiction. The membership of the board shall, as nearly as possible, reflect the composition of the population of the service district as to race and sex. Members shall be residents of the service district and shall be interested in alcohol ~~and, drug, or gambling~~

addiction services. Requirements for membership, including prohibitions against certain family and business relationships, and terms of office shall be the same as those for members of boards of alcohol, drug addiction, and mental health services.

A community mental health board shall consist of eighteen members or fourteen members, at the election of the board. Not later than January 1, 2014, each community mental health board shall notify the department of mental health and addiction services of its election to operate as an eighteen-member board or to operate as a fourteen-member board. The election shall be final. Failure to provide notice of its election to the department on or before January 1, 2014, shall constitute an election to continue to operate as an eighteen-member board. If an existing board provides timely notice of its election to operate as a fourteen-member board, the number of board members may decline from eighteen to fourteen by attrition as current members' terms expire. However, the composition of the board must reflect the requirements set forth in this section and in applicable provisions of section 340.02 of the Revised Code for fourteen-member boards. For boards operating as eighteen-member boards, six of whom members shall be appointed by the director of ~~mental health~~ mental health and addiction services and twelve of whom members shall be appointed by the board of county commissioners. Of the members appointed by the The director, one shall be of mental health and addiction services shall ensure that at least one member of the board is a person who has received or is receiving mental health services paid for with public funds, at least one shall be member is a parent or relative of such a person, and at least one shall be member is a psychiatrist or a physician, and one shall be a clinician with experience in the delivery of mental health professional services. The membership of the board as nearly as possible shall reflect the composition of the population of the service district as to race and sex. Members shall be residents of the service district and shall be interested in mental health services. Requirements for membership, including prohibitions against certain family and business relationships, and terms of office shall be the same as those for members of boards of alcohol, drug addiction, and mental health services.

~~(B) If a board of county commissioners subject to division (A) of this section did not adopt a resolution providing for a board of alcohol, drug addiction, and mental health services, the board of county commissioners may establish such a board in accordance with the following procedures:~~

~~(1) Not later than January 1, 2007, the board of county commissioners shall adopt a resolution expressing its intent to establish a board of alcohol,~~

~~drug addiction, and mental health services.~~

~~(2) After adopting a resolution under division (B)(1) of this section, the board of county commissioners shall instruct the county's community mental health board and alcohol and drug addiction services board to prepare a report on the feasibility, process, and proposed plan to establish a board of alcohol, drug addiction, and mental health services. The board of county commissioners shall specify the date by which the report must be submitted to the board for its review.~~

~~(3) After reviewing the report prepared under division (B)(2) of this section, the board may adopt a final resolution establishing a board of alcohol, drug addiction, and mental health services. A final resolution establishing such a board shall be adopted not later than July 1, 2007.~~

~~(C)~~(1) If a board of county commissioners subject to division (A) of this section did not adopt a final resolution providing for a board of alcohol, drug addiction, and mental health services ~~and did not establish such a board under division (B) of this section on or before July 1, 2007~~, the board of county commissioners may establish a board of alcohol, drug addiction, and mental health services on or after the effective date of this amendment. To establish the board, the board of county commissioners shall adopt a resolution providing for the board's establishment. The composition of the board, the procedures for appointing members, and all other matters related to the board and its members are subject to section 340.02 of the Revised Code, with the following exceptions:

(a) For initial appointments to the board, the county's community mental health board and alcohol and drug addiction services board shall jointly recommend members of those boards for reappointment and shall submit the recommendations to the board of county commissioners, ~~director of mental health~~, and the director of alcohol and drug addiction services mental health and addiction services.

(b) To the greatest extent possible, the appointing authorities shall appoint the initial members from among the members jointly recommended under division ~~(C)(B)~~(1)(a) of this section.

(2) If a board of alcohol, drug addiction, and mental health services is established pursuant to division ~~(C)(B)~~(1) of this section, the board has the same rights, privileges, immunities, powers, and duties that were possessed by the county's community mental health board and alcohol and drug addiction services board. When the board is established, all property and obligations of the community mental health board and alcohol and drug addiction services board shall be transferred to the board of alcohol, drug addiction, and mental health services.

Sec. 340.03. (A) Subject to rules issued by the director of ~~mental health~~ mental health and addiction services after consultation with relevant constituencies as required by division ~~(L)(A)(10)~~ of section ~~5119.06~~ 5119.21 of the Revised Code, ~~with regard to mental health services~~, the board of alcohol, drug addiction, and mental health services shall:

(1) Serve as the community addiction and mental health services planning agency for the county or counties under its jurisdiction, and in so doing it shall:

(a) Evaluate the need for facilities and community addiction and mental health services;

(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, assess the community addiction and mental health needs, evaluate strengths and challenges, and set priorities, and develop plans for the operation of facilities and community addiction and mental health services, including treatment and prevention. When the board sets priorities for the operation of addiction services, the board shall consult with the county commissioners of the counties in the board's service district regarding the services described in section 340.15 of the Revised Code and shall give priority to those services, except that those services shall not have a priority over services provided to pregnant women under programs developed in relation to the mandate established in section 5119.17 of the Revised Code;

(c) In accordance with guidelines issued by the director of ~~mental health~~ mental health and addiction services after consultation with board representatives, annually develop and submit to the department of ~~mental health~~ mental health and addiction services a community addiction and mental health services plan listing community addiction and mental health services needs, including the needs of all residents of the district ~~now residing in state mental institutions and severely mentally disabled adults, children, and adolescents;~~ currently receiving inpatient services in state-operated hospitals, the needs of other populations as required by state or federal law or programs, the needs of all children subject to a determination made pursuant to section 121.38 of the Revised Code; and ~~all the priorities for facilities and community addiction and mental health services that are or will be in operation or provided during the period for which the plan will be in operation in the service district to meet such needs effect.~~

In alcohol, drug addiction, and mental health service districts that have separate alcohol and drug addiction services and community mental health boards, the alcohol and drug addiction services board shall submit a

community addiction services plan and the community mental health board shall submit a community mental health services plan. Each board shall consult with its counterpart in developing its plan and address the interaction between the local addiction services and mental health services systems and populations with regard to needs and priorities in developing its plan.

~~The plan shall include, but not be limited to, a statement of which of the services listed in section 340.09 of the Revised Code the board intends to make available. The board must include crisis intervention services for individuals in an emergency situation in the plan and explain how the board intends to make such services available. The plan must also include a statement of the inpatient and community based services the board proposes that the department operate, an assessment of the number and types of residential facilities needed, such other information as the department requests, and a budget for moneys the board expects to receive. The department shall approve or disapprove the plan, in whole or in part, according to the criteria developed pursuant to section 5119.61 5119.22 of the Revised Code. The department's statement of approval or disapproval shall specify the inpatient and the community based services that the department will operate for the board. Eligibility for state and federal funding shall be contingent upon an approved plan or relevant part of a plan.~~

If a board determines that it is necessary to amend a plan ~~or an allocation request~~ that has been approved under this division ~~(A)(1)(c) of this section~~, the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. The director shall inform the board of the reasons for disapproval of all or part of an amendment and of the criteria that must be met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

The board shall ~~implement~~ operate in accordance with the plan approved by the department.

(d) Promote, arrange, and implement working agreements with social agencies, both public and private, and with judicial agencies.

(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving services from a community addiction or mental health agency as defined in section 5122.01 of the Revised Code services provider certified under section 5119.36 of the Revised Code or alleging abuse or neglect of a person resident receiving addiction services or with mental illness or severe mental disability residing

in a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code. If the investigation substantiates the charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. Upon request, the board shall provide information about such investigations to the department.

(3) For the purpose of section ~~5119.611~~ 5119.36 of the Revised Code, cooperate with the director of ~~mental health~~ mental health and addiction services in visiting and evaluating whether the services of a community addiction or mental health agency services provider satisfy the certification standards established by rules adopted under that section;

(4) In accordance with criteria established under division (E) of section ~~5119.61~~ 5119.22 of the Revised Code, conduct program audits that review and evaluate the quality, effectiveness, and efficiency of services provided through its community addiction and mental health plan contracted services and submit its findings and recommendations to the department of ~~mental health~~ mental health and addiction services;

(5) In accordance with section ~~5119.22~~ 5119.34 of the Revised Code, review an application for a residential facility license and provide to the department of ~~mental health~~ mental health and addiction services any information about the applicant or facility that the board would like the department to consider in reviewing the application;

(6) Audit, in accordance with rules adopted by the auditor of state pursuant to section 117.20 of the Revised Code, at least annually all programs and services provided under contract with the board. In so doing, the board may contract for or employ the services of private auditors. A copy of the fiscal audit report shall be provided to the director of ~~mental health~~ mental health and addiction services, the auditor of state, and the county auditor of each county in the board's district.

(7) Recruit and promote local financial support for addiction and mental health programs services from private and public sources;

(8)(a) Enter into contracts with public and private facilities for the operation of facility services ~~included in the board's community mental health plan~~ and enter into contracts with public and private community addiction and mental health agencies service providers for the provision of community addiction and mental health services that are listed in section 340.09 of the Revised Code and included in the board's community mental health plan. The board may not contract with a residential facility subject to section 5119.34 of the Revised Code unless the facility is licensed by the director of mental health and addiction services and may not contract with a

community addiction or mental health agency services provider to provide community addiction or mental health services ~~included in the board's community mental health plan~~ unless the services are certified by the director of ~~mental health~~ mental health and addiction services under section ~~5119.611~~ 5119.36 of the Revised Code. Section 307.86 of the Revised Code does not apply to contracts entered into under this division. In contracting with a community addiction or mental health agency services provider, a board shall consider the cost effectiveness of services provided by that agency provider and the quality and continuity of care, and may review cost elements, including salary costs, of the services to be provided. A utilization review process ~~shall~~ may be established as part of the contract for services entered into between a board and a community addiction or mental health agency services provider. The board may establish this process in a way that is most effective and efficient in meeting local needs. ~~Until July 1, 2012, a contract with a community mental health agency or facility, as defined in section 5111.023 of the Revised Code, to provide services listed in division (B) of that section shall provide for the agency or facility to be paid in accordance with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and any rules adopted under division (A) of section 5119.61 of the Revised Code.~~

If either the board or a facility or community addiction or mental health agency services provider with which the board contracts under this division ~~(A)(8)(a) of this section~~ proposes not to renew the contract or proposes substantial changes in contract terms, the other party shall be given written notice at least one hundred twenty days before the expiration date of the contract. During the first sixty days of this one hundred twenty-day period, both parties shall attempt to resolve any dispute through good faith collaboration and negotiation in order to continue to provide services to persons in need. If the dispute has not been resolved sixty days before the expiration date of the contract, either party may notify the department of ~~mental health~~ mental health and addiction services of the unresolved dispute. The director may require both parties to submit the dispute to a third party with the cost to be shared by the board and the facility or ~~community mental health agency provider~~. The third party shall issue to the board, the facility or agency provider, and the department recommendations on how the dispute may be resolved twenty days prior to the expiration date of the contract, unless both parties agree to a time extension. The director shall adopt rules establishing the procedures of this dispute resolution process.

(b) With the prior approval of the director of ~~mental health~~ mental health and addiction services, a board may operate a facility or provide a community addiction or mental health service as follows, if there is no other qualified private or public facility or community addiction or mental health agency services provider that is immediately available and willing to operate such a facility or provide the service:

(i) In an emergency situation, any board may operate a facility or provide a community addiction or mental health service in order to provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community addiction or mental health service for no longer than one year;

(iii) In a service district with a population of less than one hundred thousand, a board may operate a facility or provide a community addiction or mental health service for no longer than one year, except that such a board may operate a facility or provide a community addiction or mental health service for more than one year with the prior approval of the director and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

The director shall not give a board approval to operate a facility or provide a community addiction or mental health service under division (A)(8)(b)(ii) or (iii) of this section unless the director determines that it is not feasible to have the department operate the facility or provide the service.

The director shall not give a board approval to operate a facility or provide a community addiction or mental health service under division (A)(8)(b)(iii) of this section unless the director determines that the board will provide greater administrative efficiency and more or better services than would be available if the board contracted with a private or public facility or community addiction or mental health agency services provider.

The director shall not give a board approval to operate a facility previously operated by a person or other government entity unless the board has established to the director's satisfaction that the person or other government entity cannot effectively operate the facility or that the person or other government entity has requested the board to take over operation of the facility. The director shall not give a board approval to provide a community addiction or mental health service previously provided by a community addiction or mental health agency services provider unless the

board has established to the director's satisfaction that the ~~agency provider~~ cannot effectively provide the service or that the ~~agency provider~~ has requested the board take over providing the service.

The director shall review and evaluate a board's operation of a facility and provision of community addiction or mental health service under division (A)(8)(b) of this section.

Nothing in division (A)(8)(b) of this section authorizes a board to administer or direct the daily operation of any facility or community addiction or mental health agency services provider, but a facility or ~~agency provider~~ may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the facility or ~~agency provider~~.

(9) Approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for contract services provided by community addiction or mental health agencies services providers in accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance;

(10) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the ~~programs~~ services under the jurisdiction of the board, including a fiscal accounting;

(11) Establish, to the extent resources are available, a ~~community support system~~ continuum of care, which provides for prevention, treatment, support, and rehabilitation services and opportunities. The essential elements of the ~~system~~ continuum include, but are not limited to, the following components in accordance with section ~~5119.06~~ 5119.21 of the Revised Code:

(a) To locate persons in need of addiction or mental health services to inform them of available services and ~~benefits mechanisms~~;

(b) Assistance for ~~clients~~ persons receiving services to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;

(c) ~~Mental~~ Addiction and mental health care services, including, but not limited to, outpatient, residential, partial hospitalization, and, where appropriate, inpatient care;

(d) Emergency services and crisis intervention;

(e) Assistance for ~~clients~~ persons receiving services to obtain vocational services and opportunities for jobs;

(f) The provision of services designed to develop social, community, and personal living skills;

(g) Access to a wide range of housing and the provision of residential treatment and support;

(h) Support, assistance, consultation, and education for families, friends, ~~consumers of persons receiving addiction or~~ mental health services, and others;

(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and ~~meaningful community~~ employment as natural supports for ~~consumers of persons receiving addiction or~~ mental health services;

(j) Grievance procedures and protection of the rights of ~~consumers of persons receiving addiction or~~ mental health services;

(k) ~~Case management~~ Community psychiatric supportive treatment services, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.

(12) Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to involuntary hospitalization and what alternative treatment is available and appropriate, if any:

(13) ~~Designate the treatment program services, agency provider, or facility, or other placement for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code and authorize payment for such treatment.~~ The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the listed services listed in submitted and approved in accordance with division (B) of section 340.09 340.08 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for services, which may include prior authorization in appropriate circumstances. The board may provide for services directly to a severely mentally disabled person when life or safety is endangered and when no community mental health ~~agency services provider~~ is available to provide the service.

~~(13) Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to involuntary hospitalization and what alternative treatment is available and~~

~~appropriate, if any;~~

(14) Ensure that apartments or rooms built, subsidized, renovated, rented, owned, or leased by the board or a community addiction or mental health agency services provider have been approved as meeting minimum fire safety standards and that persons residing in the rooms or apartments are receiving appropriate and necessary services, including culturally relevant services, from a community addiction or mental health agency services provider. This division does not apply to residential facilities licensed pursuant to section ~~5119.22~~ 5119.34 of the Revised Code.

(15) Establish a mechanism for obtaining advice and involvement of ~~consumer recommendation and advice~~ persons receiving publicly funded addiction or mental health services on matters pertaining to addiction and mental health services in the alcohol, drug addiction, and mental health service district;

(16) Perform the duties required by rules adopted under section ~~5119.61~~ 5119.22 of the Revised Code regarding referrals by the board or mental health ~~agencies~~ services providers under contract with the board of individuals with mental illness or severe mental disability to residential facilities as defined in division (A)(9)(b)(iii) of section ~~5119.22~~ 5119.34 of the Revised Code and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(B) The board shall establish such rules, operating procedures, standards, and bylaws, and perform such other duties as may be necessary or proper to carry out the purposes of this chapter.

(C) A board of alcohol, drug addiction, and mental health services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds to the credit of the board and shall be available for use by the board for purposes stated by the donor or grantor.

(D) No board member or employee of a board of alcohol, drug addiction, and mental health services shall be liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or the employee's employment, whether or not such action or inaction is expressly authorized by this section, ~~section 340.033~~, or

any other section of the Revised Code, unless such action or inaction constitutes willful or wanton misconduct. Chapter 2744. of the Revised Code applies to any action or inaction by a board member or employee of a board taken within the scope of the board member's official duties or employee's employment. For the purposes of this division, the conduct of a board member or employee shall not be considered willful or wanton misconduct if the board member or employee acted in good faith and in a manner that the board member or employee reasonably believed was in or was not opposed to the best interests of the board and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(E) The meetings held by any committee established by a board of alcohol, drug addiction, and mental health services shall be considered to be meetings of a public body subject to section 121.22 of the Revised Code.

Sec. 340.031. A board of alcohol, drug addiction, and mental health services may:

(A) Inspect any residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code and located in its district, ~~pursuant to a contract with the department of mental health;~~

(B) Acquire, convey, lease, or enter into a contract to purchase, lease, or sell property for community addiction and mental health ~~and alcohol and drug addiction~~ services and related purposes, and enter into loan agreements, including mortgages, for the acquisition of such property.

Sec. 340.032. The board of alcohol, drug addiction, and mental health services shall employ a qualified mental health or ~~alcohol or drug~~ addiction services professional with experience in administration or a professional administrator with experience in mental health or ~~alcohol or drug~~ addiction services to serve as executive director of the board and shall prescribe the director's duties.

The board shall fix the compensation of the executive director. In addition to such compensation, the director shall be reimbursed for actual and necessary expenses incurred in the performance of ~~his~~ the director's official duties. The board, by majority vote of the full membership, may remove the director for cause, upon written charges, after an opportunity has been afforded ~~him~~ the director for a hearing before the board on request.

The board may delegate to its executive director the authority to act in its behalf in the performance of its administrative duties.

As used in this section, "mental health professional" and "addiction services professional" mean an individual who is qualified to work with mentally ill persons or persons receiving addiction services, pursuant to

standards established by the director of mental health and addiction services under Chapter 5119. of the Revised Code.

Sec. 340.04. In addition to such other duties as may be lawfully imposed, the executive director of a board of alcohol, drug addiction, and mental health services shall:

(A) Serve as executive officer of the board and subject to the prior approval of the board for each contract, execute contracts on its behalf;

(B) Supervise services and facilities provided, operated, contracted, or supported by the board to the extent of determining that programs services and facilities are being administered in conformity with this chapter and rules of the director of ~~mental health and the department of alcohol and drug addiction services~~ mental health and addiction services;

(C) Provide consultation to ~~agencies, associations, or individuals~~ addiction and mental health services providers providing services supported by the board;

(D) Recommend to the board the changes necessary to increase the effectiveness of addiction and mental health services ~~and alcohol and drug addiction services~~ and other matters necessary or desirable to carry out this chapter;

(E) Employ and remove from office such employees and consultants in the classified civil service and, subject to the approval of the board, employ and remove from office such other employees and consultants as may be necessary for the work of the board, and fix their compensation and reimbursement within the limits set by the salary schedule and the budget approved by the board;

(F) Encourage the development and expansion of preventive, treatment, rehabilitative, and consultative programs services in the field of addiction and mental health services with emphasis on continuity of care;

(G) Prepare for board approval an annual report of the programs services and facilities under the jurisdiction of the board, including a fiscal accounting of all services;

(H) Conduct such studies as may be necessary and practicable for the promotion of mental health, promotion of addiction services, and the prevention of mental illness, emotional disorders, and addiction ~~to alcohol and drugs~~;

(I) Authorize the county auditor, or in a joint-county district the county auditor designated as the auditor for the district, to issue warrants for the payment of board obligations approved by the board, provided that all payments from funds distributed to the board by the department of mental health and addiction services are in accordance with the ~~comprehensive~~

~~community mental health plan~~ budget submitted pursuant to section 340.08 of the Revised Code, as approved by the department of ~~mental health, or with the alcohol and drug addiction services plan as approved by the department of alcohol and drug addiction services~~ mental health and addiction services.

Sec. 340.05. A community addiction or mental health agency services provider that receives a complaint alleging abuse or neglect of an individual with mental illness or severe mental disability, or an individual receiving addiction services, who resides in a residential facility as defined in division (A)(9)(b) of section ~~5119.22~~ 5119.34 of the Revised Code shall report the complaint to the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the residential facility is located. A board of alcohol, drug addiction, and mental health services that receives such a complaint or a report from a community addiction or mental health agency services provider of such a complaint shall report the complaint to the director of ~~mental health~~ mental health and addiction services for the purpose of the director conducting an investigation under section ~~5119.22~~ 5119.34 of the Revised Code. The board may enter the facility with or without the director and, if the health and safety of a resident is in immediate danger, take any necessary action to protect the resident. The board's action shall not violate any resident's rights specified in rules adopted by the department of ~~mental health~~ mental health and addiction services under section ~~5119.22~~ 5119.34 of the Revised Code. The board shall immediately report to the director regarding the board's actions under this section.

Sec. 340.07. The board of county commissioners of any county participating in an alcohol, drug addiction, and mental health service district or joint-county district, upon receipt from the board of alcohol, drug addiction, and mental health services of a resolution so requesting, may appropriate money to such board for the operation, lease, acquisition, construction, renovation, and maintenance of addiction or mental health services, programs, providers and facilities ~~for mentally ill and emotionally disturbed persons~~ in accordance with the comprehensive community addiction and mental health plan or for alcohol and drug addiction programs ~~in accordance with the alcohol and drug addiction services plan~~ services budget approved by the department of mental health and addiction services pursuant to section 340.08 of the Revised Code.

Sec. 340.08. In accordance with rules or guidelines issued by the director of mental health and addiction services, each board of alcohol, drug addiction, and mental health services shall do all of the following:

(A) Submit to the department a report of receipts and expenditures for all federal, state, and local moneys the board expects to receive:

(1) The report shall identify funds the board and public children services agencies in the board's service district have available to fund jointly the services described in section 340.15 of the Revised Code.

(2) The board's proposed budget for expenditures of state and federal funds distributed to the board by the department shall be deemed an application for funds, and the department shall approve or disapprove the budget for these expenditures. The department shall inform the board of the reasons for disapproval of the budget for the expenditure of state and federal funds and of the criteria that must be met before the budget may be approved. The director shall provide the board an opportunity to present its case on behalf of the submitted budget. The director shall give the board a reasonable time in which to meet the criteria and shall offer the board technical assistance to help it meet the criteria.

If a board determines that it is necessary to amend a budget that has been approved under this section, the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. The director shall inform the board of the reasons for disapproval of all or part of the amendment and of the criteria that must be met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria and shall offer the board technical assistance to help it meet the criteria.

(3) The director of mental health and addiction services, in whole or in part, may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under Chapter 5119. of the Revised Code if the board's use of state and federal funds fails to comply with the approved budget, as it may be amended with the approval of the department.

(B) Submit to the department a statement identifying the services described in section 340.09 of the Revised Code the board intends to make available. The board shall include crisis intervention services for individuals in emergency situations and services required pursuant to section 340.15 of the Revised Code, and the board shall explain the manner in which the board intends to make such services available. The list of services shall be compatible with the budget submitted pursuant to division (A) of this section. The department shall approve or disapprove the proposed listing of services to be made available. The department shall inform the board of the reasons for disapproval of the listing of proposed services and of the criteria

that must be met before listing of proposed services may be approved. The director shall provide the board an opportunity to present its case on behalf of the submitted listing of proposed services. The director shall give the board a reasonable time in which to meet the criteria and shall offer the board technical assistance to help it meet the criteria.

(C) Enter into a continuity of care agreement with the state institution operated by the department of mental health and addiction services and designated as the institution serving the district encompassing the board's service district. The continuity of care agreement shall outline the department's and the board's responsibilities to plan for and coordinate with each other to address the needs of board residents who are patients in the institution, with an emphasis on managing appropriate hospital bed day use and discharge planning. The continuity of care agreement shall not require the board to provide services other than those on the list of services submitted by the board and approved by the department pursuant to division (B) of this section.

(D) In conjunction with the department of mental health and addiction services, operate a coordinated system for tracking and monitoring persons found not guilty by reason of insanity and committed pursuant to section 2945.40 of the Revised Code who have been granted a conditional release and persons found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code who have been granted a conditional release. The system shall do all of the following:

- (1) Centralize responsibility for the tracking of those persons;
- (2) Provide for uniformity in monitoring those persons;
- (3) Provide a mechanism to allow prompt rehospitalization, reinstitutionalization, or detention when a violation of the conditional release or decompensation occurs.

(E) Submit to the department a report summarizing complaints and grievances received by the board concerning the rights of persons seeking or receiving services, investigations of complaints and grievances, and outcomes of the investigations.

(F) Provide to the department information to be submitted to the community addiction and mental health information system or systems established by the department under Chapter 5119. of the Revised Code.

(G) Annually, and upon any change in membership, submit to the department a list of all current members of the board of alcohol, drug addiction, and mental health services, including the appointing authority for each member, and the member's specific qualification for appointment pursuant to section 340.02 or 340.021 of the Revised Code, if applicable.

(H) Submit to the department other information as is reasonably required for purposes of the department's operations, service evaluation, reporting activities, research, system administration, and oversight.

Sec. 340.09. (A) The department of ~~mental health~~ mental health and addiction services shall provide assistance to any county for the operation of boards of alcohol, drug addiction, and mental health services and, the provision of the following services approved by the department within the continuum of care, the provision of approved support functions, and the partnership in, or support for, approved continuum of care-related activities from funds appropriated for that purpose by the general assembly:

~~(A) Outpatient;~~

(B) Categories in the continuum of care may include the following:

(1) Inpatient;

~~(C) Partial hospitalization~~ (2) Residential;

~~(D) Rehabilitation~~ (3) Outpatient treatment;

~~(E)~~ (4) Intensive and other supports;

(5) Recovery support;

(6) Prevention and wellness management.

(C) Support functions may include the following:

(1) Consultation;

~~(F) Mental health education and other preventive services;~~

~~(G) Emergency;~~

~~(H) Crisis intervention;~~

~~(I)~~ (2) Research;

~~(J)~~ (3) Administrative;

~~(K)~~ (4) Referral and information;

~~(L) Residential;~~

~~(M)~~ (5) Training;

~~(N) Substance abuse;~~

~~(O)~~ (6) Service and program evaluation;

~~(P) Community support system;~~

~~(Q) Case management;~~

~~(R) Residential housing;~~

~~(S) Other services approved by the board and the director of mental health.~~

Sec. 340.091. Each board of alcohol, drug addiction, and mental health services shall contract with a community mental health ~~agency~~ services provider under division (A)~~(7)~~(8)(a) of section 340.03 of the Revised Code for the ~~agency~~ provider to do all of the following in accordance with rules adopted under section ~~5449.61~~ 5119.22 of the Revised Code for an

individual referred to the ~~agency provider~~ under division (D)(2) of section ~~5119.69~~ 5119.41 of the Revised Code:

(A) Assess the individual and, if the ~~agency provider~~ determines that the environment in which the individual will be living while receiving residential state supplement payments is appropriate for the individual's needs, issue a recommendation to the referring residential state supplement administrative agency that the referring agency should conclude that the living environment is appropriate when it makes its determination regarding the appropriateness of the environment;

(B) Provide ongoing monitoring to ensure that listed services provided under submitted and approved under division (B) of section 340.09 340.08 of the Revised Code are available to the individual;

(C) Provide discharge planning to ensure the individual's earliest possible transition to a less restrictive environment.

Sec. 340.10. The county auditor or, in a joint-county alcohol, drug addiction, and mental health service district, the auditor of the county, the treasurer of which has been designated in the agreement between the counties of the district as custodian of the community addiction and mental health services funds and ~~alcohol and drug addiction services funds~~, is hereby designated as the auditor and fiscal officer of an alcohol, drug addiction, and mental health service district or joint-county district. State funds allocated for the support of a service district shall be paid to the county treasurer or, in a joint-county district, to the treasurer of that county designated in the agreement as custodian of the community addiction and mental health services funds and authorized to make payments from such funds on order of the county auditor and on recommendation of the board of alcohol, drug addiction, and mental health services, or the executive director of the board when authorized by the board. The auditor shall submit to the board a detailed monthly statement of all receipts, disbursements, and ending balances for the community addiction and mental health services funds.

Sec. 340.11. A board of alcohol, drug addiction, and mental health services may procure a policy or policies of insurance insuring board members or employees of the board or ~~agencies providers~~ with which the board contracts against liability arising from the performance of their official duties. If the liability insurance is unavailable or the amount a board has procured or is able to procure is insufficient to cover the amount of a claim, the board may indemnify a board member or employee as follows:

(A) For any action or inaction in the capacity of board member or employee or at the request of the board, whether or not the action or inaction

is expressly authorized by this or any other section of the Revised Code, if both of the following apply:

(1) The board member or employee acted in good faith and in a manner that the board member or employee reasonably believed was in or was not opposed to the best interests of the board; ~~and~~

(2) With respect to any criminal action or proceeding, the board member or employee had no reason to believe the board member's or employee's conduct was unlawful.

(B) Against any expenses, including attorneys' fees, the board member or employee actually and reasonably incurs as a result of a suit or other proceeding involving the defense of any action or inaction in the capacity of board member or employee or at the request of the board, or in defense of any claim, issue, or matter raised in connection with the defense of such an action or inaction, to the extent that the board member or employee is successful on the merits or otherwise.

Sec. 340.12. No board of alcohol, drug addiction, and mental health services or any ~~agency, corporation, or association~~ addiction or mental health services provider under contract with such a board shall discriminate in the provision of services under its authority, in employment, or contract on the basis of race, color, creed, sex, ~~ereed~~, national origin, or disability, ~~or national origin~~.

Each board, and each community addiction or mental health ~~agency, and each alcohol and drug addiction program~~ services provider shall have a written affirmative action program. The affirmative action program shall include goals for the employment and effective utilization of, including contracts with, members of economically disadvantaged groups as defined in division (E)(1) of section 122.71 of the Revised Code in percentages reflecting as nearly as possible the composition of the alcohol, drug addiction, and mental health service district served by the board. Each board, ~~agency, and program~~ provider shall file a description of the affirmative action program and a progress report on its implementation with the department of ~~mental health or the department of alcohol and drug addiction services~~ mental health and addiction services.

Sec. 340.13. (A) As used in this section, ~~"minority~~:

(1) "Minority business enterprise" has the same meaning as in ~~division (E)(1) of section 122.71 of the Revised Code~~.

(2) "EDGE business enterprise" has the same meaning as in section 123.152 of the Revised Code.

(B) Any minority business enterprise that desires to bid on a contract under division (C) ~~or (D)~~ of this section shall first apply to the equal

employment opportunity coordinator in the department of administrative services for certification as a minority business enterprise. Any EDGE business enterprise that desires to bid on a contract under division (D) of this section shall first apply to the equal employment opportunity coordinator of the department of administrative services for certification as an EDGE business enterprise. The coordinator shall approve the application of any minority business enterprise or EDGE business enterprise that complies with the rules adopted under section 122.71 or 123.152 of the Revised Code, respectively. The coordinator shall prepare and maintain a list of minority business enterprises and EDGE business enterprises certified under ~~this section~~ those sections.

(C) From the contracts to be awarded for the purchases of equipment, materials, supplies, or services, other than contracts entered into under section 340.03 ~~or 340.033~~ of the Revised Code, each board of alcohol, drug addiction, and mental health services shall select a number of contracts with an aggregate value of approximately fifteen per cent of the total estimated value of contracts to be awarded in the current fiscal year. The board shall set aside the contracts so selected for bidding by minority business enterprises only. The bidding procedures for such contracts shall be the same as for all other contracts awarded under section 307.86 of the Revised Code, except that only minority business enterprises certified and listed ~~under~~ pursuant to division (B) of this section shall be qualified to submit bids.

(D) To the extent that a board is authorized to enter into contracts for construction, the board shall ~~set aside a number of contracts~~ strive to attain a yearly contract dollar procurement goal the aggregate value of which equals approximately five per cent of the aggregate value of construction contracts for the current fiscal year for ~~bidding by minority~~ EDGE business enterprises only. ~~The bidding procedures for the contracts set aside for minority business enterprises shall be the same as for all other contracts awarded by the board, except that only minority business enterprises certified and listed under division (B) of this section shall be qualified to submit bids.~~

(E)(1) In the case of contracts set aside under ~~divisions~~ division (C) ~~and (D)~~ of this section, if no bid is submitted by a minority business enterprise, the contract shall be awarded according to normal bidding procedures. The board shall from time to time set aside such additional contracts as are necessary to replace those contracts previously set aside on which no minority business enterprise bid.

(2) If a board, after having made a good faith effort, is unable to comply

with the goal of procurement for contracting with EDGE business enterprises pursuant to division (D) of this section, the board may apply in writing, on a form prescribed by the department of administrative services, to the director of mental health and addiction services for a waiver or modification of the goal.

(F) This section does not preclude any minority business enterprise or EDGE business enterprise from bidding on any other contract not specifically set aside for minority business enterprises or subject to procurement goals for EDGE business enterprises.

(G) Within ninety days after the beginning of each fiscal year, each board shall file a report with the department of ~~mental health~~ mental health and addiction services that shows for that fiscal year the name of each minority business enterprise and EDGE business enterprise with which the board entered into a contract, the value and type of each such contract, the total value of contracts awarded under divisions (C) and (D) of this section, the total value of contracts awarded for the purchases of equipment, materials, supplies, or services, other than contracts entered into under section 340.03 of the Revised Code, and the total value of contracts entered into for construction.

(H) Any person who intentionally misrepresents ~~himself~~ self as owning, controlling, operating, or participating in a minority business enterprise or an EDGE business enterprise for the purpose of obtaining contracts or any other benefits under this section shall be guilty of theft by deception as provided for in section 2913.02 of the Revised Code.

Sec. 340.15. (A) A public children services agency that identifies a child by a risk assessment conducted pursuant to section 5153.16 of the Revised Code as being at imminent risk of being abused or neglected because of an addiction of a parent, guardian, or custodian of the child to a drug of abuse or alcohol shall refer the child's addicted parent, guardian, or custodian and, if the agency determines that the child needs alcohol or other drug addiction services, the child to ~~an alcohol and drug~~ a community addiction program services provider certified by the department of ~~alcohol and drug addiction services~~ mental health and addiction services under section ~~3793.06~~ 5119.36 of the Revised Code. A public children services agency that is sent a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code shall refer the addicted parent or other caregiver of the child identified in the court order to ~~an alcohol and drug~~ a community addiction program services provider certified by the department of ~~alcohol and drug addiction services~~ mental health and addiction services under section ~~3793.06~~ 5119.36 of the Revised Code. On receipt of a referral under this division and to the

extent funding identified under division (A)(1) of section ~~340.033~~ 340.08 of the Revised Code is available, the ~~program provider~~ shall provide the following services to the addicted parent, guardian, custodian, or caregiver and child in need of ~~alcohol or other drug~~ addiction services:

(1) If it is determined pursuant to an initial screening to be needed, assessment and appropriate treatment;

(2) Documentation of progress in accordance with a treatment plan developed for the addicted parent, guardian, custodian, caregiver, or child;

(3) If the referral is based on a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code and the order requires the specified parent or other caregiver of the child to submit to alcohol or other drug testing during, after, or both during and after, treatment, testing in accordance with the court order.

(B) The services described in division (A) of this section shall have a priority as provided in the ~~alcohol and drug~~ addiction and mental health services plan and budget established pursuant to ~~section 340.033~~ sections 340.03 and 340.08 of the Revised Code. Once a referral has been received pursuant to this section, the public children services agency and the ~~alcohol or drug~~ addiction program ~~services provider~~ shall, in accordance with 42 C.F.R. Part 2, share with each other any information concerning the persons and services described in that division that the agency and ~~program provider~~ determine are necessary to share. If the referral is based on a court order issued pursuant to division (B) of section 2151.3514 of the Revised Code, the results and recommendations of the ~~alcohol and drug~~ addiction program ~~services provider~~ also shall be provided and used as described in division (D) of that section. Information obtained or maintained by the agency or ~~program provider~~ pursuant to this section that could enable the identification of any person described in division (A) of this section is not a public record subject to inspection or copying under section 149.43 of the Revised Code.

Sec. 340.16. ~~Not later than ninety days after September 5, 2001, the~~ The department of ~~mental health~~ mental health and addiction services and the department of ~~job and family services~~ medicaid shall adopt rules that establish requirements and procedures for prior notification and service coordination between public children services agencies and boards of alcohol, drug addiction, and mental health services when a public children services agency refers a child in its custody to a board for services funded by the board. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

~~The department of mental health and department of job and family services shall collaborate in formulating a plan that delineates the funding~~

~~responsibilities of public children services agencies and boards of alcohol, drug addiction, and mental health services for services provided under section 5111.023 of the Revised Code to children in the custody of public children services agencies. The departments shall complete the plan not later than ninety days after September 5, 2001.~~

Sec. 341.192. (A) As used in this section:

(1) "Jail" means a county jail, or a multicounty, municipal-county, or multicounty-municipal correctional center.

~~(2) "Medical assistance program" has the same meaning as in section 2913.40 of the Revised Code.~~

~~(3)~~ "Medical provider" means a physician, hospital, laboratory, pharmacy, or other health care provider that is not employed by or under contract to a county, municipal corporation, township, the department of youth services, or the department of rehabilitation and correction to provide medical services to persons confined in a jail or state correctional institution, or is in the custody of a law enforcement officer.

~~(4)~~~~(3)~~ "Necessary care" means medical care of a nonelective nature that cannot be postponed until after the period of confinement of a person who is confined in a jail or state correctional institution, or is in the custody of a law enforcement officer without endangering the life or health of the person.

(B) If a physician employed by or under contract to a county, municipal corporation, township, the department of youth services, or the department of rehabilitation and correction to provide medical services to persons confined in a jail or state correctional institution determines that a person who is confined in the jail or state correctional institution or who is in the custody of a law enforcement officer prior to the person's confinement in a jail or state correctional institution requires necessary care that the physician cannot provide, the necessary care shall be provided by a medical provider. The county, municipal corporation, township, the department of youth services, or the department of rehabilitation and correction shall pay a medical provider for necessary care an amount not exceeding the authorized reimbursement rate for the same service established by the department of ~~job and family services~~ medicaid under the ~~medical assistance~~ medicaid program.

Sec. 349.01. As used in this chapter:

(A) "New community" means a community or an addition to an existing community planned pursuant to this chapter so that it includes facilities for the conduct of industrial, commercial, residential, cultural, educational, and recreational activities, and designed in accordance with planning concepts for the placement of utility, open space, and other supportive facilities.

In the case of a new community authority established within three years after March 22, 2012, the effective date of H.B. 225 of the 129th general assembly, "new community" may mean a community or development of property planned under this chapter in relation to an existing community so that the community includes facilities for the conduct of community activities, and is designed in accordance with planning concepts for the placement of utility, open space, and other supportive facilities for the community.

(B) "New community development program" means a program for the development of a new community characterized by well-balanced and diversified land use patterns and which includes land acquisition and land development, the acquisition, construction, operation, and maintenance of community facilities, and the provision of services authorized in this chapter.

In the case of a new community authority established within three years after March 22, 2012, the effective date of H.B. 225 of the 129th general assembly, a new community development program may take into account any existing community in relation to which a new community is developed for purposes of being characterized by well-balanced and diversified land use patterns.

(C) "New community district" means the area of land described by the developer in the petition as set forth in division (A) of section 349.03 of the Revised Code for development as a new community and any lands added to the district by amendment of the resolution establishing the community authority.

(D) "New community authority" means a body corporate and politic in this state, established pursuant to section 349.03 of the Revised Code and governed by a board of trustees as provided in section 349.04 of the Revised Code.

(E) "Developer" means any person, organized for carrying out a new community development program who owns or controls, through leases of at least seventy-five years' duration, options, or contracts to purchase, the land within a new community district, or any municipal corporation, county, or port authority that owns the land within a new community district, or has the ability to acquire such land, either by voluntary acquisition or condemnation in order to eliminate slum, blighted, and deteriorated or deteriorating areas and to prevent the recurrence thereof. In the case of a new community authority established within three years after March 22, 2012, the effective date of H.B. 225 of the 129th general assembly, "developer" may mean a person, municipal corporation, county, or port

authority that controls land within a new community district through leases of at least forty years' duration.

(F) "Organizational board of commissioners" means, ~~if the~~ the following:

(1) For a new community district that is located in only one county, the board of county commissioners of such that county; if

(2) For a new community district that is located in more than one county, a board consisting of the members of the board of county commissioners of each of the counties in which the district is located, provided that action of such the board shall require a majority vote of the members of each separate board of county commissioners; or, if

(3) For a new community district that is located entirely within the boundaries of a municipal corporation or for a new community district where more than half of the new community district is located within the boundaries of the most populous municipal corporation of a county, the legislative authority of the municipal corporation.

(G) "Land acquisition" means the acquisition of real property and interests in real property as part of a new community development program.

(H) "Land development" means the process of clearing and grading land, making, installing, or constructing water distribution systems, sewers, sewage collection systems, steam, gas, and electric lines, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or work, whether within or without the new community district, and the construction of community facilities.

(I)(1) "Community facilities" means all real property, buildings, structures, or other facilities, including related fixtures, equipment, and furnishings, to be owned, operated, financed, constructed, and maintained under this chapter, including public, community, village, neighborhood, or town buildings, centers and plazas, auditoriums, day care centers, recreation halls, educational facilities, hospital facilities as defined in section 140.01 of the Revised Code, recreational facilities, natural resource facilities, including parks and other open space land, lakes and streams, cultural facilities, community streets, pathway and bikeway systems, pedestrian underpasses and overpasses, lighting facilities, design amenities, or other community facilities, and buildings needed in connection with water supply or sewage disposal installations or steam, gas, or electric lines or installation.

(2) In the case of a new community authority established within three years after March 22, 2012, the effective date of H.B. 225 of the 129th general assembly, "community facilities" may mean, in addition to the

facilities authorized in division (I)(1) of this section, any community facilities that are owned, operated, financed, constructed, or maintained for, relating to, or in furtherance of community activities, including, but not limited to, town buildings or other facilities, health care facilities including, but limited to, hospital facilities, and off-street parking facilities.

(J) "Cost" as applied to a new community development program means all costs related to land acquisition and land development, the acquisition, construction, maintenance, and operation of community facilities and offices of the community authority, and of providing furnishings and equipment therefor, financing charges including interest prior to and during construction and for the duration of the new community development program, planning expenses, engineering expenses, administrative expenses including working capital, and all other expenses necessary and incident to the carrying forward of the new community development program.

(K) "Income source" means any and all sources of income to the community authority, including community development charges of which the new community authority is the beneficiary as provided in section 349.07 of the Revised Code, rentals, user fees and other charges received by the new community authority, any gift or grant received, any moneys received from any funds invested by or on behalf of the new community authority, and proceeds from the sale or lease of land and community facilities.

(L) "Community development charge" means:

(1) A dollar amount which shall be determined on the basis of the assessed valuation of real property or interests in real property in a new community district sold, leased, or otherwise conveyed by the developer or the new community authority, the income of the residents of such property subject to such charge under section 349.07 of the Revised Code, if such property is devoted to residential uses or to the profits of any business, a uniform fee on each parcel of such real property originally sold, leased, or otherwise conveyed by the developer or new community authority, or any combination of the foregoing bases.

(2) For a new community authority that is established within three years after March 22, 2012, the effective date of H.B. 225 of the 129th general assembly, "community development charge" includes, in addition to the charges authorized in division (L)(1) of this section, a charge determined on the basis of all or a part of the income of the residents of real property within the new community district if such property is devoted to residential uses, or all or a part of the profits, gross receipts, or other revenues of any business operating in the new community district, including, but not limited

to, rentals received from leases of real property located in the district. If a new community authority imposes a community development charge determined on the basis of rentals received from leases of real property, improvements of any real property located in the new community district and subject to that charge may not be exempted from taxation under section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code.

(M) "Proximate city" means any city that, as of the date of filing of the petition under section 349.03 of the Revised Code, is the city with the greatest population located in the county in which the proposed new community district is located, is the city with the greatest population located in an adjoining county if any portion of such city is within five miles of any part of the boundaries of such district, or exercises extraterritorial subdivision authority under section 711.09 of the Revised Code with respect to any part of such district.

In the case of a new community authority that is established within three years after March 22, 2012, the effective date of H.B. 225 of the 129th general assembly, "proximate city" may mean a municipal corporation in which, at the time of filing the petition under section 349.03 of the Revised Code, any portion of the proposed new community district is located, or, if at the time of that filing more than one-half of the proposed district is contained within a joint economic development district created under sections 715.70 to 715.83 of the Revised Code, the township containing the greatest portion of the territory of the joint economic development district.

(N) "Community activities" means cultural, educational, governmental, recreational, residential, industrial, commercial, distribution and research activities, or any combination thereof that includes residential activities.

Sec. 349.04. The following method of selecting a board of trustees is deemed to be a compelling state interest. Within ten days after the new community authority has been established, as provided in section 349.03 of the Revised Code, an initial board of trustees shall be appointed as follows: the organizational board of commissioners shall appoint by resolution at least three, but not more than six, citizen members of the board of trustees to represent the interests of present and future residents of the new community district and one member to serve as a representative of local government, and the developer shall appoint a number of members equal to the number of citizen members to serve as representatives of the developer. In the case of a new community authority established within three years after March 22, 2012, the citizen members may represent present and future employers within the new community district and any present or future residents of the district.

Members shall serve two-year overlapping terms, with two of each of the initial citizen and developer members appointed to serve initial one-year terms. The organizational board of commissioners shall adopt, by further resolution adopted within one year of such resolution establishing such initial board of trustees, a method for selection of successor members thereof which determines the projected total population of the projected new community and meets the following criteria:

(A) The appointed citizen members shall be replaced by elected citizen members according to a schedule established by the organizational board of commissioners calculated to achieve one such replacement each time the new community district gains a proportion, having a numerator of one and a denominator of twice the number of citizen members, of its projected total population until such time as all of the appointed citizen members are replaced.

(B) Representatives of the developer shall be replaced by elected citizen members according to a schedule established by the organizational board of commissioners calculated to achieve one such replacement each time the new community district gains a proportion, having a numerator of one and a denominator equal to the number of developer members, of its projected total population until such time as all of the developer's representatives are replaced.

(C) The representative of local government shall be replaced by an elected citizen member at the time the new community district gains three-quarters of its projected total population.

Elected citizen members of the board of trustees shall be elected by a majority of the residents of the new community district voting at elections held at the times and in the manner provided in a resolution of the organizational board of commissioners. Each citizen member except an appointed citizen member shall be a qualified elector who resides within the new community district. ~~In the case of a new community authority for which a petition is filed within three years after March 22, 2012, the~~ The organizational board of commissioners, by resolution, may adopt an alternative method of selecting or electing successor members of the board of trustees provided that if an alternative method of selection is adopted for a new community authority organized prior to March 22, 2012, the board of trustees of that authority shall be limited in the collection of a community development charge, collected pursuant to division (Q) of section 349.06 of the Revised Code, and the issuance of bonds or notes, issued pursuant to section 349.08 of the Revised Code, to the amount or to the extent otherwise permitted for a board of trustees whose members are not elected by residents

of the new community district. If the alternative method provides for the election of citizen members, the elections may be held at the times and in the manner provided in the petition or in a resolution of the organizational board of commissioners, and the elected citizen members shall be qualified electors who reside in the new community district.

Citizen members shall not be employees of or have financial interest in the developer. If a vacancy occurs in the office of a member other than a member appointed by the developer, the organizational board of commissioners may appoint a successor member for the remainder of the unexpired term. Any appointed member of the board of trustees may at any time be removed by the organizational board of commissioners for misfeasance, nonfeasance, or malfeasance in office. Members appointed by the developer may also at any time be removed by the developer without a showing of cause.

Each member of the board of trustees, before entering upon official duties, shall take and subscribe to an oath before an officer authorized to administer oaths in Ohio that the member will honestly and faithfully perform the duties of the member's office. Such oath shall be filed in the office of the clerk of the board of county commissioners in which the petition was filed. Upon taking the oath, the board of trustees shall elect one of its number as chairperson and another as vice-chairperson, and shall appoint suitable persons as secretary and treasurer who need not be members of the board. The treasurer shall be the fiscal officer of the authority. The board shall adopt by-laws governing the administration of the affairs of the new community authority. Each member of the board shall post a bond for the faithful performance of official duties and give surety therefor in such amount, but not less than ten thousand dollars, as the resolution creating such board shall prescribe.

All of the powers of the new community authority shall be exercised by its board of trustees, but without relief of such responsibility, such powers may be delegated to committees of the board or its officers and employees in accordance with its by-laws. A majority of the board shall constitute a quorum, and a concurrence of a majority of a quorum in any matter within the board's duties is sufficient for its determination, provided a quorum is present when such concurrence is had and a majority of those members constituting such quorum are trustees not appointed by the developer. All trustees shall be empowered to vote on all matters within the authority of the board of trustees, and no vote by a member appointed by the developer shall be construed to give rise to civil or criminal liability for conflict of interest on the part of public officials.

Sec. 351.021. (A) The resolution of the county commissioners creating a convention facilities authority, or any amendment or supplement to that resolution, may authorize the authority to levy one or both of the excise taxes authorized by division (B) of this section to pay the cost of one or more facilities; to pay principal, interest, and premium on convention facilities authority tax anticipation bonds issued to pay those costs; to pay the operating costs of the authority; to pay operating and maintenance costs of those facilities; and to pay the costs of administering the excise tax.

(B) The board of directors of a convention facilities authority that has been authorized pursuant to resolution adopted, amended, or supplemented by the board of county commissioners pursuant to division (A) of this section may levy, by resolution adopted on or before December 31, 1988, either or both of the following:

(1) Within the territory of the authority, an additional excise tax not to exceed four per cent on each transaction. The excise tax authorized by division (B)(1) of this section shall be in addition to any excise tax levied pursuant to section 5739.08 or 5739.09 of the Revised Code, or division (B)(2) of this section.

(2) Within that portion of any municipal corporation that is located within the territory of the authority or within the boundaries of any township that is located within the territory of the authority, which municipal corporation or township is levying any portion of the excise tax authorized by division (A) of section 5739.08 of the Revised Code, and with the approval, by ordinance or resolution, of the legislative authority of that municipal corporation or township, an additional excise tax not to exceed nine-tenths of one per cent on each transaction. The excise tax authorized by division (B)(2) of this section may be levied only if, on the effective date of the levy specified in the resolution making the levy, the amount being levied pursuant to division (A) of section 5739.08 of the Revised Code by each municipal corporation or township in which the tax authorized by division (B)(2) of this section will be levied, when added to the amount levied under division (B)(2) of this section, does not exceed three per cent on each transaction. The excise tax authorized by division (B)(2) of this section shall be in addition to any excise tax that is levied pursuant to section 5739.08 or 5739.09 of the Revised Code, or division (B)(1) of this section.

(C)(1) The board of directors of a convention facilities authority that is located in an eligible Appalachian county; that has been authorized pursuant to resolution adopted, amended, or supplemented by the board of county commissioners pursuant to division (A) of this section; and that is not levying a tax under division (B)(1) or (2) of this section may levy within the

territory of the authority, by resolution adopted on or before December 31, 2005, an additional excise tax not to exceed three per cent on each transaction. The excise tax authorized under division (C)(1) of this section shall be in addition to any excise tax levied pursuant to section 5739.08 or 5739.09 of the Revised Code.

As used in division (C)(1) of this section, "eligible Appalachian county" means a county in this state designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 4, 40 U.S.C. App. 403, and having a population less than eighty thousand according to the most recent federal decennial census.

(2) Division ~~(B)~~(C)(2) of this section applies only to a convention facilities authority located in a county with a population, according to the 2000 federal decennial census, of at least one hundred thirty-five thousand and not more than one hundred fifty thousand and containing entirely within its boundaries the territory of a municipal corporation with a population according to that census of more than fifty thousand. The board of directors of such a convention facilities authority, by resolution adopted on or before November 1, 2009, may levy within the territory of the authority an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests at a rate not to exceed three per cent on such transactions for the same purposes for which a tax may be levied under division (B) of this section. The resolution may be adopted only if the board of county commissioners of the county, by resolution, authorizes the levy of the tax. The resolution of the board of county commissioners is subject to referendum as prescribed by sections 305.31 to 305.41 of the Revised Code. If, pursuant to those procedures, a referendum is to be held, the board's resolution does not take effect until approved by a majority of electors voting on the question. The convention facilities authority may adopt the resolution authorized by division (C)(2) of this section before the election, but the authority's resolution shall not take effect if the board of commissioners' resolution is not approved at the election. A tax levied under division (C)(2) of this section is in addition to any tax levied under section 5739.09 of the Revised Code.

(D) The authority shall provide for the administration and allocation of an excise tax levied pursuant to division (B) or (C) of this section. All receipts arising from those excise taxes shall be expended for the purposes provided in, and in accordance with this section and section 351.141 of the Revised Code. An excise tax levied under division (B) or (C) of this section shall remain in effect at the rate at which it is levied for at least the duration of the period for which the receipts from the tax have been anticipated and

pledged pursuant to section 351.141 of the Revised Code.

(E) Except as provided in division (B)(2) of this section, the levy of an excise tax on each transaction pursuant to sections 5739.08 and 5739.09 of the Revised Code does not prevent a convention facilities authority from levying an excise tax pursuant to division (B) or (C) of this section.

(F) A convention facilities authority located in a county with a population greater than eighty thousand but less than ninety thousand according to the 2010 federal decennial census that levies a tax under division (B) of this section may amend the resolution levying the tax to allocate a portion of the revenue from the tax for support of tourism-related sites or facilities and programs operated by the county or a municipal corporation within the county in which the authority is located or for the purpose of leasing lands for county fairs, erecting buildings for county fair purposes, making improvements on a county fairground, or for any purpose connected with the use of a county fairground or with the management thereof by the county in which the authority is located. The revenue allocated by the authority for such purposes in a calendar year shall not exceed fifteen per cent of the total revenue from the tax in the preceding calendar year.

Sec. 353.01. For purposes of this chapter:

(A) "Lake facilities authority" means a body corporate and politic created pursuant to section 353.02 of the Revised Code.

(B) "Watershed" means a watershed as determined by the United States geological survey.

(C) "Impacted watershed" means a watershed meeting both of the following conditions:

(1) The watershed contains a natural or man-made lake of at least one-half square mile that has experienced levels of microcystin toxins in excess of eighty parts-per-billion, as measured by the Ohio environmental protection agency, during the twenty-four month period immediately preceding the date the last resolution necessary for the creation of a lake facilities authority under section 353.02 of the Revised Code was adopted.

(2) The watershed is partially or completely located within a state park, as defined in section 154.01 of the Revised Code, that has averaged at least four hundred thousand visitors per year for the four calendar years preceding the calendar year in which the last resolution necessary for the creation of a lake facilities authority under section 353.02 of the Revised Code was adopted.

(D) "Impacted lake district" means the territory of all townships and municipal corporations having territory in an impacted watershed.

(E) "Cost" as applied to a lake facilities authority facility means the cost of acquisition or construction of the facility; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for such acquisition; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of acquiring or constructing and equipping a principal office of the lake facilities authority; the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements for the access roads, the cost of public utility and common carrier relocation or duplication, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during any construction and for no more than eighteen months after completion of any construction; engineering; expenses of research and development with respect to an impacted lake district; legal expenses; expenses of developing or obtaining plans, specifications, engineering surveys, studies, and estimates of cost and revenues; expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the facility or remediating the impacted lake district; administrative expense; and such other expenses as may be necessary or incident to the acquisition or construction of the facility, the remediation of the impacted lake district and other activities authorized by this chapter, the financing of such acquisition, construction or remediation, including the amount authorized in the resolution of the lake facilities authority providing for the issuance of lake facilities authority revenue bonds to be paid into any special funds from the proceeds of such bonds and the financing of the placing of the facility in operation, the cost of issuing the bonds, and the financing of remediation and other purposes authorized by this chapter.

(F) "Revenues" means all rentals and other charges received by the lake facilities authority with respect to an impacted watershed; any gift or grant received with respect to any impacted watershed; money received in repayment of, and for interest on, any loans made by the authority to a person or governmental agency, whether from the United States or any department, administration, or agency thereof, or otherwise; proceeds of lake facilities authority revenue bonds to the extent the use thereof for payment of principal or of premium, if any, or interest on the bonds is authorized by the authority; proceeds from any insurance, appropriation, or guaranty pertaining to an impacted watershed or property mortgaged to secure bonds or pertaining to the financing of any activities authorized under this chapter; income and profit from the investment of the proceeds of lake

facilities authority revenue bonds or of any revenues; and contributions of service payments in lieu of taxes generated pursuant to section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code, and all other nontax revenues paid or payable to the lake facilities authority.

(G) "Lake facilities revenue bonds," unless the context indicates a different meaning or intent, includes revenue notes, revenue renewal notes, and revenue refunding bonds.

(H) "Authorized purpose" means activities that remediate, rehabilitate, enhance, foster, aid, improve, provide, or promote an impacted watershed within the jurisdiction of the lake facilities authority, including, without limitation, research and development efforts related thereto.

(I) "Lake facilities authority facility" or "facility" means real or personal property, or any combination thereof owned, leased, or otherwise controlled or financed by a lake facilities authority and directly related to an authorized purpose.

Sec. 353.02. A lake facilities authority may be created by the board of county commissioners of a county that contains all of the territory of an impacted watershed. If the territory of an impacted watershed is contained within more than one county, a joint facilities lake authority may be created by resolution of the board of commissioners of each county in which the impacted watershed is located. A resolution creating a lake facilities authority must include a finding that the watershed sought to be improved or remediated pursuant to this chapter is an impacted watershed.

A lake facilities authority created pursuant to this section is a body corporate and politic which may sue and be sued, plead and be impleaded, and has the powers and jurisdiction enumerated in this chapter. The exercise by an authority of the powers conferred upon it shall be deemed to be essential governmental functions of this state.

Within sixty days after the creation of a lake facilities authority, the county engineer of each county with territory in the impacted watershed shall prepare a survey denoting the boundaries of the impacted watershed in the county. The survey shall include references to the county auditor's permanent parcel number designations as those parcel number designations correspond to the boundaries of the impacted watershed. If requested by the county engineer of each county with territory in the impacted watershed, the cost of such surveys shall be paid from the funds of the lake facilities authority pursuant to an agreement between the lake facilities authority and the county engineer of each county. Such funds may be advanced by the board of county commissioners of any county with territory in the impacted watershed.

The county auditor of the county with the greatest amount of territory in the impacted watershed shall be the fiscal officer for the lake facilities authority. The county prosecutor of the county with the greatest amount of territory in the impacted watershed shall be the legal advisor of the lake facilities authority and shall prosecute and defend all suits and actions that the lake facilities authority directs or to which it is a party.

Upon the creation of a lake facilities authority, no authority that is granted by law any powers or duties that are substantially the same as the powers and duties of a lake facilities authority may be created if its territorial jurisdiction includes any territory within the impacted lake district.

Sec. 353.03. A lake facilities authority may do all of the following:

(A) Acquire by purchase, lease, gift, or otherwise, on such terms and in such manner as it considers proper, real and personal property necessary for an authorized purpose or any estate, interest, or right therein, within or without the impacted lake district;

(B) Improve, remediate, maintain, sell, lease, or otherwise dispose of real and personal property on such terms and in such manner as it considers proper;

(C) Request that the department of natural resources, the environmental protection agency, or the department of agriculture adopt, modify, and enforce reasonable rules and regulations governing impacted watersheds;

(D) Employ such managers, administrative officers, agents, engineers, architects, attorneys, contractors, subcontractors, and employees as may be appropriate in the exercise of the rights, powers, and duties conferred on it, prescribe the duties and compensation for such persons, require bonds to be given by any such persons and by officers of the authority for the faithful performance of their duties, and fix the amount and surety therefor, and pay the surety;

(E) Sue and be sued in its corporate name;

(F)(1) Make and enter into all contracts and agreements and execute all instruments relating to the provisions of this chapter;

(2) Except as provided otherwise under divisions (F)(2) and (3) of this section, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a lake facilities authority involves an expenditure exceeding twenty-five thousand dollars, and the lake facilities authority is the contracting authority, the lake facilities authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in

the impacted lake district. Each such contract shall be awarded to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. The board of directors by rule may provide criteria for the negotiation and award without competitive bidding of any contract as to which the lake facilities authority is the contracting authority for the construction of any building or structure or other improvement under any of the following circumstances:

(a) There exists a real and present emergency that threatens damage to property or injury to persons of the lake facilities authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed at the time of the contract's execution by the officer of the lake facilities authority that executes the contract and shall be attached to the contract.

(b) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(c) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code.

(d) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(e) A single bid is received by the lake facilities authority after complying with the above provisions.

(3) In addition to the exceptions to competitive bidding requirements under division (F)(2) of this section, a lake facilities authority may contract for the acquisition or construction of any property for an authorized purpose and for the leasing, subleasing, sale, or other disposition of the property in a manner determined by the lake facilities authority in its sole discretion, without necessity for competitive bidding or performance bonds.

(4) With respect to any public improvement undertaken by, or under contract for, the lake facilities authority, the authority may elect to apply sections 4115.03 to 4115.21 of the Revised Code.

(G) Accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made;

(H) Apply for and accept grants, loans, or commitments of guarantee or insurance, including any guarantees of lake facilities authority bonds and notes, from the United States, the state, or other public body or other sources, and provide any consideration which may be required in order to obtain such grants, loans, or contracts of guarantee or insurance;

(I) Procure insurance against loss to the lake facilities authority by

reason of damage to its properties resulting from fire, theft, accident, or other casualties, or by reason of its liability for any damages to persons or property occurring in the construction or operation of facilities or areas under its jurisdiction or the conduct of its activities;

(J) Maintain such funds or reserves as it considers necessary for the efficient performance of its duties;

(K) Enforce any covenants, of which the lake facilities authority is the beneficiary, running with the land.

(L) Issue securities for the remediation of an impacted watershed and directly related permanent improvements in compliance with Chapter 133. of the Revised Code, except that such bonds or notes may be issued only pursuant to a vote of the electors residing within the impacted lake district. The net indebtedness incurred by a lake facilities authority pursuant to this division may not exceed one-tenth of one per cent of the total value of all property within the territory comprising the impacted lake district as listed and assessed for taxation.

(M) Issue lake facilities authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from revenues as provided in section 353.09 of the Revised Code for the purpose of providing funds to pay costs of any facility or facilities or parts thereof;

(N) Advise and provide input to political subdivisions within the impacted lake district with respect to zoning and land use planning within the impacted lake district;

(O) Enter into agreements for the management, ownership, possession, or control of lands or property to be used for wetland mitigation banking;

(P) Adopt and modify rules and regulations to carry out the authority granted to the lake facilities authority under this section.

Sec. 353.04. (A) Upon the creation of a lake facilities authority under section 353.02 of the Revised Code, a board of directors consisting of the county commissioners of each county with territory in the impacted lake district shall be created. Membership on the board is not a direct or indirect interest in a contract or expenditure of money by the county. Notwithstanding any provision of law to the contrary, no member of the board shall be disqualified from holding any public office or employment by reason of membership on the board. The board is a public body for the purposes of section 121.22 of the Revised Code and a public office for the purposes of section 149.43 of the Revised Code. Notwithstanding those sections, the board may hold closed meetings and protect the confidentiality of information under the same circumstances as authorized for a community improvement corporation under section 1724.11 of the Revised Code.

Chapter 2744. of the Revised Code applies to the board. Each year, the board shall prepare an annual report of its activities and make it available to the public.

(B) A board of directors shall consult with the advisory council created under this division in performing the remediation and other activities authorized by this chapter.

Not later than sixty days after the creation of the board of directors, the board shall provide written notice of its creation to the legislative authority of each political subdivision with territory in the impacted lake district. The notice shall describe the process for the appointment of an advisory council. Upon receipt of such notice, the legislative authority of each political subdivision with territory in the impacted lake district shall appoint one representative each to serve on the advisory council. The representative need not be an elected or appointed official of the political subdivision.

Sec. 353.05. The board of directors of a lake facilities authority, by resolution, may propose the levy of a tax upon the taxable property in the impacted lake district pursuant to section 5705.55 of the Revised Code.

Sec. 353.06. As used in this section, "hotel" and "transient guests" have the same meanings as in section 5739.01 of the Revised Code.

A resolution creating a lake facilities authority under section 353.02 of the Revised Code, or any amendments or supplements thereto, may authorize the authority to levy an excise tax on transactions by which lodging in a hotel is or is to be furnished to transient guests to pay any costs authorized under this chapter; to pay principal, interest, and premium on lake facilities authority tax anticipation bonds issued to pay those costs; to pay the operating costs of the authority; and to pay the costs of administering the tax.

Upon the affirmative vote of at least a majority of the qualified electors in a primary or general election within the impacted lake district voting at an election held for the purpose of authorizing the tax, the board of directors of a lake facilities authority authorized to levy a tax under this section may, by resolution, levy an additional excise tax within the territory of the impacted lake district on all transactions by which lodging in a hotel is or is to be furnished to transient guests. The rate of the tax, when added to the aggregate rate of excise taxes levied in the impacted lake district pursuant to section 351.021, 5739.08, or 5739.09 of the Revised Code, shall not cause the total aggregate rate to exceed five per cent on any such transaction.

The lake facilities authority shall provide for the administration and allocation of a tax levied pursuant to this section. All receipts arising from the tax shall be expended for the purposes provided in, and in accordance

with, this section. An excise tax levied under this section shall remain in effect at the rate at which it is levied for at least the duration of the period for which the receipts from the tax have been anticipated and pledged pursuant to section 353.08 of the Revised Code.

The form of the ballot in an election held on the question of levying a tax proposed pursuant to this section shall be as follows or in any other form acceptable to the secretary of state:

"An excise tax on all transactions by which lodging in a hotel is or is to be furnished to transient guests within the territory of the (name of impacted lake district) for the purpose of at a rate of for (number of years the tax is to be levied).

	<u>For the Excise Tax</u>	
	<u>Against the Excise Tax</u>	"

Sec. 353.07. The director of natural resources may transfer real property owned by the state to a lake facilities authority for the purpose of promoting wetland banking, wildlife, or sporting activities. The division of wildlife within the department of natural resources may enter into an agreement with a lake facilities authority to establish wetland or natural areas to benefit wildlife or sporting activities. The agreement may be entered as part of, or in conjunction with, a mitigation banking program.

Sec. 353.08. A lake facilities authority that levies a tax authorized by sections 353.05 and 5705.55 or section 353.06 of the Revised Code may, by resolution, anticipate the proceeds of the tax and issue lake facilities authority anticipation bonds, and notes anticipating the proceeds or the bonds, in the principal amount that, in the opinion of the authority, are necessary for the purpose of paying the cost of an authorized purpose, and that the authority is able to pay over the term of the issue with the interest on the bonds or notes, or in the case of notes anticipating bonds over the term of the bonds, by the estimated amount of the taxes anticipated. The taxes are determined by the general assembly to satisfy any applicable requirement of Section 11 of Article XII, Ohio Constitution.

Every issue of outstanding anticipation bonds shall be payable out of the proceeds of the taxes anticipated and other revenues of the authority that are pledged for such payment. The pledge shall be valid and binding from the time the pledge is made, and the anticipated excise taxes and revenues so pledged and thereafter received by the authority immediately shall be subject to the lien of that pledge without any physical delivery of those taxes and revenues or further act. The lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise

against the authority, whether or not such parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the authority's records.

The anticipation bonds shall bear such date or dates, and shall mature at such time or times, in the case of any such notes or any renewals of such notes not exceeding twenty years from the date of issue of such original notes and in the case of any such bonds or any refunding bonds not exceeding forty years from the date of the original issue of notes or bonds for the purpose, and shall be executed in the manner that the resolution authorizing the bonds may provide. The anticipation bonds shall bear interest at such rates, or at a variable rate or rates changing from time to time, in accordance with provisions provided in the authorizing resolution, be in such denominations and form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places, and be subject to such terms of redemption, as the authority may authorize or provide.

Sec. 353.09. A lake facilities authority at any time may issue lake facilities authority revenue bonds in such principal amounts as, in the opinion of the lake facilities authority, are necessary for the purpose of paying the cost of one or more lake facilities authority facilities or parts thereof. A lake facilities authority at any time may issue renewal notes, issue bonds to retire its notes and, whenever it considers refunding expedient, refund any bonds by the issuance of lake facilities authority revenue refunding bonds, whether the bonds to be refunded have or have not matured, and issue lake facilities authority revenue bonds partly to refund outstanding bonds and partly for any other authorized purpose. The lake facilities authority revenue refunding bonds shall be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded. Lake facilities authority revenue bonds shall be special obligations of the lake facilities authority payable out of the revenues of the lake facilities authority that are pledged for such payment. The pledge shall be valid and binding from the time the pledge is made and the revenues so pledged and thereafter received by the lake facilities authority immediately shall be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the lake facilities authority, irrespective of whether those parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the lake facilities authority.

Whether or not the lake facilities authority revenue bonds are of such form and character as to be negotiable instruments, the lake facilities authority revenue bonds shall have all the qualities and incidents of negotiable instruments, subject only to the provisions of the bonds for registration.

The lake facilities authority revenue bonds shall be authorized by resolution of the lake facilities authority, and shall bear interest at such rate or rates, shall bear such date or dates, and shall mature at such time or times, and in such number of installments as may be provided in or pursuant to that resolution. The final maturity of any lake facilities authority revenue bond in the form of a note and any renewals thereof shall not exceed five years from the date of issue of the original note. The final maturity of any issue of lake facilities authority revenue bonds shall not be later than forty-five years from the date of issue of the original issue of bonds. Any such bonds or notes shall be executed in a manner as the resolution or resolutions may provide. The lake facilities authority revenue bonds shall be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as may be provided in or pursuant to the resolution authorizing their issuance. Lake facilities authority revenue bonds of the lake facilities authority may be sold by the lake facilities authority, at public or private sale, at or at not less than a price or prices as the lake facilities authority determines. In case any officer whose signature or a facsimile of whose signature appears on any bonds, notes, or coupons, ceases to be such officer before delivery of bonds or notes, the signature or facsimile shall nevertheless be sufficient for all purposes the same as if the officer had remained in office until such delivery, and in case the seal of the lake facilities authority has been changed after a facsimile has been imprinted on such bonds or notes, the facsimile seal will continue to be sufficient for all purposes.

Any resolution or resolutions authorizing any lake facilities authority revenue bonds or any issue of bonds may contain provisions, subject to any agreements with bondholders as may then exist, which provisions shall be a part of the contract with the holders of bonds, as to the pledging of all or any part of the revenues of the lake facilities authority to secure the payment of the lake facilities authority bonds or of any issue of the bonds; the use and disposition of revenues of the lake facilities authority; a covenant to fix, alter, and collect rentals and other charges so that pledged revenues will be sufficient to pay costs of operation, maintenance, and repairs, pay principal of and interest on bonds secured by the pledge of such revenues, and

provide any reserves that may be required by the applicable resolution or trust agreement; the setting aside of reserve funds, sinking funds, or replacement and improvement funds and the regulation and disposition thereof; the crediting of the proceeds of the sale of bonds to and among the funds referred to or provided for in or pursuant to the resolution authorizing the issuance of the bonds or notes; the use, lease, sale, or other disposition of any lake facilities authority facility or any other assets of the lake facilities authority; limitations on the purpose to which the proceeds of sale of bonds may be applied and the pledging of those proceeds to secure the payment of the bonds or of any issue of the bonds; as to notes issued in anticipation of the issuance of bonds, the agreement of the lake facilities authority to do all things necessary for the authorization, issuance, and sale of the bonds in amounts that may be necessary for the timely retirement of the notes; limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding bonds; the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; limitations on the amount of moneys to be expended by the lake facilities authority for operating, administrative, or other expenses of the lake facilities authority; securing any bonds or notes by a trust agreement; and any other matters, of like or different character, that in any way affect the security or protection of the bonds or notes.

Neither the board of directors of the lake facilities authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

The issuance of lake facilities authority revenue bonds under this section need not comply with any other law applicable to the issuance of bonds or notes.

Sec. 353.10. (A) With respect to facilities, and their financing, for an authorized purpose, under agreements whereby the person to whom the facility is to be leased, subleased, or sold, or to whom a loan is to be made for the facility, is to make payments sufficient to pay all of the principal of, premium, if any, and interest on the lake facilities authority revenue bonds issued for the facility, the lake facilities authority, in addition to other powers under this chapter, may do any of the following:

(1) Make loans for the acquisition or construction of the facility to such person upon such terms as the lake facilities authority may determine or authorize including secured or unsecured loans, and, in connection

therewith, enter into loan agreements and other agreements, accept notes and other forms of obligation to evidence such indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure such indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take actions it considers appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and the bidding upon and purchase of property upon foreclosure or other sale;

(2) Sell the facility under such terms as it may determine, including, without limitation, sale by conditional sale or installment sale, under which title may pass prior to or after completion of the facility or payment or provisions for payment of all principal of, premium, if any, and interest on the bonds, or at any other time provided in the agreement pertaining to the sale, and including sale under an option to purchase at a price which may be a nominal amount or less than true value at the time of purchase;

(3) Grant a mortgage, lien, or other encumbrance on, or pledge or assignment of, or other security interest with respect to, all or any part of the facility, revenues, reserve funds, or other funds established in connection with the bonds, or on, of, or with respect to any lease, sublease, sale, conditional sale or installment sale agreement, loan agreement, or other agreement pertaining to the lease, sublease, sale, or other disposition of a facility or pertaining to a loan made for a facility, or any guaranty or insurance agreement made with respect thereto, or any interest of the lake facilities authority therein, or any other interest granted, assigned, or released to secure payments of the principal of, premium, if any, or interest on the bonds or to secure any other payments to be made by the lake facilities authority, which mortgage, lien, encumbrance, pledge, assignment, or other security interest may be prior or subordinate to or on a parity with any other mortgage, assignment, or other security interest, or lien or encumbrance;

(4) Provide that the interest on the bonds may be at a variable rate or rates changing from time to time in accordance with a base or formula as authorized by the lake facilities authority;

(5) Contract for the acquisition or construction of the facility or any part thereof and for the leasing, subleasing, sale, or other disposition of the facility in a manner determined by the lake facilities authority in its sole discretion, without necessity for competitive bidding or performance bonds;

(6) Make appropriate provision for adequate maintenance of the facility.

(B) With respect to the facilities referred to in this section, the authority

granted by this section is cumulative and supplementary to all other authority granted in this chapter. The authority granted by this section does not alter or impair any similar authority granted elsewhere in this chapter for or with respect to other facilities.

Sec. 353.11. In the discretion of the lake facilities authority, any lake facilities authority revenue bonds issued under this chapter may be secured by a trust agreement between the lake facilities authority and a corporate trustee that may be any trust company or bank having the powers of a trust company within or without the state.

The trust agreement may pledge or assign revenues of the lake facilities authority to be received and may convey or mortgage any facility or any part thereof. The trust agreement or any resolution providing for the issuance of such bonds may contain any provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the lake facilities authority in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation, and insurance of the facility in connection with which the bonds are authorized, the rentals or other charges to be imposed for the use or services of any facility, the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of the facility.

Any bank or trust company incorporated under the laws of this state that may act as depository of the proceeds of bonds or of revenues may furnish any indemnifying bonds or may pledge any securities that are required by the lake facilities authority. The trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing similar bonds. The trust agreement may contain any other provisions that the lake facilities authority determines reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement may be treated as a part of the cost of the operation of the facility.

Sec. 353.12. Any holder of lake facilities authority revenue bonds issued under sections 353.09 to 353.15 of the Revised Code, or any of the coupons pertaining to those bonds, and the trustee under any trust agreement, except to the extent the rights given by those sections may be restricted by the applicable resolution or that trust agreement, may by suit, action, mandamus, or other proceedings, protect and enforce any rights under the laws of the state or granted under those sections, the trust agreement, or the

resolution authorizing the issuance of the bonds, and may enforce and compel the performance of all duties required by those sections, or by the trust agreement or resolution, to be performed by the lake facilities authority or any officer of the lake facilities authority, including the fixing, charging, and collecting of rentals or other charges.

Sec. 353.13. Lake facilities authority revenue bonds issued under sections 353.09 to 353.15 of the Revised Code do not constitute a debt, or a pledge of the faith and credit, of the state or any political subdivision of the state. The holders or owners of the bonds have no right to have taxes levied by the general assembly or taxing authority of any political subdivision of the state for the payment of the principal of or interest on the bonds. The bonds are payable solely from the revenues and funds pledged for their payment as authorized by this chapter, unless the revenue bonds are notes issued in anticipation of the issuance of the bonds, or the revenue bonds are refunded by refunding bonds issued under section 353.09 of the Revised Code, provided that the refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by that section. All bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not debts of the state or any political subdivision of the state, but are payable solely from revenues and funds pledged for their payment.

Sec. 353.14. All moneys, funds, properties, and assets acquired by the lake facilities authority under this chapter, whether as proceeds from the sale of lake facilities authority revenue bonds or as revenues, or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, shall be used and reused as provided in this chapter, and shall at no time be part of other public funds. Such funds, except as otherwise provided in any resolution authorizing its lake facilities authority revenue bonds or in any trust agreement securing those bonds, or except when invested pursuant to section 353.15 of the Revised Code, shall be kept in depositories selected by the lake facilities authority in the manner provided in Chapter 135. of the Revised Code for the selection of eligible public depositories, and the deposits shall be secured as provided in that chapter. The resolution authorizing the issuance of such bonds or the trust agreement securing the bonds shall provide that any officer to whom, or any bank or trust company to which, such money is paid shall act as trustee of the money and hold and apply the money for the purposes for which the bonds are issued, subject to such conditions as Chapter 135. of the Revised Code and such resolutions or trust agreement provide.

Sec. 353.15. Except as otherwise provided in any resolution authorizing

the issuance of its lake facilities authority revenue bonds or in any trust agreement securing the bonds, moneys in the funds of the lake facilities authority in excess of current needs may be invested as permitted by sections 135.01 to 135.21 of the Revised Code or invested in linked deposit programs established by resolution of the board of directors in accordance with section 135.80 of the Revised Code. Income from all investments of moneys in any fund shall be credited to funds as the lake facilities authority determines, subject to the provisions of any such resolution or trust agreement, and the investments may be sold at any time the lake facilities authority determines.

Sec. 353.16. Bonds of a lake facilities authority and lake facilities authority revenue bonds are lawful investments of banks, societies for savings, trust companies, savings and loan associations, deposit guaranty associations, trustees, fiduciaries, trustees or other officers having charge of the bond retirement funds or sinking funds of port authorities and political subdivisions, and taxing districts of this state, the commissioners of the sinking fund of this state, the administrator of workers' compensation, the state teachers retirement system, the school employees retirement system, the public employees retirement system, the Ohio police and fire pension fund, and insurance companies, including domestic life insurance companies and domestic insurance companies other than life, and are acceptable as security for the deposit of public moneys.

Sec. 511.261. If a township park district enters into an agreement for the sale or lease of mineral rights regarding a park within the district, any royalties or other moneys resulting from the sale or lease shall be deposited into a special fund that the board of park commissioners shall establish under division (F) of section 5705.09 of the Revised Code. The fund shall be used exclusively for maintenance of parks within the district and for the acquisition of new park lands.

Sec. 517.271. Notwithstanding section 517.22 of the Revised Code, the company, association, or religious society that most recently owned and operated a cemetery currently owned by a board of township trustees may petition the probate court of the county in which the cemetery is located to transfer the ownership of the cemetery to the petitioner.

If the court determines that the petitioner has met all of the following conditions, the court shall transfer the ownership of the cemetery to the petitioner and shall order the board to give the petitioner all necessary records and documents concerning the cemetery, including records of the board's sale of any lots pursuant to section 517.07 of the Revised Code:

(A) The petitioner has the financial resources necessary to operate and

maintain the cemetery:

(B) The petitioner is in compliance with all applicable laws and administrative rules concerning the owners and operators of cemeteries, including registration under section 4767.02 of the Revised Code; and

(C) The petitioner owes no delinquent taxes.

Sec. 715.013. (A) Except as otherwise expressly authorized by the Revised Code, no municipal corporation shall levy a tax that is the same as or similar to a tax levied under Chapter 322., 3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 4309., 5707., 5725., 5726., 5727., 5728., 5729., 5731., 5735., 5736., 5737., 5739., 5741., 5743., ~~or 5749.~~ or 5751. of the Revised Code.

(B) This section does not prohibit a municipal corporation from levying a tax on any of the following:

(1) Amounts received for admission to any place;

(2) The income of an electric company or combined company, as defined in section 5727.01 of the Revised Code;

(3) On and after January 1, 2004, the income of a telephone company, as defined in section 5727.01 of the Revised Code.

Sec. 715.691. (A) As used in this section:

(1) "Contracting party" means a municipal corporation that has entered into a joint economic development zone contract or any party succeeding to the municipal corporation, or a township that entered into a joint economic development zone contract with a municipal corporation.

(2) "Zone" means a joint economic development zone designated under this section.

(B) This section provides alternative procedures and requirements for creating and operating a joint economic development zone to those set forth in section 715.69 of the Revised Code. This section applies only if one of the contracting parties to the zone does not levy a municipal income tax under Chapter 718. of the Revised Code. A municipal corporation that does not levy a municipal income tax may enter into an agreement to create and operate a joint economic development zone under this section or under section 715.69 of the Revised Code.

Two or more municipal corporations or one or more townships and one or more municipal corporations may enter into a contract whereby they agree to share in the costs of improvements for an area or areas located in one or more of the contracting parties that they designate as a joint economic development zone for the purpose of facilitating new or expanded growth for commercial or economic development in the state. The contract and zone shall meet the requirements of divisions (B) to (J) of this section.

(C) The contract shall set forth each contracting party's contribution to the joint economic development zone. The contributions may be in any form that the contracting parties agree to, and may include, but are not limited to, the provision of services, money, or equipment. The contract may be amended, renewed, or terminated with the consent of the contracting parties. The contract shall continue in existence throughout the term it specifies and shall be binding on the contracting parties and on any entities succeeding to the contracting parties.

(D) Before the legislative authority of any of the contracting parties enacts an ordinance or resolution approving a contract to designate a joint economic development zone, the legislative authority of each of the contracting parties shall hold a public hearing concerning the contract and zone. Each legislative authority shall provide at least thirty days' public notice of the time and place of the public hearing in a newspaper of general circulation in the municipal corporation or township. During the thirty-day period prior to the public hearing, all of the following documents shall be available for public inspection in the office of the clerk of the legislative authority of a municipal corporation that is a contracting party and in the office of the fiscal officer of a township that is a contracting party:

- (1) A copy of the contract designating the zone;
- (2) A description of the area or areas to be included in the zone, including a map in sufficient detail to denote the specific boundaries of the area or areas;
- (3) An economic development plan for the zone that includes a schedule for the provision of any new, expanded, or additional services, facilities, or improvements.

A public hearing held under division (D) of this section shall allow for public comment and recommendations on the contract and zone. The contracting parties may include in the contract any of those recommendations prior to approval of the contract.

(E) After the public hearings required under division (D) of this section have been held, each contracting party may enact an ordinance or resolution approving the contract to designate a joint economic development zone. After each contracting party has enacted an ordinance or resolution, the clerk of the legislative authority of a municipal corporation that is a contracting party and the fiscal officer of a township that is a contracting party shall file with the board of elections of each county within which a contracting party is located a copy of the ordinance or resolution approving the contract and shall direct the board of elections to submit the ordinance or resolution to the electors of the contracting party on the day of the next

general, primary, or special election occurring at least ninety days after the ordinance or resolution is filed with the board of elections. If any of the contracting parties is a township, however, then only the township or townships shall submit the resolution to the electors.

(F)(1) If a vote is required to approve a municipal corporation as a contracting party to a joint economic development zone under this section, the ballot shall be in the following form:

"Shall the ordinance of the legislative authority of the (city or village) of (name of contracting party) approving the contract with (name of each other contracting party) for the designation of a joint economic development zone be approved?"

	FOR THE ORDINANCE AND CONTRACT	"
	AGAINST THE ORDINANCE AND CONTRACT	

(2) If a vote is required to approve a township as a contracting party to a joint economic development zone under this section, the ballot shall be in the following form:

"Shall the resolution of the board of township trustees of the township of (name of contracting party) approving the contract with (name of each other contracting party) for the designation of a joint economic development zone be approved?"

	FOR THE RESOLUTION AND CONTRACT	"
	AGAINST THE RESOLUTION AND CONTRACT	

If a majority of the electors of each contracting party voting on the issue vote for the ordinance or resolution and contract, the ordinance or resolution shall become effective immediately and the contract shall go into effect immediately or in accordance with its terms.

(G)(1) A board of directors shall govern each joint economic development zone created under section 715.691 of the Revised Code. The members of the board shall be appointed as provided in the contract. Each of the contracting parties shall appoint three members to the board. Terms for each member shall be for two years, each term ending on the same day of the month of the year as did the term that it succeeds. A member may be

reappointed to the board.

(2) Membership on the board is not the holding of a public office or employment within the meaning of any section of the Revised Code or any charter provision prohibiting the holding of other public office or employment. Membership on the board is not a direct or indirect interest in a contract or expenditure of money by a municipal corporation, township, county, or other political subdivision with which a member may be affiliated. Notwithstanding any provision of law or a charter to the contrary, no member of the board shall forfeit or be disqualified from holding any public office or employment by reason of membership on the board.

(3) The board is a public body for the purposes of section 121.22 of the Revised Code. Chapter 2744. of the Revised Code applies to the board and the zone.

(H) The contract may grant to the board of directors appointed under division (G) of this section the power to adopt a resolution to levy an income tax within the zone. The income tax shall be used for the purposes of the zone and for the purposes of the contracting ~~municipal corporations~~ parties pursuant to the contract. The income tax may be levied in the zone based on income earned by persons working within the zone and on the net profits of businesses located in the zone. The income tax is subject to Chapter 718. of the Revised Code, except that a vote shall be required by the electors residing in the zone to approve the rate of income tax unless a majority of the electors residing within the zone, as determined by the total number of votes cast in the zone for the office of governor at the most recent general election for that office, submit a petition to the board requesting that the election provided for in division (H)(1) of this section not be held. If no electors reside within the zone, then division (H)(3) of this section applies. The rate of the income tax shall be no higher than the highest rate being levied by a municipal corporation that is a party to the contract.

(1) The board of directors may levy an income tax at a rate that is not higher than the highest rate being levied by a municipal corporation that is a party to the contract, provided that the rate of the income tax is first submitted to and approved by the electors of the zone at the succeeding regular or primary election, or a special election called by the board, occurring subsequent to ninety days after a certified copy of the resolution levying the income tax and calling for the election is filed with the board of elections. If the voters approve the levy of the income tax, the income tax shall be in force for the full period of the contract establishing the zone. No election shall be held under this section if a majority of the electors residing within the zone, determined as specified in division (H) of this section,

submit a petition to that effect to the board of directors. Any increase in the rate of an income tax by the board of directors shall be approved by a vote of the electors of the zone and shall be in force for the remaining period of the contract establishing the zone.

(2) Whenever a zone is located in the territory of more than one contracting party, a majority vote of the electors in each of the several portions of the territory of the contracting parties constituting the zone approving the levy of the tax is required before it may be imposed under division (H) of this section.

(3) If no electors reside in the zone, no election for the approval or rejection of an income tax shall be held under this section, provided that where no electors reside in the zone, the rate of the income tax shall be no higher than the highest rate being levied by a municipal corporation that is a party to the contract.

(4) The board of directors of a zone levying an income tax shall enter into an agreement with one of the municipal corporations that is a party to the contract to administer, collect, and enforce the income tax on behalf of the zone.

(5) The board of directors of a zone shall publish or post public notice within the zone of any resolution adopted levying an income tax in the same manner required of municipal corporations under sections 731.21 and 731.25 of the Revised Code.

(I)(1) If for any reason a contracting party reverts to or has its boundaries changed so that it is classified as a township that is the entity succeeding to that contracting party, the township is considered to be a municipal corporation for the purposes of the contract for the full period of the contract establishing the joint economic development zone, except that if that contracting party is administering, collecting, and enforcing the income tax on behalf of the district as provided in division (H)(4) of this section, the contract shall be amended to allow one of the other contracting parties to administer, collect, and enforce that tax.

(2) Notwithstanding any other section of the Revised Code, if there is any change in the boundaries of a township so that a municipal corporation once located within the township is no longer so located, the township shall remain in existence even though its remaining unincorporated area contains less than twenty-two square miles, if the township has been or becomes a party to a contract creating a joint economic development zone under this section or the contract creating that joint economic development zone under this section is terminated or repudiated for any reason by any party or person. The township shall continue its existing status in all respects,

including having the same form of government and the same elected board of trustees as its governing body. The township shall continue to receive all of its tax levies and sources of income as a township in accordance with any section of the Revised Code, whether the levies and sources of income generate millage within the ten-mill limitation or in excess of the ten-mill limitation. The name of the township may be changed to the name of the contracting party appearing in the contract creating a joint economic development zone under this section, so long as the name does not conflict with any other name in the state that has been certified by the secretary of state. The township shall have all of the powers set out in sections 715.79, 715.80, and 715.81 of the Revised Code.

(J) If, after creating and operating a joint economic development zone under this section, a contracting party that did not levy a municipal income tax under Chapter 718. of the Revised Code levies such a tax, the tax shall not apply to the zone for the full period of the contract establishing the zone, if the board of directors of the zone has levied an income tax as provided in division (H) of this section.

Sec. 721.01. Municipal corporations have special power to sell or lease real estate or to sell personal property belonging to the municipal corporation, when such real estate or personal property is not needed for any municipal purpose. Such power shall be exercised in the manner provided by ~~sections 721.01 to 721.26, inclusive, of the Revised Code~~ this chapter.

Sec. 721.03. No contract, except as provided in section 721.28 of the Revised Code, for the sale or lease of real estate belonging to a municipal corporation shall be made unless authorized by an ordinance, approved by a two-thirds vote of the members of the legislative authority of such municipal corporation, and by the board or officer having supervision or management of such real estate. When the contract is so authorized, it shall be made in writing by such board or officer, and, except as provided in section 721.27 or 721.29 of the Revised Code, only with the highest bidder, after advertisement once a week for five consecutive weeks in a newspaper of general circulation within the municipal corporation or as provided in section 7.16 of the Revised Code. Such board or officer may reject any bids and readvertise until all such real estate is sold or leased.

Sec. 721.29. The legislative authority of a city may sell to a board of county commissioners real estate belonging to the city that is no longer needed for city purposes upon such lawful terms as are agreed upon between the city and the board of county commissioners, without competitive bidding as required by section 721.03 of the Revised Code. No such sale shall be made unless the contract for the sale is authorized by ordinance.

approved by a two-thirds vote of the members of the legislative authority of the city, and by the board or officer having supervision or management of the real estate.

Sec. 731.091. (A) The legislative authority of a village may, by the adoption of an ordinance or resolution to eliminate staggered terms of office, determine that all members of the legislative authority shall be elected at the same municipal election as provided for in this section.

(B) At the regular municipal election occurring not less than ninety days after the certification of the ordinance or resolution to the board of elections eliminating staggered terms of office, the following apply:

(1) If there are six members of the legislative authority, ~~three~~ the number of members eligible for election at that regular municipal election shall be elected ~~at the next regular municipal election for~~ to two-year nonstaggered terms, and all members of the legislative authority shall be elected to four-year nonstaggered terms at all following municipal elections.

(2) If there are five members of the legislative authority, ~~three~~ a number of members that is one less than the number of members that would otherwise be eligible for election at that regular municipal election but for the first-time implementation of the new membership of five, or, in the case of a village that has previously reduced its number of members to five, then the number of members eligible for election at that regular municipal election shall be elected ~~at the next municipal election for~~ to two-year nonstaggered terms, and all members shall be elected to four-year nonstaggered terms at all following municipal elections.

Sec. 737.41. (A) The legislative authority of a municipal corporation in which is established a municipal court, other than a county-operated municipal court, that has a department of probation shall establish in the municipal treasury a municipal probation services fund. The fund shall contain all moneys paid to the treasurer of the municipal corporation under section 2951.021 of the Revised Code for deposit into the fund. The treasurer of the municipal corporation shall disburse the money contained in the fund at the request of the municipal court department of probation, for use only by that department for specialized staff, purchase of equipment, purchase of services, reconciliation programs for offenders and victims, other treatment programs, including ~~alcohol and drug~~ community addiction programs services providers certified under section ~~3793.06~~ 5119.36 of the Revised Code, determined to be appropriate by the chief probation officer, and other similar expenses related to placing offenders under a community control sanction.

(B) Any money in a municipal probation services fund at the end of a

fiscal year shall not revert to the treasury of the municipal corporation but shall be retained in the fund.

(C) As used in this section:

(1) "County-operated municipal court" has the same meaning as in section 1901.03 of the Revised Code.

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

Sec. 742.14. (A) The board of trustees of the Ohio police and fire pension fund shall have prepared triennially by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the Ohio police and fire pension fund as established pursuant to sections 742.01 to 742.61 of the Revised Code. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

(1) A summary of the benefit provisions evaluated;

(2) A summary of the census data and financial information used in the valuation;

(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members of the fund contributing to the pension fund;

(4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;

(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last triennial actuarial valuation;

(6) A statement of whether employee and employer contributions to the pension fund are expected to be sufficient to satisfy the funding objectives established by the board.

The first triennial report shall be made not later than November 1, 2013, to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and thereafter triennially, not later than the first day of November.

(B) At such times as the board determines, and at least once in each quinquennial period, the board shall have prepared by or under the

supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members of the fund and of other system retirants, as defined in section 742.26 of the Revised Code, who are members of a police department or a fire department to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

- (1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;
- (2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;
- (3) A measurement of the financial effect of the recommended changes in actuarial assumptions;
- (4) If the investigation required by this division includes the investigation required by division (E) of this section, a report of the result of that investigation.

The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the last fiscal year of the period the report covers.

(C) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the pension fund. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

- (1) A summary of the statutory changes that are being evaluated;
- (2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;
- (3) A description of the participant group or groups included in the report;
- (4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued

liabilities as a level per cent of covered payroll for all active members of the fund over a period not to exceed thirty years;

(5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.

(D) The board shall have prepared triennially a report giving a full accounting of the revenues and costs relating to the provision of benefits under section 742.45 of the Revised Code. The first triennial report shall be made as of December 31, 2013, and the thirty-first day of December triennially thereafter. The report shall include the following:

- (1) A description of the statutory authority for the benefits provided;
- (2) A summary of the benefits;
- (3) A summary of the eligibility requirements for the benefits;
- (4) A statement of the number of participants eligible for the benefits;
- (5) A description of the accounting, asset valuation, and funding method used to provide the benefits;
- (6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;
- (7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;
- (8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;
- (9) A description of any significant changes that affect the comparability of the report required under this division;
- (10) A statement of the amount paid under division (B) of section 742.45 of the Revised Code.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the thirtieth day of June following the year for which the report was made.

(E) At least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the deferred retirement option plan established under section 742.43 of the Revised Code. The investigation shall include an examination of the financial impact, if any, on the fund of offering the plan to members.

The actuary shall prepare a report of the actuarial investigation. The report shall include a determination of whether the plan, as established or modified, has a negative financial impact on the fund and, if so, recommendations on how to modify the plan to eliminate the negative financial impact. If the actuarial report indicates that the plan has a negative financial impact on the fund, the board may modify the plan or cease to allow members who have not already done so to elect to participate in the plan. The firefighter and police officers employers' contributions shall not be increased to offset any negative financial impact of the plan.

If the board ceases to allow members to elect to participate in the plan, the rights and obligations of members who have already elected to participate shall not be altered.

The board may include the actuarial investigation required under this division as part of the actuarial investigation required under division (B) of this section. If the report of the actuarial investigation required by this division is not included in the report required by division (B) of this section, the board shall submit the report required by this division to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the last fiscal year of the period the report covers.

Sec. 743.50. (A) A municipal corporation that has established and implemented a watershed management program with regard to reservoirs for drinking water shall not include in the program any prohibition against maintenance of property that constitutes a buffer around a body of water that is part of such a reservoir by an owner of property that is contiguous to the buffer.

(B) A municipal corporation that has established and implemented a watershed management program with regard to reservoirs for drinking water shall not include in the program any prohibition against mowing grass, weeds, or other vegetation on municipal property that constitutes a buffer around a body of water that is part of such a reservoir by owners of property contiguous to the buffer.

(C) No peace officer or other official with authority to cite trespassers on municipal property described in this section may issue a civil or criminal

citation to any individual who enters municipal property buffering a reservoir for the sole purpose of mowing grass, weeds, or other vegetation in an effort to beautify the municipal property that is contiguous to property owned by the individual.

Sec. 755.06. (A) The board of park commissioners shall have the expenditures of all moneys appropriated by the legislative authority of the city or received from any other source for the purchase, acquisition, improvement, maintenance, equipment, or enjoyment of all property mentioned in section 755.05 of the Revised Code, but no liability shall be incurred or expenditure made unless the money required therefor is in the treasury to the credit of the park fund and not appropriated for any other purpose.

(B) Notwithstanding division (A) of this section, if the legislative authority of a municipal corporation enters into an agreement for the sale or lease of mineral rights regarding lands that the board of park commissioners manages or controls, any royalties or other moneys resulting from the sale or lease shall be deposited into a special fund that the legislative authority shall establish under division (F) of section 5705.09 of the Revised Code. The board of park commissioners shall use the fund exclusively for maintenance of lands that the board manages or controls and for the acquisition of new park lands.

Sec. 901.21. (A) As used in this section and section 901.22 of the Revised Code:

(1) "Agricultural easement" has the same meaning as in section 5301.67 of the Revised Code.

(2) "Agriculture" means those activities occurring on land devoted exclusively to agricultural use, as defined in section 5713.30 of the Revised Code, or on land that constitutes a homestead.

(3) "Homestead" means the portion of a farm on which is located a dwelling house, yard, or outbuildings such as a barn or garage.

(B) The director of agriculture may acquire real property used predominantly in agriculture and agricultural easements by gift, devise, or bequest if, at the time an easement is granted, such an easement is on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead. Any terms may be included in an agricultural easement so acquired that are necessary or appropriate to preserve on behalf of the grantor of the easement the favorable tax consequences of the gift, devise, or bequest under the "Internal Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. The director, by any such means or by purchase

or lease, may acquire, or acquire the use of, stationary personal property or equipment that is located on land acquired in fee by the director under this section and that is necessary or appropriate for the use of the land predominantly in agriculture.

(C) The director may include, in an agricultural easement acquired under division (B) of this section, a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.

(D) The director may do all things necessary or appropriate to retain the use of real property acquired in fee under division (B) of this section predominantly in agriculture, including, without limitation, performing any of the activities described in division (A)(1) or (2) of section 5713.30 of the Revised Code or entering into contracts to lease or rent the real property so acquired to persons or governmental entities that will use the land predominantly in agriculture.

~~(D)~~(E)(1) When the director considers it to be necessary or appropriate, the director may sell real property acquired in fee, and stationary personal property or equipment acquired by gift, devise, bequest, or purchase, under division (B) of this section on such terms as the director considers to be advantageous to this state.

(2) An agricultural easement acquired under division (B) of this section may be extinguished under the circumstances prescribed, and in accordance with the terms and conditions set forth, in the instrument conveying the agricultural easement.

~~(E)~~(F) There is hereby created in the state treasury the agricultural easement purchase fund. The fund shall consist of the proceeds received from the sale of real and personal property under division ~~(D)~~(E) of this section; moneys received due to the extinguishment of agricultural easements acquired by the director under division (B) of this section or section 5301.691 of the Revised Code; moneys received due to the extinguishment of agricultural easements purchased with the assistance of matching grants made under section 901.22 of the Revised Code; gifts, bequests, devises, and contributions received by the director for the purpose of acquiring agricultural easements; and grants received from public or private sources for the purpose of purchasing agricultural easements. The fund shall be administered by the director, and moneys in the fund shall be used by the director exclusively to purchase agricultural easements under division (A) of section 5301.691 of the Revised Code and provide matching grants under section 901.22 of the Revised Code to municipal corporations, counties, townships, soil and water conservation districts established under

Chapter 1515. of the Revised Code, and charitable organizations described in division (B) of section 5301.69 of the Revised Code for the purchase of agricultural easements. Money in the fund shall be used only to purchase agricultural easements on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead when the easement is purchased.

~~(F)~~(G) There is hereby created in the state treasury the clean Ohio agricultural easement fund. Twelve and one-half per cent of net proceeds of obligations issued and sold pursuant to sections 151.01 and 151.09 of the Revised Code shall be deposited into the fund. The fund shall be used by the director for the purposes of this section, section 901.22 of the Revised Code, and the provisions of sections 5301.67 to 5301.70 of the Revised Code governing agricultural easements. Investment earnings of the fund shall be credited to the fund and may be used to pay costs incurred by the director in administering those sections and provisions.

~~(G)~~(H) The term of an agricultural easement purchased wholly or in part with money from the clean Ohio agricultural easement fund or the agricultural easement purchase fund shall be perpetual and shall run with the land.

Sec. 901.22. (A) The director of agriculture, in accordance with Chapter 119. of the Revised Code, shall adopt rules that do all of the following:

(1) Establish procedures and eligibility criteria for making matching grants to municipal corporations, counties, townships, soil and water conservation districts established under Chapter 1515. of the Revised Code, and charitable organizations described in division (B) of section 5301.69 of the Revised Code for the purchase of agricultural easements. With respect to agricultural easements that are purchased or proposed to be purchased with such matching grants that consist in whole or in part of moneys from the clean Ohio agricultural easement fund created in section 901.21 of the Revised Code, the rules shall establish all of the following:

(a) Procedures for all of the following:

(i) Soliciting and accepting applications for matching grants;

(ii) Participation by local governments and by the public in the process of making matching grants to charitable organizations;

(iii) Notifying local governments, charitable organizations, and organizations that represent the interests of farmers of the ranking system established in rules adopted under division (A)(1)(b) of this section.

(b) A ranking system for applications for the matching grants that is based on the soil type, proximity of the land or other land that is conducive

to agriculture as defined by rules adopted under this section and that is the subject of an application to other agricultural land or other land that is conducive to agriculture as defined by rules adopted under this section and that is already or is in the process of becoming permanently protected from development, farm stewardship, development pressure, and, if applicable, a local comprehensive land use plan involved with a proposed agricultural easement. The rules shall require that preference be given to proposed agricultural easements that involve the greatest proportion of all of the following:

(i) Prime soils, unique or locally important soils, microclimates, or similar features;

(ii) Land that is adjacent to or that is in close proximity to other agricultural land or other land that is conducive to agriculture as defined by rules adopted under this section and that is already or is in the process of becoming permanently protected from development, by agricultural easement or otherwise, so that a buffer would exist between the land involving the proposed agricultural easement and areas that have been developed or likely will be developed for purposes other than agriculture;

(iii) The use of best management practices, including federally or state approved conservation plans, and a history of substantial compliance with applicable federal and state laws;

(iv) Development pressure that is imminent, but not a result of current location in the direct path of urban development;

(v) Areas identified for agricultural protection in local comprehensive land use plans.

(c) Any other criteria that the director determines are necessary for selecting applications for matching grants;

(d) Requirements regarding the information that must be included in the annual monitoring report that must be prepared for an agricultural easement under division (E)(2) of section 5301.691 of the Revised Code, procedures for submitting a copy of the report to the office of farmland preservation in the department of agriculture, and requirements and procedures governing corrective actions that may be necessary to enforce the terms of the agricultural easement.

(2) Establish provisions that shall be included in the instrument conveying to a municipal corporation, county, township, soil and water conservation district, or charitable organization any agricultural easement purchased with matching grant funds provided by the director under this section, including, without limitation, all of the following provisions:

(a) A provision stating that an easement so purchased may be

extinguished only if an unexpected change in the conditions of or surrounding the land that is subject to the easement makes impossible or impractical the continued use of the land for the purposes described in the easement, or if the requirements of the easement are extinguished by judicial proceedings;

(b) A provision requiring that, upon the sale, exchange, or involuntary conversion of the land subject to the easement, the holder of the easement shall be paid an amount of money that is at least equal to the proportionate value of the easement compared to the total value of the land at the time the easement was acquired;

(c) A provision requiring that, upon receipt of the portion of the proceeds of a sale, exchange, or involuntary conversion described in division (A)(2)(b) of this section, the municipal corporation, county, township, soil and water conservation district, or charitable organization remit to the director an amount of money equal to the percentage of the cost of purchasing the easement it received as a matching grant under this section.

Moneys received by the director pursuant to rules adopted under division (A)(2)(c) of this section shall be credited to the agricultural easement purchase fund created in section 901.21 of the Revised Code.

(3) Establish a provision that provides a charitable organization, municipal corporation, township, county, or soil and water conservation district with the option of purchasing agricultural easements either in installments or with a lump sum payment. The rules shall include a requirement that a charitable organization, municipal corporation, township, county, or soil and water conservation district negotiate with the seller of the agricultural easement concerning any installment payment terms, including the dates and amounts of payments and the interest rate on the outstanding balance. The rules also shall require the director to approve any method of payment that is undertaken in accordance with the rules adopted under division (A)(3) of this section.

(4) Establish any other requirements that the director considers to be necessary or appropriate to implement or administer a program to make matching grants under this section and monitor those grants.

(B) The director may develop guidelines regarding the acquisition of agricultural easements by the department of agriculture and the provisions of instruments conveying those easements. The director may make the guidelines available to public and private entities authorized to acquire and hold agricultural easements.

(C) The director may provide technical assistance in developing a

program for the acquisition and monitoring of agricultural easements to public and private entities authorized to hold agricultural easements. The technical assistance may include, without limitation, reviewing and providing advisory recommendations regarding draft instruments conveying agricultural easements.

(D)(1) The director may make matching grants from the agricultural easement purchase fund and the clean Ohio agricultural easement fund to municipal corporations, counties, townships, soil and water conservation districts, and charitable organizations to assist those political subdivisions and charitable organizations in purchasing agricultural easements. Application for a matching grant shall be made on forms prescribed and provided by the director. The matching grants shall be made in compliance with the criteria and procedures established in rules adopted under this section. Instruments conveying agricultural easements purchased with matching grant funds provided under this section, at a minimum, shall include the mandatory provisions set forth in those rules.

Matching grants made under this division using moneys from the clean Ohio agricultural easement fund created in section 901.21 of the Revised Code may provide up to seventy-five per cent of the value of an agricultural easement as determined by a general real estate appraiser who is certified under Chapter 4763. of the Revised Code or as determined through a points-based appraisal system established under division (D)(2) of this section. Not less than twenty-five per cent of the value of the agricultural easement shall be provided by the recipient of the matching grant or donated by the person who is transferring the easement to the grant recipient. The amount of such a matching grant used for the purchase of a single agricultural easement shall not exceed one million dollars.

(2) The director shall establish a points-based appraisal system for the purposes of division (D)(1) of this section. The director may include any or all of the following factors in the system:

(a) Whether the applicable county auditor has determined that the land is land that is devoted exclusively to agriculture for the purposes of sections 5713.30 to 5713.38 of the Revised Code;

(b) Changes in land values following the completion of the applicable county auditor's reappraisal or triennial update;

(c) Soil types and productivity;

(d) Proximity of the land to land that is already subject to an agricultural easement, conservation easement created under sections 5301.67 to 5301.70 of the Revised Code, or similar land-use limitation;

(e) Proximity of the land to water and sewer lines, road interchanges,

and nonagricultural development;

(f) Parcel size and roadway frontage of the land;

(g) Existence of an agreement entered into under division (D) of section 1515.08 of the Revised Code or of an operation and management plan developed under division (A) of section 1511.021 of the Revised Code;

(h) Existence of a comprehensive plan that is adopted under section 303.02 or 519.02 of the Revised Code or that is adopted by the planning commission of a municipal corporation under section 713.06 of the Revised Code;

(i) Any other factors that the director determines are necessary for inclusion in the system.

(E) An agricultural easement acquired as a result of a matching grant awarded under division (D) of this section may include a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.

(F) For any agricultural easement purchased with a matching grant that consists in whole or in part of moneys from the clean Ohio agricultural easement fund, the director shall be named as a grantee on the instrument conveying the easement, as shall the municipal corporation, county, township, soil and water conservation district, or charitable organization that receives the grant.

~~(F)~~(G)(1) The director shall monitor and evaluate the effectiveness and efficiency of the agricultural easement program as a farmland preservation tool. On or before July 1, 1999, and the first day of July of each year thereafter, the director shall prepare and submit a report to the chairpersons of the standing committees of the senate and the house of representatives that consider legislation regarding agriculture. The report shall consider and address the following criteria to determine the program's effectiveness:

(a) The number of agricultural easements purchased during the preceding year;

(b) The location of those easements;

(c) The number of acres of land preserved for agricultural use;

(d) The amount of money used by a municipal corporation, township, county, or soil and water conservation district from any fund to purchase the agricultural easements;

(e) The number of state matching grants given to purchase the agricultural easements;

(f) The amount of state matching grant moneys used to purchase the agricultural easements.

(2) The report also shall consider and include, at a minimum, the

following information for each county to determine the program's efficiency:

- (a) The total number of acres in the county;
- (b) The total number of acres in current agricultural use;
- (c) The total number of acres preserved for agricultural use in the preceding year;
- (d) The average cost, per acre, of land preserved for agricultural use in the preceding year.

Sec. 901.23. (A) There is hereby created the farmland preservation advisory board consisting of twelve voting members appointed by the director of agriculture as follows:

- (1) One member who is a county commissioner or a representative of a statewide organization that represents county commissioners;
- (2) One member who is a township trustee or a representative of a statewide organization that represents township trustees;
- (3) One representative of the Ohio state university;
- (4) One representative of a ~~national~~ nonprofit organization dedicated to the preservation of farmland;
- (5) One representative each of development, environmental, planning, and soil and water conservation interests;
- (6) One farmer from each of the state's four quadrants.

Terms of office shall be staggered and shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed, except that the term of any member who is a county commissioner or township trustee shall end when the member ceases to serve as a county commissioner or township trustee.

Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall serve for the remainder of that term. A member shall continue to serve subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. Members shall serve at the pleasure of the director.

The executive director of the office of farmland preservation in the department of agriculture or another employee of the department who is designated by the director shall serve as the nonvoting chairperson of the board. The director annually shall designate one member of the board to

serve as its vice-chairperson. The board may adopt bylaws governing its operation and shall meet at a time when the director, or the director's designee, considers it appropriate in order for the board to provide advice as required under division (B) of this section.

(B) The board shall provide advice to the director regarding all of the following:

(1) The design and implementation of an agricultural easement purchase program;

(2) The selection of applications that will be awarded matching grants under division (D) of section 901.22 of the Revised Code for the purchase of agricultural easements;

(3) The design and implementation of any other statewide farmland protection measures that the director considers appropriate.

(C) Serving as a member of the board does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

(D) A board member shall be reimbursed for actual and necessary expenses incurred in the discharge of duties as a board member.

Sec. 903.11. (A) The director of agriculture may enter into contracts or agreements to carry out the purposes of this chapter with any public or private person, including ~~the Ohio state university~~ OSU extension service, the natural resources conservation service in the United States department of agriculture, the environmental protection agency, the division of soil and water resources in the department of natural resources, and soil and water conservation districts established under Chapter 1515. of the Revised Code. However, the director shall not enter into a contract or agreement with a private person for the review of applications for permits to install, permits to operate, NPDES permits, or review compliance certificates that are issued under this chapter or for the inspection of a facility regulated under this chapter or with any person for the issuance of any of those permits or certificates or for the enforcement of this chapter and rules adopted under it.

(B) The director may administer grants and loans using moneys from the federal government and other sources, public or private, for carrying out any of the director's functions. Nothing in this chapter shall be construed to limit the eligibility of owners or operators of animal feeding facilities or other agricultural enterprises to receive moneys from the water pollution control loan fund established under section 6111.036 of the Revised Code and the nonpoint source pollution management fund established under section 6111.037 of the Revised Code.

The director of agriculture shall provide the director of environmental protection with written recommendations for providing financial assistance from those funds to agricultural enterprises. The director of environmental protection shall consider the recommendations in developing priorities for providing financial assistance from the funds.

Sec. 903.30. (A) No person shall violate or fail to perform any duty required by division (B)(1), (C)(1), (F), (K), or (M)(1) or (2) of section 903.08 of the Revised Code or the NPDES provisions of a permit to operate, violate a rule adopted pursuant to those divisions, or violate an order issued pursuant to those divisions or a term or condition of an NPDES permit issued by the director of agriculture.

(B) No person shall violate or fail to perform any duty required by sections 903.01 to 903.07 of the Revised Code, violate a rule, or violate an order or term or condition of a permit issued by the director under those sections or rules.

(C) The attorney general, upon the written request of the director, shall prosecute any person who violates division (A) or (B) of this section.

Sec. 903.99. (A) Whoever negligently violates division (A)(2) of section 903.02 or division (A)(2) of section 903.03 903.30 of the Revised Code is guilty of a misdemeanor of the third degree on a first offense, a misdemeanor of the second degree on a second offense, and a misdemeanor of the first degree on a third or subsequent offense. Each ten-day period that the offense continues shall be fined not more than ten thousand dollars or imprisoned for not more than ninety days, or both. Each day of violation constitutes a separate offense. For purposes of this division, notwithstanding division (D) of section 2901.22 of the Revised Code, a person acts negligently when, because of a lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist.

(B) Whoever recklessly violates the terms and conditions of a permit to install issued under section 903.02 of the Revised Code or of a permit to operate issued under section 903.03 of the Revised Code, division (A) or (B)(1), (C)(1), or (M)(1) or (2) of section 903.08 of the Revised Code, or the NPDES provisions of a permit to operate shall be fined not more than twenty five thousand dollars. of section 903.30 of the Revised Code shall be fined not more than ten thousand dollars or imprisoned for not more than one year, or both. Each day of violation constitutes a separate offense.

(C) Whoever knowingly violates division ~~(K)~~(A) or (B) of section

~~903.08~~ 903.30 of the Revised Code is guilty of a felony and shall be fined not more than twenty-five thousand dollars or imprisoned for not more than three years, or both. Each day of violation constitutes a separate offense.

Sec. 905.06. The director of agriculture shall:

(A) Gather information on the performance of various agricultural additives, including distributors' and manufacturers' claims, the results of investigation or research on additives, and the conditions when they are useful, and make the information available to the public;

(B) Provide and distribute, in cooperation with ~~the agricultural~~ OSU extension service, information on the use of agricultural additives;

(C) Provide for the prompt and thorough investigation of written complaints received concerning agricultural additives.

Sec. 909.15. All moneys from registration fees and from fines imposed and recovered under sections 909.01 to 909.18 of the Revised Code, shall be paid to the director of agriculture, who shall deposit such moneys in the state treasury to the credit of the ~~general revenue~~ plant pest program fund created in section 927.54 of the Revised Code.

Sec. 924.02. The director of agriculture, subject to sections 924.01 to 924.16 and Chapter 119. of the Revised Code, shall do all of the following:

(A) Establish procedures by which producers of Ohio agricultural commodities may propose, develop, and operate marketing programs to:

- (1) Promote the sale and use of their products;
- (2) Develop new uses and markets for such products;
- (3) Improve the methods of distributing such products to consumers;
- (4) Standardize the quality of such products for specific uses.

(B) Adopt and enforce rules to put into effect the intent of sections 924.01 to 924.16 of the Revised Code;

(C) ~~Determine~~ Except as provided in section 924.06 of the Revised Code, determine the eligibility of producers to participate in referendums and other procedures that may be required to establish marketing programs for agricultural commodities.

Sec. 924.06. (A) ~~Within ninety days after he has approved a proposed amendment to an agricultural commodity marketing program established before April 10, 1985, the director of agriculture shall determine by a referendum whether the eligible producers favor the proposed amendment to the program. Any proposed amendment to a marketing program established before April 10, 1985, is favored by the producers of the agricultural commodity which would be affected by the proposed amendment if either of the following occurs:~~

- (1) ~~Sixty six and two thirds per cent or more, by number, of the~~

~~producers who vote in the referendum, vote in favor of the amendment, and represent a majority of the volume of the affected commodity that was produced in the preceding marketing year by all producers who voted in the referendum;~~

~~(2) A majority of the producers who vote in the referendum, vote in favor of the amendment and represent sixty-six and two-thirds per cent, or more, of the volume of the affected commodity that was produced in the preceding marketing year by all the producers who voted in the referendum.~~

~~(B)~~ Within ninety days after ~~he has approved~~ approving an agricultural commodity marketing program proposed on or after ~~April 10, 1985~~ the effective date of this amendment, or a proposed amendment to ~~such a~~ an agricultural commodity marketing program, the director of agriculture shall determine by a referendum whether the eligible producers favor the proposed marketing program or amendment. Any such marketing program or amendment to ~~such~~ a marketing program is favored by the producers of the agricultural commodity that would be affected by the proposed program or amendment if a majority of the producers who vote in the referendum vote in favor of the program or amendment.

~~(C)~~(B) If the producers who vote in any referendum held pursuant to this section do not favor a proposed marketing program, or proposed amendment to a program, the director shall hold no additional referendum on that proposed program or proposed amendment during the ten months following the close of the referendum at which the producers did not favor that proposed program or amendment.

~~(D)~~(C) In any referendum held pursuant to this section, each eligible producer of the ~~Ohio~~ agricultural commodity ~~which~~ that would be affected by the proposed marketing program, or amendment to a program, is entitled to one vote.

~~(E)~~(D) In any referendum held on an agricultural commodity marketing program, or a proposed amendment to such a program, votes may be cast in person or by mailing a ballot to a polling place designated by the director. The director shall establish a three-day period during which eligible producers may vote in person during normal business hours at polling places designated by the director. The director or other appropriate person shall send a mail-in ballot by ordinary first-class mail to any eligible producer who requests one by calling the toll-free telephone number or sending in the ballot request form provided for in division ~~(F)~~(E) of this section, by calling one of the polling places designated by the director, or by any additional method that the director or operating committee may provide. No ballot returned by mail shall be valid if it is postmarked later than the third day of

the election period established by the director.

~~(F)~~(E) For any referendum held on an agricultural commodity marketing program, or a proposed amendment to such a program, the director or operating committee shall cause a ballot request form to be published at least thirty days before the beginning of the election period established under division ~~(E)~~(D) of this section in at least two appropriate periodicals designated by the director, and shall make the form available for reproduction to any interested group or association. The director shall provide a toll-free telephone number that producers may call to request a ballot.

(F) For the purposes of a referendum held on an egg marketing program or a proposed amendment to such a program under this section, an eligible producer is a person who is in the business of producing and marketing, or causing to be produced and marketed, eggs from a flock of more than seventy-five thousand domesticated chickens and, if the referendum is held on a proposed amendment to an egg marketing program, is subject to an assessment under the program.

Sec. 927.54. The plant pest program fund is hereby created in the state treasury. The fund shall consist of money credited to it under section 909.15 of the Revised Code and under this chapter and any rules adopted under it. The director of agriculture shall use money in the fund to administer this chapter and Chapter 909. of the Revised Code.

The director shall keep accurate records of all receipts into and disbursements from the fund and shall prepare, and provide upon request, an annual report classifying the receipts and disbursements that pertain to plant pests.

Sec. 935.01. As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city authorized by section 3709.05 of the Revised Code.

(B) "Circus" means a traveling show to which all of the following apply:

(1) It is licensed by the United States department of agriculture under the federal animal welfare act.

(2) It presents dangerous wild animals, restricted snakes, or both in a public performance as its own event or as part of a fair or carnival.

(3) It does not allow physical contact between the public and the dangerous wild animals or restricted snakes possessed by it. Division (B)(3) of this section does not apply to rides or other interactions between the public and an elephant, provided that such a ride or other interaction is under the direct supervision of an experienced animal handler.

(4) It is in the state for less than sixty-five days each year.

(C) "Dangerous wild animal" means any of the following, including hybrids unless otherwise specified:

(1) Hyenas;

(2) Gray wolves, excluding hybrids;

(3) Lions;

(4) Tigers;

(5) Jaguars;

(6) Leopards, including clouded leopards, Sunda clouded leopards, and snow leopards;

(7) All of the following, including hybrids with domestic cats unless otherwise specified:

(a) Cheetahs;

(b) Lynxes, including Canadian lynxes, Eurasian lynxes, and Iberian lynxes;

(c) Cougars, also known as pumas or mountain lions;

(d) Caracals;

(e) Servals, excluding hybrids with domestic cats commonly known as savannah cats.

(8) Bears;

(9) Elephants;

(10) Rhinoceroses;

(11) Hippopotamuses;

(12) Cape buffaloes;

(13) African wild dogs;

(14) Komodo dragons;

(15) Alligators;

(16) Crocodiles;

(17) Caimans, excluding dwarf caimans;

(18) Gharials;

(19) Nonhuman primates other than lemurs and the nonhuman primates specified in division (C)(20) of this section;

(20) All of the following nonhuman primates:

(a) Golden lion, black-faced lion, golden-rumped lion, cotton-top, emperor, saddlebacked, black-mantled, and Geoffroy's tamarins;

(b) Southern and northern night monkeys;

(c) Dusky titi and masked titi monkeys;

(d) Muriquis;

(e) Goeldi's monkeys;

(f) White-faced, black-bearded, white-nose bearded, and monk sakis;

(g) Bald and black uakaris;

(h) ~~Black handed, white bellied, brown headed, and black spider monkeys;~~

(i) Common woolly monkeys;

(j)(i) Red, black, and mantled howler monkeys.

"Dangerous wild animal" does not include a domesticated animal that is considered livestock as defined in section 901.70 of the Revised Code.

(D) "Federal animal welfare act" has the same meaning as in section 959.131 of the Revised Code.

(E) "Felony drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.

(F) "Health district" means a city or general health district created by or under the authority of Chapter 3709. of the Revised Code.

(G) "Humane society" means an organization that is organized under section 1717.05 of the Revised Code.

(H) "Law enforcement officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, or state highway patrol trooper.

(I) "Natural resources law enforcement officers" means peace officers as specified in division (A)(6) of section 109.71 of the Revised Code and employees of the division of wildlife specified in sections 1531.13 and 1531.14 of the Revised Code.

(J) "Offense of violence" has the same meaning as in section 2901.01 of the Revised Code.

(K) "Rescue facility" means a nonprofit organization as described in section 170 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 170, as amended, that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced dangerous wild animals are provided care for their lifetime or released back to their natural habitat, and, with respect to an animal possessed by the organization, that does not do any of the following:

(1) Sell, trade, or barter the animal or the animal's body parts;

(2) Use the animal in any manner for profit;

(3) Breed the animal;

(4) Allow the public the opportunity to come into contact with the animal.

(L) "Restricted snake" means any of the following:

(1) All of the following constricting snakes that are twelve feet or longer:

(a) Green anacondas;

- (b) Yellow anacondas;
 - (c) Reticulated pythons;
 - (d) Indian pythons;
 - (e) Burmese pythons;
 - (f) North African rock pythons;
 - (g) South African rock pythons;
 - (h) Amethystine pythons.
- (2) Species of the following families:
- (a) Atractaspididae;
 - (b) Elapidae;
 - (c) Viperidae.
- (3) Boomslang snakes;
- (4) Twig snakes.

(M) "Rule" means a rule adopted under section 935.17 of the Revised Code.

(N) "Veterinarian" means a person who is licensed under Chapter 4741. of the Revised Code.

(O) "Wildlife sanctuary" means a nonprofit organization as described in section 170 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 170, as amended, that is accredited or verified by the global federation of animal sanctuaries, that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced dangerous wild animals or restricted snakes are provided care for their lifetime or released back to their natural habitat, and, with respect to an animal or snake possessed by the organization, that does not do any of the following:

- (1) Use or allow the use of the animal or snake for any type of entertainment or in a traveling exhibit;
- (2) Sell, trade, lease, loan, or barter the animal or snake or the animal's or snake's body parts;
- (3) Use or allow the use of the animal or snake in any manner for profit;
- (4) Breed the animal or snake;
- (5) Allow the public the opportunity to come into physical contact with the animal or snake.

Sec. 935.03. (A) Division (A) of section 935.02 of the Revised Code does not apply to any of the following:

- (1) A person to which all of the following apply:
 - (a) The person possesses a dangerous wild animal.
 - (b) The person has been issued a license by the United States department of agriculture under the federal animal welfare act.

(c) The director of agriculture has determined that the person is in the process of becoming an accredited member of the association of zoos and aquariums or the zoological association of America.

(d) The director has informed the person that the person is exempt from division (A) of section 935.02 of the Revised Code.

(2) An organization to which all of the following apply:

(a) The organization possesses a dangerous wild animal.

(b) The director has determined that the organization is in the process of being accredited or verified by the global federation of animal sanctuaries as a wildlife sanctuary.

(c) The director has informed the organization that it is exempt from division (A) of section 935.02 of the Revised Code.

(3) A person whose possession of a dangerous wild animal is authorized by an unexpired permit issued under this chapter.

(B) Except for the purposes of divisions (A) and (B) of section 935.04 of the Revised Code, this chapter does not apply to any of the following:

(1) A facility that is an accredited member of the association of zoos and aquariums or the zoological association of America and that is licensed by the United States department of agriculture under the federal animal welfare act;

(2) A research facility as defined in the federal animal welfare act;

(3) A research facility that is accredited by the association for the assessment and accreditation of laboratory animal care international;

(4) A circus;

(5) A wildlife rehabilitation facility that is issued a permit by the chief of the division of wildlife in rules adopted under section 1531.08 of the Revised Code and that rehabilitates dangerous wild animals or restricted snakes that are native to the state for the purpose of reintroduction into the wild;

(6) A veterinarian that is providing temporary veterinary care to a dangerous wild animal or restricted snake;

(7) A wildlife sanctuary;

(8) An individual who does not reside in this state, is traveling through this state with a dangerous wild animal or restricted snake, and does all of the following:

(a) Confines the animal or snake in a cage at all times;

(b) Confines the animal or snake in a cage that is not accessible to the public;

(c) Does not exhibit the animal or snake;

(d) Is in the state not more than forty-eight hours unless the animal or

snake is receiving veterinary care.

(9) An educational institution that displays a single dangerous wild animal as a sports mascot and that meets all of the following criteria:

(a) An official of the educational institution has submitted an affidavit attesting that the institution will care for the animal as long as the animal lives and in a facility that is an accredited member of the association of zoos and aquariums or the zoological association of America.

(b) The educational institution maintains a liability insurance policy with an insurer authorized or approved to write such insurance in this state that covers claims for injury or damage to persons or property caused by a dangerous wild animal. The amount of the insurance coverage shall be not less than one million dollars.

(c) During display and transport, the educational institution confines the dangerous wild animal in a cage that does not permit physical contact between the animal and the public.

(d) The educational institution began displaying a dangerous wild animal as a mascot prior to ~~the effective date of this section~~ September 5, 2012.

(10) Any person who has been issued a permit under section 1533.08 of the Revised Code;

(11) Any person authorized to possess a dangerous wild animal or restricted snake under section 1531.25 of the Revised Code or rules adopted under it;

~~(12) A mobility impaired person as defined in section 955.011 of the Revised Code who possesses a dangerous wild animal specified in division (C)(20)(h) of section 935.01 of the Revised Code that has been trained by a nonprofit agency or is in such training to assist the mobility impaired person;~~

~~(13) A deaf or hearing impaired person who possesses a dangerous wild animal specified in division (C)(20)(h) of section 935.01 of the Revised Code that has been trained by a nonprofit agency or is in such training to assist the deaf or hearing impaired person;~~

~~(14) A person who is blind as defined in section 955.011 of the Revised Code and possesses a dangerous wild animal specified in division (C)(20)(h) of section 935.01 of the Revised Code that has been trained by a nonprofit agency or is in such training to assist the blind person.~~

Sec. 935.041. A person that possesses any of the following animals shall register the animal in the same manner as provided in section 935.04 of the Revised Code:

(A) Pygmy, white-tufted-ear, silvery, and black-pencilled marmosets;

- (B) Squirrel monkeys;
- (C) Brown, white-faced, weeping, and white-fronted capuchins;
- (D) Lemurs;
- (E) Black-handed, white-bellied, brown-headed, and black spider monkeys.

Sec. 935.07. (A) A person that possesses a registered dangerous wild animal in this state on October 1, 2013, that wishes to continue to possess the dangerous wild animal on and after January 1, 2014, and that intends to propagate the animal solely for the purposes of a species survival program that complies with rules shall apply for a wildlife propagation permit under this section. An applicant need apply for only one permit regardless of the number of dangerous wild animals that the applicant possesses.

(B) Except as otherwise provided in this section, an applicant for a wildlife propagation permit shall comply with the requirements and procedures established in sections 935.05 and 935.06 of the Revised Code. The application fee for a wildlife propagation permit shall be one of the following, as applicable:

- (1) One thousand dollars if the applicant possesses not more than fifty dangerous wild animals;
- (2) Three thousand dollars if the applicant possesses more than fifty dangerous wild animals.

(C) The facility at which a dangerous wild animal or dangerous wild animals will be maintained under a wildlife propagation permit shall consist of at least two acres. Division (C) of this section does not apply to either of the following:

- (1) Dangerous wild animals specified in division (C)(20) of section 935.01 of the Revised Code;
- (2) An applicant to whom the director of agriculture issues a written waiver stating that the acreage requirement does not apply to the applicant.

(D) All fees collected under this section shall be credited to the dangerous and restricted animal fund created in section 935.25 of the Revised Code.

(E) Division (A)(4) of section 935.06 of the Revised Code does not apply to an applicant for a wildlife propagation permit.

Sec. 935.12. (A) Except as provided in division (B) of this section, a person that has been issued a permit under this chapter for a dangerous wild animal or animals shall comply with the requirements regarding the care and housing of dangerous wild animals established in rules.

(B) A person that has been issued a wildlife shelter, wildlife propagation permit, or rescue facility permit under this chapter for a dangerous wild

animal or animals specified in division (C)(20) of section 935.01 of the Revised Code shall comply with both of the following:

(1) The requirements regarding the care of those animals established in regulations adopted under the federal animal welfare act;

(2) The requirements regarding the housing of those animals established in rules.

(C) A person that has been issued a restricted snake possession or restricted snake propagation permit under this chapter shall comply with the requirements regarding the care and housing of those snakes established in standards adopted by the zoological association of America and in effect on September 5, 2012.

Sec. 955.01. (A)(1) Except as otherwise provided in this section or in sections 955.011, 955.012, and 955.16 of the Revised Code, every person who owns, keeps, or harbors a dog more than three months of age; shall file, on or after the first day of the ~~preceding applicable~~ December, but before the thirty-first day of ~~the applicable~~ January of each year, in the office of the county auditor of the county in which the dog is kept or harbored, an application for registration for ~~the following a period of one year, beginning the thirty-first day of January of that year or three years or an application for a permanent registration.~~ The board of county commissioners, by resolution, may extend the period for filing the application. The application shall state the age, sex, color, character of hair, whether short or long, and breed, if known, of the dog and the name and address of the owner of the dog. A registration fee of two dollars for ~~each year of registration for a one-year or three-year registration or twenty dollars for a permanent registration for each dog shall accompany the application, unless. However, the fee may exceed that amount if a greater fee has been established under division~~ (A)(2) of this section or under section 955.14 of the Revised Code.

(2) A board of county commissioners may establish a registration fee higher than the one provided for in division (A)(1) of this section for dogs more than nine months of age that have not been spayed or neutered, except that the higher registration fee permitted by this division shall not apply if a person registering a dog furnishes with the application either a certificate from a licensed veterinarian verifying that the dog should not be spayed or neutered because of its age or medical condition or because the dog is used or intended for use for show or breeding purposes or a certificate from the owner of the dog declaring that the owner holds a valid hunting license issued by the division of wildlife of the department of natural resources and that the dog is used or intended for use for hunting purposes. If the board establishes such a fee, the application for registration shall state whether the

dog is spayed or neutered, and whether a licensed veterinarian has certified that the dog should not be spayed or neutered or the owner has stated that the dog is used or intended to be used for hunting purposes. The board may require a person who is registering a spayed or neutered dog to furnish with the application a certificate from a licensed veterinarian verifying that the dog is spayed or neutered. No person shall furnish a certificate under this division ~~which that~~ the person knows to be false.

(B) If the application for registration is not filed and the registration fee paid, on or before the thirty-first day of the applicable January of each year or, if the board of county commissioners by resolution has extended the date to a date later than the thirty-first day of January, the date established by the board, the auditor shall assess a penalty in an amount equal to the registration fee upon the owner, keeper, or harborer, which ~~must~~ shall be paid with the registration fee.

(C) An animal shelter that keeps or harbors a dog more than three months of age is exempt from paying any fees imposed under division (A) or (B) of this section if it is a nonprofit organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. ~~285~~ 2085, 26 U.S.C. 1.

Sec. 955.05. After the thirty-first day of January of any year, except as otherwise provided in section 955.012 or 955.16 of the Revised Code, every person, immediately upon becoming the owner, keeper, or harborer of any dog more than three months of age or brought from outside the state during any year, shall file like applications, with fees, as required by section 955.01 of the Revised Code, for registration for the current year. If ~~such the~~ the application is not filed and the fee paid, within thirty days after ~~such the~~ the dog is acquired, becomes three months of age, or is brought from outside the state, the auditor shall assess a penalty in an amount equal to the registration fee upon ~~such the~~ the owner, keeper, or harborer, which ~~must~~ shall be paid with the registration fee. Thereafter, the owner, keeper, or harborer shall register the dog for a period of one year or three years or register the dog permanently as provided in section 955.01 of the Revised Code.

Every person becoming the owner of a kennel of dogs after the thirty-first day of January of any year shall file like applications, with fees, as required by section 955.04 of the Revised Code, for the registration of such kennel for the current calendar year. If such application is not filed and the fee paid within thirty days after the person becomes the owner of such kennel, the auditor shall assess a penalty in an amount equal to the registration fee upon the owner of such kennel.

Sec. 955.06. The owner, keeper, or harbinger of a dog becoming three months of age after the first day of July in a calendar year and the owner, keeper, or harbinger of a dog purchased outside the state after the first day of July in a calendar year shall register the dog for one year. The registration fee for any such dog becoming three months of age after the first day of July of any year and the registration fee of any dog purchased from outside the state after the first day of July of any year shall be one-half of the original fee. Thereafter, the owner, keeper, or harbinger shall register the dog for a period of one year or three years or register the dog permanently as provided in section 955.01 of the Revised Code.

Sec. 955.07. Upon the filing of the application for registration required by sections 955.01 and 955.04 of the Revised Code and upon the payment of the registration fee and the administrative fee, if applicable, the county auditor shall assign a distinctive number to every dog or dog kennel described in the application and shall deliver a certificate of registration bearing the number to the owner of the dog or dog kennel. A record of all certificates of registration issued, together with the applications for registration, shall be kept by the auditor in a dog and kennel register ~~for two years or~~ until after an audit performed by the auditor of state, ~~whichever is later~~. This record shall be open to the inspection of any person during reasonable business hours.

Sec. 955.08. In addition to the certificate of registration provided for by section 955.07 of the Revised Code, the county auditor shall issue to every person making application for the registration of a dog and paying the required fee therefor a metal tag for each dog so registered. The form, color, character, and lettering of the tag shall be prescribed by the county auditor. ~~Each year the tag shall be a color distinctive from that of the previous year.~~ If a tag is lost, a duplicate shall be furnished by the auditor upon proper proof of loss and the payment of five dollars for each duplicate tag issued.

Sec. 955.09. Certificates of registration and registration tags shall be valid only during the calendar year in or years for which they are issued, ~~and during the first thirty one days of the following calendar year.~~

Sec. 955.12. ~~The~~ Except as provided in section 955.121 of Revised Code, a board of county commissioners shall appoint or employ a county dog warden and deputies in such number, for such periods of time, and at such compensation as the board considers necessary to enforce sections 955.01 to 955.27, 955.29 to 955.38, and 955.50 to 955.53 of the Revised Code.

The warden and deputies shall give bond in a sum not less than five hundred dollars and not more than two thousand dollars, as set by the board,

conditioned for the faithful performance of their duties. The bond or bonds may, in the discretion of the board, be individual or blanket bonds. The bonds shall be filed with the county auditor of their respective counties.

The warden and deputies shall make a record of all dogs owned, kept, and harbored in their respective counties. They shall patrol their respective counties and seize and impound on sight all dogs found running at large and all dogs more than three months of age found not wearing a valid registration tag, except any dog that wears a valid registration tag and is: on the premises of its owner, keeper, or harborer, under the reasonable control of its owner or some other person, hunting with its owner or its handler at a field trial, kept constantly confined in a dog kennel registered under this chapter or one licensed under Chapter 956. of the Revised Code, or acquired by, and confined on the premises of, an institution or organization of the type described in section 955.16 of the Revised Code. A dog that wears a valid registration tag may be seized on the premises of its owner, keeper, or harborer and impounded only in the event of a natural disaster.

If a dog warden has reason to believe that a dog is being treated inhumanely on the premises of its owner, keeper, or harborer, the warden shall apply to the court of common pleas for the county in which the premises are located for an order to enter the premises, and if necessary, seize the dog. If the court finds probable cause to believe that the dog is being treated inhumanely, it shall issue such an order.

The warden and deputies shall also investigate all claims for damages to animals reported to them under section 955.29 of the Revised Code and assist claimants to fill out the claim form therefor. They shall make weekly reports, in writing, to the board in their respective counties of all dogs seized, impounded, redeemed, and destroyed and of all claims for damage to animals inflicted by dogs.

The wardens and deputies shall have the same police powers as are conferred upon sheriffs and police officers in the performance of their duties as prescribed by sections 955.01 to 955.27, 955.29 to 955.38, and 955.50 to 955.53 of the Revised Code. They shall also have power to summon the assistance of bystanders in performing their duties and may serve writs and other legal processes issued by any court in their respective counties with reference to enforcing those sections. County auditors may deputize the wardens or deputies to issue dog licenses as provided in sections 955.01 and 955.14 of the Revised Code.

Whenever any person files an affidavit in a court of competent jurisdiction that there is a dog running at large that is not kept constantly confined either in a dog kennel registered under this chapter or one licensed

under Chapter 956. of the Revised Code or on the premises of an institution or organization of the type described in section 955.16 of the Revised Code or that a dog is kept or harbored in the warden's jurisdiction without being registered as required by law, the court shall immediately order the warden to seize and impound the dog. Thereupon the warden shall immediately seize and impound the dog complained of. The warden shall give immediate notice by certified mail to the owner, keeper, or harbinger of the dog seized and impounded by the warden, if the owner, keeper, or harbinger can be determined from the current year's registration list maintained by the warden and the county auditor of the county where the dog is registered, that the dog has been impounded and that, unless the dog is redeemed within fourteen days of the date of the notice, it may thereafter be sold or destroyed according to law. If the owner, keeper, or harbinger cannot be determined from the current year's registration list maintained by the warden and the county auditor of the county where the dog is registered, the officer shall post a notice in the pound or animal shelter both describing the dog and place where seized and advising the unknown owner that, unless the dog is redeemed within three days, it may thereafter be sold or destroyed according to law.

As used in this section, "animal" has the same meaning as in section 955.51 of the Revised Code.

Sec. 955.121. (A)(1) In lieu of appointing a county dog warden and deputies under section 955.12 of the Revised Code, a board of county commissioners may appoint the county sheriff to enforce sections 955.01 to 955.27, 955.29 to 955.38, and 955.50 to 955.53 of the Revised Code. If a board chooses to appoint the county sheriff as the county dog warden, the board shall enter into a two-year written agreement with the sheriff for that purpose at the first meeting in a calendar year following a general election in which at least one of the members of the board was elected.

(2) The agreement may authorize both of the following:

(a) The sheriff to appoint sheriff's deputies or persons other than peace officers as deputy dog wardens;

(b) The transfer of any benefits accrued by employees who are transferred as a result of the county sheriff's being appointed as the county dog warden.

(B) Any dog warden and deputy dog wardens appointed under this section shall comply with both of the following:

(1) Any training requirements applicable to county dog wardens and deputy dog wardens appointed or employed under section 955.12 of the Revised Code;

(2) The requirements established in that section.

(C) If a county sheriff or a sheriff's deputies are appointed as a dog warden or deputy dog wardens under this section, references in this chapter and in Chapters 953., 956., and 959. of the Revised Code to "dog warden" and "deputy dog warden" shall be deemed to be replaced, respectively, with references to "sheriff" and "deputy sheriff."

Sec. 955.14. (A) Notwithstanding section 955.01 of the Revised Code, a board of county commissioners by resolution may increase dog and kennel registration fees in the county. The amount of the fees shall not exceed an amount that the board, in its discretion, estimates is needed to pay all expenses for the administration of this chapter and to pay claims allowed for animals injured or destroyed by dogs. Such a resolution shall be adopted not earlier than the first day of February and not later than the thirty-first day of August of any year and shall ~~apply to specify~~ the registration period ~~commencing on the first day of December of the current year and ending on the thirty-first day of January of the following year, unless the period is extended under section 955.01 of the Revised Code or periods to which the increased fees apply.~~ Any An increase in fees adopted under this division shall be in the ratio of two dollars for each year of registration for a dog registration fee, twenty dollars for a permanent ~~for a~~ dog registration fee, and ten dollars for a kennel registration fee.

(B) Not later than the fifteenth day of October of each year, the board of county commissioners shall determine if there is sufficient money in the dog and kennel fund, after paying the expenses of administration incurred or estimated to be incurred for the remainder of the year, to pay the claims allowed for animals injured or destroyed by dogs. If the board determines there is not sufficient money in the dog and kennel fund to pay the claims allowed, the board shall provide by resolution that all claims remaining unpaid shall be paid from the general fund of the county. All money paid out of the general fund for those purposes may be replaced by the board from the dog and kennel fund at any time during the following year notwithstanding section 5705.14 of the Revised Code.

(C) Notwithstanding section 955.20 of the Revised Code, if dog and kennel registration fees in any county are increased above two dollars for each year of registration and twenty dollars for a permanent registration for a dog registration fee and ten dollars, ~~respectively,~~ for a kennel registration fee under authority of division (A) of this section, then on or before the first day of March following each year in which the increased fees are in effect, the county auditor shall draw on the dog and kennel fund a warrant payable to the college of veterinary medicine of the Ohio state university in an

amount equal to ten cents for each one-year dog and registration, thirty cents for each three-year dog registration, one dollar for each permanent dog registration, and ten cents for each kennel registration fee received during the preceding year. The money received by the college of veterinary medicine of the Ohio state university under this division shall be applied for research and study of the diseases of dogs, particularly those transmittable to humans, and for research of other diseases of dogs that by their nature will provide results applicable to the prevention and treatment of both human and canine illness.

(D) The Ohio state university college of veterinary medicine shall be responsible to report annually to the general assembly the progress of the research and study authorized and funded by division (C) of this section. The report shall briefly describe the research projects undertaken and assess the value of each. The report shall account for funds received pursuant to division (C) of this section and for the funds expended attributable to each research project and for other necessary expenses in conjunction with the research authorized by division (C) of this section. The report shall be filed with the general assembly by the first day of May of each year.

(E) The county auditor may authorize agents to receive applications for registration of dogs and kennels and to issue certificates of registration and tags. If authorized agents are employed in a county, each applicant for a dog or kennel registration shall pay to the agent an administrative fee of seventy-five cents in addition to the registration fee. The administrative fee shall be the compensation of the agent. The county auditor shall establish rules for reporting and accounting by the agents. No administrative or similar fee shall be charged in any county except as authorized by this division or division (F) of this section.

(F) For any county that accepts the payment of dog and kennel registration fees by financial transaction devices in accordance with section 955.013 of the Revised Code, in addition to those registration fees, the county auditor shall collect for each registration paid by a financial transaction device one of the following:

(1) An administrative fee of seventy-five cents or another amount necessary to cover actual costs designated by the county auditor;

(2) If the board of county commissioners adopts a surcharge or convenience fee for making payments by a financial transaction device under division (E) of section 301.28 of the Revised Code, that surcharge or convenience fee;

(3) If the county auditor contracts with a third party to provide services to enable registration via the internet as provided in section 955.013 of the

Revised Code, a surcharge or convenience fee as agreed to between that third party and the county for those internet registration services. Any additional expenses incurred by the county auditor that result from a contract with a third party as provided in this section and section 955.013 of the Revised Code and that are not covered by a surcharge or convenience fee shall be paid out of the allowance provided to the county auditor under section 955.20 of the Revised Code.

(G) The county auditor shall post conspicuously the amount of the administrative fee, surcharge, or convenience fee that is permissible under this section on the web page where the auditor accepts payments for registrations made under division (B)(1) of section 955.013 of the Revised Code. If any person chooses to pay by financial transaction device, the administrative fee, surcharge, or convenience fee shall be considered voluntary and is not refundable.

(H) As used in this section, "animal" has the same meaning as in section 955.51 of the Revised Code.

Sec. 955.201. (A) As used in this section and in section 955.202 of the Revised Code, "Ohio pet fund" means a nonprofit corporation organized by that name under Chapter 1702. of the Revised Code that consists of humane societies, veterinarians, animal shelters, companion animal breeders, dog wardens, or similar individuals and entities.

(B) The Ohio pet fund shall do all of the following:

(1) Establish eligibility criteria for organizations that may receive financial assistance from the Ohio pet fund. Those organizations may include any of the following:

(a) An animal shelter as defined in section 4729.01 of the Revised Code;

(b) A local nonprofit veterinary association that operates a program for the sterilization of dogs and cats;

(c) A charitable organization that is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code and a purpose of which is to support programs for the sterilization of dogs and cats and educational programs concerning the proper veterinary care of those animals.

(2) Establish procedures for applying for financial assistance from the Ohio pet fund. Application procedures shall require eligible organizations to submit detailed proposals that outline the intended uses of the moneys sought.

(3) Establish eligibility criteria for sterilization and educational programs for which moneys from the Ohio pet fund may be used and, consistent with division (C) of this section, establish eligibility criteria for

individuals who seek sterilization for their dogs and cats from eligible organizations;

(4) Establish procedures for the disbursement of moneys the Ohio pet fund receives from license plate contributions pursuant to division (C) of section 4503.551 of the Revised Code;

(5) Advertise or otherwise provide notification of the availability of financial assistance from the Ohio pet fund for eligible organizations;

(6) Design markings to be inscribed on "pets" license plates under section 4503.551 of the Revised Code.

(C)(1) The owner of a dog or cat is eligible for dog or cat sterilization services from an eligible organization when those services are subsidized in whole or in part by money from the Ohio pet fund if any of the following applies:

(a) The income of the owner's family does not exceed one hundred fifty per cent of the federal poverty guideline.

(b) The owner, or any member of the owner's family who resides with the owner, is a recipient or beneficiary of one of the following government assistance programs:

(i) Low-income housing assistance under the "United States Housing Act of 1937," 42 U.S.C.A. 1437f, as amended, known as the federal section 8 housing program;

(ii) The Ohio works first program established by Chapter 5107. of the Revised Code;

~~(iii) Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or Medicaid, provided by the department of job and family services under Chapter 5111. of the Revised Code;~~
The medicaid

(iv) A program or law administered by the United States department of veterans' affairs or veterans' administration for any service-connected disability;

(v) The supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), administered by the department of job and family services under section 5101.54 of the Revised Code;

(vi) The "special supplemental nutrition program for women, infants, and children" established under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1786, as amended, administered by the department of health under section 3701.132 of the Revised Code;

(vii) Supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended;

(viii) Social security disability insurance benefits provided under Title II of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401, as amended.

(c) The owner of the dog or cat submits to the eligible organization operating the sterilization program either of the following:

(i) A certificate of adoption showing that the dog or cat was adopted from a licensed animal shelter, a municipal, county, or regional pound, or a holding and impoundment facility that contracts with a municipal corporation;

(ii) A certificate of adoption showing that the dog or cat was adopted through a nonprofit corporation operating an animal adoption referral service whose holding facility, if any, is licensed in accordance with state law or a municipal ordinance.

(2) The Ohio pet fund shall determine the type of documentary evidence that must be presented by the owner of a dog or cat to show that the income of the owner's family does not exceed one hundred fifty per cent of the federal poverty guideline or that the owner is eligible under division (C)(1)(b) of this section.

(D) As used in division (C) of this section, "federal poverty guideline" means the official poverty guideline as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

Sec. 956.07. (A) A person who is applying for a license to operate a high volume breeder or to act as or perform the functions of a dog retailer under section 956.04 or 956.05 of the Revised Code, as applicable, shall include with the application for a license a nonrefundable license application fee. For the purpose of calculating the application fee for a high volume breeder, the sale of one dog from a litter constitutes the sale of a litter. The application fees are as follows:

(1) For a high volume breeder:

(a) One hundred fifty dollars if the high volume breeder annually sells at least nine, but not more than fifteen litters;

(b) Two hundred fifty dollars if the high volume breeder annually sells at least sixteen, but not more than twenty-five litters;

(c) Three hundred fifty dollars if the high volume breeder annually sells at least twenty-six, but not more than thirty-five litters;

(d) Five hundred dollars if the high volume breeder annually sells at least thirty-six, but not more than forty-five litters;

(e) Seven hundred fifty dollars if the high volume breeder annually sells forty-six or more litters.

(2) For a dog retailer, five hundred dollars.

(B) Money collected by the director of agriculture from each application fee submitted under this section shall be ~~transmitted by the director to the treasurer of~~ deposited in the state treasury to be credited to the credit of the high volume breeder kennel control license fund created in section 956.18 of the Revised Code. ~~The treasurer of state shall transfer to the county auditor of the county in which a high volume breeder is located or will be located~~ director shall use fifty dollars of the application fee submitted by ~~the a high volume breeder~~ a high volume breeder under this section or an amount equal to the fee charged ~~in that county~~ for the registration of a kennel under section 955.14 of the Revised Code in the county in which the high volume breeder is located or will be located, whichever is greater, to reimburse that county. The county auditor shall deposit the transferred money into that county's dog and kennel fund created under section 955.20 of the Revised Code.

Sec. 956.18. (A) All money collected by the director of agriculture from license fees under section ~~956.08~~ 956.07 and civil penalties assessed under section 956.13 of the Revised Code shall be deposited in the state treasury to the credit of the high volume breeder kennel control license fund, which is hereby created. The fund shall also consist of money appropriated to it.

(B) No money may be released from the fund without controlling board approval. The director shall request the controlling board to release money in an amount not to exceed two million five hundred thousand dollars per biennium.

(C) The director shall use the money in the fund for the purpose of administering this chapter and rules adopted under it.

Sec. 959.131. (A) As used in this section:

(1) "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. "Companion animal" does not include livestock or any wild animal.

(2) "Cruelty," "torment," and "torture" have the same meanings as in section 1717.01 of the Revised Code.

(3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.

(4) "Practice of veterinary medicine" has the same meaning as in section 4741.01 of the Revised Code.

(5) "Wild animal" has the same meaning as in section 1531.01 of the Revised Code.

(6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.

(7) "Dog kennel" means an animal rescue for dogs that is registered under section 956.06 of the Revised Code, a boarding kennel, or a training kennel.

(8) "Boarding kennel" has the same meaning as in section 956.01 of the Revised Code.

(9) "Training kennel" means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.

(10) "Livestock" means horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae; poultry; alpacas; llamas; captive white-tailed deer; and any other animal that is raised or maintained domestically for food or fiber.

(11) "Captive white-tailed deer" has the same meaning as in section 1531.01 of the Revised Code.

(B) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(C) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

(1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal; Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(2) Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(3) Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(4) Needlessly kill the companion animal;

(5) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or

confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

(D) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall knowingly do any of the following:

(1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;

(2) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter if it is substantially certain that the companion animal would die or experience unnecessary or unjustifiable pain or suffering due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

(E) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:

(1) Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(2) Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(3) Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(4) Needlessly kill the companion animal;

(5) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of

those specified manners.

~~(F)~~ Divisions (B) ~~and~~, (C), (D), and (E) of this section do not apply to any of the following:

(1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;

(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Chapter 4741. of the Revised Code;

(3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

(4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;

(5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Chapter 4741. of the Revised Code.

~~(E)~~(G) Notwithstanding any section of the Revised Code that otherwise provides for the distribution of fine moneys, the clerk of court shall forward all fines the clerk collects that are so imposed for any violation of this section to the treasurer of the political subdivision or the state, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The treasurer to whom the fines are forwarded shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys to provide the training that is required for humane agents under section 1717.06 of the Revised Code.

Sec. 959.132. (A) As used in this section:

(1) "Companion animal" has the same meaning as in section 959.131 of the Revised Code.

(2) "Impounding agency" means a county humane society organized under section 1717.05 of the Revised Code, an animal shelter, or a law enforcement agency that has impounded a companion animal in accordance with this section.

(3) "Offense" means a violation of section 959.131 of the Revised Code or an attempt, in violation of section 2923.02 of the Revised Code, to violate

section 959.131 of the Revised Code.

(4) "Officer" means any law enforcement officer, agent of a county humane society, or other person appointed to act as an animal control officer for a municipal corporation or township in accordance with state law, an ordinance, or a resolution.

(B) An officer may seize and cause to be impounded at an impounding agency a companion animal that the officer has probable cause to believe is the subject of an offense. No officer or impounding agency shall impound a companion animal that is the subject of an offense in a shelter owned, operated, or controlled by a board of county commissioners pursuant to Chapter 955. of the Revised Code unless the board, by resolution, authorizes the impoundment of such a companion animal in a shelter owned, operated, or controlled by that board and has executed, in the case when the officer is other than a dog warden or assistant dog warden, a contract specifying the terms and conditions of the impoundment.

(C) The officer shall give written notice of the seizure and impoundment to the owner, keeper, or harbinger of the companion animal that was seized and impounded. If the officer is unable to give the notice to the owner, keeper, or harbinger of the companion animal, the officer shall post the notice on the door of the residence or in another conspicuous place on the premises at which the companion animal was seized. The notice shall include a statement that a hearing will be held not later than ten days after the notice is provided or at the next available court date to determine whether the officer had probable cause to seize the companion animal and, if applicable, to determine the amount of a bond or cash deposit that is needed to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.

(D) A companion animal that is seized under this section may be humanely destroyed immediately or at any time during impoundment if a licensed veterinarian determines it to be necessary because the companion animal is suffering.

(E)(1) Not later than ten days after notice is provided or at the next available court date, the court shall hold a hearing to determine whether the officer impounding a companion animal had probable cause to seize the companion animal. If the court determines that probable cause exists, the court shall determine the amount of a bond or cash deposit that is needed to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.

(2) If the court determines that probable cause does not exist, the court immediately shall order the impounding agency to return the companion

animal to its owner if possible. If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable. The requirement established in division (E)(2) of this section regarding the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(3) If the court determines that probable cause exists and determines the amount of a bond or cash deposit, the case shall continue and the owner shall post a bond or cash deposit to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded. The owner may renew a bond or cash deposit by posting, not later than ten days following the expiration of the period for which a previous bond or cash deposit was posted, a new bond or cash deposit in an amount that the court, in consultation with the impounding agency, determines is sufficient to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the previous period expired. If no bond or cash deposit is posted or if a bond or cash deposit expires and is not renewed, the impounding agency may determine the disposition of the companion animal unless the court issues an order that specifies otherwise.

(F) If a person is convicted of committing an offense, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay for the costs incurred by the impounding agency in caring for a companion animal involved in the applicable offense, provided that the costs were incurred during the companion animal's impoundment. A bond or cash deposit posted under this section may be applied to the costs.

(2) An order permanently terminating the person's right to possession, title, custody, or care of the companion animal that was involved in the offense. If the court issues such an order, the court shall order the disposition of the companion animal.

(G) If a person is found not guilty of committing an offense, the court

immediately shall order the impounding agency to return the companion animal to its owner if possible and to return the entire amount of any bond or cash deposit posted under division (E) of this section. If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable. The requirements established in this division regarding the return of a bond or cash deposit and the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(H) If charges are filed under section 959.131 of the Revised Code against the custodian or caretaker of a companion animal, but the companion animal that is the subject of the charges is not impounded, the court in which the charges are pending may order the owner or person having custody of the companion animal to provide to the companion animal the necessities described in division (C)~~(2)~~(5), (D)(2), or (E)(5) of section 959.131 of the Revised Code until the final disposition of the charges. If the court issues an order of that nature, the court also may authorize an officer or another person to visit the place where the companion animal is being kept, at the times and under the conditions that the court may set, to determine whether the companion animal is receiving those necessities and to remove and impound the companion animal if the companion animal is not receiving those necessities.

Sec. 959.99. (A) Whoever violates section 959.18 or 959.19 of the Revised Code is guilty of a minor misdemeanor.

(B) Except as otherwise provided in this division, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars or more, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 959.03, 959.06, 959.12, 959.15, or 959.17 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(D) Whoever violates division (A) of section 959.13 of the Revised

Code is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(E)(1) Whoever violates division (B) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

(2) Whoever violates section 959.01 of the Revised Code or division (C) of section 959.131 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(3) Whoever violates division (D) of section 959.131 of the Revised Code is guilty of a felony of the fifth degree.

(4) Whoever violates division (E) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree.

(5)(a) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to forfeit to an impounding agency, as defined in section 959.132 of the Revised Code, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

(b) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under section 959.132 of the Revised Code.

~~(4)~~(6) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(F) Whoever violates section 959.14 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of

the first degree on each subsequent offense.

(G) Whoever violates section 959.05 or 959.20 of the Revised Code is guilty of a misdemeanor of the first degree.

(H) Whoever violates section 959.16 of the Revised Code is guilty of a felony of the fourth degree for a first offense and a felony of the third degree on each subsequent offense.

Sec. 991.03. (A) The Ohio expositions commission shall:

(1) Conduct at least one fair or exposition annually;

(2) Maintain and manage property held by the state for the purpose of conducting fairs, expositions, and exhibits;

(3) As provided in section 109.122 of the Revised Code, provide notice of or copies of any proposed entertainment or sponsorship contracts to the attorney general.

(B) The commission may:

(1) Conduct such additional fairs, expositions, or exhibitions as the commission determines are in the general public interest;

(2) Accept on behalf of the state conveyances of property for the purposes of conducting fairs, expositions, and exhibits, subject to any terms and conditions agreed to by the commission and approved by the controlling board;

(3) Accept gifts, devises, and bequests of money, lands, and other property and apply the money, lands, or other property according to the terms of the gift, devise, or bequest. A political subdivision as authorized by law may make gifts and devises to the commission, and the commission shall apply such a gift or devise according to the terms of the gift or devise. All gifts and bequests of money accepted under this division shall be deposited into the state treasury to the credit of the Ohio expositions support fund.

(4) Enter into contracts that the commission considers necessary or worthwhile in the conduct of its purposes, provided that contracts made for a term exceeding two years, other than those described in division (B)(4) of this section, shall be subject to the approval of the controlling board and provided that the attorney general, pursuant to the attorney general's authority under section 109.122 of the Revised Code, has not disapproved the proposed contract;

~~(4)~~(5) Enter into contracts for the mutual exchange of goods or services;

~~(5)~~(6) Sell or convey all or a portion of the property, land, or buildings under its management subject to the approval of the legislature;

~~(6)~~(7) Grant leases on all or any part of the property, land, or buildings under the management of the commission to private or public organizations,

which appear to be in the best interests of the state, with the approval of the controlling board and director of administrative services, subject to the following conditions:

(a) The lessees shall make or construct improvements on such lands or buildings at no cost to the commission or to the state, subject to prior approval by the director of administrative services of detailed plans and specifications of such improvements.

(b) No person, firm, or corporation shall cause a lien to be filed against any funds or property of the state or of the commission as a result of a lessee's activities pursuant to division (B)(~~6~~)(7)(a) of this section.

(c) Leases shall be entered into subject to the sale of such property, lands, or buildings during the term of the lease.

(d) No leases shall be made which interfere with a fair, exposition, or exhibition on such lands.

~~(7)~~(8) Encumber appropriations for the entire amount of a contract at the time the contract is made, even though the contract will not be performed in the fiscal year for which the appropriations were made.

~~(8)~~(9) Implement a credit card payment program permitting payment by means of a credit card of any fees, charges, and rentals associated with conducting fairs, expositions, and exhibits. The commission may open an account outside the state treasury in a financial institution for the purpose of depositing credit card receipts. By the end of the business day following the deposit of the receipts, the financial institution shall make available to the commission funds in the amount of the receipts. The commission shall then pay these funds into the state treasury to the credit of the Ohio expositions fund.

The commission shall adopt rules as necessary to carry out the purposes of division (B)(~~8~~)(9) of this section. The rules shall include standards for determining eligible financial institutions and the manner in which funds shall be made available and shall be consistent with the standards contained in sections 135.03, 135.18, and 135.181 of the Revised Code.

The commission shall not adopt or enforce any rules which will prohibit livestock exhibited at the Ohio state fair from participating in county and independent fairs in the state.

Sec. 991.04. There is hereby established in the state treasury the Ohio expositions fund. All Except for gifts and bequests of money accepted under division (B)(3) of section 991.03 of the Revised Code, all moneys collected by the Ohio expositions commission pursuant to sections 991.01 to 991.07 of the Revised Code and any income generated from the investment of those moneys shall be paid into the fund and may be used to defray the costs of

administration and carrying out the purposes of sections 991.01 to 991.07 of the Revised Code.

With the approval of the director of budget and management, provisions may be made for a cash fund to be established on the state fairgrounds during the period of activities related to the holding of the annual state fair. The purpose of such fund is to provide for payment of premiums and entertainers and for immediate payment of small amounts for obligations, including ticket refunds, of such nature as to require immediate payment.

The expositions commission shall cause to be kept an accurate record of all transactions, contracts, and proceedings. The director of budget and management shall prescribe a system of accounting and reporting. Such system shall include methods and forms showing the sources from which all revenues of the expositions commission are received, the amount collected from each source, and the amount expended for each purpose.

Sec. 991.041. There is in the state treasury the Ohio expositions support fund. All gifts and bequests of money accepted under division (B)(3) of section 991.03 of the Revised Code shall be deposited into the state treasury to the credit of the fund. Investment earnings of the fund shall be deposited into the fund. The Ohio expositions commission may use the fund, consistent with the terms of the gift or bequest, to defray the cost of administration and of carrying out the purposes of sections 991.01 to 991.07 of the Revised Code.

Sec. 991.06. Annually on or before the thirtieth day of September the Ohio expositions commission, through its general manager, shall prepare and file with the auditor of state a statement showing the total amount received from each source of revenue, the total amount disbursed for each class of expenditures, and the aggregate of all receipts and expenditures of the commission. This statement shall also include a summary of each contract for the mutual exchange of goods or services entered into by the commission under ~~division (B)(4) of~~ section 991.03 of the Revised Code. Upon receipt of such statement, the auditor of state shall have it verified and make a report of ~~his~~ the auditor of state's findings thereon to the governor.

Assistant auditors of state shall conduct an audit of activities of the annual Ohio state fair on the Ohio exposition center during the period when the fair is in progress.

The cost of such audit shall be included in the annual expenses of the Ohio expositions commission.

Sec. 1309.521. (A) A filing office that accepts written records may not refuse to accept a written initial financing statement in the ~~following~~ form and format set forth in the official text of the 2010 amendments to article 9

of the uniform commercial code promulgated by the American law institute and the national conference of commissioners on uniform state laws, except for a reason prescribed in division (B) of section 1309.516 of the Revised Code.

UCC FINANCING STATEMENT

~~Follow instructions (front and back) carefully.~~

~~A. Name and phone of contact at filer (optional)~~

~~.....~~

~~B. Send acknowledgment to: (name and address)~~

~~.....~~

~~.....~~

~~.....~~

~~The above space is for filing office use only.~~

1. DEBTOR'S EXACT FULL LEGAL NAME

(Insert only one debtor name [1a or 1b]. Do not abbreviate or combine names. If completing 1b, insert the debtor's name exactly as it appears on the debtor's current driver's license or identification card issued by this state, if one exists.)

1a. Organization's name

or

1b. Individual's last name First name

Middle name Suffix

1c. Mailing address

City State Postal code Country

Additional information regarding organization debtor

1d. Type of organization

1e. Jurisdiction of organization

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME

(Insert only one debtor name [2a or 2b]. Do not abbreviate or combine names. If completing 2b, insert the debtor's name exactly as it appears on the debtor's current driver's license or identification card issued by this state, if one exists.)

2a. Organization's name

or

2b. Individual's last name First name

Middle name Suffix

2c. Mailing address

City State Postal code Country

Additional information regarding organization debtor

2d. Type of organization

2e. Jurisdiction of organization

~~3. SECURED PARTY'S NAME (or name of total assignee of assignor~~

~~S/P). Insert only one secured party name (3a or 3b):~~

~~3a. Organization's name~~

~~or~~

~~3b. Individual's last name First name~~

~~Middle name Suffix~~

~~3c. Mailing address~~

~~City State Postal code Country~~

~~4. This FINANCING STATEMENT covers the following collateral:~~

~~.....
.....
.....
.....~~

~~5. ALTERNATIVE DESIGNATION (if applicable):~~

~~Lessee/lessor Consignee/consignor Bailee/bailor~~

~~Seller/buyer Ag. lien Non-UCC filing~~

~~6. This FINANCING STATEMENT is to be filed [for record] (or~~

~~recorded) in the REAL ESTATE RECORDS. Attach addendum~~

~~[if applicable].~~

~~7. Check to REQUEST SEARCH REPORT(S) on debtor(s)~~

~~[ADDITIONAL FEE] [optional]~~

~~All debtors Debtor 1 Debtor 2~~

~~8. OPTIONAL FILER REFERENCE DATA~~

~~.....
.....~~

UCC FINANCING STATEMENT ADDENDUM

Follow instructions (front and back) carefully.

~~9. NAME OF FIRST DEBTOR (1a OR 1b) ON RELATED FINANCING STATEMENT~~

~~9a. Organization's name~~

~~or~~

~~9b. Individual's last name First name~~

~~Middle name Suffix~~

~~10. MISCELLANEOUS~~

~~.....
.....~~

The above space is for filing office use only.

~~11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME
(Insert only one name [11a or 11b]. Do not abbreviate or combine names. If completing 11b, insert the debtor's name exactly as it appears on the debtor's current driver's license or identification card issued by this state, if one exists.)~~

~~11a. Organization's name~~

~~or~~

~~11b. Individual's last name First name~~

~~Middle name Suffix~~

~~11c. Mailing address~~

~~City State Postal code Country~~

~~Additional information regarding organization debtor~~

~~11d. Type of organization~~

~~11e. Jurisdiction of organization~~

~~12. [] ADDITIONAL SECURED PARTY'S or [] ASSIGNOR
S/P'S NAME~~

~~(Insert only one name [12a or 12b].)~~

~~12a. Organization's name~~

~~or~~

~~12b. Individual's last name First name~~

~~Middle name Suffix~~

~~12c. Mailing address~~

~~City State Postal code Country~~

~~13. This FINANCING STATEMENT covers [] timber to be cut or
[] as extracted collateral, or is filed as a [] fixture filing.~~

~~14. DESCRIPTION OF REAL ESTATE:~~

~~.....
.....
.....
.....~~

~~15. Name and address of a RECORD OWNER of above described
real
estate (if debtor does not have a record interest):~~

~~.....
.....
.....~~

~~16. Additional collateral description:~~

~~.....
.....~~

.....
.....

~~17. Check only if applicable and check only one box.
Debtor is a Trust or Trustee acting with respect to
property held in trust or Decedent's estate~~

~~18. Check only if applicable and check only one box.
 Debtor is a transmitting utility
 Filed in connection with a manufactured home transaction—
effective 30 years
 Filed in connection with a public finance transaction—
effective 30 years~~

(B) A filing office that accepts written records may not refuse to accept a written record in the following form and format set forth as form UCC3 and form UCC3Ad in the final official text of the 2010 amendments to article 9 of the uniform commercial code promulgated by the American law institute and the national conference of commissioners on uniform state laws, except for a reason prescribed in division (B) of section 1309.516 of the Revised Code:.

UCC FINANCING STATEMENT AMENDMENT

Follow instructions (front and back) carefully.

A. Name and phone of contact at filer (optional)

.....

B. Send acknowledgment to: (name and address)

.....

.....

The above space is for filing office use only.

.....

~~1a. INITIAL FINANCING STATEMENT FILE NUMBER~~

.....

~~1b. This financing statement amendment is to be filed [for record] (or recorded) in the real estate records.~~

~~2. TERMINATION: Effectiveness of the financing statement identified above is terminated with respect to security interest(s) of the secured party authorizing this termination statement.~~

~~3. CONTINUATION: Effectiveness of the financing statement identified above with respect to security interest(s) of the secured party authorizing this continuation statement is continued for the additional period provided by applicable law.~~

~~4. ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.~~

~~5. AMENDMENT (PARTY INFORMATION): This amendment affects Debtor or Secured Party of record. Check only one of these two boxes. Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.~~

- ~~CHANGE name and/or address. Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c.~~
- ~~DELETE name. Give record name to be deleted in item 6a or 6b.~~
- ~~ADD name. Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable).~~

~~6. CURRENT RECORD INFORMATION:~~

~~6a. Organization's name~~

~~or~~

~~6b. Individual's last name First name~~

~~Middle name Suffix~~

~~7. CHANGED (NEW) OR ADDED INFORMATION:~~

~~(If completing 7b and the amendment affects a debtor, insert the debtor's name exactly as it appears on the debtor's current driver's license or identification card issued by this state, if one exists.)~~

~~7a. Organization's name~~

~~or~~

~~7b. Individual's last name First name~~

~~Middle name Suffix~~

~~7c. Mailing address~~

~~City State Postal code Country~~

~~Additional information regarding organization debtor~~

~~7d. Type of organization~~

~~7e. Jurisdiction of organization~~

~~8. AMENDMENT (COLLATERAL CHANGE). Check only one box.~~

~~Describe collateral deleted or added, or give entire restated collateral description, or describe collateral assigned.~~

.....

.....

.....

.....

~~9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT~~

~~(name of assignor, if this is an assignment). If this is an amendment authorized by a debtor that adds collateral or adds the authorizing debtor, or if this is a termination authorized by a debtor, check here [] and enter name of debtor authorizing this amendment.~~

~~9a. Organization's name~~

~~or~~

~~9b. Individual's last name First name~~

~~Middle name Suffix~~

~~10. OPTIONAL FILER REFERENCE DATA~~

~~.....~~

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

Follow instructions (front and back) carefully.

~~11. INITIAL FINANCING STATEMENT FILE NUMBER (same as item 1a~~

~~on amendment form)~~

~~12. NAME OF PARTY~~

~~AUTHORIZING~~

~~THIS AMENDMENT (same as item~~

~~9~~

~~on amendment form)~~

~~12a. Organization's name~~

~~.....~~

~~or~~

~~12b. Individual's last name~~

~~.....~~

~~First name~~

~~Middle name Suffix ...~~

The above space is for filing office use only.

~~13. Use this space for additional information.~~

~~.....~~

~~.....~~

~~.....~~

~~.....~~

Sec. 1332.26. (A) No political subdivision shall require a video service provider to obtain from it any authority to provide video service within its boundaries.

(B) Except as authorized under division (C) of this section and under sections 1332.30 and 1332.32 of the Revised Code, no political subdivision shall request anything of value from a video service provider for providing video service; impose any fee, license, or gross receipt tax on the provision

of video service by such a provider; or impose any franchise or other requirement on the provision of video service by a video service provider, including, but not limited to, any provision regulating rates charged by a video service provider or establishing any build-out requirement or requirement to deploy any facility or equipment.

(C) When requested to do so, a video service provider shall assist a municipal corporation or township in addressing video service subscriber complaints, in a manner consistent with the provider's complaint handling process set forth in its application pursuant to division (A)(7) of section 1332.24 of the Revised Code. Nothing in sections 1332.21 to 1332.34 of the Revised Code affects any authority granted under sections 1345.01 to 1345.13 of the Revised Code.

(D) A video service provider shall meet all of the following customer service standards:

(1) The provider shall restore video service within seventy-two hours after a subscriber reports a service interruption or other problem if the cause was not a natural disaster.

(2) Upon a report by a subscriber of a service interruption and if the interruption is caused by the video service provider and lasts for more than four hours in a given day, the provider shall give the subscriber a credit in the amount of the cost of each such day's video service as would be billed to the subscriber.

(3) Upon a report by a subscriber of a service interruption and if the interruption is not caused by the video service provider and lasts for more than twenty-four consecutive hours, the provider shall give the subscriber, for each hour of service interruption, a credit in the amount of the cost of per hour video service as would be billed to the subscriber.

(4) The provider shall give a subscriber at least thirty days' advance, written notice before removing a channel from the provider's video service, but no such notice is required if the provider must remove the channel because of circumstances beyond its control.

(5) The provider shall give a subscriber at least ten days' advance, written notice of a disconnection of all or part of the subscriber's video service, except if ~~the disconnection~~ any of the following apply:

(a) Disconnection has been requested by the subscriber; ~~;~~

(b) Disconnection is necessary to prevent theft of video service; ~~or.~~

(c) Disconnection is necessary to prevent the use of video service through fraud.

(d) Disconnection is necessary to reduce or prevent signal leakage as described in 47 C.F.R. 76.611.

(6) The provider shall not establish a due date earlier than fourteen days after a video service bill is issued.

(7) The provider shall not disconnect all or part of a subscriber's video service for failure of the subscriber to pay any amount of its video service bill, until the ~~bill amount~~ is at least ~~forty-five~~ fourteen days past due.

~~(7)~~(8) The provider shall give a subscriber at least thirty days' advance, written notice before instituting an increase in video service rates.

Sec. 1337.11. As used in sections 1337.11 to 1337.17 of the Revised Code:

(A) "Adult" means a person who is eighteen years of age or older.

(B) "Attending physician" means the physician to whom a principal or the family of a principal has assigned primary responsibility for the treatment or care of the principal or, if the responsibility has not been assigned, the physician who has accepted that responsibility.

(C) "Comfort care" means any of the following:

(1) Nutrition when administered to diminish the pain or discomfort of a principal, but not to postpone death;

(2) Hydration when administered to diminish the pain or discomfort of a principal, but not to postpone death;

(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the pain or discomfort of a principal, but not to postpone death.

(D) "Consulting physician" means a physician who, in conjunction with the attending physician of a principal, makes one or more determinations that are required to be made by the attending physician, or to be made by the attending physician and one other physician, by an applicable provision of sections 1337.11 to 1337.17 of the Revised Code, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.

(E) "Declaration for mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.

(F) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.

(G) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition or physical or mental health.

(H) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care.

(I) "Health care facility" means any of the following:

(1) A hospital;

(2) A hospice care program, pediatric respite care program, or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;

(3) A nursing home;

(4) A home health agency;

(5) An intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities;

(6) A regulated community mental health organization.

(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.

(K) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code.

(L) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.

(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.

(N) "Hydration" means fluids that are artificially or technologically administered.

(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.

(P) "Intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities" has the same meaning as in section ~~5111.20~~ 5124.01 of the Revised Code.

(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a principal, will serve principally to prolong the process of dying.

(R) "Medical claim" has the same meaning as in section 2305.113 of the Revised Code.

(S) "Mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.

(T) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(U) "Nutrition" means sustenance that is artificially or technologically administered.

(V) "Permanently unconscious state" means a state of permanent unconsciousness in a principal that, to a reasonable degree of medical

certainty as determined in accordance with reasonable medical standards by the principal's attending physician and one other physician who has examined the principal, is characterized by both of the following:

(1) Irreversible unawareness of one's being and environment.

(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering.

(W) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.

(X) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(Y) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(Z) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.

(AA) "Regulated community mental health organization" means a residential facility as defined and licensed under section ~~5119.22~~ 5119.34 of the Revised Code or a community mental health ~~agency~~ services provider as defined in section 5122.01 of the Revised Code.

(BB) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a principal's attending physician and one other physician who has examined the principal, both of the following apply:

(1) There can be no recovery.

(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.

(CC) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between persons.

Sec. 1347.08. (A) Every state or local agency that maintains a personal information system, upon the request and the proper identification of any person who is the subject of personal information in the system, shall:

(1) Inform the person of the existence of any personal information in the system of which the person is the subject;

(2) Except as provided in divisions (C) and (E)(2) of this section, permit

the person, the person's legal guardian, or an attorney who presents a signed written authorization made by the person, to inspect all personal information in the system of which the person is the subject;

(3) Inform the person about the types of uses made of the personal information, including the identity of any users usually granted access to the system.

(B) Any person who wishes to exercise a right provided by this section may be accompanied by another individual of the person's choice.

(C)(1) A state or local agency, upon request, shall disclose medical, psychiatric, or psychological information to a person who is the subject of the information or to the person's legal guardian, unless a physician, psychiatrist, or psychologist determines for the agency that the disclosure of the information is likely to have an adverse effect on the person, in which case the information shall be released to a physician, psychiatrist, or psychologist who is designated by the person or by the person's legal guardian.

(2) Upon the signed written request of either a licensed attorney at law or a licensed physician designated by the inmate, together with the signed written request of an inmate of a correctional institution under the administration of the department of rehabilitation and correction, the department shall disclose medical information to the designated attorney or physician as provided in division (C) of section 5120.21 of the Revised Code.

(D) If an individual who is authorized to inspect personal information that is maintained in a personal information system requests the state or local agency that maintains the system to provide a copy of any personal information that the individual is authorized to inspect, the agency shall provide a copy of the personal information to the individual. Each state and local agency may establish reasonable fees for the service of copying, upon request, personal information that is maintained by the agency.

(E)(1) This section regulates access to personal information that is maintained in a personal information system by persons who are the subject of the information, but does not limit the authority of any person, including a person who is the subject of personal information maintained in a personal information system, to inspect or have copied, pursuant to section 149.43 of the Revised Code, a public record as defined in that section.

(2) This section does not provide a person who is the subject of personal information maintained in a personal information system, the person's legal guardian, or an attorney authorized by the person, with a right to inspect or have copied, or require an agency that maintains a personal information

system to permit the inspection of or to copy, a confidential law enforcement investigatory record or trial preparation record, as defined in divisions (A)(2) and (4) of section 149.43 of the Revised Code.

(F) This section does not apply to any of the following:

(1) The contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;

(2) Information contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(3) Papers, records, and books that pertain to an adoption and that are subject to inspection in accordance with section 3107.17 of the Revised Code;

(4) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;

(5) Records that identify an individual described in division (A)(1) of section 3721.031 of the Revised Code, or that would tend to identify such an individual;

(6) Files and records that have been expunged under division (D)(1) or (2) of section 3721.23 of the Revised Code;

(7) Records that identify an individual described in division (A)(1) of section 3721.25 of the Revised Code, or that would tend to identify such an individual;

(8) Records that identify an individual described in division (A)(1) of section ~~5111.61~~ 5165.88 of the Revised Code, or that would tend to identify such an individual;

(9) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of ~~examiners~~ executives of nursing home administrators ~~long-term services and supports~~ administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;

(10) Information contained in a database established and maintained pursuant to section 5101.13 of the Revised Code.

Sec. 1501.011. (A) ~~The~~ Except as provided in divisions (B), (C), and (D) of this section, the Ohio facilities construction commission shall supervise the design and construction of, and make contracts for the construction, reconstruction, improvement, enlargement, alteration, repair, or decoration of, any projects or improvements for the department of natural resources ~~has the following powers in addition to its other powers: to~~

~~prepare, or contract to be prepared, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for, to enter into contracts for, and to supervise the performance of labor, the furnishing of materials, or the construction, repair, or maintenance of any projects, improvements, or buildings, on lands and waters under the control of the department, as that may be authorized by legislative appropriations or any other funds available therefor, the estimated cost of which amounts to two hundred thousand dollars or more or the amount determined pursuant to section 153.53 of the Revised Code or more.~~

~~(B) Except as provided in division (E) of this section, the director of natural resources shall publish notice in a newspaper of general circulation in the region where the activity for which bids are submitted is to occur and in any other newspapers that the director determines are appropriate, at least once each week for four consecutive weeks, the last publication to be at least eight days preceding the day for opening bids, seeking proposals on each contract for the performance of labor, the furnishing of materials, or the construction, repair, or maintenance of projects, improvements, or buildings, as necessary for compliance with provisions of the act to make appropriations for capital improvements or the act to make general appropriations, and the director may also advertise in such trade journals as will afford adequate information to the public of the terms of the contract and the nature of the work to be performed, together with the time of the letting and place and manner of receiving proposals, and the places where plans and specifications are on file. A proposal is invalid and shall not be considered by the department unless the form for proposals specified by the department is used without change, alteration, or addition The department of natural resources shall administer the construction of improvements under an agreement with the supervisors of a soil and water conservation district pursuant to division (I) of section 1515.08 of the Revised Code.~~

~~(C) Each bidder for a contract for the performance of labor, the furnishing of materials, or the maintenance, construction, demolition, alteration, repair, or reconstruction of an improvement shall meet the requirements of section 153.54 of the Revised Code. The director may require each bidder to furnish under oath, upon such printed forms as the director may prescribe, detailed information with respect to the bidder's financial resources, equipment, past performance record, organization personnel, and experience, together with such other information as the director considers necessary.~~

~~(D) The director shall award the contract to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code.~~

~~The award shall be made within a reasonable time after the date on which the bids were opened, and the successful bidder shall enter into a contract within ten days from the date the successful bidder is notified that the contract has been awarded, or within any longer period that the director considers necessary. Nothing in this section shall preclude the rejection of any bid the acceptance of which is not in the best interests of the state. No contract shall be entered into until the bureau of workers' compensation has certified that the corporation, partnership, or person awarded the contract has complied with Chapter 4123. of the Revised Code and until, if the bidder awarded the contract is a foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, and until, if the bidder so awarded the contract is a person or partnership nonresident of this state, the person or partnership has filed with the secretary of state a power of attorney designating the secretary of state as its agency for the purpose of accepting service of process.~~

~~(E) With respect to the director's entering into a contract for the performance of labor, the furnishing of materials, or the construction, repair, or maintenance of any projects, improvements, or buildings on lands and waters under the control of the department, both of the following apply:~~

~~(1) The director is not required to advertise for and receive bids if the total estimated cost of the contract is less than twenty-five thousand dollars.~~

~~(2) The director is not required to advertise for bids, regardless of the cost of the contract, if the (1) The department of natural resources shall supervise the design and construction of, and make contracts for the construction, reconstruction, improvement, enlargement, alteration, repair, or decoration of, any of the following activities, projects, or improvements:~~

~~(a) Dam repairs administered by the division of engineering under Chapter 1507. of the Revised Code;~~

~~(b) Projects or improvements administered by the division of watercraft and funded through the waterways safety fund established in section 1547.75 of the Revised Code;~~

~~(c) Projects or improvements administered by the division of wildlife under Chapter 1531. or 1533. of the Revised Code;~~

~~(d) Activities conducted by the department pursuant to section 5511.05 of the Revised Code in order to maintain the department's roadway inventory.~~

~~(2) If a contract to be let under division (C)(1) of this section involves an exigency that concerns the public health, safety, or welfare or addresses an emergency situation in which timeliness is crucial in preventing the cost of the contract from increasing significantly. Regarding such a contract, the~~

~~director may solicit bids by sending a letter to a minimum of three contractors in the region where the contract is to be let or by any other means that the director considers appropriate.~~

~~(F) The director may insert in any contract awarded under this section a clause providing for value engineering change proposals, under which a contractor who has been awarded a contract may propose a change in the plans and specifications of the project that saves the department time or money on the project without impairing any of the essential functions and characteristics of the project such as service life, reliability, economy of operation, ease of maintenance, safety, and necessary standardized features. If the director adopts the value engineering proposal, the savings from the proposal shall be divided between the department and the contractor according to guidelines established by the director, provided that the contractor shall receive at least fifty per cent of the savings from the proposal. The adoption of a value engineering proposal does not invalidate the award of the contract or require the director to rebid the project.~~

~~(G) When in the opinion of the department the work under any contract made under this section or any law of the state is neglected by the contractor, the work completed is deficient in quality or materials, or the work is not prosecuted with the diligence and force specified or intended in the contract, the department may require the contractor to provide, at no additional expense to the department, any additional labor and materials that are necessary to complete the improvements at the level of quality and within the time of performance specified in the contract. Procedures concerning such a requirement together with its format shall be specified in the contract. If the contractor fails to comply with the requirement within the period specified in the contract, the department may take action to complete the work through other means, up to and including termination of the contract.~~

~~(H) When an exigency occurs or there is immediate danger of an exigency that would materially impair the successful bidding, construction, or completion of a project, improvement, or building, the director may revise related plans and specifications as necessary to address the exigency through the issuance of an addendum prior to the opening of bids or, in accordance with procedures established in section 153.62 of the Revised Code, through the issuance of a change order after the contract has been awarded, pursuant to the declaration of a public exigency, the department may award the contract without competitive bidding or selection as otherwise required by Chapter 153. of the Revised Code.~~

(D) The executive director of the Ohio facilities construction

commission may authorize the department of natural resources to administer any other project or improvement, the estimated cost of which, including design fees, construction, equipment, and contingency amounts, is not more than one million five hundred thousand dollars.

Sec. 1501.45. (A) As used in this section:

(1) "Forfeiture laws" means provisions that are established in Title XXIX of the Revised Code and that govern the forfeiture and disposition of certain property that is seized pursuant to a law enforcement investigation.

(2) "Law enforcement division" means the division of forestry, the division of natural areas and preserves, the division of wildlife, the division of parks and recreation, or the division of watercraft in the department of natural resources.

(3) "Law enforcement fund" means a fund created in this section.

(B) Except as otherwise provided in this section and notwithstanding any provision of the Revised Code that is not in Title XV of the Revised Code to the contrary, the forfeiture laws apply to a law enforcement division that substantially conducts an investigation that results in the ordered forfeiture of property and also apply to the involved forfeiture of property, and the law enforcement division shall comply with those forfeiture laws. Accordingly, the portion of the forfeiture laws that authorizes certain proceeds from forfeited property to be distributed to the law enforcement agency that substantially conducted the investigation that resulted in the seizure of the subsequently forfeited property apply to the law enforcement divisions except as provided in division (C)(2)(a) of this section. If a law enforcement division is eligible to receive such proceeds, the proceeds shall be deposited into the state treasury to the credit of the applicable law enforcement fund.

(C)(1) There are hereby created in the state treasury ~~the division of forestry law enforcement fund, the division of natural areas and preserves law enforcement fund, the division of wildlife law enforcement fund, the division of parks and recreation law enforcement fund, and the division of watercraft law enforcement fund.~~ ~~The~~

(2) The funds shall consist of proceeds from forfeited property that are deposited in accordance with this section. The as follows:

(a) Proceeds from forfeited property resulting from an investigation conducted by the division of forestry, the division of natural areas and preserves, or the division of parks and recreation shall be deposited in the division of parks and recreation law enforcement fund.

(b) Proceeds from forfeited property resulting from an investigation conducted by the division of wildlife shall be deposited in the division of

wildlife law enforcement fund.

(c) Proceeds from forfeited property resulting from an investigation conducted by the division of watercraft shall be deposited in the division of watercraft law enforcement fund.

(3) The funds shall be used by the applicable law enforcement division for law enforcement purposes specified in the forfeiture laws; however, as follows:

(a) Money in the division of parks and recreation law enforcement fund shall be used by the division of parks and recreation.

(b) Money in the division of wildlife law enforcement fund shall be used by the division of wildlife.

(c) Money in the division of watercraft law enforcement fund shall be used by the division of watercraft.

(4) A law enforcement division shall not use ~~such funds~~ its fund to pay the salaries of its employees or to provide for any other remuneration of personnel.

(D) If the forfeiture laws conflict with any provisions that govern forfeitures and that are established in another section of Title XV of the Revised Code, the provisions established in the other section of Title XV apply.

Sec. 1506.21. (A) There is hereby created the Ohio Lake Erie commission, consisting of the directors of environmental protection, natural resources, health, agriculture, ~~and~~ transportation, and development services, or their designees, and five additional members appointed by the governor who shall serve at the pleasure of the governor. The members of the commission annually shall designate a chairperson, who shall preside at the meetings of the commission, and a secretary.

The commission shall hold at least one meeting every three months. The secretary of the commission shall keep a record of its proceedings. Special meetings shall be held at the call of the chairperson or upon the request of four members of the commission. All meetings and records of the commission shall be open to the public. Six members of the commission constitute a quorum. The agencies represented on the commission shall furnish clerical, technical, and other services required by the commission in the performance of its duties.

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

(1) Ensure the coordination of state and local policies and programs pertaining to Lake Erie water quality, toxic pollution control, and resource protection;

(2) Review, and make recommendations concerning, the development

and implementation of policies, programs, and issues for long-term, comprehensive protection of Lake Erie water resources and water quality that are consistent with the great lakes water quality agreement and the great lakes toxic substances control agreement;

(3) Recommend policies and programs to modify the coastal management program of this state;

(4) At each regular meeting, consider matters relating to the implementation of sections 1506.22 and 1506.23 of the Revised Code;

(5) Publish and submit the Lake Erie protection agenda in accordance with division (C) of section 1506.23 of the Revised Code;

(6) Ensure the implementation of a basinwide approach to Lake Erie issues;

(7) Increase representation of the interests of this state in state, regional, national, and international forums pertaining to the resources and water quality of Lake Erie and the Lake Erie basin;

(8) Promote education concerning the wise management of the resources of Lake Erie;

(9) Establish public advisory councils as considered necessary to assist in programs established under this section and sections 1506.22 and 1506.23 of the Revised Code. Members of the public advisory councils shall represent a broad cross section of interests, shall have experience or expertise in the subject for which the advisory council was established, and shall serve without compensation.

(10) Prepare and submit the report required under division (D) of section 1506.23 of the Revised Code.

(C) Each state agency, upon the request of the commission, shall cooperate in the implementation of this section and sections 1506.22 and 1506.23 of the Revised Code.

Sec. 1506.30. As used in sections 1506.30 to 1506.36 of the Revised Code:

(A) "Abandoned property" means a submerged aircraft; a submerged watercraft, including a ship, boat, canoe, skiff, raft, or barge; the rigging, gear, fittings, trappings, and equipment of a submerged aircraft or watercraft; the personal property of the officers, crew, and passengers of a submerged aircraft or watercraft; the cargo of a submerged aircraft or watercraft that has been deserted, relinquished, cast away, or left behind and for which attempts at reclamation have been abandoned by the owners and insurers; and submerged materials resulting from activities of prehistoric and historic native Americans.

(B) "Lake Erie" means that portion of the waters and lands of Lake Erie

belonging to the state as provided in section 1506.10 of the Revised Code.

(C) "Historical value" means the quality of significance exemplified by an object, structure, site, or district that is included in or eligible for inclusion in ~~the state registry of archaeological landmarks authorized under section 149.51 of the Revised Code, the state registry of historic landmarks authorized under section 149.55 of the Revised Code,~~ or the national register of historic places.

(D) "Marine surveyor" means a person engaged in the business of mapping or surveying submerged lands and abandoned property.

(E) "Mechanical or other assistance" means all artificial devices used to raise or remove artifacts from abandoned property, including pry bars, wrenches and other hand or power tools, cutting torches, explosives, winches, flotation bags, lines to surface, extra divers buoyancy devices, and other buoyancy devices.

(F) "Recreational value" means value relating to an activity in which the public engages or may engage for recreation or sport, including scuba diving and fishing, as determined by the director of natural resources.

Sec. 1509.01. As used in this chapter:

(A) "Well" means any borehole, whether drilled or bored, within the state for production, extraction, or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil field waters.

(B) "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include hydrocarbons that were originally in a gaseous phase in the reservoir.

(C) "Gas" means all natural gas and all other fluid hydrocarbons that are not oil, including condensate.

(D) "Condensate" means liquid hydrocarbons separated at or near the well pad or along the gas production or gathering system prior to gas processing.

(E) "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both, but does not include a gas storage reservoir. Each zone of a geological structure that is completely separated from any other zone in the same structure may contain a separate pool.

(F) "Field" means the general area underlaid by one or more pools.

(G) "Drilling unit" means the minimum acreage on which one well may be drilled, but does not apply to a well for injecting gas into or removing gas from a gas storage reservoir.

(H) "Waste" includes all of the following:

(1) Physical waste, as that term generally is understood in the oil and gas industry;

(2) Inefficient, excessive, or improper use, or the unnecessary dissipation, of reservoir energy;

(3) Inefficient storing of oil or gas;

(4) Locating, drilling, equipping, operating, or producing an oil or gas well in a manner that reduces or tends to reduce the quantity of oil or gas ultimately recoverable under prudent and proper operations from the pool into which it is drilled or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;

(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused.

(I) "Correlative rights" means the reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under the person's tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense.

(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.

(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others, except that a person ceases to be an owner with respect to a well when the well has been plugged in accordance with applicable rules adopted and orders issued under this chapter. "Owner" does not include a person who obtains a lease of the mineral rights for oil and gas on a parcel of land if the person does not attempt to produce or produce oil or gas from a well or obtain a permit under this chapter for a well or if the entire interest of a well is transferred to the person in accordance with division (B) of section 1509.31 of the Revised Code.

(L) "Royalty interest" means the fee holder's share in the production from a well.

(M) "Discovery well" means the first well capable of producing oil or gas in commercial quantities from a pool.

(N) "Prepared clay" means a clay that is plastic and is thoroughly saturated with fresh water to a weight and consistency great enough to settle through saltwater in the well in which it is to be used, except as otherwise approved by the chief of the division of oil and gas resources management.

(O) "Rock sediment" means the combined cutting and residue from drilling sedimentary rocks and formation.

(P) "Excavations and workings," "mine," and "pillar" have the same

meanings as in section 1561.01 of the Revised Code.

(Q) "Coal bearing township" means a township designated as such by the chief of the division of mineral resources management under section 1561.06 of the Revised Code.

(R) "Gas storage reservoir" means a continuous area of a subterranean porous sand or rock stratum or strata into which gas is or may be injected for the purpose of storing it therein and removing it therefrom and includes a gas storage reservoir as defined in section 1571.01 of the Revised Code.

(S) "Safe Drinking Water Act" means the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and regulations adopted under those acts.

(T) "Person" includes any political subdivision, department, agency, or instrumentality of this state; the United States and any department, agency, or instrumentality thereof; and any legal entity defined as a person under section 1.59 of the Revised Code.

(U) "Brine" means all saline geological formation water resulting from, obtained from, or produced in connection with exploration, drilling, well stimulation, production of oil or gas, or plugging of a well.

(V) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, springs, irrigation systems, drainage systems, and other bodies of water, surface or underground, natural or artificial, that are situated wholly or partially within this state or within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

(W) "Exempt Mississippian well" means a well that meets all of the following criteria:

(1) Was drilled and completed before January 1, 1980;

(2) Is located in an unglaciated part of the state;

(3) Was completed in a reservoir no deeper than the Mississippian Big Injun sandstone in areas underlain by Pennsylvanian or Permian stratigraphy, or the Mississippian Berea sandstone in areas directly underlain by Permian stratigraphy;

(4) Is used primarily to provide oil or gas for domestic use.

(X) "Exempt domestic well" means a well that meets all of the following criteria:

(1) Is owned by the owner of the surface estate of the tract on which the well is located;

(2) Is used primarily to provide gas for the owner's domestic use;

(3) Is located more than two hundred feet horizontal distance from any inhabited private dwelling house other than an inhabited private dwelling house located on the tract on which the well is located;

(4) Is located more than two hundred feet horizontal distance from any public building that may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic, or occupancy by the public.

(Y) "Urbanized area" means an area where a well or production facilities of a well are located within a municipal corporation or within a township that has an unincorporated population of more than five thousand in the most recent federal decennial census prior to the issuance of the permit for the well or production facilities.

(Z) "Well stimulation" or "stimulation of a well" means the process of enhancing well productivity, including hydraulic fracturing operations.

(AA) "Production operation" means all operations and activities and all related equipment, facilities, and other structures that may be used in or associated with the exploration and production of oil, gas, or other mineral resources that are regulated under this chapter, including operations and activities associated with site preparation, site construction, access road construction, well drilling, well completion, well stimulation, well site activities, reclamation, and plugging. "Production operation" also includes all of the following:

(1) The piping, equipment, and facilities used for the production and preparation of hydrocarbon gas or liquids for transportation or delivery;

(2) The processes of extraction and recovery, lifting, stabilization, treatment, separation, production processing, storage, waste disposal, and measurement of hydrocarbon gas and liquids, including related equipment and facilities;

(3) The processes and related equipment and facilities associated with production compression, gas lift, gas injection, fuel gas supply, well drilling, well stimulation, and well completion activities, including dikes, pits, and earthen and other impoundments used for the temporary storage of fluids and waste substances associated with well drilling, well stimulation, and well completion activities;

(4) Equipment and facilities at a wellpad or other location that are used for the transportation, handling, recycling, temporary storage, management, processing, or treatment of any equipment, material, and by-products or other substances from an operation at a wellpad that may be used or reused at the same or another operation at a wellpad or that will be disposed of in

accordance with applicable laws and rules adopted under them.

(BB) "Annular overpressurization" means the accumulation of fluids within an annulus with sufficient pressure to allow migration of annular fluids into underground sources of drinking water.

(CC) "Idle and orphaned well" means a well for which a bond has been forfeited or an abandoned well for which no money is available to plug the well in accordance with this chapter and rules adopted under it.

(DD) "Temporarily inactive well" means a well that has been granted temporary inactive status under section 1509.062 of the Revised Code.

(EE) "Material and substantial violation" means any of the following:

(1) Failure to obtain a permit to drill, reopen, convert, plugback, or plug a well under this chapter;

(2) Failure to obtain, maintain, update, or submit proof of insurance coverage that is required under this chapter;

(3) Failure to obtain, maintain, update, or submit proof of a surety bond that is required under this chapter;

(4) Failure to plug an abandoned well or idle and orphaned well unless the well has been granted temporary inactive status under section 1509.062 of the Revised Code or the chief of the division of oil and gas resources management has approved another option concerning the abandoned well or idle and orphaned well;

(5) Failure to restore a disturbed land surface as required by section 1509.072 of the Revised Code;

(6) Failure to reimburse the oil and gas well fund pursuant to a final order issued under section 1509.071 of the Revised Code;

(7) Failure to comply with a final nonappealable order of the chief issued under section 1509.04 of the Revised Code;

(8) Failure to submit a report, test result, fee, or document that is required in this chapter or rules adopted under it.

(FF) "Severer" has the same meaning as in section 5749.01 of the Revised Code.

(GG) "Horizontal well" means a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus formation and the well is stimulated.

(HH) "Well pad" means the area that is cleared or prepared for the drilling of one or more horizontal wells.

Sec. 1509.02. There is hereby created in the department of natural resources the division of oil and gas resources management, which shall be administered by the chief of the division of oil and gas resources

management. The division has sole and exclusive authority to regulate the permitting, location, and spacing of oil and gas wells and production operations within the state, excepting only those activities regulated under federal laws for which oversight has been delegated to the environmental protection agency and activities regulated under sections 6111.02 to ~~6111.029~~ 6111.028 of the Revised Code. The regulation of oil and gas activities is a matter of general statewide interest that requires uniform statewide regulation, and this chapter and rules adopted under it constitute a comprehensive plan with respect to all aspects of the locating, drilling, well stimulation, completing, and operating of oil and gas wells within this state, including site construction and restoration, permitting related to those activities, and the disposal of wastes from those wells. In order to assist the division in the furtherance of its sole and exclusive authority as established in this section, the chief may enter into cooperative agreements with other state agencies for advice and consultation, including visitations at the surface location of a well on behalf of the division. Such cooperative agreements do not confer on other state agencies any authority to administer or enforce this chapter and rules adopted under it. In addition, such cooperative agreements shall not be construed to dilute or diminish the division's sole and exclusive authority as established in this section. Nothing in this section affects the authority granted to the director of transportation and local authorities in section 723.01 or 4513.34 of the Revised Code, provided that the authority granted under those sections shall not be exercised in a manner that discriminates against, unfairly impedes, or obstructs oil and gas activities and operations regulated under this chapter.

The chief shall not hold any other public office, nor shall the chief be engaged in any occupation or business that might interfere with or be inconsistent with the duties as chief.

All moneys collected by the chief pursuant to sections 1509.06, 1509.061, 1509.062, 1509.071, 1509.13, 1509.22, 1509.222, 1509.28, 1509.34, and 1509.50 of the Revised Code, ninety per cent of moneys received by the treasurer of state from the tax levied in divisions (A)(5) and (6) of section 5749.02 of the Revised Code, all civil penalties paid under section 1509.33 of the Revised Code, and, notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under divisions (A) and (B) of section 1509.99 of the Revised Code and fines imposed under divisions (C) and (D) of section 1509.99 of the Revised Code for all violations prosecuted by the attorney general and for violations prosecuted by prosecuting attorneys that do not involve the transportation of brine by

vehicle shall be deposited into the state treasury to the credit of the oil and gas well fund, which is hereby created. Fines imposed under divisions (C) and (D) of section 1509.99 of the Revised Code for violations prosecuted by prosecuting attorneys that involve the transportation of brine by vehicle and penalties associated with a compliance agreement entered into pursuant to this chapter shall be paid to the county treasury of the county where the violation occurred.

The fund shall be used solely and exclusively for the purposes enumerated in division (B) of section 1509.071 of the Revised Code, for the expenses of the division associated with the administration of this chapter and Chapter 1571. of the Revised Code and rules adopted under them, and for expenses that are critical and necessary for the protection of human health and safety and the environment related to oil and gas production in this state. The expenses of the division in excess of the moneys available in the fund shall be paid from general revenue fund appropriations to the department.

Sec. 1509.062. (A)(1) The owner of a well that has not been completed, a well that has not produced within one year after completion, ~~or an existing well that is not a horizontal well and~~ that has no reported production for two consecutive reporting periods as reported in accordance with section 1509.11 of the Revised Code, or an existing horizontal well that has no reported production for eight consecutive reporting periods as reported in accordance with section 1509.11 of the Revised Code shall plug the well in accordance with section 1509.12 of the Revised Code, obtain temporary inactive well status for the well in accordance with this section, or perform another activity regarding the well that is approved by the chief of the division of oil and gas resources management.

(2) If a well has a reported annual production that is less than one hundred thousand cubic feet of natural gas or fifteen barrels of crude oil, or a combination thereof, the chief may require the owner of the well to submit an application for temporary inactive well status under this section for the well.

(B) In order for the owner of a well to submit an application for temporary inactive well status for the well under this division, the owner and the well shall be in compliance with this chapter and rules adopted under it, any terms and conditions of the permit for the well, and applicable orders issued by the chief. An application for temporary inactive status for a well shall be submitted to the chief on a form prescribed and provided by the chief and shall contain all of the following:

(1) The owner's name and address and, if the owner is a corporation, the

name and address of the corporation's statutory agent;

(2) The signature of the owner or of the owner's authorized agent. When an authorized agent signs an application, the application shall be accompanied by a certified copy of the appointment as such agent.

(3) The permit number assigned to the well. If the well has not been assigned a permit number, the chief shall assign a permit number to the well.

(4) A map, on a scale not smaller than four hundred feet to the inch, that shows the location of the well and the tank battery, that includes the latitude and longitude of the well, and that contains all other data that are required by the chief;

(5) A demonstration that the well is of future utility and that the applicant has a viable plan to utilize the well within a reasonable period of time;

(6) A demonstration that the well poses no threat to the health or safety of persons, property, or the environment;

(7) Any other relevant information that the chief prescribes by rule.

The chief may waive any of the requirements established in divisions (B)(1) to (6) of this section if the division of oil and gas resources management possesses a current copy of the information or document that is required in the applicable division.

(C) Upon receipt of an application for temporary inactive well status, the chief shall review the application and shall either deny the application by issuing an order or approve the application. The chief shall approve the application only if the chief determines that the well that is the subject of the application poses no threat to the health or safety of persons, property, or the environment. If the chief approves the application, the chief shall notify the applicant of the chief's approval. Upon receipt of the chief's approval, the owner shall shut in the well and empty all liquids and gases from all storage tanks, pipelines, and other equipment associated with the well. In addition, the owner shall maintain the well, other equipment associated with the well, and the surface location of the well in a manner that prevents hazards to the health and safety of people and the environment. The owner shall inspect the well at least every six months and submit to the chief within fourteen days after the inspection a record of inspection on a form prescribed and provided by the chief.

(D) Not later than thirty days prior to the expiration of temporary inactive well status or a renewal of temporary inactive well status approved by the chief for a well, the owner of the well may submit to the chief an application for renewal of the temporary inactive well status on a form prescribed and provided by the chief. The application shall include a

detailed plan that describes the ultimate disposition of the well, the time frames for that disposition, and any other information that the chief determines is necessary. The chief shall either deny an application by order or approve the application. If the chief approves the application, the chief shall notify the owner of the well of the chief's approval.

(E) An application for temporary inactive well status shall be accompanied by a nonrefundable fee of one hundred dollars. An application for a renewal of temporary inactive well status shall be accompanied by a nonrefundable fee of two hundred fifty dollars for the first renewal and five hundred dollars for each subsequent renewal.

(F) After a third renewal, the chief may require an owner to provide a surety bond in an amount not to exceed ten thousand dollars for each of the owner's wells that has been approved by the chief for temporary inactive well status.

(G) Temporary inactive well status approved by the chief expires one year after the date of approval of the application for temporary inactive well status or production from the well commences, whichever occurs sooner. In addition, a renewal of a temporary inactive well status expires one year after the expiration date of the initial temporary inactive well status or one year after the expiration date of the previous renewal of the temporary inactive well status, as applicable, or production from the well commences, whichever occurs sooner.

(H) The owner of a well that has been approved by the chief for temporary inactive well status may commence production from the well at any time. Not later than sixty days after the commencement of production from such a well, the owner shall notify the chief of the commencement of production.

(I) This chapter and rules adopted under it, any terms and conditions of the permit for a well, and applicable orders issued by the chief apply to a well that has been approved by the chief for temporary inactive well status or renewal of that status.

Sec. 1509.074. (A) With regard to material that results from the construction, operation, or plugging of a horizontal well, all of the following apply:

(1) Except as provided in division (A)(2) of this section, the owner shall determine the concentration of radium-226 and of radium-228 in representative samples of the material if the material is technologically enhanced naturally occurring radioactive material. The owner shall provide for the collection and analysis of the representative samples of the material. The collection and analysis of the representative samples shall be performed

in accordance with requirements approved by the chief of the division of oil and gas resources management. The owner shall not remove the material from the location associated with the production operation of the horizontal well until the analysis is complete and the results are available. However, the owner may do one of the following:

(a) Temporarily store the material in an area adjacent to the location associated with the production operation of the well while the results from the analysis of the representative samples are pending if the material is located in an area that is designated by the division of oil and gas resources management and the owner complies with all conditions imposed by the chief;

(b) Prior to the collection of representative samples under division (A)(1) of this section, transport the material to a location for which a permit or order has been issued under division (C) of section 1509.22 of the Revised Code. The owner shall provide for the collection of representative samples of the material at that location in accordance with that division and shall temporarily store the material at that location while the results from the analysis are pending.

(2) The owner is not required to determine the concentration of radium-226 and of radium-228 of the material that is technologically enhanced naturally occurring radioactive material if any of the following applies:

(a) The material is reused in the horizontal well from where it originated or is transferred to another site for reuse in a horizontal well. For purposes of division (A)(2)(a) of this section, a material is reused if the material is used in a substantially similar manner as it was originally used.

(b) The owner disposes of the material at an injection well for which a permit has been issued under section 1509.22 of the Revised Code.

(c) The owner uses the material in association with a method of enhanced recovery for which a permit has been issued under section 1509.21 of the Revised Code.

(d) The material is transported out of the state for lawful disposal. The owner shall retain records that substantiate the lawful disposal and provide them to the chief upon request.

(3) Except as provided in division (A)(2) of this section, the owner shall transport and dispose of material that is technologically enhanced naturally occurring radioactive material in accordance with all applicable laws.

(4) If the material is not technologically enhanced naturally occurring radioactive material and the material has come in contact with a refined oil-based substance, the owner shall do one of the following:

(a) If the material is removed from the location associated with the production operation of the well or from a location specified in a permit or order issued under division (C) of section 1509.22 of the Revised Code, dispose of the material at a solid waste facility that is authorized to accept the material in accordance with Chapter 3734. of the Revised Code and rules adopted under it;

(b) If the material is removed from the location associated with the production operation of the well or from a location specified in a permit or order issued under division (C) of section 1509.22 of the Revised Code, beneficially use the material in accordance with rules adopted by the director of environmental protection under section 3734.125 of the Revised Code;

(c) If the material is not removed from the location associated with the production operation of the well, recycle or reuse the material with the approval of the chief.

(5) If the material is not technologically enhanced naturally occurring radioactive material and the material has not come in contact with a refined oil-based substance, the material may be used at the location associated with the production operation of the horizontal well or at another location associated with a production operation.

(B) An owner who has obtained results under division (A)(1) of this section shall keep and maintain the results for a period of three years. In addition, the owner shall provide a copy of the results to the chief upon request.

(C) As used in this section:

(1) "Technologically enhanced naturally occurring radioactive material" has the same meaning as in section 3748.01 of the Revised Code.

(2) "Owner" includes a person that is an authorized agent of an owner.

Sec. 1509.10. (A) Any person drilling within the state shall, within sixty days after the completion of drilling operations to the proposed total depth or after a determination that a well is a dry or lost hole, file with the division of oil and gas resources management all wireline electric logs and an accurate well completion record on a form that is prescribed by the chief of the division of oil and gas resources management that designates:

(1) The purpose for which the well was drilled;

(2) The character, depth, and thickness of geological units encountered, including coal seams, mineral beds, associated fluids such as fresh water, brine, and crude oil, natural gas, and sour gas, if such seams, beds, fluids, or gases are known;

(3) The dates on which drilling operations were commenced and

completed;

(4) The types of drilling tools used and the name of the person that drilled the well;

(5) The length in feet of the various sizes of casing and tubing used in drilling the well, the amount removed after completion, the type and setting depth of each packer, all other data relating to cementing in the annular space behind such casing or tubing, and data indicating completion as a dry, gas, oil, combination oil and gas, brine injection, or artificial brine well or a stratigraphic test;

(6) The number of perforations in the casing and the intervals of the perforations;

(7) The elevation above mean sea level of the point from which the depth measurements were made, stating also the height of the point above ground level at the well, the total depth of the well, and the deepest geological unit that was penetrated in the drilling of the well;

(8) If applicable, the type, volume, and concentration of acid, and the date on which acid was used in acidizing the well;

(9)(a) If applicable, the trade name and the total amount of all products, fluids, and substances, and the supplier of each product, fluid, or substance, not including cement and its constituents and lost circulation materials, intentionally added to facilitate the drilling of any portion of the well until the surface casing is set and properly sealed. The owner shall identify each additive used and provide a brief description of the purpose for which the additive is used. In addition, the owner shall include a list of all chemicals, not including any information that is designated as a trade secret pursuant to division (I)(1) of this section, intentionally added to all products, fluids, or substances and include each chemical's corresponding chemical abstracts service number and the maximum concentration of each chemical. The owner shall obtain the chemical information, not including any information that is designated as a trade secret pursuant to division (I)(1) of this section, from the company that drilled the well, provided service at the well, or supplied the chemicals. If the company that drilled the well, provided service at the well, or supplied the chemicals provides incomplete or inaccurate chemical information, the owner shall make reasonable efforts to obtain the required information from the company or supplier.

(b) For purposes of division (A)(9)(a) of this section, if recycled fluid was used, the total volume of recycled fluid and the well that is the source of the recycled fluid or the centralized facility that is the source of the recycled fluid.

(10)(a) If applicable, the type and volume of fluid, not including cement

and its constituents or information that is designated as a trade secret pursuant to division (I)(1) of this section, used to stimulate the reservoir of the well, the reservoir breakdown pressure, the method used for the containment of fluids recovered from the fracturing of the well, the methods used for the containment of fluids when pulled from the wellbore from swabbing the well, the average pumping rate of the well, and the name of the person that performed the well stimulation. In addition, the owner shall include a copy of the log from the stimulation of the well, a copy of the invoice for each of the procedures and methods described in division (A)(10) of this section that were used on a well, and a copy of the pumping pressure and rate graphs. However, the owner may redact from the copy of each invoice that is required to be included under division (A)(10) of this section the costs of and charges for the procedures and methods described in division (A)(10) of this section that were used on a well.

(b) If applicable, the trade name and the total volume of all products, fluids, and substances, and the supplier of each product, fluid, or substance used to stimulate the well. The owner shall identify each additive used, provide a brief description of the purpose for which the additive is used, and include the maximum concentration of the additive used. In addition, the owner shall include a list of all chemicals, not including any information that is designated as a trade secret pursuant to division (I)(1) of this section, intentionally added to all products, fluids, or substances and include each chemical's corresponding chemical abstracts service number and the maximum concentration of each chemical. The owner shall obtain the chemical information, not including any information that is designated as a trade secret pursuant to division (I)(1) of this section, from the company that stimulated the well or supplied the chemicals. If the company that stimulated the well or supplied the chemicals provides incomplete or inaccurate chemical information, the owner shall make reasonable efforts to obtain the required information from the company or supplier.

(c) For purposes of division (A)(10)(b) of this section, if recycled fluid was used, the total volume of recycled fluid and the well that is the source of the recycled fluid or the centralized facility that is the source of the recycled fluid.

(11) The name of the company that performed the logging of the well and the types of wireline electric logs performed on the well.

The well completion record shall be submitted in duplicate. The first copy shall be retained as a permanent record in the files of the division, and the second copy shall be transmitted by the chief to the division of geological survey.

(B)(1) Not later than sixty days after the completion of the drilling operations to the proposed total depth, the owner shall file all wireline electric logs with the division of oil and gas resources management and the chief shall transmit such logs electronically, if available, to the division of geological survey. Such logs may be retained by the owner for a period of not more than six months, or such additional time as may be granted by the chief in writing, after the completion of the well substantially to the depth shown in the application required by section 1509.06 of the Revised Code.

(2) If a well is not completed within sixty days after the completion of drilling operations, the owner shall file with the division of oil and gas resources management a supplemental well completion record that includes all of the information required under this section within sixty days after the completion of the well.

(3) After a well is initially completed and stimulated and until the well is plugged, the owner shall report, on a form prescribed by the chief, all materials placed into the formation to refracture, restimulate, or newly complete the well. The owner shall submit the information within sixty days after completing the refracturing, restimulation, or new completion. In addition, the owner shall report the information required in divisions (A)(10)(a) to (c) of this section, as applicable, in a manner consistent with the requirements established in this section.

(C) Upon request in writing by the chief of the division of geological survey prior to the beginning of drilling of the well, the person drilling the well shall make available a complete set of cuttings accurately identified as to depth.

(D) The form of the well completion record required by this section shall be one that has been prescribed by the chief of the division of oil and gas resources management and the chief of the division of geological survey. The filing of a log as required by this section fulfills the requirement of filing a log with the chief of the division of geological survey in section 1505.04 of the Revised Code.

(E) If a material listed or designated under division (A)(9) or (10) or (B)(3) of this section is a material for which the division of oil and gas resources management does not have a material safety data sheet, the owner shall provide a copy of the material safety data sheet for the material to the chief.

(F) An owner shall submit to the chief the information that is required in divisions (A)(10)(b) and (c) and (B)(3) of this section consistent with the requirements established in this section using one of the following methods:

(1) On a form prescribed by the chief;

(2) Through the chemical disclosure registry that is maintained by the ground water protection council and the interstate oil and gas compact commission;

(3) Any other means approved by the chief.

(G) The chief shall post on the division's web site each material safety data sheet obtained under division (E) of this section. In addition, the chief shall make available through the division's web site the chemical information that is required by divisions (A)(9) and (10) and (B)(3) of this section.

(H)(1) If a medical professional, in order to assist in the diagnosis or treatment of an individual who was affected by an incident associated with the production operations of a well, requests the exact chemical composition of each product, fluid, or substance and of each chemical component in a product, fluid, or substance that is designated as a trade secret pursuant to division (I) of this section, the person claiming the trade secret protection pursuant to that division shall provide to the medical professional the exact chemical composition of the product, fluid, or substance and of the chemical component in a product, fluid, or substance that is requested.

(2) A medical professional who receives information pursuant to division (H)(1) of this section shall keep the information confidential and shall not disclose the information for any purpose that is not related to the diagnosis or treatment of an individual who was affected by an incident associated with the production operations of a well. Nothing in division (H)(2) of this section precludes a medical professional from making any report required by law or professional ethical standards.

(I)(1) The owner of a well who is required to submit a well completion record under division (A) of this section or a report under division (B)(3) of this section or a person that provides information to the owner as described in and for purposes of division (A)(9) or (10) or (B)(3) of this section may designate without disclosing on a form prescribed by the chief and withhold from disclosure to the chief the identity, amount, concentration, or purpose of a product, fluid, or substance or of a chemical component in a product, fluid, or substance as a trade secret. The owner or person may pursue enforcement of any rights or remedies established in sections 1333.61 to 1333.69 of the Revised Code for misappropriation, as defined in section 1333.61 of the Revised Code, with respect to the identity, amount, concentration, or purpose of a product, fluid, or substance or a chemical component in a product, fluid, or substance designated as a trade secret pursuant to division (I)(1) of this section. The division shall not disclose information regarding the identity, amount, concentration, or purpose of any

product, fluid, or substance or of any chemical component in a product, fluid, or substance designated as a trade secret pursuant to division (I)(1) of this section.

(2) A property owner, an adjacent property owner, or any person or agency of this state having an interest that is or may be adversely affected by a product, fluid, or substance or by a chemical component in a product, fluid, or substance may commence a civil action in the court of common pleas of Franklin county against an owner or person described in division (I)(1) of this section challenging the owner's or person's claim to entitlement to trade secret protection for the specific identity, amount, concentration, or purpose of a product, fluid, or substance or of a chemical component in a product, fluid, or substance pursuant to division (I)(1) of this section. A person who commences a civil action pursuant to division (I)(2) of this section shall provide notice to the chief in a manner prescribed by the chief. In the civil action, the court shall conduct an in camera review of information submitted by an owner or person described in division (I)(1) of this section to determine if the identity, amount, concentration, or purpose of a product, fluid, or substance or of a chemical component in a product, fluid, or substance pursuant to division (I)(1) of this section is entitled to trade secret protection.

(J)(1) Except for any information that is designated as a trade secret pursuant to division (I)(1) of this section and except as provided in division (J)(2) of this section, the owner of a well shall maintain records of all chemicals placed in a well for a period of not less than two years after the date on which each such chemical was placed in the well. The chief may inspect the records at any time concerning any such chemical.

(2) An owner or person who has designated the identity, amount, concentration, or purpose of a product, fluid, or substance or of a chemical component in a product, fluid, or substance as a trade secret pursuant to division (I)(1) of this section shall maintain the records for such a product, fluid, or substance or for a chemical component in a product, fluid, or substance for a period of not less than two years after the date on which each such product, fluid, or substance or each such chemical component in a product, fluid, or substance was placed in the well. Upon the request of the chief, the owner or person, as applicable, shall disclose the records to the chief if the information is necessary to respond to a spill, release, or investigation. However, the chief shall not disclose the information that is designated as a trade secret.

(K)(1) For purposes of correcting inaccuracies and incompleteness in chemical information required by divisions (A)(9) and (10) and (B)(3) of

this section, an owner shall be considered in substantial compliance if the owner has made reasonable efforts to obtain the required information from the supplier.

(2) For purposes of reporting under this section, an owner is not required to report chemicals that occur incidentally or in trace amounts.

(L) As used in this section, the term "material safety data sheet" shall conform to any revision of or change in the term by the occupational safety and health administration in the United States department of labor.

Sec. 1509.11. (A)(1) The owner of any well, ~~including~~ except a horizontal well, that is producing or capable of producing oil or gas shall file with the chief of the division of oil and gas resources management, on or before the thirty-first day of March, a statement of production of oil, gas, and brine for the last preceding calendar year in such form as the chief may prescribe. An owner that has more than one hundred such wells in this state shall submit electronically the statement of production in a format that is approved by the chief. The chief shall include on the form, at the minimum, a request for the submittal of the information that a person who is regulated under this chapter is required to submit under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C.A. 11001, and regulations adopted under it, and that the division of oil and gas resources management does not obtain through other reporting mechanisms.

(2) The owner of any horizontal well that is producing or capable of producing oil or gas shall file with the chief, on the forty-fifth day following the close of each calendar quarter, a statement of production of oil, gas, and brine for the preceding calendar quarter in a form that the chief prescribes. An owner that has more than one hundred horizontal wells in this state shall submit electronically the statement of production in a format that is approved by the chief. The chief shall include on the form, at a minimum, a request for the submittal of the information that a person who is regulated under this chapter is required to submit under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C. 11001, and regulations adopted under it, and that the division does not obtain through other reporting mechanisms.

(B) The chief shall not disclose information received from the department of taxation under division (C)(12) of section 5703.21 of the Revised Code until the related statement of production required by division (A) of this section is filed with the chief.

Sec. 1509.16. (A) As used in this section, "oil country tubular goods" means circular steel pipes that are seamless or welded and used in drilling for oil or natural gas, including casing, tubing, and drill pipe, whether

finished or unfinished, and steel couplings and drill collars used with the pipes.

(B) Beginning March 31, 2015, an owner shall file with the division of oil and gas resources management a disclosure form that specifies the country in which each oil country tubular good initially used in a production operation on or after that date was manufactured unless that country cannot be determined by the owner. The division shall prescribe the disclosure form and consult with representatives from the natural gas, oil, and steel industries when developing the form. The division shall use the information specified on the form to establish a quality well infrastructure catalog.

(C) The division shall determine the date on which the disclosure form shall be filed.

Sec. 1509.22. (A) Except when acting in accordance with section 1509.226 of the Revised Code, no person shall place or cause to be placed in ground water or in or on the land or discharge or cause to be discharged in surface water brine, crude oil, natural gas, or other fluids associated with the exploration ~~or~~, development, well stimulation, production operations, or plugging of oil and gas resources ~~in surface or ground water or in or on the land in such quantities or in such manner as actually that~~ causes or could reasonably be anticipated to cause ~~either of the following:~~

~~(1) Water used for consumption by humans or domestic animals to exceed the standards of the Safe Drinking Water Act;~~

~~(2) Damage damage or injury to public health or safety or the environment.~~

(B)(1) No person shall store or dispose of brine in violation of a plan approved under division (A) of section 1509.222 or section 1509.226 of the Revised Code, in violation of a resolution submitted under section 1509.226 of the Revised Code, or in violation of rules or orders applicable to those plans or resolutions.

(2)(a) On and after January 1, 2014, no person shall store, recycle, treat, process, or dispose of in this state brine or other waste substances associated with the exploration, development, well stimulation, production operations, or plugging of oil and gas resources without an order or a permit issued under this section or section 1509.06 or 1509.21 of the Revised Code or rules adopted under any of those sections. For purposes of division (B)(2)(a) of this section, a permit or other form of authorization issued by another agency of the state or a political subdivision of the state shall not be considered a permit or order issued by the chief of the division of oil and gas resources management under this chapter.

(b) Division (B)(2)(a) of this section does not apply to a person that

disposes of such waste substances other than brine in accordance with Chapter 3734. of the Revised Code and rules adopted under it.

(C) ~~The chief of the division of oil and gas resources management shall adopt rules and issue orders regarding storage, recycling, treatment, processing, and disposal of brine and other waste substances; however, the~~ The rules shall establish procedures and requirements in accordance with which a person shall apply for a permit or order for the storage, recycling, treatment, processing, or disposal of brine and other waste substances that are not subject to a permit issued under section 1509.06 or 1509.21 of the Revised Code and in accordance with which the chief may issue such a permit or order. An application for such a permit shall be accompanied by a nonrefundable fee of two thousand five hundred dollars.

The storage, recycling, treatment, processing, and disposal of brine and other waste substances and the chief's rules relating to storage, recycling, treatment, processing, and disposal are subject to all of the following standards:

(1) Brine from any well except an exempt Mississippian well shall be disposed of only ~~by injection~~ as follows:

(a) By injection into an underground formation, including annular disposal if approved by rule of the chief, which injection shall be subject to division (D) of this section; ~~by~~

(b) By surface application in accordance with section 1509.226 of the Revised Code; ~~in~~

(c) In association with a method of enhanced recovery as provided in section 1509.21 of the Revised Code; ~~or by~~

(d) In any other methods manner not specified in divisions (C)(1)(a) to (c) of this section that is approved by a permit or order issued by the chief for testing or implementing a new technology or method of disposal. Brine

(2) Brine from exempt Mississippian wells shall not be discharged directly into the waters of the state.

~~(2)~~(3) Muds, cuttings, and other waste substances shall not be disposed of in violation of this chapter or any rule adopted under it.

~~(3)~~(4) Pits or steel tanks shall be used as authorized by the chief for containing brine and other waste substances resulting from, obtained from, or produced in connection with drilling, well stimulation, reworking, reconditioning, plugging back, or plugging operations. The pits and steel tanks shall be constructed and maintained to prevent the escape of brine and other waste substances.

~~(4)~~(5) A dike or pit may be used for spill prevention and control. A dike or pit so used shall be constructed and maintained to prevent the escape of

brine and crude oil, and the reservoir within such a dike or pit shall be kept reasonably free of brine, crude oil, and other waste substances.

~~(5) Earthen impoundments~~ (6) Impoundments constructed utilizing a synthetic liner pursuant to the division's specifications may be used for the temporary storage of ~~fluids~~ waste substances used in the construction, stimulation, or plugging of a well.

~~(6)(7) No pit, earthen impoundment,~~ or dike shall be used for the temporary storage of brine or other waste substances except in accordance with divisions (C)~~(3)~~ to (4) and (5) of this section.

~~(7)(8) No pit or dike shall be used for the ultimate disposal of brine or other liquid waste substances.~~

(D)(1) No person, without first having obtained a permit from the chief, shall inject brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production into an underground formation unless a rule of the chief expressly authorizes the injection without a permit. The permit shall be in addition to any permit required by section 1509.05 of the Revised Code, and the permit application shall be accompanied by a permit fee of one thousand dollars. The chief shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the injection into wells of brine and other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production. The rules shall include provisions regarding all of the following:

(a) Applications for and issuance of the permits required by this division;

(b) Entry to conduct inspections and to examine and copy records to ascertain compliance with this division and rules, orders, and terms and conditions of permits adopted or issued under it;

(c) The provision and maintenance of information through monitoring, recordkeeping, and reporting. In addition, the rules shall require the owner of an injection well who has been issued a permit under division (D) of this section to quarterly submit electronically to the chief information concerning each shipment of brine or other waste substances received by the owner for injection into the well.

(d) The provision and electronic reporting quarterly of information concerning brine and other waste substances from a transporter that is registered under section 1509.222 of the Revised Code prior to the injection of the transported brine or other waste substances;

(e) Any other provisions in furtherance of the goals of this section and the Safe Drinking Water Act.

(2) The chief may adopt rules in accordance with Chapter 119. of the Revised Code authorizing tests to evaluate whether fluids or carbon dioxide may be injected in a reservoir and to determine the maximum allowable injection pressure, which shall be conducted in accordance with methods prescribed in the rules or in accordance with conditions of the permit. In addition, the chief may adopt rules that do both of the following:

(a) Establish the total depth of a well for which a permit has been applied for or issued under this division;

(b) Establish requirements and procedures to protect public health and safety.

(3) To implement the goals of the Safe Drinking Water Act, the chief shall not issue a permit for the injection of brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production unless the chief concludes that the applicant has demonstrated that the injection will not result in the presence of any contaminant in ground water that supplies or can reasonably be expected to supply any public water system, such that the presence of the contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

(4) The chief may issue an order to the owner of a well in existence on ~~the effective date of this amendment~~ September 10, 2012, to make changes in the operation of the well in order to correct problems or to address safety concerns.

(5) This division and rules, orders, and terms and conditions of permits adopted or issued under it shall be construed to be no more stringent than required for compliance with the Safe Drinking Water Act unless essential to ensure that underground sources of drinking water will not be endangered.

(E) The owner holding a permit, or an assignee or transferee who has assumed the obligations and liabilities imposed by this chapter and any rules adopted or orders issued under it pursuant to section 1509.31 of the Revised Code, and the operator of a well shall be liable for a violation of this section or any rules adopted or orders or terms or conditions of a permit issued under it.

(F) An owner shall replace the water supply of the holder of an interest in real property who obtains all or part of the holder's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been substantially disrupted by contamination, diminution, or interruption proximately

resulting from the owner's oil or gas operation, or the owner may elect to compensate the holder of the interest in real property for the difference between the fair market value of the interest before the damage occurred to the water supply and the fair market value after the damage occurred if the cost of replacing the water supply exceeds this difference in fair market values. However, during the pendency of any order issued under this division, the owner shall obtain for the holder or shall reimburse the holder for the reasonable cost of obtaining a water supply from the time of the contamination, diminution, or interruption by the operation until the owner has complied with an order of the chief for compliance with this division or such an order has been revoked or otherwise becomes not effective. If the owner elects to pay the difference in fair market values, but the owner and the holder have not agreed on the difference within thirty days after the chief issues an order for compliance with this division, within ten days after the expiration of that thirty-day period, the owner and the chief each shall appoint an appraiser to determine the difference in fair market values, except that the holder of the interest in real property may elect to appoint and compensate the holder's own appraiser, in which case the chief shall not appoint an appraiser. The two appraisers appointed shall appoint a third appraiser, and within thirty days after the appointment of the third appraiser, the three appraisers shall hold a hearing to determine the difference in fair market values. Within ten days after the hearing, the appraisers shall make their determination by majority vote and issue their final determination of the difference in fair market values. The chief shall accept a determination of the difference in fair market values made by agreement of the owner and holder or by appraisers under this division and shall make and dissolve orders accordingly. This division does not affect in any way the right of any person to enforce or protect, under applicable law, the person's interest in water resources affected by an oil or gas operation.

(G) In any action brought by the state for a violation of division (A) of this section involving any well at which annular disposal is used, there shall be a rebuttable presumption available to the state that the annular disposal caused the violation if the well is located within a one-quarter-mile radius of the site of the violation.

(H)(1) There is levied on the owner of an injection well who has been issued a permit under division (D) of this section the following fees:

(a) Five cents per barrel of each substance that is delivered to a well to be injected in the well when the substance is produced within the division of oil and gas resources management regulatory district in which the well is located or within an adjoining oil and gas resources management regulatory

district;

(b) Twenty cents per barrel of each substance that is delivered to a well to be injected in the well when the substance is not produced within the division of oil and gas resources management regulatory district in which the well is located or within an adjoining oil and gas resources management regulatory district.

(2) The maximum number of barrels of substance per injection well in a calendar year on which a fee may be levied under division (H) of this section is five hundred thousand. If in a calendar year the owner of an injection well receives more than five hundred thousand barrels of substance to be injected in the owner's well and if the owner receives at least one substance that is produced within the division's regulatory district in which the well is located or within an adjoining regulatory district and at least one substance that is not produced within the division's regulatory district in which the well is located or within an adjoining regulatory district, the fee shall be calculated first on all of the barrels of substance that are not produced within the division's regulatory district in which the well is located or within an adjoining district at the rate established in division (H)(2) of this section. The fee then shall be calculated on the barrels of substance that are produced within the division's regulatory district in which the well is located or within an adjoining district at the rate established in division (H)(1) of this section until the maximum number of barrels established in division (H)(2) of this section has been attained.

(3) The owner of an injection well who is issued a permit under division (D) of this section shall collect the fee levied by division (H) of this section on behalf of the division of oil and gas resources management and forward the fee to the division. The chief shall transmit all money received under division (H) of this section to the treasurer of state who shall deposit the money in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code. The owner of an injection well who collects the fee levied by this division may retain up to three per cent of the amount that is collected.

(4) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements and procedures for collection of the fee levied by division (H) of this section.

Sec. 1509.226. (A) If a board of county commissioners, a board of township trustees, or the legislative authority of a municipal corporation wishes to permit the surface application of brine to roads, streets, highways, and other similar land surfaces it owns or has the right to control for control of dust or ice, it may adopt a resolution permitting such application as

provided in this section. If a board or legislative authority does not adopt such a resolution, then no such surface application of brine is permitted on such roads, streets, highways, and other similar surfaces. If a board or legislative authority votes on a proposed resolution to permit such surface application of brine, but the resolution fails to receive the affirmative vote of a majority of the board or legislative authority, the board or legislative authority shall not adopt such a resolution for one year following the date on which the vote was taken. A board or legislative authority shall hold at least one public hearing on any proposal to permit surface application of brine under this division and may hold additional hearings. The board or legislative authority shall publish notice of the time and place of each such public hearing in a newspaper of general circulation in the political subdivision at least five days before the day on which the hearing is to be held.

(B) If a board or legislative authority adopts a resolution permitting the surface application of brine to roads, streets, highways, and other similar land surfaces under division (A) of this section, the board or legislative authority shall, within thirty days after the adoption of the resolution, prepare and submit to the chief of the division of oil and gas resources management a copy of the resolution. Any department, agency, or instrumentality of this state or the United States that wishes to permit the surface application of brine to roads, streets, highways, and other similar land surfaces it owns or has a right to control shall prepare and submit guidelines for such application, but need not adopt a resolution under division (A) of this section permitting such surface application.

All resolutions and guidelines shall be subject to the following standards:

- (1) Brine shall not be applied:
 - (a) To a water-saturated surface;
 - (b) Directly to vegetation near or adjacent to surfaces being treated;
 - (c) Within twelve feet of structures crossing bodies of water or crossing drainage ditches;
 - (d) Between sundown and sunrise, except for ice control.
- (2) The discharge of brine through the spreader bar shall stop when the application stops.
- (3) The applicator vehicle shall be moving at least five miles per hour at all times while the brine is being applied.
- (4) The maximum spreader bar nozzle opening shall be three-quarters of an inch in diameter.
- (5) The maximum uniform application rate of brine shall be three

thousand gallons per mile on a twelve-foot-wide road or three gallons per sixty square feet on unpaved lots.

(6) The applicator vehicle discharge valve shall be closed between the brine collection point and the specific surfaces that have been approved for brine application.

(7) Any valves that provide for tank draining other than through the spreader bar shall be closed during the brine application and transport.

(8) The angle of discharge from the applicator vehicle spreader bar shall not be greater than sixty degrees from the perpendicular to the unpaved surface.

(9) Only the last twenty-five per cent of an applicator vehicle's contents shall be allowed to have a pressure greater than atmospheric pressure; therefore, the first seventy-five per cent of the applicator vehicle's contents shall be discharged under atmospheric pressure.

(10) Only brine that is produced from a well that is not a horizontal well shall be allowed to be spread on a road. Fluids from the drilling of a well, flowback from the stimulation of a well, and other fluids used to treat a well shall not be spread on a road.

If a resolution or guidelines contain only the standards listed in divisions (B)(1) to (10) of this section, without addition or qualification, the resolution or guidelines shall be deemed effective when submitted to the chief without further action by the chief. All other resolutions and guidelines shall comply with and be no less stringent than this chapter, rules concerning surface application that the chief shall adopt under division (C) of section 1509.22 of the Revised Code, and other rules of the chief. Within fifteen days after receiving such other resolutions and guidelines, the chief shall review them for compliance with the law and rules and disapprove them if they do not comply.

The board, legislative authority, or department, agency, or instrumentality may revise and resubmit any resolutions or guidelines that the chief disapproves after each disapproval, and the chief shall again review and approve or disapprove them within fifteen days after receiving them. The board, legislative authority, or department, agency, or instrumentality may amend any resolutions or guidelines previously approved by the chief and submit them, as amended, to the chief. The chief shall receive, review, and approve or disapprove the amended resolutions or guidelines on the same basis and in the same time as original resolutions or guidelines. The board, legislative authority, or department, agency, or instrumentality shall not implement amended resolutions or guidelines until they are approved by the chief under this division.

(C) Any person, other than a political subdivision required to adopt a resolution under division (A) of this section or a department, agency, or instrumentality of this state or the United States, who owns or has a legal right or obligation to maintain a road, street, highway, or other similar land surface may file with the board of county commissioners a written plan for the application of brine to the road, street, highway, or other surface. The board need not approve any such plans, but if it approves a plan, the plan shall comply with this chapter, rules adopted thereunder, and the board's resolutions, if any. Disapproved plans may be revised and resubmitted for the board's approval. Approved plans may also be revised and submitted to the board. A plan or revised plan shall do all of the following:

- (1) Identify the sources of brine to be used under the plan;
- (2) Identify by name, address, and registration certificate, if applicable, any transporters of the brine;
- (3) Specifically identify the places to which the brine will be applied;
- (4) Specifically describe the method, rate, and frequency of application.

(D) The board may attach terms and conditions to approval of a plan, or revised plan, and may revoke approval for any violation of this chapter, rules adopted thereunder, resolutions adopted by the board, or terms or conditions attached by the board. The board shall conduct at least one public hearing before approving a plan or revised plan, publishing notice of the time and place of each such public hearing in a newspaper of general circulation in the county at least five days before the day on which the hearing is to be held. The board shall record the filings of all plans and revised plans in its journal. The board shall approve, disapprove, or revoke approval of a plan or revised plan by the adoption of a resolution. Upon approval of a plan or revised plan, the board shall send a copy of the plan to the chief. Upon revoking approval of a plan or revised plan, the board shall notify the chief of the revocation.

(E) No person shall:

- (1) Apply brine to a water-saturated surface;
- (2) Apply brine directly to vegetation adjacent to the surface of roads, streets, highways, and other surfaces to which brine may be applied.

(F) Each political subdivision that adopts a resolution under divisions (A) and (B) of this section, each department, agency, or instrumentality of this state or the United States that submits guidelines under division (B) of this section, and each person who files a plan under divisions (C) and (D) of this section shall, on or before the fifteenth day of April of each year, file a report with the chief concerning brine applied within the person's or governmental entity's jurisdiction, including the quantities transported and

the sources and application points during the last preceding calendar year and such other information in such form as the chief requires.

(G) Any political subdivision or department, agency, or instrumentality of this state or the United States that applies brine under this section may do so with its own personnel, vehicles, and equipment without registration under or compliance with section 1509.222 or 1509.223 of the Revised Code and without the necessity for filing the surety bond or other security required by section 1509.225 of the Revised Code. However, each such entity shall legibly identify vehicles used to apply brine with reflective paint in letters no less than four inches in height, indicating the word "brine" and that the vehicle is a vehicle of the political subdivision, department, agency, or instrumentality. Except as stated in this division, such entities shall transport brine in accordance with sections 1509.22 to 1509.226 of the Revised Code.

(H) A surface application plan filed for approval under division (C) of this section shall be accompanied by a nonrefundable fee of fifty dollars, which shall be credited to the general fund of the county. An approved plan is valid for one year from the date of its approval unless it is revoked before that time. An approved revised plan is valid for the remainder of the term of the plan it supersedes unless it is revoked before that time. Any person who has filed such a plan or revised plan and had it approved may renew it by refileing it in accordance with divisions (C) and (D) of this section within thirty days before any anniversary of the date on which the original plan was approved. The board shall notify the chief of renewals and nonrenewals of plans. Even if a renewed plan is approved under those divisions, the plan is not effective until notice is received by the chief, and until notice is received, the chief shall enforce this chapter and rules adopted thereunder with regard to the affected roads, streets, highways, and other similar land surfaces as if the plan had not been renewed.

(I) A resolution adopted under division (A) of this section by a board or legislative authority shall be effective for one year following the date of its adoption and from month to month thereafter until the board or legislative authority, by resolution, terminates the authority granted in the original resolution. The termination shall be effective not less than seven days after enactment of the resolution, and a copy of the resolution shall be sent to the chief.

Sec. 1509.227. Notwithstanding division (B)(2)(a) of section 1509.22 of the Revised Code, on and after January 1, 2014, a person that is in operation prior to the date may store, recycle, treat, process, or dispose of in this state brine or other waste substances associated with the exploration,

development, well stimulation, production operations, or plugging of oil and gas resources without an order or a permit issued under section 1509.06, 1509.21, or 1509.22 of the Revised Code or rules adopted under any of those sections, provided that the chief of the division of oil and gas resources management has approved the operation and any required permit or other form of authorization has been issued by the environmental protection agency.

Sec. 1509.50. (A) An oil and gas regulatory cost recovery assessment is hereby imposed by this section on an owner. An owner shall pay the assessment in the same manner as a severer who is required to file a return under section 5749.06 of the Revised Code. However, an owner may designate a severer who shall pay the owner's assessment on behalf of the owner on the return that the severer is required to file under that section. If a severer so pays an owner's assessment, the severer may recoup from the owner the amount of the assessment. Except for an exempt domestic well, the assessment imposed shall be in addition to the taxes levied on the severance of oil and gas under section 5749.02 of the Revised Code.

(B)(1) Except for an exempt domestic well, the oil and gas regulatory cost recovery assessment shall be calculated on a quarterly basis and shall be one of the following:

(a) If the sum of ten cents per barrel of oil for all of the wells of the owner, one-half of one cent per one thousand cubic feet of natural gas for all of the wells of the owner, and the amount of the severance tax levied on each severer for all of the wells of the owner under divisions (A)(5) and (6) of section 5749.02 of the Revised Code, as applicable, is greater than the sum of fifteen dollars for each well owned by the owner, the amount of the assessment is the sum of ten cents per barrel of oil for all of the wells of the owner and one-half of one cent per one thousand cubic feet of natural gas for all of the wells of the owner.

(b) If the sum of ten cents per barrel of oil for all of the wells of the owner, one-half of one cent per one thousand cubic feet of natural gas for all of the wells of the owner, and the amount of the severance tax levied on each severer for all of the wells of the owner under divisions (A)(5) and (6) of section 5749.02 of the Revised Code, as applicable, is less than the sum of fifteen dollars for each well owned by the owner, the amount of the assessment is the sum of fifteen dollars for each well owned by the owner less the amount of the tax levied on each severer for all of the wells of the owner under divisions (A)(5) and (6) of section 5749.02 of the Revised Code, as applicable.

(2) The oil and gas regulatory cost recovery assessment for a well that

becomes an exempt domestic well on and after June 30, 2010, shall be sixty dollars to be paid to the division of oil and gas resources management on the first day of July of each year.

(C) All money collected pursuant to this section shall be ~~deposited in the state treasury to the credit of~~ credited to the severance tax receipts fund. After the director of budget and management transfers money from the severance tax receipts fund as required in division (H) of section 5749.06 of the Revised Code, money in the severance tax receipts fund from amounts collected pursuant to this section shall be credited to the oil and gas well fund created in section 1509.02 of the Revised Code.

(D) Except for purposes of revenue distribution as specified in division (B) of section 5749.02 of the Revised Code, the oil and gas regulatory cost recovery assessment imposed by this section shall be treated the same and equivalent for all purposes as the taxes levied on the severance of oil and gas under that section. However, the assessment imposed by this section is not a tax under Chapter 5749. of the Revised Code.

Sec. 1511.02. The chief of the division of soil and water resources, subject to the approval of the director of natural resources, shall do all of the following:

(A) Provide administrative leadership to local soil and water conservation districts in planning, budgeting, staffing, and administering district programs and the training of district supervisors and personnel in their duties, responsibilities, and authorities as prescribed in this chapter and Chapter 1515. of the Revised Code;

(B) Administer this chapter and Chapter 1515. of the Revised Code pertaining to state responsibilities and provide staff assistance to the Ohio soil and water conservation commission in exercising its statutory responsibilities;

(C) Assist in expediting state responsibilities for watershed development and other natural resource conservation works of improvement;

(D) Coordinate the development and implementation of cooperative programs and working agreements between local soil and water conservation districts and divisions or sections of the department of natural resources, or other agencies of local, state, and federal government;

(E) Subject to the approval of the Ohio soil and water conservation commission, adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code. Rules adopted pursuant to this section:

(1) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices in farming or silvicultural operations that will abate wind or water erosion of

the soil or abate the degradation of the waters of the state by animal waste or by soil sediment including substances attached thereto, and establish criteria for determination of the acceptability of such management and conservation practices;

(2) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil-disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of such management and conservation practices. The standards shall be designed to implement applicable areawide waste treatment management plans prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1288, as amended. The standards and criteria shall not apply in any municipal corporation or county that adopts ordinances or rules pertaining to sediment control, nor to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, nor to lands being used in a surface mining operation as defined in section 1514.01 of the Revised Code.

(3) May recommend criteria and procedures for the approval of urban sediment pollution abatement plans and issuance of permits prior to any grading, excavating, filling, or other whole or partial disturbance of five or more contiguous acres of land owned by one person or operated as one development unit and require implementation of such a plan. Areas of less than five contiguous acres are not exempt from compliance with other provisions of this chapter and rules adopted under them.

(4) Shall establish procedures for administration of rules for agricultural pollution abatement and urban sediment pollution abatement and for enforcement of rules for agricultural pollution abatement;

(5) Shall specify the pollution abatement practices eligible for state cost sharing and determine the conditions for eligibility, the construction standards and specifications, the useful life, the maintenance requirements, and the limits of cost sharing for those practices. Eligible practices shall be limited to practices that address agricultural or silvicultural operations and that require expenditures that are likely to exceed the economic returns to the owner or operator and that abate soil erosion or degradation of the waters of the state by animal waste or soil sediment including pollutants attached thereto.

(6) Shall establish procedures for administering grants to owners or

operators of agricultural land or concentrated animal feeding operations for the implementation of operation and management plans;

(7) Shall establish procedures for administering grants to soil and water conservation districts for urban sediment pollution abatement programs, specify the types of projects eligible for grants, establish limits on the availability of grants, and establish requirements governing the execution of projects to encourage the reduction of erosion and sedimentation associated with soil-disturbing activities;

(8) Shall do all of the following with regard to composting conducted in conjunction with agricultural operations:

(a) Provide for the distribution of educational material concerning composting to the offices of ~~the Ohio cooperative~~ OSU extension service for the purposes of section 1511.022 of the Revised Code;

(b) Establish methods, techniques, or practices for composting dead animals, or particular types of dead animals, that are to be used at such operations, as the chief considers to be necessary or appropriate;

(c) Establish requirements and procedures governing the review and approval or disapproval of composting plans by the supervisors of soil and water conservation districts under division (Q) of section 1515.08 of the Revised Code.

(9) Shall be adopted, amended, or rescinded after the chief does all of the following:

(a) Mails notice to each statewide organization that the chief determines represents persons or local governmental agencies who would be affected by the proposed rule, amendment thereto, or rescission thereof at least thirty-five days before any public hearing thereon;

(b) Mails a copy of each proposed rule, amendment thereto, or rescission thereof to any person who requests a copy, within five days after receipt of the request;

(c) Consults with appropriate state and local governmental agencies or their representatives, including statewide organizations of local governmental officials, industrial representatives, and other interested persons;

(d) If the rule relates to agricultural pollution abatement, develops an economic impact statement concerning the effect of the proposed rule or amendment.

(10) Shall not conflict with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. Compliance with rules adopted pursuant to this section does not affect liability for noncompliance with air or water quality standards adopted pursuant to

section 3704.03 or 6111.041 of the Revised Code. The application of a level of management and conservation practices recommended under this section to control windblown soil from farming operations creates a presumption of compliance with section 3704.03 of the Revised Code as that section applies to windblown soil.

(11) Insofar as the rules relate to urban sediment pollution, shall not be applicable in a municipal corporation or county that adopts ordinances or rules for urban sediment control, except that a municipal corporation or county that adopts such ordinances or rules may receive moneys for urban sediment control that are disbursed by the board of supervisors of the applicable soil and water conservation district under division (N) of section 1515.08 of the Revised Code. The rules shall not exempt any person from compliance with municipal ordinances enacted pursuant to Section 3 of Article XVIII, Ohio Constitution.

(F) Cost share with landowners on practices established pursuant to division (E)(5) of this section as moneys are appropriated and available for that purpose. Any practice for which cost share is provided shall be maintained for its useful life. Failure to maintain a cost share practice for its useful life shall subject the landowner to full repayment to the division.

(G) Issue orders requiring compliance with any rule adopted under division (E)(1) of this section or with section 1511.022 of the Revised Code. Before the chief issues an order, the chief shall afford each person allegedly liable an adjudication hearing under Chapter 119. of the Revised Code. The chief may require in an order that a person who has caused agricultural pollution by failure to comply with the standards established under division (E)(1) of this section operate under an operation and management plan approved by the chief under this section. The chief shall require in an order that a person who has failed to comply with division (A) of section 1511.022 of the Revised Code prepare a composting plan in accordance with rules adopted under division (E)(10)(c) of this section and operate in accordance with that plan or that a person who has failed to operate in accordance with such a plan begin to operate in accordance with it. Each order shall be issued in writing and contain a finding by the chief of the facts upon which the order is based and the standard that is not being met.

(H) Employ field assistants and such other employees as are necessary for the performance of the work prescribed by Chapter 1515. of the Revised Code, for performance of work of the division, and as agreed to under working agreements or contractual arrangements with local soil and water conservation districts, prescribe their duties, and fix their compensation in accordance with such schedules as are provided by law for the compensation

of state employees.

All employees of the division, unless specifically exempted by law, shall be employed subject to the classified civil service laws in force at the time of employment.

(I) In connection with new or relocated projects involving highways, underground cables, pipelines, railroads, and other improvements affecting soil and water resources, including surface and subsurface drainage:

(1) Provide engineering service as is mutually agreeable to the Ohio soil and water conservation commission and the director to aid in the design and installation of soil and water conservation practices as a necessary component of such projects;

(2) Maintain close liaison between the owners of lands on which the projects are executed, local soil and water conservation districts, and authorities responsible for such projects;

(3) Review plans for such projects to ensure their compliance with standards developed under division (E) of this section in cooperation with the department of transportation or with any other interested agency that is engaged in soil or water conservation projects in the state in order to minimize adverse impacts on soil and water resources adjacent to or otherwise affected by these projects;

(4) Recommend measures to retard erosion and protect soil and water resources through the installation of water impoundment or other soil and water conservation practices;

(5) Cooperate with other agencies and subdivisions of the state to protect the agricultural status of rural lands adjacent to such projects and control adverse impacts on soil and water resources.

(J) Collect, analyze, inventory, and interpret all available information pertaining to the origin, distribution, extent, use, and conservation of the soil resources of the state;

(K) Prepare and maintain up-to-date reports, maps, and other materials pertaining to the soil resources of the state and their use and make that information available to governmental agencies, public officials, conservation entities, and the public;

(L) Provide soil and water conservation districts with technical assistance including on-site soil investigations and soil interpretation reports on the suitability or limitations of soil to support a particular use or to plan soil conservation measures. The assistance shall be upon such terms as are mutually agreeable to the districts and the department of natural resources.

(M) Assist local government officials in utilizing land use planning and zoning, current agricultural use value assessment, development reviews, and

land management activities;

(N) When necessary for the purposes of this chapter or Chapter 1515. of the Revised Code, develop or approve operation and management plans.

This section does not restrict the excrement of domestic or farm animals defecated on land outside a concentrated animal feeding operation or runoff therefrom into the waters of the state.

Sec. 1511.022. (A) Any person who owns or operates an agricultural operation, or owns the animals raised by the owner or operator of an agricultural operation, and who wishes to conduct composting of dead animals resulting from the agricultural operation shall do both of the following:

(1) Participate in an educational course concerning composting conducted by ~~the Ohio cooperative~~ OSU extension ~~service~~ and obtain a certificate of completion for the course;

(2) Use the appropriate method, technique, or practice of composting established in rules adopted under division (E)(8) of section 1511.02 of the Revised Code.

(B) Any person who fails to comply with division (A) of this section shall prepare and operate under a composting plan in accordance with an order issued by the chief of the division of soil and water resources under division (G) of section 1511.02 of the Revised Code. If the person's proposed composting plan is disapproved by the board of supervisors of the appropriate soil and water conservation district under division (Q)(3) of section 1515.08 of the Revised Code, the person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the disapproval, the plan shall be deemed approved.

Sec. 1531.06. (A) The chief of the division of wildlife, with the approval of the director of natural resources, may acquire by gift, lease, purchase, or otherwise lands or surface rights upon lands and waters or surface rights upon waters for wild animals, fish or game management, preservation, propagation, and protection, outdoor and nature activities, public fishing and hunting grounds, and flora and fauna preservation. The chief, with the approval of the director, may receive by grant, devise, bequest, donation, or assignment evidences of indebtedness, the proceeds of which are to be used for the purchase of such lands or surface rights upon lands and waters or surface rights upon waters.

(B)(1) The chief shall adopt rules for the protection of state-owned or leased lands and waters and property under the control of the division of wildlife against wrongful use or occupancy that will ensure the carrying out

of the intent of this section, protect those lands, waters, and property from depredations, and preserve them from molestation, spoilation, destruction, or any improper use or occupancy thereof, including rules with respect to recreational activities and for the government and use of such lands, waters, and property.

(2) The chief may adopt rules benefiting wild animals, fish or game management, preservation, propagation, and protection, outdoor and nature activities, public fishing and hunting grounds, and flora and fauna preservation, and regulating the taking and possession of wild animals on any lands or waters owned or leased or under the division's supervision and control and, for a specified period of years, may prohibit or recall the taking and possession of any wild animal on any portion of such lands or waters. The division clearly shall define and mark the boundaries of the lands and waters owned or leased or under its supervision and control upon which the taking of any wild animal is prohibited.

(C) The chief, with the approval of the director, may acquire by gift, lease, or purchase land for the purpose of establishing state fish hatcheries and game farms and may erect on it buildings or structures that are necessary.

The title to or lease of such lands and waters shall be taken by the chief in the name of the state. The lease or purchase price of all such lands and waters may be paid from hunting and trapping and fishing licenses and any other funds.

(D) To provide more public recreation, stream and lake agreements for public fishing only may be obtained under rules adopted by the chief.

(E) The chief, with the approval of the director, may establish user fees for the use of special public facilities or participation in special activities on lands and waters administered by the division. The special facilities and activities may include hunting or fishing on special designated public lands and waters intensively managed or stocked with artificially propagated game birds or fish, field trial facilities, wildlife nature centers, firearm ranges, boat mooring facilities, camping sites, and other similar special facilities and activities. The chief shall determine whether the user fees are refundable and shall ensure that that information is provided at the time the user fees are paid.

(F) The chief, with the approval of the director, may enter into lease agreements for rental of concessions or other special projects situated on state-owned or leased lands or waters or other property under the division's control. The chief shall set and collect the fees for concession rentals or other special projects; regulate through contracts between the division and

concessionaires the sale of tangible objects at concessions or other special projects; and keep a record of all such fee payments showing the amount received, from whom received, and for what purpose the fee was collected.

(G) The chief may sell or donate conservation-related items or items that promote wildlife conservation, including, but not limited to, stamps, pins, badges, books, bulletins, maps, publications, calendars, and any other educational article or artifact pertaining to wild animals; sell confiscated or forfeited items; and sell surplus structures and equipment, and timber or crops from lands owned, administered, leased, or controlled by the division. The chief, with the approval of the director, also may engage in campaigns and special events that promote wildlife conservation by selling or donating wildlife-related materials, memberships, and other items of promotional value.

(H) The chief may sell, lease, or transfer minerals or mineral rights, with the approval of the director, when the chief and the director determine it to be in the best interest of the state. Upon approval of the director, the chief may make, execute, and deliver contracts, including leases, to mine, drill, or excavate iron ore, stone, coal, salt, and other minerals, other than oil or gas, upon and under lands owned by the state and administered by the division to any person who complies with the terms of such a contract. No such contract shall be valid for more than fifty years from its effective date. Consideration for minerals and mineral rights shall be by rental or royalty basis as prescribed by the chief and payable as prescribed by contract. Moneys collected under this division shall be paid into the state treasury to the credit of the wildlife habitat fund created in section 1531.33 of the Revised Code. Contracts entered into under this division also may provide for consideration for minerals or mineral rights in the form of acquisition of lands as provided under divisions (A) and (C) of this section.

(I) All moneys received under divisions (E), (F), and (G) of this section shall be paid into the state treasury to the credit of a fund that shall be used for the purposes outlined in section 1533.15 of the Revised Code and for the management of other wild animals for their ecological and nonconsumptive recreational value or benefit.

(J) The chief, with the approval of the director, may barter or sell wild animals to other states, state or federal agencies, and conservation or zoological organizations. Moneys received from the sale of wild animals shall be deposited into the ~~wild animal~~ wildlife fund created in section ~~1531.34~~ 1531.17 of the Revised Code.

(K) The chief shall adopt rules establishing standards and guidelines for the administration of contraceptive chemicals to noncaptive wild animals.

The rules may specify chemical delivery methods and devices and monitoring requirements.

The chief shall establish criteria for the issuance of and shall issue permits for the administration of contraceptive chemicals to noncaptive wild animals. No person shall administer contraceptive chemicals to noncaptive wild animals without a permit issued by the chief.

(L) All fees set by the chief under this section shall be approved by the wildlife council.

(M) Information contained in the wildlife diversity database that is established pursuant to division (B)(2) of this section and section 1531.25 of the Revised Code may be made available to any individual or public or private agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. Information regarding sensitive site locations of species that are listed pursuant to section 1531.25 of the Revised Code and of features that are included in the wildlife diversity database is not subject to section 149.43 of the Revised Code if the chief determines that the release of the information could be detrimental to the conservation of a species or feature.

Sec. 1531.17. All fines, penalties, and forfeitures arising from prosecutions, convictions, confiscations, or otherwise under this chapter and Chapters 1517. and 1533. of the Revised Code, unless otherwise directed by the director of natural resources, shall be paid by the officer by whom collected to the director and by ~~him~~ the director paid into the state treasury to the credit of the wildlife fund, which is hereby created, for the use of the division of wildlife. All moneys received from the sale of wild animals under division (J) of section 1531.06 shall be paid into the state treasury to the credit of the wildlife fund for the use of the division. All moneys collected as license fees on nets in the Lake Erie fishing district shall be paid by the director into the state treasury to the credit of the wildlife fund for use only in the betterment and the propagation of fish therein or in otherwise propagating fish in such district. All investment earnings of the fund shall be credited to the fund. The wildlife fund shall not be used for compensation of personnel employed by other divisions of the department of natural resources who are assigned to law enforcement duties in aid of the division of wildlife or for compensation of division of wildlife personnel for activities related to the instruction of personnel of other divisions.

Sec. 1545.071. ~~The following applies until the department of administrative services implements for park districts the health care plans under section 9.901 of the Revised Code. If those plans do not include or~~

~~address any benefits listed in this section, the following provisions continue in effect for those benefits.~~

The board of park commissioners of any park district may procure and pay all or any part of the cost of group insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, or prescription drugs, or sickness and accident insurance or a combination of any of the foregoing types of insurance or coverage for park district officers and employees and their immediate dependents issued by an insurance company duly authorized to do business in this state.

The board may procure and pay all or any part of the cost of group life insurance to insure the lives of park district employees.

The board also may contract for group health care services with health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code provided that each officer or employee is permitted to:

(A) Choose between a plan offered by an insurance company and a plan offered by a health insuring corporation and provided further that the officer or employee pays any amount by which the cost of the plan chosen by the officer or employee exceeds the cost of the plan offered by the board under this section;

(B) Change the choice made under division (A) of this section at a time each year as determined in advance by the board.

Any appointed member of the board of park commissioners and the spouse and dependent children of the member may be covered, at the option and expense of the member, as a noncompensated employee of the park district under any benefit plan described in division (A) of this section. The member shall pay to the park district the amount certified to it by the benefit provider as the provider's charge for the coverage the member has chosen under division (A) of this section. Payments for coverage shall be made, in advance, in a manner prescribed by the board. The member's exercise of an option to be covered under this section shall be in writing, announced at a regular public meeting of the board, and recorded as a public record in the minutes of the board.

The board may provide the benefits authorized in this section by contributing to a health and welfare trust fund administered through or in conjunction with a collective bargaining representative of the park district employees.

The board may provide the benefits described in this section through an individual self-insurance program or a joint self-insurance program as provided in section 9.833 of the Revised Code.

Sec. 1545.23. If a park district enters into an agreement for the sale or lease of mineral rights regarding a park within the district, any royalties or other moneys resulting from the sale or lease shall be deposited into a special fund that the board of park commissioners shall create. The fund shall be used exclusively for maintenance of parks within the district and for the acquisition of new park lands.

Sec. 1547.532. (A) All of the following are exempt from registration under this chapter:

- (1) Sailboards;
 - (2) Kiteboards;
 - (3) Paddleboards;
 - (4) Belly boats or float tubes.
- (B) As used in this section:

(1) "Belly boat" or "float tube" means a vessel that is inflatable, propelled solely by human muscular effort without using an oar, paddle, or pole, and designed to accommodate a single individual as an operator in such a manner that the operator remains partially submerged in the water.

(2) "Kiteboard" means a recreational vessel that is inherently buoyant, has no cockpit, and is operated by an individual who is standing on the vessel while using a kite as a means of propulsion and lift.

(3) "Paddleboard" means a recreational vessel that is inherently buoyant, is propelled by human muscular effort using a pole or single- or double-bladed paddle, and is operated by an individual who is kneeling, standing, or lying on the vessel.

(4) "Sailboard" means a recreational vessel that is inherently buoyant, has no cockpit, has a single sail mounted on a mast that is connected to the vessel by a free-rotating, flexible joint, and is operated by an individual who is standing on the vessel.

Sec. 1547.542. (A) Any person or organization owning any number of canoes, rowboats, inflatable watercraft, or sailboats for the purpose of rental to the public may apply with the chief of the division of watercraft for and receive an annual certificate of livery registration. No watercraft shall be rented to the public from a livery or other place of business in this state unless it first has been numbered and registered in accordance with this section or section 1547.54 of the Revised Code. Certificates of livery registration shall be issued by an authorized agent who is selected by the chief from among those designated under section 1547.54 of the Revised Code. The certificate shall display ~~the~~ all of the following:

- (1) The name of the owner of the livery; ~~the;~~
- (2) The date of issuance; ~~the;~~

~~(3) The date of expiration, the;~~

~~(4) The number of watercraft registered, the;~~

~~(5) The fee paid, an;~~

~~(6) An authorized facsimile of the signature of the chief provided by the authorized agent who is selected to issue the certificate, and the;~~

~~(7) The signature of the livery owner. The certificate shall bear the;~~

~~(8) The livery watercraft registration number assigned to the livery owner, which shall be displayed in accordance with section 1547.57 of the Revised Code on each watercraft in the fleet for which the certificate was issued. The~~

The owner of the livery shall be issued a tag for each watercraft that has been registered in accordance with this section. The tag shall be affixed to each such watercraft in accordance with this section prior to the watercraft's being rented to the public. The chief shall prescribe the content and form of the tag in rules adopted under section 1547.52 of the Revised Code.

The owner of a livery shall obtain an amended certificate of livery registration from the chief whenever the composition of the fleet changes.

(B) Not later than March 15, 2015, the owner of a livery shall identify each watercraft in the fleet for which a certificate of registration has been issued under this section in one of the following ways:

(1) By displaying the livery watercraft registration number assigned to the livery owner on the forward half of both sides of the watercraft in block characters that are of a single color that contrasts with the color of the hull and are at least three inches in height. The livery watercraft registration number shall be displayed in such a manner that the number is visible under normal operating conditions. In addition, the tag that has been issued to the watercraft under this section shall be placed not more than six inches from the livery watercraft registration number on the port side of the watercraft.

(2) By displaying the livery name on the rear half of the watercraft in such a manner that it is clearly visible under normal operating conditions. If there is insufficient space or it is impractical to display the livery name on the sides of the watercraft, the livery name may be displayed on the rear half of the watercraft's deck, provided that the display of the name does not interfere with the placement of the tag that has been issued to the watercraft. In addition, the tag shall be placed in one of the following locations:

(a) In the upper right corner of the transom so that the tag does not interfere with the legibility of the hull identification number of the watercraft;

(b) Six inches from the stern on the outside of the watercraft below the port side gunwale;

(c) On the inside of the watercraft on the upper portion of the starboard side gunwale so that the tag is visible from the port side of the watercraft;

(d) On a deck on the rear half of the watercraft.

For purposes of division (B) of this section, each watercraft in a livery fleet shall be identified in a uniform and consistent manner.

(C) The fee for each watercraft registered under this section shall be an annual registration fee. The fee shall be one-third of the triennial registration fees prescribed in section 1547.54 of the Revised Code. However, if the size of the fleet does not increase, the fee for an amended certificate of livery registration shall be the fee prescribed for issuing a duplicate registration certificate under section 1547.54 of the Revised Code, and the chief shall not refund to the livery owner all or any portion of an annual registration fee applicable to a watercraft transferred or abandoned by the livery owner. If the size of the fleet increases, the livery owner shall be required to pay the applicable annual registration fee for each watercraft registered under an amended certificate of livery registration that is in excess of the number of watercraft contained in the annual certificate of livery registration.

In addition to the fees established in this section, watercraft that are not powercraft shall be charged a waterways conservation assessment fee. The fee shall be collected at the time of the issuance of an annual livery registration under this section and shall be one dollar and fifty cents for each watercraft included in the registration. The fee shall be deposited in the state treasury and credited to a distinct account in the waterways safety fund created in section 1547.75 of the Revised Code.

(D) The certificate of livery registration, rental ~~receipts~~ agreements, and required safety equipment are subject to inspection at any time at the livery's place of business by any authorized representative of the division of watercraft or any law enforcement officer in accordance with section 1547.63 of the Revised Code.

(E) Except as provided in this section, all watercraft registered under this section are subject to this chapter and Chapter 1548. of the Revised Code.

(F) The chief may issue an order temporarily ~~or permanently~~ restricting or suspending a livery certificate of registration and the privileges associated with it without a hearing if the chief finds that the holder of the certificate has violated this chapter.

Sec. 1547.99. (A) Whoever violates section 1547.91 of the Revised Code is guilty of a felony of the fourth degree.

(B) Whoever violates division (F) of section 1547.08, section 1547.10, division (I) of section 1547.111, section 1547.13, or section 1547.66 of the

Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates a provision of this chapter or a rule adopted thereunder, for which no penalty is otherwise provided, is guilty of a minor misdemeanor.

(D) Whoever violates section 1547.07, 1547.132, or 1547.12 of the Revised Code without causing injury to persons or damage to property is guilty of a misdemeanor of the fourth degree.

(E) Whoever violates section 1547.07, 1547.132, or 1547.12 of the Revised Code causing injury to persons or damage to property is guilty of a misdemeanor of the third degree.

(F) Whoever violates division (N) of section 1547.54, division (G) of section 1547.30, or section 1547.131, 1547.25, 1547.33, 1547.38, 1547.39, 1547.40, 1547.65, 1547.69, or 1547.92 of the Revised Code or a rule adopted under division (A)(2) of section 1547.52 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(G) Whoever violates section 1547.11 of the Revised Code is guilty of a misdemeanor of the first degree and shall be punished as provided in division (G)(1), (2), or (3) of this section.

(1) Except as otherwise provided in division (G)(2) or (3) of this section, the court shall sentence the offender to a jail term of three consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

The court may suspend the execution of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court, in lieu of the suspended jail term, places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code and requires the offender to attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section ~~3793.10~~ 5119.38 of the Revised Code. The court also may suspend the execution of any part of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three consecutive days; requires the offender to attend, for that part of the three consecutive days, a drivers' intervention program that is certified pursuant to section ~~3793.10~~ 5119.38 of the Revised Code; and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the drivers' intervention program. The court may require the

offender, as a condition of community control, to attend and satisfactorily complete any treatment or education programs, in addition to the required attendance at a drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

(2) If, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of section 1547.11 of the Revised Code or one other equivalent offense, the court shall sentence the offender to a jail term of ten consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section ~~3793.10~~ 5119.38 of the Revised Code.

(3) If, within six years of the offense, the offender has been convicted of or pleaded guilty to more than one violation or offense identified in division (G)(2) of this section, the court shall sentence the offender to a jail term of thirty consecutive days and may sentence the offender to a longer jail term of not more than one year. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section ~~3793.10~~ 5119.38 of the Revised Code.

(4) Upon a showing that serving a jail term would seriously affect the ability of an offender sentenced pursuant to division (G)(1), (2), or (3) of this section to continue the offender's employment, the court may authorize that the offender be granted work release after the offender has served the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. No court shall authorize work release during the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the place in which the jail term is served and the time actually spent under employment.

(5) Notwithstanding any section of the Revised Code that authorizes the

suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court shall suspend the mandatory jail term of ten or thirty consecutive days required to be imposed by division (G)(2) or (3) of this section or place an offender who is sentenced pursuant to division (G)(2) or (3) of this section in any treatment program in lieu of being imprisoned or serving a jail term until after the offender has served the mandatory jail term of ten or thirty consecutive days required to be imposed pursuant to division (G)(2) or (3) of this section. Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court, except as specifically authorized by division (G)(1) of this section, shall suspend the mandatory jail term of three consecutive days required to be imposed by division (G)(1) of this section or place an offender who is sentenced pursuant to division (G)(1) of this section in any treatment program in lieu of imprisonment until after the offender has served the mandatory jail term of three consecutive days required to be imposed pursuant to division (G)(1) of this section.

(6) As used in division (G) of this section:

(a) "Equivalent offense" has the same meaning as in section 4511.181 of the Revised Code.

(b) "Jail term" and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

(H) Whoever violates section 1547.304 of the Revised Code is guilty of a misdemeanor of the fourth degree and also shall be assessed any costs incurred by the state or a county, township, municipal corporation, or other political subdivision in disposing of an abandoned junk vessel or outboard motor, less any money accruing to the state, county, township, municipal corporation, or other political subdivision from that disposal.

(I) Whoever violates division (B) or (C) of section 1547.49 of the Revised Code is guilty of a minor misdemeanor.

(J) Whoever violates section 1547.31 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense. On each subsequent offense, the person is guilty of a misdemeanor of the third degree.

(K) Whoever violates section 1547.05 or 1547.051 of the Revised Code is guilty of a misdemeanor of the fourth degree if the violation is not related to a collision, injury to a person, or damage to property and a misdemeanor of the third degree if the violation is related to a collision, injury to a person, or damage to property.

(L) The sentencing court, in addition to the penalty provided under this

section for a violation of this chapter or a rule adopted under it that involves a powercraft powered by more than ten horsepower and that, in the opinion of the court, involves a threat to the safety of persons or property, shall order the offender to complete successfully a boating course approved by the national association of state boating law administrators before the offender is allowed to operate a powercraft powered by more than ten horsepower on the waters in this state. Violation of a court order entered under this division is punishable as contempt under Chapter 2705. of the Revised Code.

Sec. 1548.02. The chief of the division of watercraft shall adopt such rules as the chief considers necessary to ensure uniform and orderly operation of this chapter, and the clerks of the courts of common pleas shall conform to those rules. The chief shall receive and file in the chief's office all information forwarded to the chief by the clerks under this chapter and shall maintain indexes covering the state at large for that information. These indexes shall be for the state at large and not for individual counties.

The chief shall check with the chief's record all duplicate certificates of title received in the chief's office from the clerks.

If it appears that any certificate of title has been improperly issued or is no longer required, the chief shall cancel the certificate. Upon the cancellation of any certificate of title, the chief shall notify the clerk who issued it, and the clerk shall enter the cancellation in the clerk's records. The chief also shall notify the person to whom the certificate of title was issued, as well as any lienholders appearing on it, of the cancellation and, if it is a physical certificate of title, shall demand the surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted on it. The holder of a physical certificate of title shall return it to the chief immediately.

The clerks shall keep on hand a sufficient supply of blank forms that, except certificate of title and memorandum certificate forms, shall be furnished and distributed without charge to registered manufacturers or dealers or to other persons residing within the county. The clerks shall provide the certificates of title, ~~the~~ and ribbons, cartridges, or other devices necessary for data the operation of the certificate of title processing, and removable backup media equipment as determined by the automated title processing board pursuant to division (C) of section 4505.09 of the Revised Code from moneys provided to the clerks from the automated title processing fund in accordance with division (B)~~(3)(b)~~ of section 4505.09 of the Revised Code. The clerks shall furnish all other supplies from other moneys available to the clerks.

Sec. 1551.33. (A) The director of development services shall appoint

and fix the compensation of the director of the Ohio coal development office. The director shall serve at the pleasure of the director of development services.

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

(1) Biennially prepare and maintain the Ohio coal development agenda required under section 1551.34 of the Revised Code;

(2) Propose and support policies for the office consistent with the Ohio coal development agenda and develop means to implement the agenda;

(3) Initiate, undertake, and support projects to carry out the office's purposes and ensure that the projects are consistent with and meet the selection criteria established by the Ohio coal development agenda;

(4) Actively encourage joint participation in and, when feasible, joint funding of the office's projects with governmental agencies, electric utilities, universities and colleges, other public or private interests, or any other person;

(5) Establish a table of organization for and employ such employees and agents as are necessary for the administration and operation of the office. Any such employees shall be in the unclassified service and shall serve at the pleasure of the director of development services.

(6) ~~Appoint specified members of and convene~~ Convene the technical advisory committee established under section 1551.35 of the Revised Code;

(7) Review, with the assistance of the technical advisory committee, proposed coal research and development projects as defined in section 1555.01 of the Revised Code, and coal development projects, submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code. If the director and the advisory committee determine that any such facility or project has as its purpose the enhanced use of Ohio coal in an environmentally acceptable, cost effective manner, promotes energy conservation, is cost effective, and is environmentally sound, the director shall submit to the public utilities commission a report recommending that the commission allow the recovery of costs associated with the facility or project under section 4905.304 of the Revised Code and including the reasons for the recommendation.

(8) Establish such policies, procedures, and guidelines as are necessary to achieve the office's purposes.

(C) With the approval of the director of development services, the director of the office may exercise any of the powers and duties that the director of development services considers appropriate or desirable to achieve the office's purposes, including, but not limited to, the powers and duties enumerated in sections 1551.11, 1551.12, and 1551.15 of the Revised

Code.

Additionally, the director of the office may make loans to governmental agencies or persons for projects to carry out the office's purposes. Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of the loans shall be such as the director of the office determines to be appropriate and in furtherance of the purposes for which the loans are made. The mortgage lien securing any moneys lent by the director of the office may be subordinate to the mortgage lien securing any moneys lent or invested by a financial institution, but shall be superior to that securing any moneys lent or expended by any other person. The moneys used in making the loans shall be disbursed upon order of the director of the office.

Sec. 1551.35. (A) There is hereby established a technical advisory committee to assist the director of the Ohio coal development office in achieving the office's purposes. The director of development services shall appoint to the committee one member of the public utilities commission and one representative each of coal production companies, the united mine workers of America, electric utilities, manufacturers that use Ohio coal, and environmental organizations, as well as two people with a background in coal research and development technology, one of whom is employed at the time of the member's appointment by a state university, as defined in section 3345.011 of the Revised Code. In addition, the committee shall include four legislative members. The speaker and minority leader of the house of representatives each shall appoint one member of the house of representatives, and the president and minority leader of the senate each shall appoint one member of the senate, to the committee. The director of environmental protection shall serve on the committee as an ex officio member. Any member of the committee may designate in writing a substitute to serve in the member's absence on the committee. The director of environmental protection may designate in writing the chief of the air pollution control division of the agency to represent the agency. Members shall serve on the committee at the pleasure of their appointing authority. Members of the committee appointed by the director of ~~the office~~ development services and, notwithstanding section 101.26 of the Revised Code, legislative members of the committee, when engaged in their official duties as members of the committee, shall be compensated on a per diem basis in accordance with division (J) of section 124.15 of the Revised Code, except that the member of the public utilities commission and, while employed by a state university, the member with a background in coal research, shall not be so compensated. Members shall receive their actual

and necessary expenses incurred in the performance of their duties.

(B) The technical advisory committee shall review and make recommendations concerning the Ohio coal development agenda required under section 1551.34 of the Revised Code, project proposals, research and development projects submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code, proposals for grants, loans, and loan guarantees for purposes of sections 1555.01 to 1555.06 of the Revised Code, and such other topics as the director of the office considers appropriate.

(C) The technical advisory committee may hold an executive session at any regular or special meeting for the purpose of considering research and development project proposals or applications for assistance submitted to the Ohio coal development office under section 1551.33, or sections 1555.01 to 1555.06, of the Revised Code, to the extent that the proposals or applications consist of trade secrets or other proprietary information.

Any materials or data submitted to, made available to, or received by the ~~department of development~~ services agency or the director of the Ohio coal development office in connection with agreements for assistance entered into under this chapter or Chapter 1555. of the Revised Code, or any information taken from those materials or data for any purpose, to the extent that the materials or data consist of trade secrets or other proprietary information, are not public records for the purposes of section 149.43 of the Revised Code.

As used in this division, "trade secrets" has the same meaning as in section 1333.61 of the Revised Code.

Sec. 1555.15. There is hereby created in the state treasury the coal research and development fund. Moneys obtained for coal research and development projects from federal grants or loans, private grants, and other sources, and moneys paid into the fund pursuant to section 151.07 or 1555.08 of the Revised Code, shall be expended for the purpose of making grants and making or guaranteeing loans for coal research and development projects that will encourage the use of Ohio coal, to any individual, association, or corporation doing business in this state, or to any educational or scientific institution located in this state as provided for in Section 15 of Article VIII, Ohio Constitution and section 1555.08 of the Revised Code, when appropriated for such purposes by the general assembly. All investment earnings on the cash balance in the fund shall be credited to the fund.

The director of budget and management shall establish and maintain records or accounts for or within the coal research and development fund in

such manner as to show the amounts credited to such fund pursuant to section 1555.08 of the Revised Code and that the amounts so credited have been expended for the purposes set forth in Section 15 of Article VIII, Ohio Constitution, and section 151.07 of the Revised Code. The director of budget and management may otherwise manage the fund to comply with any requirements established by federal grants or loans, private grants, or moneys from other sources.

Sec. 1701.86. (A) A corporation may be dissolved voluntarily in the manner provided in this section, provided the provisions of Chapter 1704. of the Revised Code do not prevent the dissolution from being effected.

(B) A resolution of dissolution for a corporation shall set forth that the corporation elects to be dissolved. The resolution also may include any of the following:

(1) The date on which the certificate of dissolution is to be filed or the conditions or events that will result in the filing of the certificate;

(2) Authorization for the officers or directors to abandon the proposed dissolution before the filing of the certificate of dissolution;

(3) Any additional provision considered necessary with respect to the proposed dissolution and winding up.

(C) If an initial stated capital is not set forth in the articles then before the corporation begins business, or if an initial stated capital is set forth in the articles then before subscriptions to shares shall have been received in the amount of that initial stated capital, the incorporators or a majority of them may adopt, by a writing signed by each of them, a resolution of dissolution.

(D) The directors may adopt a resolution of dissolution in any of the following cases:

(1) When the corporation has been adjudged bankrupt or has made a general assignment for the benefit of creditors;

(2) By leave of the court, when a receiver has been appointed in a general creditors' suit or in any suit in which the affairs of the corporation are to be wound up;

(3) When substantially all of the assets have been sold at judicial sale or otherwise;

(4) When the articles have been canceled for failure to file annual franchise or excise tax returns or for failure to pay franchise or excise taxes and the corporation has not been reinstated or does not desire to be reinstated;

(5) When the period of existence of the corporation specified in its articles has expired.

(E) The shareholders at a meeting held for such purpose may adopt a resolution of dissolution by the affirmative vote of the holders of shares entitling them to exercise two-thirds of the voting power of the corporation on such proposal or, if the articles provide or permit, by the affirmative vote of a greater or lesser proportion, though not less than a majority, of such voting power, and by such affirmative vote of the holders of shares of any particular class as is required by the articles. Notice of the meeting of the shareholders shall be given to all the shareholders whether or not entitled to vote at it.

(F) Upon the adoption of a resolution of dissolution, a certificate shall be prepared, on a form prescribed by the secretary of state, setting forth all of the following:

- (1) The name of the corporation;
- (2) A statement that a resolution of dissolution has been adopted;
- (3) A statement of the manner of adoption of such resolution, and, in the case of its adoption by the incorporators or directors, a statement of the basis for such adoption;
- (4) The place in this state where its principal office is or is to be located;
- (5) The internet address of each domain name held or maintained by or on behalf of the corporation;
- (6) The name and address of its statutory agent;
- (7) The date of dissolution, if other than the filing date. The date of dissolution shall not be more than ninety days after the filing of the certificate of dissolution.

(G) When the resolution of dissolution is adopted by the incorporators, the certificate shall be signed by not less than a majority of them. In all other cases, the certificate shall be signed by any authorized officer, unless the officer fails to execute and file such certificate within thirty days after the date upon which such certificate is to be filed. In that latter event, the certificate of dissolution may be signed by any three shareholders or, if there are less than three shareholders, all of the shareholders and shall set forth a statement that the persons signing the certificate are shareholders and are filing the certificate because of the failure of the officers to do so.

(H) Except as otherwise provided in division (I) of this section, a certificate of dissolution, filed with the secretary of state, shall be accompanied by all of the following:

- (1) An affidavit of one or more of the persons executing the certificate of dissolution or of an officer of the corporation containing a statement of the counties, if any, in this state in which the corporation has personal property or a statement that the corporation is of a type required to pay

personal property taxes to state authorities only;

(2) A certificate or other evidence from the department of taxation showing that the corporation has paid all taxes administered by and required to be paid to the tax commissioner that are or will be due from the corporation on the date of the dissolution, ~~or an affidavit of one or more of the persons executing the certificate of dissolution or of an officer of the corporation containing a statement that the corporation is not required to pay or the department of taxation has not assessed any tax for which such a certificate or other evidence is not provided~~ that the department has received an adequate guarantee for the payment of all such taxes;

(3) A certificate or other evidence showing the payment of all personal property taxes accruing up to the date of dissolution or showing that such payment has been adequately guaranteed, or an affidavit of one or more of the persons executing the certificate of dissolution or of an officer of the corporation containing a statement that the corporation is not required to pay or the department of taxation has not assessed any tax for which such a certificate or other evidence is not provided;

(4) A receipt, certificate, or other evidence from the director of job and family services showing that all contributions due from the corporation as an employer have been paid, or that such payment has been adequately guaranteed, or that the corporation is not subject to such contributions;

(5) A receipt, certificate, or other evidence from the bureau of workers' compensation showing that all premiums due from the corporation as an employer have been paid, or that such payment has been adequately guaranteed, or that the corporation is not subject to such premium payments.

(I) In lieu of the receipt, certificate, or other evidence described in division (H)~~(2)~~, (3), (4), or (5) of this section, an affidavit of one or more persons executing the certificate of dissolution or of an officer of the corporation containing a statement of the date upon which the particular department, agency, or authority was advised in writing of the scheduled effective date of the dissolution and was advised in writing of the acknowledgment by the corporation of the applicability of the provisions of section 1701.95 of the Revised Code.

(J) Upon the filing of a certificate of dissolution and such accompanying documents or on a later date specified in the certificate that is not more than ninety days after the filing, the corporation shall be dissolved.

Sec. 1701.922. (A) Except as otherwise provided in this division, upon reinstatement of a corporation's or professional association's articles of incorporation in accordance with section 1701.07, 1785.06, 5703.93, or 5733.22 of the Revised Code, the rights, privileges, and franchises,

including all real or personal property rights and credits and all contract and other rights, of the corporation or association existing at the time its articles of incorporation were canceled shall be fully vested in the corporation or association as if the articles had not been canceled, and the corporation or association shall again be entitled to exercise the rights, privileges, and franchises authorized by its articles of incorporation. The name of a corporation whose articles have been canceled shall be reserved for a period of one year after the date of cancellation. If the reinstatement is not made within one year after the date of the cancellation of its articles of incorporation and it appears that a corporate name, limited liability company name, limited liability partnership name, limited partnership name, or trade name has been filed, the name of which is not distinguishable upon the record as provided in section 1701.05 of the Revised Code, the secretary of state shall require the applicant for reinstatement, as a condition prerequisite to such reinstatement, to amend its articles by changing its name.

(B) Upon reinstatement of a corporation's or association's articles in accordance with section 1701.07, 1785.06, 5703.93, or 5733.22 of the Revised Code, both of the following apply to the exercise of or an attempt to exercise any rights, privileges, or franchises, including entering into or performing any contracts, on behalf of the corporation or association by an officer, agent, or employee of the corporation or association, after cancellation and prior to reinstatement of the articles of incorporation:

(1) The exercise of or an attempt to exercise any rights, privileges, or franchises on behalf of the corporation or association by the officer, agent, or employee of the corporation or association has the same force and effect that the exercise of or an attempt to exercise the right, privilege, or franchise would have had if the corporation's or association's articles had not been canceled, if both of the following apply:

(a) The exercise of or an attempt to exercise the right, privilege, or franchise was within the scope of the corporation's or association's articles of incorporation that existed prior to cancellation;

(b) The officer, agent, or employee had no knowledge that the corporation's or association's articles of incorporation had been canceled.

(2) The corporation or association is liable exclusively for the exercise of or an attempt to exercise any rights, privileges, or franchises on behalf of the corporation or association by an officer, agent, or employee of the corporation or association, if the conditions set forth in divisions (B)(1)(a) and (b) of this section are met.

(C) Upon reinstatement of a corporation's or association's articles of incorporation in accordance with section 1701.07, 1785.06, 5703.93, or

5733.22 of the Revised Code, the exercise of or an attempt to exercise any rights, privileges, or franchises on behalf of the corporation or association by an officer, agent, or employee of the corporation or association, after cancellation and prior to reinstatement of the articles of incorporation, does not constitute a failure to comply with division (A) of section 1701.88 or a violation of section 1701.97 of the Revised Code, if the conditions set forth in divisions (B)(1)(a) and (b) of this section are met.

(D) This section is remedial in nature and is to be construed liberally to accomplish the purpose of providing full reinstatement of a corporation's or association's articles of incorporation retroactive, in accordance with this section, to the time of the cancellation of the articles.

Sec. 1703.29. (A) The failure of any corporation to obtain a license under sections 1703.01 to 1703.31, ~~inclusive~~, of the Revised Code, does not affect the validity of any contract with such corporation, but no foreign corporation ~~which~~ that should have obtained such license shall maintain any action in any court until it has obtained such license. Before any such corporation shall maintain such action on any cause of action arising at the time when it was not licensed to transact business in this state, it shall pay to the secretary of state a forfeiture of two hundred fifty dollars and file in ~~his~~ the secretary of state's office the papers required by divisions (B) or (C) of this section, whichever is applicable.

(B) If such corporation has not been previously licensed to do business in this state or if its license has been surrendered it shall file as required by division (A) of this section:

(1) Its application for a license certificate, together with the filing fee, with such information as the secretary of state requires as to the time it began to transact business in this state and as to the number of its issued shares represented in this state, and with the license fees on its shares represented in this state plus a forfeiture of fifteen per cent thereon.

(2) A certificate from the tax commissioner that the corporation has paid all ~~franchise~~ taxes ~~which~~ that it should have paid had it qualified to do business in this state at the time it began to do so, plus any penalties assessable on said taxes on account of failure to pay them within the time prescribed by law, or a certificate of the commissioner that the corporation has furnished security satisfactory to the commissioner for the payment of all such ~~franchise~~ taxes and penalties.

(C) If such corporation has been previously licensed to transact business in this state and its license has expired or has been canceled by the secretary of state upon order of the commissioner, or for failure to designate an agent for service of process, it shall file with the secretary of state its application

for reinstatement, as provided by law, together with the proper reinstatement fee plus a forfeiture of fifteen per cent thereon.

Upon the filing of such application and payment of such fees and penalties or forfeitures, the secretary of state shall issue to such corporation a license certificate.

Sec. 1711.07. The board of directors of a county or independent agricultural society shall consist of at least eight members. An employee of the ~~Ohio state university~~ OSU extension ~~service~~ and the county school superintendent shall be members ex officio. Their terms of office shall be determined by the rules of the department of agriculture. Any vacancy in the board caused by death, resignation, refusal to qualify, removal from county, or other cause may be filled by the board until the society's next annual election, when a director shall be elected for the unexpired term. There shall be an annual election of directors by ballot at a time and a place fixed by the board, but this election shall not be held later than the first Saturday in December 1994, and not later than the fifteenth day of November each year thereafter, beginning in 1995. The secretary of the society shall give notice of ~~such~~ the election, for three weeks prior to the holding thereof, in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, or by letter mailed to each member of the society. Only persons holding membership certificates at the close of the annual county fair, or at least fifteen calendar days before the date of election, as may be fixed by the board, may vote, unless ~~such~~ the election is held on the fairground during the fair, in which case all persons holding membership certificates on the date and hour of the election may vote. When the election is to be held during the fair, notice of ~~such~~ the election ~~must~~ shall be prominently mentioned in the premium list, in addition to the notice required in a newspaper. The terms of office of the retiring directors shall expire, and those of the directors-elect shall begin, not later than the first Saturday in January 1995, and not later than the thirtieth day of November each year thereafter, beginning in 1995.

The secretary of ~~such~~ the society shall send the name and address of each member of its board to the director of agriculture within ten days after the election.

Sec. 1721.10. ~~Lands~~ Except as otherwise provided in this section, lands appropriated and set apart as burial grounds, either for public or for private use, and recorded or filed as such in the office of the county recorder of the county where they are situated, and any burial ground that has been used as such for fifteen years are exempt from sale on execution on a judgment, taxation, dower, and compulsory partition; but land appropriated and set

apart as a private burial ground is not so exempt if it exceeds in value the sum of fifty dollars.

The lien for taxes against such burial grounds may be enforced in the same manner prescribed for abandoned lands under sections 323.65 to 323.79 of the Revised Code except that the burial ground may be transferred only to a municipal corporation, county, or township under division (D) of section 323.74 of the Revised Code. No burial ground that is otherwise exempt from sale or execution under this section shall be offered for sale at public auction.

Sec. 1724.02. In furtherance of the purposes set forth in section 1724.01 of the Revised Code, a community improvement corporation shall have the following powers:

(A)(1) To borrow money for any of the purposes of the community improvement corporation by means of loans, lines of credit, or any other financial instruments or securities, including the issuance of its bonds, debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchises, rights, and privileges of every kind and nature or any part thereof or interest therein; and

(2) If the community improvement corporation is a county land reutilization corporation, the corporation may request, by resolution:

(a) That the board of county commissioners of the county served by the corporation pledge a specifically identified source or sources of revenue pursuant to division (C) of section 307.78 of the Revised Code as security for such borrowing by the corporation; and

(b)(i) If the land subject to reutilization is located within an unincorporated area of the county, that the board of county commissioners issue notes under section 307.082 of the Revised Code for the purpose of constructing public infrastructure improvements and take other actions as the board determines are in the interest of the county and are authorized under sections 5709.78 to 5709.81 of the Revised Code or bonds or notes under section 5709.81 of the Revised Code for the refunding purposes set forth in that section; or

(ii) If the land subject to reutilization is located within the corporate boundaries of a municipal corporation, that the municipal corporation issue bonds for the purpose of constructing public infrastructure improvements and take such other actions as the municipal corporation determines are in its interest and are authorized under sections 5709.40 to 5709.43 of the Revised Code.

(B) To make loans to any person, firm, partnership, corporation, joint

stock company, association, or trust, and to establish and regulate the terms and conditions with respect to any such loans; provided that an economic development corporation shall not approve any application for a loan unless and until the person applying for said loan shows that the person has applied for the loan through ordinary banking or commercial channels and that the loan has been refused by at least one bank or other financial institution. Nothing in this division shall preclude a county land reutilization corporation from making revolving loans to community development corporations, private entities, or any person for the purposes contained in the corporation's plan under section 1724.10 of the Revised Code.

(C) To purchase, receive, hold, manage, lease, lease-purchase, or otherwise acquire and to sell, convey, transfer, lease, sublease, or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including but not restricted to, any real or personal property acquired by the community improvement corporation from time to time in the satisfaction of debts or enforcement of obligations, and to enter into contracts with third parties, including the federal government, the state, any political subdivision, or any other entity. A county land reutilization corporation shall not acquire an interest in real property if such acquisition causes the percentage of unoccupied real property held by the corporation to become less than seventy-five per cent of all real property held by the corporation for reutilization, reclamation, or rehabilitation. For the purposes of this division, "unoccupied" has the same meaning as in section 323.65 of the Revised Code.

(D) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, partnerships, corporations, joint stock companies, associations, or trusts, and to assume, undertake, or pay the obligations, debts, and liabilities of any such person, firm, partnership, corporation, joint stock company, association, or trust; to acquire, reclaim, manage, or contract for the management of improved or unimproved and underutilized real estate for the purpose of constructing industrial plants, other business establishments, or housing thereon, or causing the same to occur, for the purpose of assembling and enhancing utilization of the real estate, or for the purpose of disposing of such real estate to others in whole or in part for the construction of industrial plants, other business establishments, or housing; and to acquire, reclaim, manage, contract for the management of, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, sublease, or otherwise dispose of industrial plants, business establishments,

or housing.

(E) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the stock, shares, bonds, debentures, notes, or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint stock company, association, or trust, and while the owner or holder thereof, to exercise all the rights, powers, and privileges of ownership, including the right to vote therein, provided that no tax revenue, if any, received by a community improvement corporation shall be used for such acquisition or subscription.

(F) To mortgage, pledge, or otherwise encumber any property acquired pursuant to the powers contained in divisions (C), (D), or (E) of this section.

(G) Nothing in this section shall limit the right of a community improvement corporation to become a member of or a stockholder in a corporation formed under Chapter 1726. of the Revised Code.

(H) To serve as an agent for grant applications and for the administration of grants, or to make applications as principal for grants for county land reutilization corporations.

(I) To exercise the powers enumerated under Chapter 5722. of the Revised Code on behalf of a county that organizes or contracts with a county land reutilization corporation.

(J) To engage in code enforcement and nuisance abatement, including, but not limited to, cutting grass and weeds, boarding up vacant or abandoned structures, and demolishing condemned structures on properties that are subject to a delinquent tax or assessment lien, or property for which a municipal corporation or township has contracted with a county land reutilization corporation to provide code enforcement or nuisance abatement assistance.

(K) To charge fees or exchange in-kind goods or services for services rendered to political subdivisions and other persons or entities for whom services are rendered.

(L) To employ and provide compensation for an executive director who shall manage the operations of a county land reutilization corporation and employ others for the benefit of the corporation as approved and funded by the board of directors. No employee of the corporation is or shall be deemed to be an employee of the political subdivision for whose benefit the corporation is organized solely because the employee is employed by the corporation.

(M) To purchase tax certificates at auction, negotiated sale, or from a third party who purchased and is a holder of one or more tax certificates issued pursuant to sections 5721.30 to 5721.43 of the Revised Code.

(N) To be assigned a mortgage on real property from a mortgagee in lieu of acquiring such real property subject to a mortgage.

(O) To do all acts and things necessary or convenient to carry out the purposes of section 1724.01 of the Revised Code and the powers especially created for a community improvement corporation in Chapter 1724. of the Revised Code, including, but not limited to, contracting with the federal government, the state or any political subdivision, a board of county commissioners pursuant to section 307.07 of the Revised Code, a county auditor pursuant to section 319.10 of the Revised Code, a county treasurer pursuant to section 321.49 of the Revised Code, and any other party, whether nonprofit or for-profit. An employee of a board of county commissioners, county auditor, or county treasurer who, pursuant to a contract entered into in accordance with section 307.07, 319.10, or 321.49 of the Revised Code, provides services to a county land reutilization corporation shall remain an employee of the county during the provision of those services.

The powers enumerated in this chapter shall not be construed to limit the general powers of a community improvement corporation. The powers granted under this chapter are in addition to those powers granted by any other chapter of the Revised Code, but, as to a county land reutilization corporation, shall be used only for the purposes enumerated under division (B)(2) of section 1724.01 of the Revised Code.

Sec. 1724.03. (A) After the articles of incorporation have been filed, and at the first meeting of the board of directors of a county land reutilization corporation, the board shall adopt regulations for the government of the corporation, the conduct of its affairs, and the management of its property, consistent with law and the articles. The content of the regulations shall be governed by section 1702.11 of the Revised Code to the extent not inconsistent with this chapter.

(B) The board of directors of a county land reutilization corporation shall be composed of five, seven, or nine members, including the county treasurer, at least two of the members of the board of county commissioners, one representative of the largest municipal corporation, based on the population according to the most recent federal decennial census, that is located in the county, one representative of a township with a population of at least ten thousand in the unincorporated area of the township according to the most recent federal decennial census, if at least two such townships exist in the county, and any remaining members selected by the treasurer and the county commissioners who are members of the corporation's board. The township representative shall be chosen by a majority of the boards of

township trustees of townships with a population of at least ten thousand in the unincorporated area of the township according to the most recent federal decennial census. At least one board member shall have private sector or nonprofit experience in rehabilitation or real estate acquisitions. A county treasurer and the county commissioners each may appoint a representative, as a director of the corporation, to act for the officer at any of the meetings of the corporation. Except as may otherwise be authorized by the regulations of the corporation, all members of the board of directors shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

Sec. 1739.061. (A)(1) This section applies to both of the following:

(a) A multiple employer welfare arrangement that issues or requires the use of a standardized identification card or an electronic technology for submission and routing of prescription drug claims;

(b) A person or entity that a multiple employer welfare arrangement contracts with to issue a standardized identification card or an electronic technology described in division (A)(1)(a) of this section.

(2) Notwithstanding division (A)(1) of this section, this section does not apply to the issuance or required use of a standardized identification card or an electronic technology for the submission and routing of prescription drug claims in connection with any of the following:

(a) Any program or arrangement covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, medicare, tricare, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(b) Coverage provided under the medicaid, ~~as defined in section 5111.01 of the Revised Code~~ program.

(c) Coverage provided under an employer's self-insurance plan or by any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of this section to the plan and its administrators.

(B) A standardized identification card or an electronic technology issued or required to be used as provided in division (A)(1) of this section shall contain uniform prescription drug information in accordance with either division (B)(1) or (2) of this section.

(1) The standardized identification card or the electronic technology

shall be in a format and contain information fields approved by the national council for prescription drug programs or a successor organization, as specified in the council's or successor organization's pharmacy identification card implementation guide in effect on the first day of October most immediately preceding the issuance or required use of the standardized identification card or the electronic technology.

(2) If the multiple employer welfare arrangement or person under contract with it to issue a standardized identification card or an electronic technology requires the information for the submission and routing of a claim, the standardized identification card or the electronic technology shall contain any of the following information:

- (a) The name of the multiple employer welfare arrangement;
- (b) The individual's name, group number, and identification number;
- (c) A telephone number to inquire about pharmacy-related issues;
- (d) The issuer's international identification number, labeled as "ANSI BIN" or "RxBIN";
- (e) The processor's control number, labeled as "RxPCN";
- (f) The individual's pharmacy benefits group number if different from the insured's medical group number, labeled as "RxGrp."

(C) If the standardized identification card or the electronic technology issued or required to be used as provided in division (A)(1) of this section is also used for submission and routing of nonpharmacy claims, the designation "Rx" is required to be included as part of the labels identified in divisions (B)(2)(d) and (e) of this section if the issuer's international identification number or the processor's control number is different for medical and pharmacy claims.

(D) Each multiple employer welfare arrangement described in division (A) of this section shall annually file a certificate with the superintendent of insurance certifying that it or any person it contracts with to issue a standardized identification card or electronic technology for submission and routing of prescription drug claims complies with this section.

(E)(1) Except as provided in division (E)(2) of this section, if there is a change in the information contained in the standardized identification card or the electronic technology issued to an individual, the multiple employer welfare arrangement or person under contract with it to issue a standardized identification card or an electronic technology shall issue a new card or electronic technology to the individual.

(2) A multiple employer welfare arrangement or person under contract with it is not required under division (E)(1) of this section to issue a new card or electronic technology to an individual more than once during a

twelve-month period.

(F) Nothing in this section shall be construed as requiring a multiple employer welfare arrangement to produce more than one standardized identification card or one electronic technology for use by individuals accessing health care benefits provided under a multiple employer welfare arrangement.

Sec. 1751.01. As used in this chapter:

(A)(1) "Basic health care services" means the following services when medically necessary:

(a) Physician's services, except when such services are supplemental under division (B) of this section;

(b) Inpatient hospital services;

(c) Outpatient medical services;

(d) Emergency health services;

(e) Urgent care services;

(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;

(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;

(h) Preventive health care services, including, but not limited to, voluntary family planning services, infertility services, periodic physical examinations, prenatal obstetrical care, and well-child care;

(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code.

"Basic health care services" does not include experimental procedures.

Except as provided by divisions (A)(2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services.

(2) A health insuring corporation may offer coverage for diagnostic and

treatment services for biologically based mental illnesses without offering coverage for all other basic health care services. A health insuring corporation may offer coverage for diagnostic and treatment services for biologically based mental illnesses alone or in combination with one or more supplemental health care services. However, a health insuring corporation that offers coverage for any other basic health care service shall offer coverage for diagnostic and treatment services for biologically based mental illnesses in combination with the offer of coverage for all other listed basic health care services.

(3) A health insuring corporation that offers coverage for basic health care services is not required to offer coverage for diagnostic and treatment services for biologically based mental illnesses in combination with the offer of coverage for all other listed basic health care services if all of the following apply:

(a) The health insuring corporation submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the health insuring corporation's costs for claims and administrative expenses for the coverage of basic health care services to increase by more than one per cent per year.

(b) The health insuring corporation submits a signed letter from an independent member of the American academy of actuaries to the superintendent of insurance opining that the increase in costs described in division (A)(3)(a) of this section could reasonably justify an increase of more than one per cent in the annual premiums or rates charged by the health insuring corporation for the coverage of basic health care services.

(c) The superintendent of insurance makes the following determinations from the documentation and opinion submitted pursuant to divisions (A)(3)(a) and (b) of this section:

(i) Incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the health insuring corporation's costs for claims and administrative expenses for the coverage of basic health care services to increase by more than one per cent per year.

(ii) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the health insuring corporation for the coverage of basic health care services.

Any determination made by the superintendent under this division is subject to Chapter 119. of the Revised Code.

(B)(1) "Supplemental health care services" means any health care services other than basic health care services that a health insuring corporation may offer, alone or in combination with either basic health care services or other supplemental health care services, and includes:

- (a) Services of facilities for intermediate or long-term care, or both;
- (b) Dental care services;
- (c) Vision care and optometric services including lenses and frames;
- (d) Podiatric care or foot care services;
- (e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;
- (f) Short-term outpatient evaluative and crisis-intervention mental health services;
- (g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;
- (h) Home health services;
- (i) Prescription drug services;
- (j) Nursing services;
- (k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;
- (l) Physical therapy services;
- (m) Chiropractic services;
- (n) Any other category of services approved by the superintendent of insurance.

(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.

(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.

(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

(E) "Closed panel plan" means a health care plan that requires enrollees to use participating providers.

(F) "Compensation" means remuneration for the provision of health care

services, determined on other than a fee-for-service or discounted-fee-for-service basis.

(G) "Contractual periodic prepayment" means the formula for determining the premium rate for all subscribers of a health insuring corporation.

(H) "Corporation" means a corporation formed under Chapter 1701. or 1702. of the Revised Code or the similar laws of another state.

(I) "Emergency health services" means those health care services that must be available on a seven-days-per-week, twenty-four-hours-per-day basis in order to prevent jeopardy to an enrollee's health status that would occur if such services were not received as soon as possible, and includes, where appropriate, provisions for transportation and indemnity payments or service agreements for out-of-area coverage.

(J) "Enrollee" means any natural person who is entitled to receive health care benefits provided by a health insuring corporation.

(K) "Evidence of coverage" means any certificate, agreement, policy, or contract issued to a subscriber that sets out the coverage and other rights to which such person is entitled under a health care plan.

(L) "Health care facility" means any facility, except a health care practitioner's office, that provides preventive, diagnostic, therapeutic, acute convalescent, rehabilitation, mental health, mental retardation, intermediate care, or skilled nursing services.

(M) "Health care services" means basic, supplemental, and specialty health care services.

(N) "Health delivery network" means any group of providers or health care facilities, or both, or any representative thereof, that have entered into an agreement to offer health care services in a panel rather than on an individual basis.

(O) "Health insuring corporation" means a corporation, as defined in division (H) of this section, that, pursuant to a policy, contract, certificate, or agreement, pays for, reimburses, or provides, delivers, arranges for, or otherwise makes available, basic health care services, supplemental health care services, or specialty health care services, or a combination of basic health care services and either supplemental health care services or specialty health care services, through either an open panel plan or a closed panel plan.

"Health insuring corporation" does not include a limited liability company formed pursuant to Chapter 1705. of the Revised Code, an insurer licensed under Title XXXIX of the Revised Code if that insurer offers only open panel plans under which all providers and health care facilities

participating receive their compensation directly from the insurer, a corporation formed by or on behalf of a political subdivision or a department, office, or institution of the state, or a public entity formed by or on behalf of a board of county commissioners, a county board of developmental disabilities, an alcohol and drug addiction services board, a board of alcohol, drug addiction, and mental health services, or a community mental health board, as those terms are used in Chapters 340. and 5126. of the Revised Code. Except as provided by division (D) of section 1751.02 of the Revised Code, or as otherwise provided by law, no board, commission, agency, or other entity under the control of a political subdivision may accept insurance risk in providing for health care services. However, nothing in this division shall be construed as prohibiting such entities from purchasing the services of a health insuring corporation or a third-party administrator licensed under Chapter 3959. of the Revised Code.

(P) "Intermediary organization" means a health delivery network or other entity that contracts with licensed health insuring corporations or self-insured employers, or both, to provide health care services, and that enters into contractual arrangements with other entities for the provision of health care services for the purpose of fulfilling the terms of its contracts with the health insuring corporations and self-insured employers.

(Q) "Intermediate care" means residential care above the level of room and board for patients who require personal assistance and health-related services, but who do not require skilled nursing care.

~~(R) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.~~

~~(S) "Medical record" means the personal information that relates to an individual's physical or mental condition, medical history, or medical treatment.~~

~~(T) "Medicare" means the program established under Title XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 1395, as amended.~~

~~(U)~~(S)(1) "Open panel plan" means a health care plan that provides incentives for enrollees to use participating providers and that also allows enrollees to use providers that are not participating providers.

(2) No health insuring corporation may offer an open panel plan, unless the health insuring corporation is also licensed as an insurer under Title XXXIX of the Revised Code, the health insuring corporation, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1736. or 1740. of the Revised Code, or an insurer licensed under Title XXXIX of the Revised Code is responsible for the out-of-network risk as evidenced by both an evidence of coverage filing under section 1751.11 of

the Revised Code and a policy and certificate filing under section 3923.02 of the Revised Code.

~~(V)~~(T) "Osteopathic hospital" means a hospital registered under section 3701.07 of the Revised Code that advocates osteopathic principles and the practice and perpetuation of osteopathic medicine by doing any of the following:

(1) Maintaining a department or service of osteopathic medicine or a committee on the utilization of osteopathic principles and methods, under the supervision of an osteopathic physician;

(2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians;

(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.

~~(W)~~(U) "Panel" means a group of providers or health care facilities that have joined together to deliver health care services through a contractual arrangement with a health insuring corporation, employer group, or other payor.

~~(X)~~(V) "Person" has the same meaning as in section 1.59 of the Revised Code, and, unless the context otherwise requires, includes any insurance company holding a certificate of authority under Title XXXIX of the Revised Code, any subsidiary and affiliate of an insurance company, and any government agency.

~~(Y)~~(W) "Premium rate" means any set fee regularly paid by a subscriber to a health insuring corporation. A "premium rate" does not include a one-time membership fee, an annual administrative fee, or a nominal access fee, paid to a managed health care system under which the recipient of health care services remains solely responsible for any charges accessed for those services by the provider or health care facility.

~~(Z)~~(X) "Primary care provider" means a provider that is designated by a health insuring corporation to supervise, coordinate, or provide initial care or continuing care to an enrollee, and that may be required by the health insuring corporation to initiate a referral for specialty care and to maintain supervision of the health care services rendered to the enrollee.

~~(AA)~~(Y) "Provider" means any natural person or partnership of natural persons who are licensed, certified, accredited, or otherwise authorized in this state to furnish health care services, or any professional association organized under Chapter 1785. of the Revised Code, provided that nothing in this chapter or other provisions of law shall be construed to preclude a health insuring corporation, health care practitioner, or organized health care group associated with a health insuring corporation from employing

certified nurse practitioners, certified nurse anesthetists, clinical nurse specialists, certified nurse midwives, dietitians, physician assistants, dental assistants, dental hygienists, optometric technicians, or other allied health personnel who are licensed, certified, accredited, or otherwise authorized in this state to furnish health care services.

~~(BB)~~(Z) "Provider sponsored organization" means a corporation, as defined in division (H) of this section, that is at least eighty per cent owned or controlled by one or more hospitals, as defined in section 3727.01 of the Revised Code, or one or more physicians licensed to practice medicine or surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code, or any combination of such physicians and hospitals. Such control is presumed to exist if at least eighty per cent of the voting rights or governance rights of a provider sponsored organization are directly or indirectly owned, controlled, or otherwise held by any combination of the physicians and hospitals described in this division.

~~(CC)~~(AA) "Solicitation document" means the written materials provided to prospective subscribers or enrollees, or both, and used for advertising and marketing to induce enrollment in the health care plans of a health insuring corporation.

~~(DD)~~(BB) "Subscriber" means a person who is responsible for making payments to a health insuring corporation for participation in a health care plan, or an enrollee whose employment or other status is the basis of eligibility for enrollment in a health insuring corporation.

~~(EE)~~(CC) "Urgent care services" means those health care services that are appropriately provided for an unforeseen condition of a kind that usually requires medical attention without delay but that does not pose a threat to the life, limb, or permanent health of the injured or ill person, and may include such health care services provided out of the health insuring corporation's approved service area pursuant to indemnity payments or service agreements.

Sec. 1751.11. (A) Every subscriber of a health insuring corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.

(B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of incorporation, and any trade or fictitious names used by the health insuring corporation. The identification card or document shall list at least one toll-free telephone number that provides the subscriber with access, to information on a twenty-four-hours-per-day, seven-days-per-week basis, as

to how health care services may be obtained. The identification card or document shall also list at least one toll-free number that, during normal business hours, provides the subscriber with access to information on the coverage available under the subscriber's health care plan and information on the health care plan's internal and external review processes.

(C) No evidence of coverage, or amendment to the evidence of coverage, shall be delivered, issued for delivery, renewed, or used, until the form of the evidence of coverage or amendment has been filed by the health insuring corporation with the superintendent of insurance. If the superintendent does not disapprove the evidence of coverage or amendment within sixty days after it is filed it shall be deemed approved, unless the superintendent sooner gives approval for the evidence of coverage or amendment. With respect to an amendment to an approved evidence of coverage, the superintendent only may disapprove provisions amended or added to the evidence of coverage. If the superintendent determines within the sixty-day period that any evidence of coverage or amendment fails to meet the requirements of this section, the superintendent shall so notify the health insuring corporation and it shall be unlawful for the health insuring corporation to use such evidence of coverage or amendment. At any time, the superintendent, upon at least thirty days' written notice to a health insuring corporation, may withdraw an approval, deemed or actual, of any evidence of coverage or amendment on any of the grounds stated in this section. Such disapproval shall be effected by a written order, which shall state the grounds for disapproval and shall be issued in accordance with Chapter 119. of the Revised Code.

(D) No evidence of coverage or amendment shall be delivered, issued for delivery, renewed, or used:

(1) If it contains provisions or statements that are inequitable, untrue, misleading, or deceptive;

(2) Unless it contains a clear, concise, and complete statement of the following:

(a) The health care services and insurance or other benefits, if any, to which an enrollee is entitled under the health care plan;

(b) Any exclusions or limitations on the health care services, type of health care services, benefits, or type of benefits to be provided, including copayments and deductibles;

(c) An enrollee's personal financial obligation for noncovered services;

(d) Where and in what manner general information and information as to how health care services may be obtained is available, including a toll-free telephone number;

(e) The premium rate with respect to individual and conversion contracts, and relevant copayment and deductible provisions with respect to all contracts. The statement of the premium rate, however, may be contained in a separate insert.

(f) The method utilized by the health insuring corporation for resolving enrollee complaints;

(g) The utilization review, internal review, and external review procedures established under sections 1751.77 to 1751.83 and Chapter 3922. of the Revised Code.

(3) Unless it provides for the continuation of an enrollee's coverage, in the event that the enrollee's coverage under the group policy, contract, certificate, or agreement terminates while the enrollee is receiving inpatient care in a hospital. This continuation of coverage shall terminate at the earliest occurrence of any of the following:

(a) The enrollee's discharge from the hospital;

(b) The determination by the enrollee's attending physician that inpatient care is no longer medically indicated for the enrollee; however, nothing in division (D)(3)(b) of this section precludes a health insuring corporation from engaging in utilization review as described in the evidence of coverage.

(c) The enrollee's reaching the limit for contractual benefits;

(d) The effective date of any new coverage.

(4) Unless it contains a provision that states, in substance, that the health insuring corporation is not a member of any guaranty fund, and that in the event of the health insuring corporation's insolvency, an enrollee is protected only to the extent that the hold harmless provision required by section 1751.13 of the Revised Code applies to the health care services rendered;

(5) Unless it contains a provision that states, in substance, that in the event of the insolvency of the health insuring corporation, an enrollee may be financially responsible for health care services rendered by a provider or health care facility that is not under contract to the health insuring corporation, whether or not the health insuring corporation authorized the use of the provider or health care facility.

(E) Notwithstanding divisions (C) and (D) of this section, a health insuring corporation may use an evidence of coverage that provides for the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or an evidence of coverage that provides for the coverage of beneficiaries enrolled in the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or an evidence of coverage that provides for

the coverage of medicaid recipients, or an evidence of coverage that provides for the coverage of beneficiaries under any other federal health care program regulated by a federal regulatory body, or an evidence of coverage that provides for the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services, if both of the following apply:

(1) The evidence of coverage has been approved by the United States department of health and human services, the United States office of personnel management, the ~~Ohio~~ department of ~~job and family services~~ medicaid, or the department of administrative services.

(2) The evidence of coverage is filed with the superintendent of insurance prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the ~~Ohio~~ department of ~~job and family services~~ medicaid, or the department of administrative services.

Sec. 1751.12. (A)(1) No contractual periodic prepayment and no premium rate for nongroup and conversion policies for health care services, or any amendment to them, may be used by any health insuring corporation at any time until the contractual periodic prepayment and premium rate, or amendment, have been filed with the superintendent of insurance, and shall not be effective until the expiration of sixty days after their filing unless the superintendent sooner gives approval. The filing shall be accompanied by an actuarial certification in the form prescribed by the superintendent. The superintendent shall disapprove the filing, if the superintendent determines within the sixty-day period that the contractual periodic prepayment or premium rate, or amendment, is not in accordance with sound actuarial principles or is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees. The superintendent shall notify the health insuring corporation of the disapproval, and it shall thereafter be unlawful for the health insuring corporation to use the contractual periodic prepayment or premium rate, or amendment.

(2) No contractual periodic prepayment for group policies for health care services shall be used until the contractual periodic prepayment has been filed with the superintendent. The filing shall be accompanied by an actuarial certification in the form prescribed by the superintendent. The superintendent may reject a filing made under division (A)(2) of this section at any time, with at least thirty days' written notice to a health insuring corporation, if the contractual periodic prepayment is not in accordance with sound actuarial principles or is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees.

(3) At any time, the superintendent, upon at least thirty days' written notice to a health insuring corporation, may withdraw the approval given under division (A)(1) of this section, deemed or actual, of any contractual periodic prepayment or premium rate, or amendment, based on information that either of the following applies:

(a) The contractual periodic prepayment or premium rate, or amendment, is not in accordance with sound actuarial principles.

(b) The contractual periodic prepayment or premium rate, or amendment, is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees.

(4) Any disapproval under division (A)(1) of this section, any rejection of a filing made under division (A)(2) of this section, or any withdrawal of approval under division (A)(3) of this section, shall be effected by a written notice, which shall state the specific basis for the disapproval, rejection, or withdrawal and shall be issued in accordance with Chapter 119. of the Revised Code.

(B) Notwithstanding division (A) of this section, a health insuring corporation may use a contractual periodic prepayment or premium rate for policies used for the coverage of beneficiaries enrolled in medicare pursuant to a medicare risk contract or medicare cost contract, or for policies used for the coverage of beneficiaries enrolled in the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or for policies used for the coverage of medicaid recipients, or for policies used for the coverage of beneficiaries under any other federal health care program regulated by a federal regulatory body, or for policies used for the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services, if both of the following apply:

(1) The contractual periodic prepayment or premium rate has been approved by the United States department of health and human services, the United States office of personnel management, the department of ~~job and family services~~ medicaid, or the department of administrative services.

(2) The contractual periodic prepayment or premium rate is filed with the superintendent prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the department of ~~job and family services~~ medicaid, or the department of administrative services.

(C) The administrative expense portion of all contractual periodic prepayment or premium rate filings submitted to the superintendent for review must reflect the actual cost of administering the product. The

superintendent may require that the administrative expense portion of the filings be itemized and supported.

(D)(1) Copayments must be reasonable and must not be a barrier to the necessary utilization of services by enrollees.

(2) A health insuring corporation, in order to ensure that copayments are reasonable and not a barrier to the necessary utilization of basic health care services by enrollees, may do one of the following:

(a) Impose copayment charges on any single covered basic health care service that does not exceed forty per cent of the average cost to the health insuring corporation of providing the service;

(b) Impose copayment charges that annually do not exceed twenty per cent of the total annual cost to the health insuring corporation of providing all covered basic health care services, including physician office visits, urgent care services, and emergency health services, when aggregated as to all persons covered under the filed product in question. In addition, annual copayment charges as to each enrollee shall not exceed twenty per cent of the total annual cost to the health insuring corporation of providing all covered basic health care services, including physician office visits, urgent care services, and emergency health services, as to such enrollee. The total annual cost of providing a health care service is the cost to the health insuring corporation of providing the health care service to its enrollees as reduced by any applicable provider discount.

(3) To ensure that copayments are reasonable and not a barrier to the utilization of basic health care services, a health insuring corporation may not impose, in any contract year, on any subscriber or enrollee, copayments that exceed two hundred per cent of the average annual premium rate to subscribers or enrollees.

(4) For purposes of division (D) of this section, both of the following apply:

(a) Copayments imposed by health insuring corporations in connection with a high deductible health plan that is linked to a health savings account are reasonable and are not a barrier to the necessary utilization of services by enrollees.

(b) Divisions (D)(2) and (3) of this section do not apply to a high deductible health plan that is linked to a health savings account.

(E) A health insuring corporation shall not impose lifetime maximums on basic health care services. However, a health insuring corporation may establish a benefit limit for inpatient hospital services that are provided pursuant to a policy, contract, certificate, or agreement for supplemental health care services.

(F) A health insuring corporation may require that an enrollee pay an annual deductible that does not exceed one thousand dollars per enrollee or two thousand dollars per family, except that:

(1) A health insuring corporation may impose higher deductibles for high deductible health plans that are linked to health savings accounts;

(2) The superintendent may adopt rules allowing different annual deductible amounts for plans with a medical savings account, health reimbursement arrangement, flexible spending account, or similar account;

(3) A health insuring corporation may impose higher deductibles under health plans if requested by the group contract, policy, certificate, or agreement holder, or an individual seeking coverage under an individual health plan. This shall not be construed as requiring the health insuring corporation to create customized health plans for group contract holders or individuals.

(G) As used in this section, "health savings account" and "high deductible health plan" have the same meanings as in the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 223, as amended.

Sec. 1751.14. (A) Notwithstanding section 3901.71 of the Revised Code, any policy, contract, or agreement for health care services authorized by this chapter that is issued, delivered, or renewed in this state and that provides that coverage of an unmarried dependent child will terminate upon attainment of the limiting age for dependent children specified in the policy, contract, or agreement, shall also provide in substance both of the following:

(1) Once an unmarried child has attained the limiting age for dependent children, as provided in the policy, contract, or agreement, upon the request of the subscriber, the health insuring corporation shall offer to cover the unmarried child until the child attains twenty-eight years of age if all of the following are true:

(a) The child is the natural child, stepchild, or adopted child of the subscriber.

(b) The child is a resident of this state or a full-time student at an accredited public or private institution of higher education.

(c) The child is not employed by an employer that offers any health benefit plan under which the child is eligible for coverage.

(d) The child is not eligible for coverage under the medicaid program established under Chapter 5111. of the Revised Code or the medicare program established under Title XVIII of the "Social Security Act," 42 U.S.C. 1395.

(2) That attainment of the limiting age for dependent children shall not operate to terminate the coverage of a dependent child if the child is and

continues to be both of the following:

(a) Incapable of self-sustaining employment by reason of mental retardation or physical handicap;

(b) Primarily dependent upon the subscriber for support and maintenance.

(B) Proof of incapacity and dependence for purposes of division (A)(2) of this section shall be furnished to the health insuring corporation within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than annually, the health insuring corporation may require proof satisfactory to it of the continuance of such incapacity and dependency.

(C) Nothing in this section shall do any of the following:

(1) Require that any policy, contract, or agreement offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the policy, contract, or agreement;

(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents, as provided in the policy, contract, or agreement;

(3) Require an employer to offer health insurance coverage to the dependents of any employee.

(D) This section does not apply to any health insuring corporation policy, contract, or agreement offering only supplemental health care services or specialty health care services.

(E) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following:

(1) A public employee benefit plan;

(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq.

Sec. 1751.271. (A) Each health insuring corporation that provides coverage to medicaid recipients shall post a performance bond in the amount of three million dollars as security to fulfill the obligations of the health insuring corporation to pay claims of contracted providers for covered health care services provided to medicaid recipients. The bond shall be payable to the department of insurance in the event that the health insuring corporation is placed in rehabilitation or liquidation proceedings under Chapter 3903. of the Revised Code, and shall become a special deposit subject to section 3903.14 or 3903.421 of the Revised Code, as applicable. In lieu of the performance bond, a medicaid health insuring corporation may deposit securities with the superintendent of insurance, acceptable to the

superintendent, in the amount of three million dollars, to satisfy the bonding requirements of this section. Upon rehabilitation or liquidation, the securities shall become a special deposit subject to sections 3903.14 and 3903.421 of the Revised Code, as applicable. The health insuring corporation shall receive the interest on the deposited securities as long as the health insuring corporation remains solvent.

(B) The bond shall be issued by a surety company licensed with the department of insurance. The bond or deposit, or any replacement bond or deposit, shall be in a form acceptable to the superintendent, and shall remain in effect during the duration of the medicaid health insuring corporation's license and thereafter until all claims against the medicaid health insuring corporation have been paid in full.

(C) Documentation of the bond acceptable to the superintendent of insurance shall be filed with the superintendent prior to the issuance of a certificate of authority. Annually, thirty days prior to the renewal of its certificate of authority, every medicaid health insuring corporation shall furnish the superintendent of insurance with evidence that the required bond is still in effect.

(D) As used in this section:

(1) "Contracted provider" means a provider that has a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients.

(2) "Medicaid health insuring corporation" means a health insuring corporation that provides health insurance coverage or otherwise assumes claims liabilities for medicaid recipients.

(3) "Medicaid recipient" means a person ~~eligible for assistance under enrolled in~~ the medicaid program ~~operated pursuant to Chapter 5111. of the Revised Code.~~

Sec. 1751.31. (A) Any changes in a health insuring corporation's solicitation document shall be filed with the superintendent of insurance. The superintendent, within sixty days of filing, may disapprove any solicitation document or amendment to it on any of the grounds stated in this section. Such disapproval shall be effected by written notice to the health insuring corporation. The notice shall state the grounds for disapproval and shall be issued in accordance with Chapter 119. of the Revised Code.

(B) The solicitation document shall contain all information necessary to enable a consumer to make an informed choice as to whether or not to enroll in the health insuring corporation. The information shall include a specific description of the health care services to be available and the approximate number and type of full-time equivalent medical practitioners. The

information shall be presented in the solicitation document in a manner that is clear, concise, and intelligible to prospective applicants in the proposed service area.

(C) Every potential applicant whose subscription to a health care plan is solicited shall receive, at or before the time of solicitation, a solicitation document approved by the superintendent.

(D) Notwithstanding division (A) of this section, a health insuring corporation may use a solicitation document that the corporation uses in connection with policies for medicare beneficiaries pursuant to a medicare risk contract or medicare cost contract, or for policies for beneficiaries of the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or for policies for medicaid recipients, or for policies for beneficiaries of any other federal health care program regulated by a federal regulatory body, or for policies for beneficiaries of contracts covering officers or employees of the state entered into by the department of administrative services, if both of the following apply:

(1) The solicitation document has been approved by the United States department of health and human services, the United States office of personnel management, the department of ~~job and family services~~ medicaid, or the department of administrative services.

(2) The solicitation document is filed with the superintendent of insurance prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the department of ~~job and family services~~ medicaid, or the department of administrative services.

(E) No health insuring corporation, or its agents or representatives, shall use monetary or other valuable consideration, engage in misleading or deceptive practices, or make untrue, misleading, or deceptive representations to induce enrollment. Nothing in this division shall prohibit incentive forms of remuneration such as commission sales programs for the health insuring corporation's employees and agents.

(F) Any person obligated for any part of a premium rate in connection with an enrollment agreement, in addition to any right otherwise available to revoke an offer, may cancel such agreement within seventy-two hours after having signed the agreement or offer to enroll. Cancellation occurs when written notice of the cancellation is given to the health insuring corporation or its agents or other representatives. A notice of cancellation mailed to the health insuring corporation shall be considered to have been filed on its postmark date.

(G) Nothing in this section shall prohibit healthy lifestyle programs.

Sec. 1751.60. (A) Except as provided for in divisions (E) and (F) of this section, every provider or health care facility that contracts with a health insuring corporation to provide health care services to the health insuring corporation's enrollees or subscribers shall seek compensation for covered services solely from the health insuring corporation and not, under any circumstances, from the enrollees or subscribers, except for approved copayments and deductibles.

(B) No subscriber or enrollee of a health insuring corporation is liable to any contracting provider or health care facility for the cost of any covered health care services, if the subscriber or enrollee has acted in accordance with the evidence of coverage.

(C) Except as provided for in divisions (E) and (F) of this section, every contract between a health insuring corporation and provider or health care facility shall contain a provision approved by the superintendent of insurance requiring the provider or health care facility to seek compensation solely from the health insuring corporation and not, under any circumstances, from the subscriber or enrollee, except for approved copayments and deductibles.

(D) Nothing in this section shall be construed as preventing a provider or health care facility from billing the enrollee or subscriber of a health insuring corporation for noncovered services.

(E) Upon application by a health insuring corporation and a provider or health care facility, the superintendent may waive the requirements of divisions (A) and (C) of this section when, in addition to the reserve requirements contained in section 1751.28 of the Revised Code, the health insuring corporation provides sufficient assurances to the superintendent that the provider or health care facility has been provided with financial guarantees. No waiver of the requirements of divisions (A) and (C) of this section is effective as to enrollees or subscribers for whom the health insuring corporation is compensated under a provider agreement or risk contract entered into ~~pursuant to Chapter 5111. or 5115. of the Revised Code~~ under the medicaid program.

(F) The requirements of divisions (A) to (C) of this section apply only to health care services provided to an enrollee or subscriber prior to the effective date of a termination of a contract between the health insuring corporation and the provider or health care facility.

Sec. 1923.14. (A) Except as otherwise provided in this section, within ten days after receiving a writ of execution described in division (A) or (B) of section 1923.13 of the Revised Code, the sheriff, police officer, constable, or bailiff shall execute it by restoring the plaintiff to the

possession of the premises, and shall levy and collect the costs and make return, as upon other executions. If an appeal from the judgment of restitution is filed and if, following the filing of the appeal, a stay of execution is obtained and any required bond is filed with the court of common pleas, municipal court, or county court, the judge of that court immediately shall issue an order to the sheriff, police officer, constable, or bailiff commanding the delay of all further proceedings upon the execution. If the premises have been restored to the plaintiff, the sheriff, police officer, constable, or bailiff shall forthwith place the defendant in possession of them, and return the writ with the sheriff's, police officer's, constable's, or bailiff's proceedings and the costs taxed on it.

(B)(1) After a court of common pleas, municipal court, or county court issues a writ of execution described in division (B) of section 1923.13 of the Revised Code, the clerk of the court shall send by regular mail, to the last known address of the titled owner of the manufactured home, mobile home, or recreational vehicle that is the subject of the writ and to the last known address of each other person who is listed on the writ as having any outstanding right, title, or interest in the home, vehicle, or personal property and to the auditor and treasurer of the county in which the court is located, a written notice that the home or vehicle potentially may be sold, destroyed, or have its title transferred under the circumstances described in division (B)(3) or (4) of this section.

(2) Except as otherwise provided in this division, after receiving a writ of execution described in division (B) of section 1923.13 of the Revised Code, and after causing the defendant to be removed from the residential premises of the manufactured home park, if necessary, in accordance with the writ, the sheriff, police officer, constable, or bailiff may cause the manufactured home, mobile home, or recreational vehicle that is the subject of the writ, and all personal property on the residential premises, at the sheriff's, police officer's, constable's, or bailiff's option, either to be removed from the manufactured home park and, if necessary, moved to a storage facility of the sheriff's, police officer's, constable's, or bailiff's choice, or to be retained at their current location on the residential premises, until they are claimed by the defendant or they are disposed of in a manner authorized by division (B)(3), (4), or (6) of this section or by another section of the Revised Code. The sheriff, police officer, constable, or bailiff shall not cause the manufactured home, mobile home, or recreational vehicle that is the subject of the writ, or the personal property, to be removed from the manufactured home park or moved to a storage facility if the holder of any outstanding lien, right, title, or interest in the home or vehicle, other than the

titled owner of the home or vehicle, meets the conditions set forth in division (B)(6) or (7) of this section.

The sheriff, police officer, constable, or bailiff who removes the manufactured home, mobile home, or recreational vehicle, or the abandoned personal property, from the residential premises shall be immune from civil liability pursuant to section 2744.03 of the Revised Code for any damage caused to the home, vehicle, or any personal property during the removal. The park operator shall not be liable for any damage caused by the park operator's removal of the manufactured home, mobile home, or recreational vehicle or the removal of the personal property from the residential premises, or for any damage to the home, vehicle, or personal property during the time the home, vehicle, or property remains abandoned or stored in the manufactured home park, unless the damage is the result of acts that the park operator or the park operator's agents or employees performed with malicious purpose, in bad faith, or in a wanton or reckless manner. The reasonable costs for a removal of the manufactured home, mobile home, or recreational vehicle and personal property and, as applicable, the reasonable costs for its storage shall constitute a lien upon the home or vehicle payable by the titled owner of the home or vehicle or payable pursuant to division (B)(3) of this section.

(3) Except as provided in divisions (B)(4), (5), and (6) of this section and division (D) of section 1923.12 of the Revised Code, within sixty days after receiving a writ of execution described in division (B) of section 1923.13 of the Revised Code, the sheriff, police officer, constable, or bailiff shall commence proceedings for the sale of the manufactured home, mobile home, or recreational vehicle that is the subject of the writ, and the abandoned personal property on the residential premises, if the home or vehicle is determined to be abandoned in accordance with the procedures for the sale of goods on execution under Chapter 2329. of the Revised Code. In addition to all notices required to be given under section 2329.13 of the Revised Code, the sheriff, police officer, constable, or bailiff shall serve at their respective last known addresses a written notice of the date, time, and place of the sale upon all persons who are listed on the writ of execution as having any outstanding right, title, or interest in the abandoned manufactured home, mobile home, or recreational vehicle and the personal property and shall provide written notice to the auditor and the treasurer of the county in which the court issuing the writ is located.

Unless the proceedings are governed by division (D) of section 1923.12 of the Revised Code, notwithstanding any statutory provision to the contrary, including, but not limited to, section 2329.66 of the Revised Code,

there shall be no stay of execution or exemption from levy or sale on execution available to the titled owner of the abandoned manufactured home, mobile home, or recreational vehicle in relation to a sale under this division. Except as otherwise provided in sections 2113.031, 2117.25, and ~~5111.11~~ 5162.21 of the Revised Code in a case involving a deceased resident or resident's estate, the sheriff, police officer, constable, or bailiff shall distribute the proceeds from the sale of an abandoned manufactured home, mobile home, or recreational vehicle and any personal property under this division in the following manner:

(a) The sheriff, police officer, constable, or bailiff shall first pay the costs for any moving of and any storage outside the manufactured home park of the home or vehicle and any personal property pursuant to division (B)(2) of this section, the costs of the sale, including reimbursing the park operator for the deposit that the park operator paid to the clerk of court under division (C) of section 1923.12 of the Revised Code, and any unpaid court costs assessed against the defendant in the underlying action.

(b) Following the payment required by division (B)(3)(a) of this section, the sheriff, police officer, constable, or bailiff shall pay all outstanding tax liens on the home or vehicle.

(c) Following the payment required by division (B)(3)(b) of this section, the sheriff, police officer, constable, or bailiff shall pay all other outstanding security interests, liens, or encumbrances on the home or vehicle by priority of filing or other priority.

(d) Following the payment required by division (B)(3)(c) of this section, the sheriff, police officer, constable, or bailiff shall pay any outstanding monetary judgment rendered under section 1923.09 or 1923.11 of the Revised Code in favor of the plaintiff and any costs associated with retaining the home or vehicle prior to the sale at its location on the residential premises within the manufactured home park pursuant to division (B)(2) of this section.

(e) After complying with divisions (B)(3)(a) to (d) of this section, the sheriff, police officer, constable, or bailiff shall report any remaining money as unclaimed funds pursuant to Chapter 169. of the Revised Code.

Upon the return of any writ of execution for the satisfaction of which an abandoned manufactured home, mobile home, or recreational vehicle has been sold under this division, on careful examination of the proceedings of the sheriff, police officer, constable, or bailiff conducting the sale, if the court that issued the writ finds that the sale was made, in all respects, in conformity with the relevant provisions of Chapter 2329. of the Revised Code and with this division, it shall direct the clerk of the court to make an

entry on the journal that the court is satisfied with the legality of the sale and the court shall direct the clerk of the court of common pleas of the county in which the writ was issued to issue a certificate of title, free and clear of all security interests, liens, and encumbrances, to the purchaser of the home or vehicle. The clerk of the court of common pleas shall issue the new certificate of title to the purchaser of the home or vehicle regardless of whether the writ was issued by the court of common pleas or another court duly authorized to issue the writ. If the manufactured home, mobile home, or recreational vehicle sold under this division is located in a manufactured home park, the purchaser of the home or vehicle shall have no right to maintain the home or vehicle in the manufactured home park without the park operator's consent and the sheriff, police officer, constable, or bailiff conducting the sale shall notify all prospective purchasers of this fact prior to the commencement of the sale.

If, after it is offered for sale on two occasions under this division, the abandoned manufactured home, mobile home, or recreational vehicle cannot be sold due to a want of bidders, the sheriff, police officer, constable, or bailiff shall present the writ of execution unsatisfied to the clerk of the court of common pleas of the county in which the writ was issued for the issuance by the clerk in the manner prescribed in section 4505.10 of the Revised Code of a certificate of title transferring the title of the home or vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances. The clerk of the court of common pleas shall issue the new certificate of title transferring the title of the manufactured home, mobile home, or recreational vehicle to the plaintiff regardless of whether the writ was issued by the court of common pleas or another court duly authorized to issue the writ. If any taxes are owed on the home or vehicle at this time, the county auditor shall remove the delinquent taxes from the manufactured home tax list and the delinquent manufactured home tax list and remit any penalties for late payment of manufactured home taxes. Acceptance of the certificate of title by the plaintiff terminates all further proceedings under this section.

(4) Except as provided in division (B)(5) or (6) of this section and division (D) of section 1923.12 of the Revised Code, within sixty days after receiving a writ of execution described in division (B) of section 1923.13 of the Revised Code, if the manufactured home, mobile home, or recreational vehicle is determined to be abandoned and to have a value of less than three thousand dollars, the sheriff, police officer, constable, or bailiff shall serve at their respective last known addresses a written notice of potential action as described in this division upon all persons who are listed on the writ as having any outstanding right, title, or interest in the home or vehicle. This

notice shall be in addition to all notices required to be given under section 2329.13 of the Revised Code. Subject to the fulfillment of these notice requirements, the sheriff, police officer, constable, or bailiff shall take one of the following actions with respect to the abandoned manufactured home, mobile home, or recreational vehicle:

(a) Cause its destruction if there is no person having an outstanding right, title, or interest in the home or vehicle, other than the titled owner of the home or vehicle;

(b) Proceed with its sale under division (B)(3) of this section;

(c) If there is no person having an outstanding right, title, or interest in the home or vehicle other than the titled owner of the home or vehicle, or if there is an outstanding right, title, or interest in the home or vehicle and the lienholder consents in writing, present the writ of execution to the clerk of the court of common pleas of the county in which the writ was issued for the issuance by the clerk in the manner prescribed in section 4505.10 of the Revised Code of a certificate of title transferring the title of the home or vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances. The clerk of the court of common pleas shall issue the new certificate of title transferring the title of the home or vehicle regardless of whether the writ was issued by the court of common pleas or another court duly authorized to issue the writ. If any taxes are owed on the home or vehicle at this time, the county auditor shall remove the delinquent taxes from the manufactured home tax list and the delinquent manufactured home tax list and remit any penalties for late payment of manufactured home taxes. Acceptance of the certificate of title by the plaintiff terminates all further proceedings under this section.

(5) At any time prior to the issuance of the writ of execution described in division (B) of section 1923.13 of the Revised Code, the titled owner of the manufactured home, mobile home, or recreational vehicle that would be the subject of the writ may remove the abandoned home or vehicle from the manufactured home park or other place of storage upon payment to the county auditor of all outstanding tax liens on the home or vehicle and, unless the owner is indigent, payment to the clerk of court of all unpaid court costs assessed against the defendant in the underlying action. After the issuance of the writ of execution, the titled owner of the home or vehicle may remove the abandoned home or vehicle from the manufactured home park or other place of storage at any time up to the day before the scheduled sale, destruction, or transfer of the home or vehicle pursuant to division (B)(3) or (4) of this section upon payment of all of the following:

(a) All costs for moving and storage of the home or vehicle pursuant to

division (B)(2) of this section and all costs incurred by the sheriff, police officer, constable, or bailiff up to and including the date of the removal of the home or vehicle;

(b) All outstanding tax liens on the home or vehicle;

(c) Unless the owner is indigent, all unpaid court costs assessed against the defendant in the underlying action.

(6) At any time after the issuance of the writ of execution described in division (B) of section 1923.13 of the Revised Code, the holder of any outstanding lien, right, title, or interest in the manufactured home, mobile home, or recreational vehicle, other than the titled owner of the home or vehicle, may stop the sheriff, police officer, constable, or bailiff from proceeding with the sale under this division by doing both of the following:

(a) Commencing a proceeding to repossess the home or vehicle pursuant to Chapters 1309. and 1317. of the Revised Code;

(b) Paying to the park operator all monthly rental payments for the lot on which the home or vehicle is located from the time of the issuance of the writ of execution until the time that the home or vehicle is sold pursuant to Chapters 1309. and 1317. of the Revised Code.

(7)(a) At any time prior to the day before the scheduled sale of the property pursuant to division (B)(3) of this section, the defendant may remove any personal property of the defendant from the abandoned home or vehicle or other place of storage.

(b) If personal property owned by a person other than the defendant is abandoned on the residential premises and has not previously been removed, the owner of the personal property may remove the personal property from the abandoned home or vehicle or other place of storage up to the day before the scheduled sale of the property pursuant to division (B)(3) of this section upon presentation of proof of ownership of the property that is satisfactory to the sheriff, police officer, constable, or bailiff conducting the sale.

Sec. 2101.026. (A) The probate court of Franklin county may accept funds or other program assistance from the board of alcohol, drug addiction, and mental health services of Franklin county or the Franklin county board of developmental disabilities. Any funds received by the probate court of Franklin county under this division shall be paid into the treasury of Franklin county and credited to a fund to be known as the Franklin county probate court mental health fund.

(B) The moneys in the Franklin county probate court mental health fund shall be used for services to help ensure the treatment of any person who is under the care of the board of alcohol, drug addiction, and mental health services of Franklin county or the Franklin county board of developmental

disabilities. These services include, but are not limited to, involuntary commitment proceedings and the establishment and management of adult guardianships, including all associated expenses, for wards who are under the care of the board of alcohol, drug addiction, and mental health services of Franklin county or the Franklin county board of developmental disabilities.

(C) If the judge of the probate court of Franklin county determines that some of the moneys in the Franklin county probate court mental health fund are needed for the efficient operation of that court, the moneys may be used for the acquisition of equipment, the hiring and training of staff, community services programs, volunteer guardianship training services, the employment of magistrates, and other related services.

Sec. 2101.24. (A)(1) Except as otherwise provided by law, the probate court has exclusive jurisdiction:

(a) To take the proof of wills and to admit to record authenticated copies of wills executed, proved, and allowed in the courts of any other state, territory, or country. If the probate judge is unavoidably absent, any judge of the court of common pleas may take proof of wills and approve bonds to be given, but the record of these acts shall be preserved in the usual records of the probate court.

(b) To grant and revoke letters testamentary and of administration;

(c) To direct and control the conduct and settle the accounts of executors and administrators and order the distribution of estates;

(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;

(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;

(f) To grant marriage licenses;

(g) To make inquests respecting persons who are so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that they are unable to manage their property and affairs effectively, subject to guardianship;

(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;

(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;

(j) To authorize the completion of real property contracts on petition of executors and administrators;

(k) To construe wills;

(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to section 2107.084 of the Revised Code;

(m) To direct and control the conduct of fiduciaries and settle their accounts;

(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;

(o) To terminate a testamentary trust in any case in which a court of equity may do so;

(p) To hear and determine actions to contest the validity of wills;

(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;

(r) To hear and determine an action commenced pursuant to section 3107.41 of the Revised Code to obtain the release of information pertaining to the birth name of the adopted person and the identity of the adopted person's biological parents and biological siblings;

(s) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;

(t) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;

(u) To hear and determine actions involving informed consent for medication of persons hospitalized pursuant to section 5122.141 or 5122.15 of the Revised Code;

(v) To hear and determine actions relating to durable powers of attorney for health care as described in division (D) of section 1337.16 of the Revised Code;

(w) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code;

(x) To hear and determine complaints that pertain to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment in connection with certain patients allegedly in a terminal condition or in a permanently unconscious state pursuant to division (E) of section 2133.08 of the Revised Code, in accordance with that division;

(y) To hear and determine applications that pertain to the withholding or withdrawal of nutrition and hydration from certain patients allegedly in a permanently unconscious state pursuant to section 2133.09 of the Revised Code, in accordance with that section;

(z) To hear and determine applications of attending physicians in accordance with division (B) of section 2133.15 of the Revised Code;

(aa) To hear and determine actions relative to the use or continuation of

comfort care in connection with certain principals under durable powers of attorney for health care, declarants under declarations, or patients in accordance with division (E) of either section 1337.16 or 2133.12 of the Revised Code;

(bb) To hear and determine applications for an order relieving an estate from administration under section 2113.03 of the Revised Code;

(cc) To hear and determine applications for an order granting a summary release from administration under section 2113.031 of the Revised Code;

(dd) To hear and determine actions relating to the exercise of the right of disposition, in accordance with section 2108.90 of the Revised Code;

(ee) To hear and determine actions relating to the disinterment and reinterment of human remains under section 517.23 of the Revised Code;

(ff) To hear and determine petitions for an order for treatment of a person suffering from alcohol and other drug abuse filed under section ~~3793.34~~ 5119.93 of the Revised Code and to order treatment of that nature in accordance with, and take other actions afforded to the court under, sections ~~3793.34~~ 5119.90 to ~~3793.39~~ 5119.98 of the Revised Code.

(2) In addition to the exclusive jurisdiction conferred upon the probate court by division (A)(1) of this section, the probate court shall have exclusive jurisdiction over a particular subject matter if both of the following apply:

(a) Another section of the Revised Code expressly confers jurisdiction over that subject matter upon the probate court.

(b) No section of the Revised Code expressly confers jurisdiction over that subject matter upon any other court or agency.

(B)(1) The probate court has concurrent jurisdiction with, and the same powers at law and in equity as, the general division of the court of common pleas to issue writs and orders, and to hear and determine actions as follows:

(a) If jurisdiction relative to a particular subject matter is stated to be concurrent in a section of the Revised Code or has been construed by judicial decision to be concurrent, any action that involves that subject matter;

(b) Any action that involves an inter vivos trust; a trust created pursuant to section 5815.28 of the Revised Code; a charitable trust or foundation; subject to divisions (A)(1)(u) and (z) of this section, a power of attorney, including, but not limited to, a durable power of attorney; the medical treatment of a competent adult; or a writ of habeas corpus;

(c) Subject to section 2101.31 of the Revised Code, any action with respect to a probate estate, guardianship, trust, or post-death dispute that

involves any of the following:

(i) A designation or removal of a beneficiary of a life insurance policy, annuity contract, retirement plan, brokerage account, security account, bank account, real property, or tangible personal property;

(ii) A designation or removal of a payable-on-death beneficiary or transfer-on-death beneficiary;

(iii) A change in the title to any asset involving a joint and survivorship interest;

(iv) An alleged gift;

(v) The passing of assets upon the death of an individual otherwise than by will, intestate succession, or trust.

(2) Any action that involves a concurrent jurisdiction subject matter and that is before the probate court may be transferred by the probate court, on its order, to the general division of the court of common pleas.

(C) The probate court has plenary power at law and in equity to dispose fully of any matter that is properly before the court, unless the power is expressly otherwise limited or denied by a section of the Revised Code.

(D) The jurisdiction acquired by a probate court over a matter or proceeding is exclusive of that of any other probate court, except when otherwise provided by law.

Sec. 2108.05. (A) A donor may make an anatomical gift by doing any of the following:

(1) Authorizing a statement or symbol to be imprinted on the donor's driver's license or identification card indicating that the donor has certified a willingness to make an anatomical gift;

(2) Specifying in the donor's will an intent to make an anatomical gift;

(3) Specifying an intent to make an anatomical gift in the donor's declaration as described in section 2133.16 of the Revised Code;

(4) During a terminal illness or injury of the donor, communicating in any manner to a minimum of two adults, at least one of whom is a disinterested witness, that the donor intends to make an anatomical gift;

(5) Following the procedure in division (B) of this section.

(B) A donor or other person authorized to make an anatomical gift under section 2108.04 of the Revised Code may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has certified a willingness to make an anatomical gift be included in a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall do both of the following:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person;

(2) State that it has been signed and witnessed as provided in division (B)(1) of this section.

(C) Once a donor has authorized a statement or symbol to be imprinted on the donor's driver's license or identification card indicating that the donor has certified a willingness to make an anatomical gift, the donor does not need to recertify the donor's willingness to make an anatomical gift upon renewal of the driver's license or identification card. The authorization shall remain in effect until the donor withdraws that authorization.

(D) Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

~~(D)~~(E) An anatomical gift made by will takes effect on the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

Sec. 2113.041. (A) The administrator of the medicaid estate recovery program established pursuant to section ~~5111.11~~ 5162.21 of the Revised Code may present an affidavit to a financial institution requesting that the financial institution release account proceeds to recover the cost of services correctly provided to a medicaid recipient who is subject to the medicaid estate recovery program. The affidavit shall include all of the following information:

- (1) The name of the decedent;
- (2) The name of any person who gave notice that the decedent was a medicaid recipient and that person's relationship to the decedent;
- (3) The name of the financial institution;
- (4) The account number;
- (5) A description of the claim for estate recovery;
- (6) The amount of funds to be recovered.

(B) A financial institution may release account proceeds to the administrator of the medicaid estate recovery program if all of the following apply:

- (1) The decedent held an account at the financial institution that was in the decedent's name only.
- (2) No estate has been, and it is reasonable to assume that no estate will be, opened for the decedent.
- (3) The decedent has no outstanding debts known to the administrator of the medicaid estate recovery program.

(4) The financial institution has received no objections or has determined that no valid objections to release of proceeds have been received.

(C) If proceeds have been released pursuant to division (B) of this section and the department of ~~job and family services~~ medicaid receives notice of a valid claim to the proceeds that has a higher priority under section 2117.25 of the Revised Code than the claim of the medicaid estate recovery program, the department may refund the proceeds to the financial institution or pay them to the person or government entity with the claim.

Sec. 2113.06. (A) Administration of the estate of an intestate shall be granted to persons mentioned in this division, in the following order:

- (1) To the surviving spouse of the deceased, if resident of the state;
- (2) To one of the next of kin of the deceased, resident of the state.

(B) If the persons entitled to administer the estate under division (A) of this section fail to take or renounce administration voluntarily, the matter shall be set for hearing and notice given to the persons.

(C) If there are no persons entitled to administration, if they are for any reason unsuitable for the discharge of the trust, or if without sufficient cause they neglect to apply within a reasonable time for the administration of the estate, their right to priority shall be lost, and the court shall commit the administration to some suitable person who is a resident of the state, or to the attorney general or the attorney general's designee, if the department of ~~job and family services~~ medicaid is seeking to recover ~~medical assistance~~ the costs of medicaid services from the deceased pursuant to section ~~5111.11~~ 5162.21 or ~~5111.11~~ 5162.211 of the Revised Code. The person granted administration may be a creditor of the estate.

(D) This section applies to the appointment of an administrator de bonis non.

Sec. 2117.061. (A) As used in this section:

(1) "Medicaid estate recovery program" means the program instituted under section ~~5111.11~~ 5162.21 of the Revised Code.

(2) "Person responsible for the estate" means the executor, administrator, commissioner, or person who filed pursuant to section 2113.03 of the Revised Code for release from administration of an estate.

(B) The person responsible for the estate of a decedent subject to the medicaid estate recovery program or the estate of a decedent who was the spouse of a decedent subject to the medicaid estate recovery program shall submit a properly completed medicaid estate recovery notice form to the administrator of the medicaid estate recovery program not later than thirty days after the occurrence of any of the following:

- (1) The granting of letters of administration or letters testamentary;
- (2) The filing of an application for release from administration or summary release from administration.

(C) The person responsible for the estate shall mark the appropriate box on the appropriate probate form that gives notice to the administrator of the medicaid estate recovery program to indicate compliance with the requirements of division (B) of this section.

(D) The administrator of the medicaid estate recovery program shall present a claim for estate recovery to the person responsible for the estate of the decedent or the person's legal representative not later than ninety days after the date on which the medicaid estate recovery notice form is received under division (B) of this section or one year after the decedent's death, whichever is later.

Sec. 2117.25. (A) Every executor or administrator shall proceed with diligence to pay the debts of the decedent and shall apply the assets in the following order:

- (1) Costs and expenses of administration;
- (2) An amount, not exceeding four thousand dollars, for funeral expenses that are included in the bill of a funeral director, funeral expenses other than those in the bill of a funeral director that are approved by the probate court, and an amount, not exceeding three thousand dollars, for burial and cemetery expenses, including that portion of the funeral director's bill allocated to cemetery expenses that have been paid to the cemetery by the funeral director.

For purposes of division (A)(2) of this section, burial and cemetery expenses shall be limited to the following:

- (a) The purchase of a right of interment;
- (b) Monuments or other markers;
- (c) The outer burial container;
- (d) The cost of opening and closing the place of interment;
- (e) The urn.
- (3) The allowance for support made to the surviving spouse, minor children, or both under section 2106.13 of the Revised Code;
- (4) Debts entitled to a preference under the laws of the United States;
- (5) Expenses of the last sickness of the decedent;
- (6) If the total bill of a funeral director for funeral expenses exceeds four thousand dollars, then, in addition to the amount described in division (A)(2) of this section, an amount, not exceeding two thousand dollars, for funeral expenses that are included in the bill and that exceed four thousand dollars;
- (7) Expenses of the decedent's last continuous stay in a nursing home as

defined in section 3721.01 of the Revised Code, residential facility as defined in section 5123.19 of the Revised Code, or hospital long-term care unit as defined in section ~~3721.50~~ 5168.40 of the Revised Code.

For purposes of division (A)(7) of this section, a decedent's last ~~continuance~~ continuous stay includes up to thirty consecutive days during which the decedent was temporarily absent from the nursing home, residential facility, or hospital long-term care unit.

(8) Personal property taxes, claims made under the medicaid estate recovery program instituted pursuant to section ~~5111.11~~ 5162.21 of the Revised Code, and obligations for which the decedent was personally liable to the state or any of its subdivisions;

(9) Debts for manual labor performed for the decedent within twelve months preceding the decedent's death, not exceeding three hundred dollars to any one person;

(10) Other debts for which claims have been presented and finally allowed.

(B) The part of the bill of a funeral director that exceeds the total of six thousand dollars as described in divisions (A)(2) and (6) of this section, and the part of a claim included in division (A)(9) of this section that exceeds three hundred dollars shall be included as a debt under division (A)(10) of this section, depending upon the time when the claim for the additional amount is presented.

(C) Any natural person or fiduciary who pays a claim of any creditor described in division (A) of this section shall be subrogated to the rights of that creditor proportionate to the amount of the payment and shall be entitled to reimbursement for that amount in accordance with the priority of payments set forth in that division.

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating to the manner in which and the time within which claims shall be presented, shall apply to claims set forth in divisions (A)(2), (6), and (9) of this section. Claims for an expense of administration or for the allowance for support need not be presented. The executor or administrator shall pay debts included in divisions (A)(4) and (8) of this section, of which the executor or administrator has knowledge, regardless of presentation.

(2) The giving of written notice to an executor or administrator of a motion or application to revive an action pending against the decedent at the date of death shall be equivalent to the presentation of a claim to the executor or administrator for the purpose of determining the order of payment of any judgment rendered or decree entered in such an action.

(E) No payments shall be made to creditors of one class until all those

of the preceding class are fully paid or provided for. If the assets are insufficient to pay all the claims of one class, the creditors of that class shall be paid ratably.

(F) If it appears at any time that the assets have been exhausted in paying prior or preferred charges, allowances, or claims, those payments shall be a bar to an action on any claim not entitled to that priority or preference.

Sec. 2133.01. Unless the context otherwise requires, as used in sections 2133.01 to 2133.15 of the Revised Code:

(A) "Adult" means an individual who is eighteen years of age or older.

(B) "Attending physician" means the physician to whom a declarant or other patient, or the family of a declarant or other patient, has assigned primary responsibility for the treatment or care of the declarant or other patient, or, if the responsibility has not been assigned, the physician who has accepted that responsibility.

(C) "Comfort care" means any of the following:

(1) Nutrition when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;

(2) Hydration when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;

(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death.

(D) "Consulting physician" means a physician who, in conjunction with the attending physician of a declarant or other patient, makes one or more determinations that are required to be made by the attending physician, or to be made by the attending physician and one other physician, by an applicable provision of this chapter, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.

(E) "Declarant" means any adult who has executed a declaration in accordance with section 2133.02 of the Revised Code.

(F) "Declaration" means a written document executed in accordance with section 2133.02 of the Revised Code.

(G) "Durable power of attorney for health care" means a document created pursuant to sections 1337.11 to 1337.17 of the Revised Code.

(H) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.

(I) "Health care facility" means any of the following:

(1) A hospital;

(2) A hospice care program, pediatric respite care program, or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;

(3) A nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;

(4) A home health agency and any residential facility where a person is receiving care under the direction of a home health agency;

(5) An intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities.

(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.

(K) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code.

(L) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.

(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.

(N) "Hydration" means fluids that are artificially or technologically administered.

(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.

(P) "Intermediate care facility for the ~~mentally retarded~~ individuals with intellectual disabilities" has the same meaning as in section ~~5111.20~~ 5124.01 of the Revised Code.

(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a qualified patient or other patient, will serve principally to prolong the process of dying.

(R) "Nurse" means a person who is licensed to practice nursing as a registered nurse or to practice practical nursing as a licensed practical nurse pursuant to Chapter 4723. of the Revised Code.

(S) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(T) "Nutrition" means sustenance that is artificially or technologically

administered.

(U) "Permanently unconscious state" means a state of permanent unconsciousness in a declarant or other patient that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, is characterized by both of the following:

(1) Irreversible unawareness of one's being and environment.

(2) Total loss of cerebral cortical functioning, resulting in the declarant or other patient having no capacity to experience pain or suffering.

(V) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.

(W) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(X) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(Y) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.

(Z) "Qualified patient" means an adult who has executed a declaration and has been determined to be in a terminal condition or in a permanently unconscious state.

(AA) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, both of the following apply:

(1) There can be no recovery.

(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.

(BB) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for breach of a contract or another agreement between persons.

Sec. 2133.25. (A) The department of health, by rule adopted pursuant to Chapter 119. of the Revised Code, shall adopt a standardized method of procedure for the withholding of CPR by physicians, emergency medical

services personnel, and health care facilities in accordance with sections 2133.21 to 2133.26 of the Revised Code. The standardized method shall specify criteria for determining when a do-not-resuscitate order issued by a physician is current. The standardized method so adopted shall be the "do-not-resuscitate protocol" for purposes of sections 2133.21 to 2133.26 of the Revised Code. The department also shall approve one or more standard forms of DNR identification to be used throughout this state.

(B) The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code for the administration of sections 2133.21 to 2133.26 of the Revised Code.

(C) The department of health shall appoint an advisory committee to advise the department in the development of rules under this section. The advisory committee shall include, but shall not be limited to, representatives of each of the following organizations:

- (1) The association for hospitals and health systems (OHA);
- (2) The Ohio state medical association;
- (3) The Ohio chapter of the American college of emergency physicians;
- (4) The Ohio hospice organization;
- (5) The Ohio council for home care;
- (6) The Ohio health care association;
- (7) The Ohio ambulance association;
- (8) The Ohio medical directors association;
- (9) The Ohio association of emergency medical services;
- (10) The bioethics network of Ohio;
- (11) The Ohio nurses association;
- (12) The Ohio academy of nursing homes;
- (13) The Ohio association of professional firefighters;
- (14) The department of developmental disabilities;
- (15) The Ohio osteopathic association;
- (16) The association of Ohio philanthropic homes, housing and services for the aging;
- (17) The catholic conference of Ohio;
- (18) The department of aging;
- (19) The department of ~~mental health~~ mental health and addiction services;
- (20) The Ohio private residential association;
- (21) The northern Ohio fire fighters association.

Sec. 2151.011. (A) As used in the Revised Code:

(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;

(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.

(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(4) "Private noncustodial agency" means any person, organization, association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following:

(a) Receives and cares for children for two or more consecutive weeks;

(b) Participates in the placement of children in certified foster homes;

(c) Provides adoption services in conjunction with a public children services agency or private child placing agency.

(B) As used in this chapter:

(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.

(2) "Adult" means an individual who is eighteen years of age or older.

(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(4) "Alternative response" means the public children services agency's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to

whether child abuse or neglect occurred.

(5) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.

(6) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age.

(7) "Child day camp," "child care," "child day-care center," "part-time child day-care center," "type A family day-care home," "certified type B family day-care home," "type B home," "administrator of a child day-care center," "administrator of a type A family day-care home," "in-home aide," and "authorized provider" have the same meanings as in section 5104.01 of the Revised Code.

(8) "Child care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of developmental disabilities, or the early childhood programs of the department of education.

(9) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.

(10) "Commit" means to vest custody as ordered by the court.

(11) "Counseling" includes both of the following:

(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.

(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.

(12) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.

(13) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(14) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.

(15) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.

(16) "Differential response approach" means an approach that a public children services agency may use to respond to accepted reports of child abuse or neglect with either an alternative response or a traditional response.

(17) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

(18) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents.

(19) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year.

(20) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

(21) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

(22) A "legitimate excuse for absence from the public school the child is supposed to attend" includes, but is not limited to, any of the following:

(a) The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state;

(b) The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code;

(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(23) "Mental illness" and "mentally ill person subject to hospitalization by court order" have the same meanings as in section 5122.01 of the Revised Code.

(24) "Mental injury" means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the child's care.

(25) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.

(26) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility.

(27) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(28) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere.

(29) "Out-of-home care" means detention facilities, shelter facilities, certified children's crisis care facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, child care provided by type B family day-care home providers and by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, public schools, chartered nonpublic schools, educational service centers, hospitals, and medical clinics that are responsible for the care, physical custody, or control of children.

(30) "Out-of-home care child abuse" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

- (a) Engaging in sexual activity with a child in the person's care;
- (b) Denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care necessary for a child's health;
- (c) Use of restraint procedures on a child that cause injury or pain;
- (d) Administration of prescription drugs or psychotropic medication to

the child without the written approval and ongoing supervision of a licensed physician;

(e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.

(31) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;

(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;

(c) Failure to develop a process for all of the following:

(i) Administration of prescription drugs or psychotropic drugs for the child;

(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;

(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.

(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;

(e) Confinement of the child to a locked room without monitoring by staff;

(f) Failure to provide ongoing security for all prescription and nonprescription medication;

(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.

(32) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.

(33) "Permanent surrender" means the act of the parents or, if a child

has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.

(34) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

(35) "Person responsible for a child's care in out-of-home care" means any of the following:

(a) Any foster caregiver, in-home aide, or provider;

(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; certified type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic;

(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school;

(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children.

(36) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:

(a) A substantial impairment of vision, speech, or hearing;

(b) A congenital orthopedic impairment;

(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.

(37) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.

(38) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.

(39) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.

(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.

(40) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.

(41) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.

(42) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child.

(43) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.

(44) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

(45) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes.

(46) "Residential care facility" means an institution, residence, or facility that is licensed by the department of ~~mental health~~ mental health and addiction services under section ~~5119.22~~ 5119.34 of the Revised Code and that provides care for a child.

(47) "Residential facility" means a home or facility that is licensed by the department of developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides.

(48) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the

responsibility for support.

(49) "School day" means the school day established by the state board of education pursuant to section 3313.48 of the Revised Code.

(50) "School month" and "school year" have the same meanings as in section 3313.62 of the Revised Code.

(51) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.

(52) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

(53) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

(54) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.

(55) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(56) "Traditional response" means a public children services agency's response to a report of child abuse or neglect that encourages engagement of the family in a comprehensive evaluation of the child's current and future safety needs and a fact-finding process to determine whether child abuse or neglect occurred and the circumstances surrounding the alleged harm or risk of harm.

(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days.

Sec. 2151.3514. (A) As used in this section:

(1) "~~Alcohol and drug~~ Community addiction program services provider" has the same meaning as in section ~~3793.01~~ 5119.01 of the Revised Code;

(2) "Chemical dependency" means either of the following:

(a) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(b) The use of a drug of abuse to the extent that the user becomes physically or psychologically dependent on the drug or endangers the user's health, safety, or welfare or that of others.

(3) "Drug of abuse" has the same meaning as in section 3719.011 of the Revised Code.

~~(4) "Medicaid" means the program established under Chapter 5111. of the Revised Code.~~

(B) If the juvenile court issues an order of temporary custody or protective supervision under division (A) of section 2151.353 of the Revised Code with respect to a child adjudicated to be an abused, neglected, or dependent child and the alcohol or other drug addiction of a parent or other caregiver of the child was the basis for the adjudication of abuse, neglect, or dependency, the court shall issue an order requiring the parent or other caregiver to submit to an assessment and, if needed, treatment from ~~an alcohol and drug~~ a community addiction program services provider certified by the department of ~~alcohol and drug addiction services~~ mental health and addiction services. The court may order the parent or other caregiver to submit to alcohol or other drug testing during, after, or both during and after, the treatment. The court shall send any order issued pursuant to this division to the public children services agency that serves the county in which the court is located for use as described in section 340.15 of the Revised Code.

(C) Any order requiring alcohol or other drug testing that is issued pursuant to division (B) of this section shall require one alcohol or other drug test to be conducted each month during a period of twelve consecutive months beginning the month immediately following the month in which the order for alcohol or other drug testing is issued. Arrangements for administering the alcohol or other drug tests, as well as funding the costs of the tests, shall be locally determined in accordance with sections ~~340.033~~ 340.03 and 340.15 of the Revised Code. If a parent or other caregiver required to submit to alcohol or other drug tests under this section is not a recipient of medicaid, the agency that refers the parent or caregiver for the tests may require the parent or caregiver to reimburse the agency for the cost of conducting the tests.

(D) The certified ~~alcohol and drug~~ community addiction program services provider that conducts any alcohol or other drug tests ordered in accordance with divisions (B) and (C) of this section shall send the results of the tests, along with the ~~program's~~ provider's recommendations as to the benefits of continued treatment, to the court and to the public children services agency providing services to the involved family, according to federal regulations set forth in 42 C.F.R. Part 2, and division (B) of section 340.15 of the Revised Code. The court shall consider the results and the recommendations sent to it under this division in any adjudication or review

by the court, according to section 2151.353, 2151.414, or 2151.419 of the Revised Code.

Sec. 2151.362. (A)(1) In the manner prescribed by division (C)(1) or (2) of section 3313.64 of the Revised Code, as applicable, the court, at the time of making any order that removes a child from the child's own home or that vests legal or permanent custody of the child in a person other than the child's parent or a government agency, shall determine the school district that is to bear the cost of educating the child. The court shall make the determination a part of the order that provides for the child's placement or commitment. That school district shall bear the cost of educating the child unless and until the department of education determines that a different district shall be responsible for bearing that cost pursuant to division (A)(2) of this section. The court's order shall state that the determination of which school district is responsible to bear the cost of educating the child is subject to re-determination by the department pursuant to that division.

(2) If, while the child is in the custody of a person other than the child's parent or a government agency, the department of education determines that the place of residence of the child's parent has changed since the court issued its initial order, the department may name a different school district to bear the cost of educating the child. The department shall make this new determination, and any future determinations, based on evidence received from the school district currently responsible to bear the cost of educating the child. If the department finds that the evidence demonstrates to its satisfaction that the residence of the child's parent has changed since the court issued its initial order under division (A)(1) of this section, or since the department last made a determination under division (A)(2) of this section, the department shall name the district in which the child's parent currently resides or, if the parent's residence is not known, the district in which the parent's last known residence is located. If the department cannot determine any Ohio district in which the parent currently resides or has resided, the school district designated in the initial court order under division (A)(1) of this section, or in the most recent determination made by the department under division (A)(2) of this section, shall continue to bear the cost of educating the child.

(B) Whenever a child is placed in a detention facility established under section 2152.41 of the Revised Code or a juvenile facility established under section 2151.65 of the Revised Code, the facility shall be responsible for coordinating the education of the child. The facility may take any of the following measures in coordinating the education of the child:

(1) If applicable, use the chartered nonpublic school that the facility

operates:

(2) Arrange with the school district responsible for bearing the cost of educating the child determined under division (A) of this section, for the facility to educate the child on its own;

(3) Contract with an educational service center for the service center to educate the child;

(4) Contract with the school district in which the facility is located for that school district to educate the child;

(5) If the child is enrolled in an internet- or computer-based community school established under Chapter 3314. of the Revised Code, and provided that the facility possesses the necessary hardware, software, and internet connectivity, permit continued instruction of the child by the internet- or computer-based community school.

If the facility coordinates the education of the child pursuant to division (B)(1), (2), (3), or (4) of this section, child's school district as determined by the court or the department, in the same manner as prescribed in division (A) of this section, shall pay the cost of educating the child based on the per capita cost of the educational facility within the detention home or juvenile facility.

If the facility coordinates the education of the child pursuant to division (B)(5) of this section, payment for the cost of educating the child shall be made only as provided in division (C) of section 3314.08 of the Revised Code.

(C) Whenever a child is placed by the court in a private institution, school, or residential treatment center or any other private facility, the state shall pay to the court a subsidy to help defray the expense of educating the child in an amount equal to the product of the daily per capita educational cost of the private facility, as determined pursuant to this section, and the number of days the child resides at the private facility, provided that the subsidy shall not exceed twenty-five hundred dollars per year per child. The daily per capita educational cost of a private facility shall be determined by dividing the actual program cost of the private facility or twenty-five hundred dollars, whichever is less, by three hundred sixty-five days or by three hundred sixty-six days for years that include February twenty-ninth. The state shall pay seventy-five per cent of the total subsidy for each year quarterly to the court. The state may adjust the remaining twenty-five per cent of the total subsidy to be paid to the court for each year to an amount that is less than twenty-five per cent of the total subsidy for that year based upon the availability of funds appropriated to the department of education for the purpose of subsidizing courts that place a child in a private

institution, school, or residential treatment center or any other private facility and shall pay that adjusted amount to the court at the end of the year.

Sec. 2151.83. (A) A public children services agency or private child placing agency, on the request of a young adult, shall enter into a jointly prepared written agreement with the young adult that obligates the agency to ensure that independent living services are provided to the young adult and sets forth the responsibilities of the young adult regarding the services. The agreement shall be developed based on the young adult's strengths, needs, and circumstances. The agreement shall be designed to promote the young adult's successful transition to independent adult living and emotional and economic self-sufficiency.

(B) If the young adult appears to be eligible for services from one or more of the following entities, the agency must contact the appropriate entity to determine eligibility:

(1) An entity, other than the agency, that is represented on a county family and children first council established pursuant to section 121.37 of the Revised Code. If the entity is a board of alcohol, drug addiction, and mental health services, an alcohol and drug addiction services board, or a community mental health board, the agency shall contact the provider of alcohol, drug addiction, or mental health services that has been designated by the board to determine the young adult's eligibility for services.

(2) ~~The rehabilitation services commission~~ opportunities for Ohioans with disabilities agency;

(3) A metropolitan housing authority established pursuant to section 3735.27 of the Revised Code.

If an entity described in this division determines that the young adult qualifies for services from the entity, that entity, the young adult, and the agency to which the young adult made the request for independent living services shall enter into a written addendum to the jointly prepared agreement entered into under division (A) of this section. The addendum shall indicate how services under the agreement and addendum are to be coordinated and allocate the service responsibilities among the entities and agency that signed the addendum.

Sec. 2151.86. (A)(1) The appointing or hiring officer of any entity that appoints or employs any person responsible for a child's care in out-of-home care shall request the superintendent of BCII to conduct a criminal records check with respect to any person who is under final consideration for appointment or employment as a person responsible for a child's care in out-of-home care, except that section 3319.39 of the Revised Code shall apply instead of this section if the out-of-home care entity is a public school,

educational service center, or chartered nonpublic school.

(2) At the times specified in this division, the administrative director of an agency, or attorney, who arranges an adoption for a prospective adoptive parent shall request the superintendent of BCII to conduct a criminal records check with respect to that prospective adoptive parent and a criminal records check with respect to all persons eighteen years of age or older who reside with the prospective adoptive parent. The administrative director or attorney shall request a criminal records check pursuant to this division at the time of the initial home study, every four years after the initial home study at the time of an update, and at the time that an adoptive home study is completed as a new home study.

(3) Before a recommending agency submits a recommendation to the department of job and family services on whether the department should issue a certificate to a foster home under section 5103.03 of the Revised Code, and every four years thereafter prior to a recertification under that section, the administrative director of the agency shall request that the superintendent of BCII conduct a criminal records check with respect to the prospective foster caregiver and a criminal records check with respect to all other persons eighteen years of age or older who reside with the foster caregiver.

(B)(1) If a person subject to a criminal records check under division (A)(1) of this section does not present proof that the person has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent of BCII has requested information about the person from the federal bureau of investigation in a criminal records check, the appointing or hiring officer shall request that the superintendent of BCII obtain information from the federal bureau of investigation as a part of the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671. If a person subject to a criminal records check under division (A)(1) of this section presents proof that the person has been a resident of this state for that five-year period, the appointing or hiring officer or attorney may request that the superintendent of BCII include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

When the administrative director of an agency, or attorney, who arranges an adoption for a prospective parent requests, at the time of the initial home study, a criminal records check for a person pursuant to division

(A)(2) of this section, the administrative director or attorney shall request that the superintendent of BCII obtain information from the federal bureau of investigation as part of the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrative director of an agency, or attorney, who arranges an adoption for a prospective parent requests a criminal records check for a person pursuant to division (A)(2) of this section, the administrative director or attorney may request that the superintendent of BCII include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

When the administrative director of a recommending agency requests, before submitting a recommendation to the department of job and family services on whether the department should issue a certificate to a foster home under section 5103.03 of the Revised Code, a criminal records check for a person pursuant to division (A)(3) of this section, the administrative director shall request that the superintendent of BCII obtain information from the federal bureau of investigation as part of a criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrative director of a recommending agency requests a criminal records check for a person pursuant to division (A)(3) of this section, the administrative director may request that the superintendent of BCII include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

Prior to a hearing on a final decree of adoption or interlocutory order of adoption by a probate court, the administrative director of an agency, or an attorney, who arranges an adoption for a prospective parent shall provide to the clerk of the probate court either of the following:

(a) Any information received pursuant to a request made under this division from the superintendent of BCII or the federal bureau of investigation as part of the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check;

(b) Written notification that the person subject to a criminal records

check pursuant to this division failed upon request to provide the information necessary to complete the form or failed to provide impressions of the person's fingerprints as required under division (B)(2) of this section.

(2) An appointing or hiring officer, administrative director, or attorney required by division (A) of this section to request a criminal records check shall provide to each person subject to a criminal records check a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from the person, and forward the completed form and impression sheet to the superintendent of BCII at the time the criminal records check is requested.

Any person subject to a criminal records check who receives pursuant to this division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If a person subject to a criminal records check, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the appointing or hiring officer shall not appoint or employ the person as a person responsible for a child's care in out-of-home care, a probate court may not issue a final decree of adoption or an interlocutory order of adoption making the person an adoptive parent, and the department of job and family services shall not issue a certificate authorizing the prospective foster caregiver to operate a foster home.

(C)(1) No appointing or hiring officer shall appoint or employ a person as a person responsible for a child's care in out-of-home care, the department of job and family services shall not issue a certificate under section 5103.03 of the Revised Code authorizing a prospective foster caregiver to operate a foster home, and no probate court shall issue a final decree of adoption or an interlocutory order of adoption making a person an adoptive parent if the person or, in the case of a prospective foster caregiver or prospective adoptive parent, any person eighteen years of age or older who resides with the prospective foster caregiver or prospective adoptive parent previously has been convicted of or pleaded guilty to any of the violations described in division (A)(4) of section 109.572 of the Revised Code, unless the person meets rehabilitation standards established in rules

adopted under division (F) of this section.

(2) The appointing or hiring officer may appoint or employ a person as a person responsible for a child's care in out-of-home care conditionally until the criminal records check required by this section is completed and the officer receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (C)(1) of this section, the person subject to the criminal records check does not qualify for appointment or employment, the officer shall release the person from appointment or employment.

(3) Prior to certification or recertification under section 5103.03 of the Revised Code, the prospective foster caregiver subject to a criminal records check under division (A)(3) of this section shall notify the recommending agency of the revocation of any foster home license, certificate, or other similar authorization in another state occurring within the five years prior to the date of application to become a foster caregiver in this state. The failure of a prospective foster caregiver to notify the recommending agency of any revocation of that type in another state that occurred within that five-year period shall be grounds for denial of the person's foster home application or the revocation of the person's foster home certification, whichever is applicable. If a person has had a revocation in another state within the five years prior to the date of the application, the department of job and family services shall not issue a foster home certificate to the prospective foster caregiver.

(D) The appointing or hiring officer, administrative director, or attorney shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request pursuant to division (A) of this section. The officer, director, or attorney may charge the person subject to the criminal records check a fee for the costs the officer, director, or attorney incurs in obtaining the criminal records check. A fee charged under this division shall not exceed the amount of fees the officer, director, or attorney pays for the criminal records check. If a fee is charged under this division, the officer, director, or attorney shall notify the person who is the applicant at the time of the person's initial application for appointment or employment, an adoption to be arranged, or a certificate to operate a foster home of the amount of the fee and that, unless the fee is paid, the person who is the applicant will not be considered for appointment or employment or as an adoptive parent or foster caregiver.

(E) The report of any criminal records check conducted by the bureau of

criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The appointing or hiring officer, administrative director, or attorney requesting the criminal records check or the officer's, director's, or attorney's representative;

(3) The department of job and family services, a county department of job and family services, or a public children services agency;

(4) Any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment, a final decree of adoption or interlocutory order of adoption, or a foster home certificate.

(F) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall include rehabilitation standards a person who has been convicted of or pleaded guilty to an offense listed in division (A)(4) of section 109.572 of the Revised Code must meet for an appointing or hiring officer to appoint or employ the person as a person responsible for a child's care in out-of-home care, a probate court to issue a final decree of adoption or interlocutory order of adoption making the person an adoptive parent, or the department to issue a certificate authorizing the prospective foster caregiver to operate a foster home or not revoke a foster home certificate for a violation specified in section 5103.0328 of the Revised Code.

(G) An appointing or hiring officer, administrative director, or attorney required by division (A) of this section to request a criminal records check shall inform each person who is the applicant, at the time of the person's initial application for appointment or employment, an adoption to be arranged, or a foster home certificate, that the person subject to the criminal records check is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code.

~~(H) The department of job and family services may waive the requirement that a criminal records check based on fingerprints be conducted for an adult resident of a prospective adoptive or foster home or the home of a foster caregiver if the recommending agency documents to the department's satisfaction that the adult resident is physically unable to~~

~~comply with the fingerprinting requirement and poses no danger to foster children or adoptive children who may be placed in the home. In such cases, the recommending or approving agency shall request that the bureau of criminal identification and investigation conduct a criminal records check using the person's name and social security number.~~

~~(H)~~ As used in this section:

(1) "Children's hospital" means any of the following:

(a) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(c) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division ~~(H)~~(H)(1)(a) of this section.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Person responsible for a child's care in out-of-home care" has the same meaning as in section 2151.011 of the Revised Code, except that it does not include a prospective employee of the department of youth services or a person responsible for a child's care in a hospital or medical clinic other than a children's hospital.

(4) "Person subject to a criminal records check" means the following:

(a) A person who is under final consideration for appointment or employment as a person responsible for a child's care in out-of-home care;

(b) A prospective adoptive parent;

(c) A prospective foster caregiver;

(d) A person eighteen years old or older who resides with a prospective foster caregiver or a prospective adoptive parent.

(5) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency to which the department of job and family services has delegated a duty to inspect and approve foster homes.

(6) "Superintendent of BCII" means the superintendent of the bureau of

criminal identification and investigation.

Sec. 2152.54. (A) An evaluation of a child who does not appear to the court to be a person who is at least moderately intellectually disabled shall be made by an evaluator who is one of the following:

(1) A professional employed by a psychiatric facility or center certified by the department of ~~mental health~~ mental health and addiction services to provide forensic services and appointed by the director of the facility or center to conduct the evaluation;

(2) A psychiatrist or a licensed clinical psychologist who satisfies the criteria of division (I)(1) of section 5122.01 of the Revised Code and has specialized education, training, or experience in forensic evaluations of children or adolescents.

(B) An evaluation of a child who appears to the court to be a person who is at least moderately intellectually disabled shall be made by a psychiatrist or licensed clinical psychologist who satisfies the criteria of division (I)(1) of section 5122.01 of the Revised Code and has specialized education, training, or experience in forensic evaluations of children or adolescents who have intellectual disability.

(C) If an evaluation is conducted by an evaluator of the type described in division (A)(1) or (2) of this section and the evaluator concludes that the child is a person who is at least moderately intellectually disabled, the evaluator shall discontinue the evaluation and notify the court within one business day after reaching the conclusion. Within two business days after receiving notification, the court shall order the child to undergo an evaluation by an evaluator of the type described in division (B) of this section. Within two business days after the appointment of the new evaluator, the original evaluator shall deliver to the new evaluator all information relating to the child obtained during the original evaluation.

Sec. 2152.59. (A) If after a hearing held pursuant to section 2152.58 of the Revised Code the court determines that a child is competent, the court shall proceed with the delinquent child's proceeding as provided by law. No statement that a child makes during an evaluation or hearing conducted under sections 2152.51 through 2152.59 of the Revised Code shall be used against the child on the issue of responsibility or guilt in any child or adult proceeding.

(B) If after a hearing held pursuant to section 2152.58 of the Revised Code the court determines that the child is not competent and cannot attain competency within the period of time applicable under division (D)(2) of this section, the court shall dismiss the charges without prejudice, except that the court may delay dismissal for up to ninety calendar days and do

either of the following:

(1) Refer the matter to a public children services agency and request that agency determine whether to file an action in accordance with section 2151.27 of the Revised Code alleging that the child is a dependent, neglected, or abused child;

(2) Assign court staff to refer the child or the child's family to the local family and children first council or an agency funded by the department of ~~mental health~~ mental health and addiction services or department of developmental disabilities or otherwise secure services to reduce the potential that the child would engage in behavior that could result in delinquent child or other criminal charges.

(C) If after a hearing held pursuant to section 2152.58 of the Revised Code the court determines that a child is not competent but could likely attain competency by participating in services specifically designed to help the child develop competency, the court may order the child to participate in services specifically designed to help the child develop competency at county expense. The court shall name a reliable provider to deliver the competency attainment services and shall order the child's parent, guardian, or custodian to contact that provider by a specified date to arrange for services.

(D) The competency attainment services provided to a child shall be based on a competency attainment plan described in division (E)(2) of this section and approved by the court. Services are subject to the following conditions and time periods measured from the date the court approves the plan:

(1) Services shall be provided in the least restrictive setting that is consistent with the child's ability to attain competency and the safety of both the child and the community. If the child has been released on temporary or interim orders and refuses or fails to cooperate with the service provider, the court may reassess the orders and amend them to require a more appropriate setting.

(2) No child shall be required to participate in competency attainment services for longer than is required for the child to attain competency. The following maximum periods of participation apply:

(a) If a child is ordered to participate in competency attainment services that are provided outside of a residential setting, the child shall not participate in those services for a period exceeding three months if the child is charged with an act that would be a misdemeanor if committed by an adult, six months if the child is charged with an act that would be a felony of the third, fourth, or fifth degree if committed by an adult, or one year if the

child is charged with an act that would be a felony of the first or second degree, aggravated murder, or murder if committed by an adult.

(b) If a child is ordered to receive competency attainment services that are provided in a residential setting that is operated solely or in part for the purpose of providing competency attainment services, the child shall not participate in those services for a period exceeding forty-five calendar days if the child is charged with an act that would be a misdemeanor if committed by an adult, three months if the child is charged with an act that would be a felony of the third, fourth, or fifth degree if committed by an adult, six months if the child is charged with an act that would be a felony of the first or second degree if committed by an adult, or one year if the child is charged with an act that would be aggravated murder or murder if committed by an adult.

(c) If a child is ordered into a residential, detention, or other secured setting for reasons other than to participate in competency attainment services and is also ordered to participate in competency attainment services concurrently, the child shall participate in the competency attainment services for not longer than the relevant period set forth in division (D)(2)(a) of this section.

(d) If a child is ordered to participate in competency attainment services that require the child to live for some but not all of the duration of the services in a residential setting that is operated solely or in part for the purpose of providing competency attainment services, the child shall participate in the competency attainment services for not longer than the relevant period set forth in division (D)(2)(b) of this section. For the purpose of calculating a time period under division (D)(2)(d) of this section, two days of participation in a nonresidential setting shall equal one day of participation in a residential setting.

(3) A child who receives competency attainment services in a residential setting that is operated solely or partly for the purpose of providing competency attainment services is in detention for purposes of section 2921.34 and division (B) of section 2152.18 of the Revised Code during the time that the child resides in the residential setting.

(E)(1) Within ten business days after the court names the provider responsible for the child's competency attainment services under division (D) of this section, the court shall deliver to that provider a copy of each competency assessment report it has received for review. The provider shall return the copies of the reports to the court upon the termination of the services.

(2) Not later than thirty calendar days after the child contacts the

competency attainment services provider under division (C) of this section, the provider shall submit to the court a plan for the child to attain competency. The court shall provide copies of the plan to the prosecuting attorney, the child's attorney, the child's guardian ad litem, if any, and the child's parents, guardian, or custodian.

(F) The provider that provides the child's competency attainment services pursuant to the competency attainment plan shall submit reports to the court on the following schedule:

(1) A report on the child's progress every thirty calendar days and on the termination of services. The report shall not include any details of the alleged offense as reported by the child.

(2) If the provider determines that the child is not cooperating to a degree that would allow the services to be effective to help the child attain competency, a report informing the court of the determination within three business days after making the determination;

(3) If the provider determines that the current setting is no longer the least restrictive setting that is consistent with the child's ability to attain competency and the safety of both the child and the community, a report informing the court of the determination within three business days after making the determination;

(4) If the provider determines that the child has achieved the goals of the plan and would be able to understand the nature and objectives of the proceeding against the child and to assist in the child's defense, with or without reasonable accommodations to meet the criteria set forth in division (B) of section 2152.56 of the Revised Code, a report informing the court of that determination within three business days after making the determination. If the provider believes that accommodations would be necessary or desirable, the report shall include recommendations for accommodations.

(5) If the provider determines that the child will not achieve the goals of the plan within the applicable period of time under division (D)(2) of this section, a report informing the court of the determination within three business days after making the determination. The report shall include recommendations for services for the child that would support the safety of the child or the community.

(G) The court shall provide copies of any report made under division (F) of this section to the prosecuting attorney, the child's attorney, and the child's guardian ad litem, if any. The court shall provide copies of any report made under division (F) of this section to the child's parents, guardian, or custodian unless the court finds that doing so is not in the best interest of the

child.

(H)(1) Within fifteen business days after receiving a report under division (F) of this section, the court may hold a hearing to determine if a new order is necessary. To assist in making a determination under division (H) of this section, the court may order a new competency evaluation in accordance with section 2152.53 of the Revised Code. Until a new order is issued or the required period of participation expires, the child shall continue to participate in competency attainment services.

(2) If after a hearing held under division (H)(1) of this section the court determines that the child is not making progress toward competency or is so uncooperative that attainment services cannot be effective, the court may order a change in setting or services that would help the child attain competency within the relevant period of time under division (D)(2) of this section.

(3) If after a hearing held under division (H)(1) of this section the court determines that the child has not or will not attain competency within the relevant period of time under division (D)(2) of this section, the court shall dismiss the delinquency complaint without prejudice, except that the court may delay dismissal for up to ninety calendar days and do either of the following:

(a) Refer the matter to a public children services agency and request that agency determine whether to file an action in accordance with section 2151.27 of the Revised Code alleging that the child is a dependent, neglected, or abused child;

(b) Assign court staff to refer the child or the child's family to the local family and children first council or an agency funded by the department of ~~mental health~~ mental health and addiction services or department of developmental disabilities or otherwise secure services to reduce the potential that the child would engage in behavior that could result in delinquency or other criminal charges.

(4) A dismissal under division (H)(3) of this section does not preclude a future delinquent child proceeding or criminal prosecution as provided under section 2151.23 of the Revised Code if the child eventually attains competency.

(5) If after a hearing held under division (H)(1) of this section the court determines that the child has attained competency, the court shall proceed with the delinquent child's proceeding in accordance with division (A) of this section.

(6) A dismissal under this section does not bar a civil action based on the acts or omissions that formed the basis of the complaint.

Sec. 2303.201. (A)(1) The court of common pleas of any county may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the court shall authorize and direct the clerk of the court of common pleas to charge one additional fee, not to exceed six dollars, on the filing of each cause of action or appeal under divisions (A), (Q), and (U) of section 2303.20 of the Revised Code.

(2) All fees collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed either upon an order of the court, subject to an appropriation by the board of county commissioners, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, in an amount not greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and, subject to an appropriation by the board of county commissioners, expend those surplus funds, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, expend those surplus funds, for other appropriate technological expenses of the court.

(B)(1) The court of common pleas of any county may determine that, for the efficient operation of the court, additional funds are required to make technological advances in or to computerize the office of the clerk of the court of common pleas and, upon that determination, authorize and direct the clerk of the court of common pleas to charge an additional fee, not to exceed twenty dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code and not to exceed one dollar each for the services described in divisions (B), (C), (D), (F), (H), and (L) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under division (B)(1) of this section shall be paid to the county treasurer to be disbursed, upon an order of the court of common pleas and subject to appropriation by the board of county commissioners, in

an amount no greater than the actual cost to the court of procuring and maintaining technology and computer systems for the office of the clerk of the court of common pleas.

(2) If the court of common pleas of a county makes the determination described in division (B)(1) of this section, the board of county commissioners of that county may issue one or more general obligation bonds for the purpose of procuring and maintaining the technology and computer systems for the office of the clerk of the court of common pleas. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges on and financing costs related to any general obligation bonds issued pursuant to division (B)(2) of this section as they become due. General obligation bonds issued pursuant to division (B)(2) of this section are Chapter 133. securities.

(C) The court of common pleas shall collect the sum of twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. This division does not apply to proceedings concerning annulments, dissolutions of marriage, divorces, legal separation, spousal support, marital property or separate property distribution, support, or other domestic relations matters; to a juvenile division of a court of common pleas; to a probate division of a court of common pleas, except that the additional filing fees shall apply to name change, guardianship, adoption, and decedents' estate proceedings; or to an execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other filing fees imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month except for an amount equal to up to one per cent of those moneys retained to cover administrative costs shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation. The treasurer of state shall deposit four per cent of the funds collected under this division to the credit of the civil case filing fee fund established under section 120.07 of the Revised Code and ninety-six per cent of the funds collected under this

division to the credit of the legal aid fund established under section 120.52 of the Revised Code.

The court may retain up to one per cent of the moneys it collects under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division. If the court fails to transmit to the treasurer of state the moneys the court collects under this division in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation, the court shall forfeit the moneys the court retains under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division, and shall transmit to the treasurer of state all moneys collected under this division, including the forfeited amount retained for administrative costs, for deposit in the legal aid fund.

(D) On and after the thirtieth day after December 9, 1994, the court of common pleas shall collect the sum of thirty-two dollars as additional filing fees in each new action or proceeding for annulment, divorce, or dissolution of marriage for the purpose of funding shelters for victims of domestic violence pursuant to sections 3113.35 to 3113.39 of the Revised Code. The filing fees required to be collected under this division shall be in addition to any other filing fees imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new action or proceeding for annulment, divorce, or dissolution of marriage unless the court waives the advanced payment of all filing fees in the action or proceeding. On or before the twentieth day of each month, all moneys collected during the immediately preceding month pursuant to this division shall be deposited by the clerk of the court into the county treasury in the special fund used for deposit of additional marriage license fees as described in section 3113.34 of the Revised Code. Upon their deposit into the fund, the moneys shall be retained in the fund and expended only as described in section 3113.34 of the Revised Code.

(E)(1) The court of common pleas may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause,

civil action or proceeding, or judgment by confession.

If the court of common pleas offers or requires a special program or ~~service~~ additional services in cases of a specific type, the court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The court shall adjust the special assessment periodically, but not retroactively, so that the amount assessed in those cases does not exceed the actual cost of providing the service or program.

All moneys collected under division (E) of this section shall be paid to the county treasurer for deposit into either a general special projects fund or a fund established for a specific special project. Moneys from a fund of that nature shall be disbursed upon an order of the court, subject to an appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of a project. If a specific fund is terminated because of the discontinuance of a program or service established under division (E) of this section, the court may order, subject to an appropriation by the board of county commissioners, that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

(2) As used in division (E) of this section:

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

Sec. 2305.234. (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care facility or location" means a hospital, clinic, ambulatory surgical facility, office of a health care professional or associated group of health care professionals, training institution for health care professionals, or any other place where medical, dental, or other health-related diagnosis, care, or treatment is provided to a person.

(5) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code and individuals who hold a certificate of authority issued under that chapter that authorizes the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;

(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;

(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code;

(n) Professional clinical counselors, professional counselors, independent social workers, social workers, independent marriage and family therapists, and marriage and family therapists, licensed under Chapter 4757. of the Revised Code;

(o) Psychologists licensed under Chapter 4732. of the Revised Code;

(p) Independent chemical dependency counselors, chemical dependency

counselors III, chemical dependency counselors II, and chemical dependency counselors I, licensed under Chapter 4758. of the Revised Code.

(6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(7) "Indigent and uninsured person" means a person who meets all of the following requirements:

(a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended.

(b) The person is not eligible ~~to receive medical assistance under Chapter 5111. of the Revised Code or assistance under~~ for the medicaid program or any other governmental health care program.

(c) Either of the following applies:

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(8) "Nonprofit health care referral organization" means an entity that is not operated for profit and refers patients to, or arranges for the provision of, health-related diagnosis, care, or treatment by a health care professional or health care worker.

(9) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. "Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.

(10) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

(11) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any health care facility or location, any nonprofit health care referral organization, or any other person or government entity.

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

(13) "Deep sedation" means a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation, a patient's ability to independently maintain ventilatory function may be impaired, a patient may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate, and cardiovascular function is usually maintained.

(14) "General anesthesia" means a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation, the ability to independently maintain ventilatory function is often impaired, a patient often requires assistance in maintaining a patent airway, positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function, and cardiovascular function may be impaired.

(B)(1) Subject to divisions (F) and (G)(3) of this section, a health care professional who is a volunteer and complies with division (B)(2) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, including the provision of samples of medicine and other medical products, unless the action or omission constitutes willful or wanton misconduct.

(2) To qualify for the immunity described in division (B)(1) of this section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the

diagnosis, care, or treatment and is not subject to duress or under undue influence;

(b) Inform the person of the provisions of this section, including notifying the person that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot hold the health care professional liable for damages in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, unless the action or omission of the health care professional constitutes willful or wanton misconduct;

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the provisions of this section. A written waiver under division (B)(2)(c) of this section shall state clearly and in conspicuous type that the person or other individual who signs the waiver is signing it with full knowledge that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot bring a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, against the health care professional unless the action or omission of the health care professional constitutes willful or wanton misconduct.

(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code.

(C) Subject to divisions (F) and (G)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or wanton misconduct.

(D) Subject to divisions (F) and (G)(3) of this section, a nonprofit health care referral organization is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an

action or omission of the nonprofit health care referral organization in referring indigent and uninsured persons to, or arranging for the provision of, medical, dental, or other health-related diagnosis, care, or treatment by a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section, unless the action or omission constitutes willful or wanton misconduct.

(E) Subject to divisions (F) and (G)(3) of this section and to the extent that the registration requirements of section 3701.071 of the Revised Code apply, a health care facility or location associated with a health care professional described in division (B)(1) of this section, a health care worker described in division (C) of this section, or a nonprofit health care referral organization described in division (D) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker or nonprofit health care referral organization relative to the medical, dental, or other health-related diagnosis, care, or treatment provided to an indigent and uninsured person on behalf of or at the health care facility or location, unless the action or omission constitutes willful or wanton misconduct.

(F)(1) Except as provided in division (F)(2) of this section, the immunities provided by divisions (B), (C), (D), and (E) of this section are not available to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location if, at the time of an alleged injury, death, or loss to person or property, the health care professionals or health care workers involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (B) of section 2951.02 of the Revised Code or imposed by a court as a community control sanction;

(b) Performance of an operation to which any one of the following applies:

(i) The operation requires the administration of deep sedation or general anesthesia.

(ii) The operation is a procedure that is not typically performed in an office.

(iii) The individual involved is a health care professional, and the operation is beyond the scope of practice or the education, training, and

competence, as applicable, of the health care professional.

(c) Delivery of a baby or any other purposeful termination of a human pregnancy.

(2) Division (F)(1) of this section does not apply when a health care professional or health care worker provides medical, dental, or other health-related diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

(G)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other medical, dental, or other health-related diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional, health care worker, or nonprofit health care referral organization to comply with any applicable law of this state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a health care facility or location to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety.

Sec. 2307.65. (A) The attorney general may bring a civil action in the Franklin county court of common pleas on behalf of the department of ~~job and family services~~ medicaid, and the prosecuting attorney of the county in which a violation of division (B) of section 2913.401 of the Revised Code occurs may bring a civil action in the court of common pleas of that county on behalf of the county department of job and family services, against a person who violates division (B) of section 2913.401 of the Revised Code for the recovery of the amount of benefits paid on behalf of a person that either department would not have paid but for the violation minus any amounts paid in restitution under division (C)(2) of section 2913.401 of the

Revised Code and for reasonable attorney's fees and all other fees and costs of litigation.

(B) In a civil action brought under division (A) of this section, if the defendant failed to disclose a transfer of property in violation of division (B)(3) of section 2913.401 of the Revised Code, the court may also grant any of the following relief to the extent permitted by the "Social Security Act," section 1917, 42 U.S.C. 1396p:

(1) Avoidance of the transfer of property that was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code to the extent of the amount of benefits the department would not have paid but for the violation;

(2) An order of attachment or garnishment against the property in accordance with Chapter 2715. or 2716. of the Revised Code;

(3) An injunction against any further disposition by the transferor or transferee, or both, of the property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code or against the disposition of other property by the transferor or transferee;

(4) Appointment of a receiver to take charge of the property transferred or of other property of the transferee;

(5) Any other relief that the court considers just and equitable.

(C) To the extent permitted by the "Social Security Act," section 1917, 42 U.S.C. 1396p, the department of ~~job and family services~~ medicaid or the county department of job and family services may enforce a judgment obtained under this section by levying on property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code or on the proceeds of the transfer of that property in accordance with Chapter 2329. of the Revised Code.

(D) The remedies provided in divisions (B) and (C) of this section do not apply if the transferee of the property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code acquired the property in good faith and for fair market value.

(E) The remedies provided in this section are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of section 2913.401 of the Revised Code.

(F) Amounts of medicaid ~~benefits~~ services paid and recovered in an action brought under this section shall be credited to the general revenue fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States.

Sec. 2317.02. The following persons shall not testify in certain respects:

(A)(1) An attorney, concerning a communication made to the attorney

by a client in that relation or concerning the attorney's advice to a client, except that the attorney may testify by express consent of the client or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of the deceased client. However, if the client voluntarily reveals the substance of attorney-client communications in a nonprivileged context or is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the attorney may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply concerning a communication between a client who has since died and the deceased client's attorney if the communication is relevant to a dispute between parties who claim through that deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased client when the deceased client executed a document that is the basis of the dispute or whether the deceased client was a victim of fraud, undue influence, or duress when the deceased client executed a document that is the basis of the dispute.

(2) An attorney, concerning a communication made to the attorney by a client in that relationship or the attorney's advice to a client, except that if the client is an insurance company, the attorney may be compelled to testify, subject to an in camera inspection by a court, about communications made by the client to the attorney or by the attorney to the client that are related to the attorney's aiding or furthering an ongoing or future commission of bad faith by the client, if the party seeking disclosure of the communications has made a prima-facie showing of bad faith, fraud, or criminal misconduct by the client.

(B)(1) A physician or a dentist concerning a communication made to the physician or dentist by a patient in that relation or the physician's or dentist's advice to a patient, except as otherwise provided in this division, division (B)(2), and division (B)(3) of this section, and except that, if the patient is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the physician may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply, and a physician or dentist may testify or may be compelled to testify, in any of the following circumstances:

(a) In any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in

connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(i) If the patient or the guardian or other legal representative of the patient gives express consent;

(ii) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent;

(iii) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(b) In any civil action concerning court-ordered treatment or services received by a patient, if the court-ordered treatment or services were ordered as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(c) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the patient's whole blood, blood serum or plasma, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.

(d) In any criminal action against a physician or dentist. In such an action, the testimonial privilege established under this division does not prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician or dentist to testify in such an action or permits the introduction into evidence of patient records or other communications in such an action shall require that appropriate measures be taken to ensure that the confidentiality of any patient named or otherwise identified in the records is maintained. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(e)(i) If the communication was between a patient who has since died and the deceased patient's physician or dentist, the communication is relevant to a dispute between parties who claim through that deceased

patient, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased patient when the deceased patient executed a document that is the basis of the dispute or whether the deceased patient was a victim of fraud, undue influence, or duress when the deceased patient executed a document that is the basis of the dispute.

(ii) If neither the spouse of a patient nor the executor or administrator of that patient's estate gives consent under division (B)(1)(a)(ii) of this section, testimony or the disclosure of the patient's medical records by a physician, dentist, or other health care provider under division (B)(1)(e)(i) of this section is a permitted use or disclosure of protected health information, as defined in 45 C.F.R. 160.103, and an authorization or opportunity to be heard shall not be required.

(iii) Division (B)(1)(e)(i) of this section does not require a mental health professional to disclose psychotherapy notes, as defined in 45 C.F.R. 164.501.

(iv) An interested person who objects to testimony or disclosure under division (B)(1)(e)(i) of this section may seek a protective order pursuant to Civil Rule 26.

(v) A person to whom protected health information is disclosed under division (B)(1)(e)(i) of this section shall not use or disclose the protected health information for any purpose other than the litigation or proceeding for which the information was requested and shall return the protected health information to the covered entity or destroy the protected health information, including all copies made, at the conclusion of the litigation or proceeding.

(2)(a) If any law enforcement officer submits a written statement to a health care provider that states that an official criminal investigation has begun regarding a specified person or that a criminal action or proceeding has been commenced against a specified person, that requests the provider to supply to the officer copies of any records the provider possesses that pertain to any test or the results of any test administered to the specified person to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at any time relevant to the criminal offense in question, and that conforms to section 2317.022 of the Revised Code, the provider, except to the extent specifically prohibited by any law of this state or of the United States, shall supply to the officer a copy of any of the requested records the provider possesses. If the health care provider does not possess any of the

requested records, the provider shall give the officer a written statement that indicates that the provider does not possess any of the requested records.

(b) If a health care provider possesses any records of the type described in division (B)(2)(a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test to which the records pertain, the person under whose supervision the test was administered, the custodian of the records, the person who made the records, or the person under whose supervision the records were made.

(3)(a) If the testimonial privilege described in division (B)(1) of this section does not apply as provided in division (B)(1)(a)(iii) of this section, a physician or dentist may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the physician or dentist by the patient in question in that relation, or the physician's or dentist's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(b) If the testimonial privilege described in division (B)(1) of this section does not apply to a physician or dentist as provided in division (B)(1)(c) of this section, the physician or dentist, in lieu of personally testifying as to the results of the test in question, may submit a certified copy of those results, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of results submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test in question, the person under whose supervision the test was administered, the custodian of the results of the test, the person who compiled the results, or the person under whose supervision the results were compiled.

(4) The testimonial privilege described in division (B)(1) of this section

is not waived when a communication is made by a physician to a pharmacist or when there is communication between a patient and a pharmacist in furtherance of the physician-patient relation.

(5)(a) As used in divisions (B)(1) to (4) of this section, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a physician or dentist to diagnose, treat, prescribe, or act for a patient. A "communication" may include, but is not limited to, any medical or dental, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(b) As used in division (B)(2) of this section, "health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(c) As used in division (B)(5)(b) of this section:

(i) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory health care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.

(ii) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(iii) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code.

(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility ~~or intermediate care facility for the mentally retarded~~, as those terms ~~are~~ defined in section ~~5111.20~~ 5165.01 of the Revised Code; a ~~facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended,~~ as defined in section 5165.01 of the Revised Code; and an

intermediate care facility for individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code.

(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists.

(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code or the immunity from civil liability conferred by section 2305.33 of the Revised Code upon physicians who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in division (B)(7) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(C)(1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character. The cleric may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust and except that, if the person voluntarily testifies or is deemed by division (A)(4)(c) of section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the cleric may be compelled to testify on the same subject except when disclosure of the information is in violation of a sacred trust.

(2) As used in division (C) of this section:

(a) "Cleric" means a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.

(b) "Sacred trust" means a confession or confidential communication made to a cleric in the cleric's ecclesiastical capacity in the course of discipline enjoined by the church to which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply:

(i) The confession or confidential communication was made directly to the cleric.

(ii) The confession or confidential communication was made in the

manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;

(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.

(G)(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a professional clinical counselor, professional counselor, social worker, independent social worker, marriage and family therapist or independent marriage and family therapist, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a confidential communication received from a client in that relation or the person's advice to a client unless any of the following applies:

(a) The communication or advice indicates clear and present danger to the client or other persons. For the purposes of this division, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger.

(b) The client gives express consent to the testimony.

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship.

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.

(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(2) Nothing in division (G)(1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent who takes part in mediation in accordance with the order and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of the parents' children, or to the awarding of parenting time rights in relation to their children;

(I) A communications assistant, acting within the scope of the communication assistant's authority, when providing telecommunications relay service pursuant to section 4931.06 of the Revised Code or Title II of the "Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication made through a telecommunications relay service. Nothing in this section shall limit the obligation of a communications assistant to divulge information or testify when mandated by federal law or regulation or pursuant to subpoena in a criminal proceeding.

Nothing in this section shall limit any immunity or privilege granted under federal law or regulation.

(J)(1) A chiropractor in a civil proceeding concerning a communication made to the chiropractor by a patient in that relation or the chiropractor's advice to a patient, except as otherwise provided in this division. The testimonial privilege established under this division does not apply, and a chiropractor may testify or may be compelled to testify, in any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following

circumstances:

(a) If the patient or the guardian or other legal representative of the patient gives express consent.

(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent.

(c) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(2) If the testimonial privilege described in division (J)(1) of this section does not apply as provided in division (J)(1)(c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(3) The testimonial privilege established under this division does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.

(4) As used in this division, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a chiropractor to diagnose, treat, or act for a patient. A communication may include, but is not limited to, any chiropractic, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(K)(1) Except as provided under division (K)(2) of this section, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the team member, or the team member's advice to the individual, during a debriefing session.

(2) The testimonial privilege established under division (K)(1) of this section does not apply if any of the following are true:

(a) The communication or advice indicates clear and present danger to the individual who receives crisis response services or to other persons. For purposes of this division, cases in which there are indications of present or

past child abuse or neglect of the individual constitute a clear and present danger.

(b) The individual who received crisis response services gives express consent to the testimony.

(c) If the individual who received crisis response services is deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual gives express consent.

(d) The individual who received crisis response services voluntarily testifies, in which case the team member may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the individual who received crisis response services is not germane to the relationship between the individual and the team member.

(f) The communication or advice pertains or is related to any criminal act.

(3) As used in division (K) of this section:

(a) "Crisis response services" means consultation, risk assessment, referral, and on-site crisis intervention services provided by a critical incident stress management team to individuals affected by crisis or disaster.

(b) "Critical incident stress management team member" or "team member" means an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in the Ohio critical incident stress management network.

(c) "Debriefing session" means a session at which crisis response services are rendered by a critical incident stress management team member during or after a crisis or disaster.

(L)(1) Subject to division (L)(2) of this section and except as provided in division (L)(3) of this section, an employee assistance professional, concerning a communication made to the employee assistance professional by a client in the employee assistance professional's official capacity as an employee assistance professional.

(2) Division (L)(1) of this section applies to an employee assistance professional who meets either or both of the following requirements:

(a) Is certified by the employee assistance certification commission to engage in the employee assistance profession;

(b) Has education, training, and experience in all of the following:

(i) Providing workplace-based services designed to address employer and employee productivity issues;

(ii) Providing assistance to employees and employees' dependents in

identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;

(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;

(iv) Selecting and evaluating available community resources;

(v) Making appropriate referrals;

(vi) Local and national employee assistance agreements;

(vii) Client confidentiality.

(3) Division (L)(1) of this section does not apply to any of the following:

(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;

(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;

(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;

(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;

(e) A civil or criminal malpractice action brought against the employee assistance professional;

(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;

(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law.

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 2317.41 of the Revised Code but subject to division (B) of this section, the records, or copies or photographs of the records, of a hospital, homes required to be licensed pursuant to section 3721.01 of the Revised Code, and residential facilities licensed pursuant to section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, in lieu of the testimony in open court of their custodian, person who made them, or person under whose supervision

they were made, may be qualified as authentic evidence if any such person endorses thereon the person's verified certification identifying such records, giving the mode and time of their preparation, and stating that they were prepared in the usual course of the business of the institution. Such records, copies, or photographs may not be qualified by certification as provided in this section unless the party intending to offer them delivers a copy of them, or of their relevant portions, to the attorney of record for each adverse party not less than five days before trial. Nothing in this section shall be construed to limit the right of any party to call the custodian, person who made such records, or person under whose supervision they were made, as a witness.

(B) Division (A) of this section does not apply to any certified copy of the results of any test given to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in a patient's whole blood, blood serum or plasma, breath, or urine at any time relevant to a criminal offense that is submitted in a criminal action or proceeding in accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 of the Revised Code.

Sec. 2317.56. (A) As used in this section:

(1) "Medical emergency" ~~means a condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, creates an immediate threat of serious risk to the life or physical health of the woman from the continuation of the pregnancy necessitating the immediate performance or inducement of an abortion~~ has the same meaning as in section 2919.16 of the Revised Code.

(2) "Medical necessity" means a medical condition of a pregnant woman that, in the reasonable judgment of the physician who is attending the woman, so complicates the pregnancy that it necessitates the immediate performance or inducement of an abortion.

(3) "Probable gestational age of the embryo or fetus" means the gestational age that, in the judgment of a physician, is, with reasonable probability, the gestational age of the embryo or fetus at the time that the physician informs a pregnant woman pursuant to division (B)(1)(b) of this section.

(B) Except when there is a medical emergency or medical necessity, an abortion shall be performed or induced only if all of the following conditions are satisfied:

(1) At least twenty-four hours prior to the performance or inducement of the abortion, a physician meets with the pregnant woman in person in an individual, private setting and gives her an adequate opportunity to ask questions about the abortion that will be performed or induced. At this

meeting, the physician shall inform the pregnant woman, verbally or, if she is hearing impaired, by other means of communication, of all of the following:

- (a) The nature and purpose of the particular abortion procedure to be used and the medical risks associated with that procedure;
- (b) The probable gestational age of the embryo or fetus;
- (c) The medical risks associated with the pregnant woman carrying the pregnancy to term.

The meeting need not occur at the facility where the abortion is to be performed or induced, and the physician involved in the meeting need not be affiliated with that facility or with the physician who is scheduled to perform or induce the abortion.

(2) ~~At least twenty-four hours prior to the performance or inducement of the abortion, one or more physicians or one or more agents of one or more physicians do~~ the physician who is to perform or induce the abortion or the physician's agent does each of the following in person, by telephone, by certified mail, return receipt requested, or by regular mail evidenced by a certificate of mailing:

- (a) Inform the pregnant woman of the name of the physician who is scheduled to perform or induce the abortion;
- (b) Give the pregnant woman copies of the published materials described in division (C) of this section;
- (c) Inform the pregnant woman that the materials given pursuant to division (B)(2)(b) of this section are published by the state and that they describe the embryo or fetus and list agencies that offer alternatives to abortion. The pregnant woman may choose to examine or not to examine the materials. A physician or an agent of a physician may choose to be disassociated from the materials and may choose to comment or not comment on the materials.

(3) If it has been determined that the unborn human individual the pregnant woman is carrying has a detectable heartbeat, the physician who is to perform or induce the abortion shall comply with the informed consent requirements in section 2919.192 of the Revised Code in addition to complying with the informed consent requirements in divisions (B)(1), (2), (4), and (5) of this section.

(4) Prior to the performance or inducement of the abortion, the pregnant woman signs a form consenting to the abortion and certifies both of the following on that form:

- (a) She has received the information and materials described in divisions (B)(1) and (2) of this section, and her questions about the abortion

that will be performed or induced have been answered in a satisfactory manner.

(b) She consents to the particular abortion voluntarily, knowingly, intelligently, and without coercion by any person, and she is not under the influence of any drug of abuse or alcohol.

~~(4)~~ The form shall contain the name and contact information of the physician who provided to the pregnant woman the information described in division (B)(1) of this section.

~~(5)~~ Prior to the performance or inducement of the abortion, the physician who is scheduled to perform or induce the abortion or the physician's agent receives a copy of the pregnant woman's signed form on which she consents to the abortion and that includes the certification required by division (B)~~(3)~~(4) of this section.

(C) The department of health shall publish in English and in Spanish, in a typeface large enough to be clearly legible, and in an easily comprehensible format, the following materials on the department's web site:

(1) Materials that inform the pregnant woman about family planning information, of publicly funded agencies that are available to assist in family planning, and of public and private agencies and services that are available to assist her through the pregnancy, upon childbirth, and while the child is dependent, including, but not limited to, adoption agencies. The materials shall be geographically indexed; include a comprehensive list of the available agencies, a description of the services offered by the agencies, and the telephone numbers and addresses of the agencies; and inform the pregnant woman about available medical assistance benefits for prenatal care, childbirth, and neonatal care and about the support obligations of the father of a child who is born alive. The department shall ensure that the materials described in division (C)(1) of this section are comprehensive and do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this division.

(2) Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the zygote, blastocyte, embryo, or fetus at two-week gestational increments for the first sixteen weeks of pregnancy and at four-week gestational increments from the seventeenth week of pregnancy to full term, including any relevant information regarding the time at which the fetus possibly would be viable. The department shall cause these materials to be published only after it consults with the Ohio state medical association and the Ohio section of the American college of obstetricians and gynecologists relative to the probable

anatomical and physiological characteristics of a zygote, blastocyte, embryo, or fetus at the various gestational increments. The materials shall use language that is understandable by the average person who is not medically trained, shall be objective and nonjudgmental, and shall include only accurate scientific information about the zygote, blastocyte, embryo, or fetus at the various gestational increments. If the materials use a pictorial, photographic, or other depiction to provide information regarding the zygote, blastocyte, embryo, or fetus, the materials shall include, in a conspicuous manner, a scale or other explanation that is understandable by the average person and that can be used to determine the actual size of the zygote, blastocyte, embryo, or fetus at a particular gestational increment as contrasted with the depicted size of the zygote, blastocyte, embryo, or fetus at that gestational increment.

(D) Upon the submission of a request to the department of health by any person, hospital, physician, or medical facility for one copy of the materials published in accordance with division (C) of this section, the department shall make the requested copy of the materials available to the person, hospital, physician, or medical facility that requested the copy.

(E) If a medical emergency or medical necessity compels the performance or inducement of an abortion, the physician who will perform or induce the abortion, prior to its performance or inducement if possible, shall inform the pregnant woman of the medical indications supporting the physician's judgment that an immediate abortion is necessary. Any physician who performs or induces an abortion without the prior satisfaction of the conditions specified in division (B) of this section because of a medical emergency or medical necessity shall enter the reasons for the conclusion that a medical emergency or medical necessity exists in the medical record of the pregnant woman.

(F) If the conditions specified in division (B) of this section are satisfied, consent to an abortion shall be presumed to be valid and effective.

(G) The performance or inducement of an abortion without the prior satisfaction of the conditions specified in division (B) of this section does not constitute, and shall not be construed as constituting, a violation of division (A) of section 2919.12 of the Revised Code. The failure of a physician to satisfy the conditions of division (B) of this section prior to performing or inducing an abortion upon a pregnant woman may be the basis of both of the following:

(1) A civil action for compensatory and exemplary damages as described in division (H) of this section;

(2) Disciplinary action under section 4731.22 of the Revised Code.

(H)(1) Subject to divisions (H)(2) and (3) of this section, any physician who performs or induces an abortion with actual knowledge that the conditions specified in division (B) of this section have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied is liable in compensatory and exemplary damages in a civil action to any person, or the representative of the estate of any person, who sustains injury, death, or loss to person or property as a result of the failure to satisfy those conditions. In the civil action, the court additionally may enter any injunctive or other equitable relief that it considers appropriate.

(2) The following shall be affirmative defenses in a civil action authorized by division (H)(1) of this section:

(a) The physician performed or induced the abortion under the circumstances described in division (E) of this section.

(b) The physician made a good faith effort to satisfy the conditions specified in division (B) of this section.

(3) An employer or other principal is not liable in damages in a civil action authorized by division (H)(1) of this section on the basis of the doctrine of respondeat superior unless either of the following applies:

(a) The employer or other principal had actual knowledge or, by the exercise of reasonable diligence, should have known that an employee or agent performed or induced an abortion with actual knowledge that the conditions specified in division (B) of this section had not been satisfied or with a heedless indifference as to whether those conditions had been satisfied.

(b) The employer or other principal negligently failed to secure the compliance of an employee or agent with division (B) of this section.

(4) Notwithstanding division (E) of section 2919.12 of the Revised Code, the civil action authorized by division (H)(1) of this section shall be the exclusive civil remedy for persons, or the representatives of estates of persons, who allegedly sustain injury, death, or loss to person or property as a result of a failure to satisfy the conditions specified in division (B) of this section.

(I) The department of job and family services shall prepare and conduct a public information program to inform women of all available governmental programs and agencies that provide services or assistance for family planning, prenatal care, child care, or alternatives to abortion.

Sec. 2329.192. (A) As used in this section:

(1) "State lien" means a lien upon real estate, including lands and tenements, of persons indebted to the state for debt, taxes, or in any other manner recorded by a state agency in any office of the clerk of a county

court or the county recorder.

(2) "State lienholder" means the department, agency, or other division of the state in whose name a state lien has been filed or recorded.

(B) In every action seeking the judicial sale of real estate that is subject to a state lien, all of the following apply:

(1) The party seeking a judicial sale shall include the state lienholder as a party defendant and shall serve that state lienholder with a copy of the preliminary judicial report or commitment for an owner's fee policy of title insurance filed in accordance with section 2329.191 of the Revised Code.

(2) A state lienholder shall not be made a party defendant if no state lien has been recorded against the owner of the real estate for which the judicial sale is sought.

(3) The appearance of the state lienholder shall be presumed for purposes of jurisdiction, and the court shall take judicial notice that the state has a lien against the real estate.

(4) A state lienholder may, but is not required to, file an answer to the complaint or any other pleading in the action if the amount, validity, or priority of the state lien is not identified in the pleadings as disputed and shall file an answer to the complaint or any other pleading in the action if the amount, validity, or priority of the state lien is identified in the pleadings as disputed. If a state lien is not identified as disputed, unless the state files an answer or other responsive pleading, the party seeking the judicial sale is not required to serve the state lienholder with any answer or subsequent pleadings in the action for judicial sale.

(5) As part of any order confirming the sale of the real estate that is subject to any undisputed state lien or distributing the proceeds of any judicial sale of real estate, the undisputed state lien shall be protected as if the state had appeared in the action and filed an answer asserting the validity of the state lien as recorded in the office of the clerk of the county court or the office of the county recorder.

(6) Any party asserting a dispute as to the amount, validity, or priority of the state lien or of any lien or other interest that has priority over the state lien shall serve the state lienholder and the attorney general with notice of the dispute, and the state lienholder shall be permitted to file a responsive pleading and participate in the proceedings as if the state lienholder had been served with a summons on the date the state lienholder received notice of the dispute.

(C) Upon the judicial sale of the real estate that is the subject of an action under division (B) of this section, the interest of any undisputed state lien shall transfer to the proceeds of the sale of the real estate, and the state

lienholder shall be entitled to payment from the proceeds of the sale of the real estate in accordance with the state lienholder's priority as set forth in the final judicial report or commitment for an owner's fee policy of title insurance filed in accordance with section 2329.191 of the Revised Code.

Sec. 2505.02. (A) As used in this section:

(1) "Substantial right" means a right that the United States Constitution, the Ohio Constitution, a statute, the common law, or a rule of procedure entitles a person to enforce or protect.

(2) "Special proceeding" means an action or proceeding that is specially created by statute and that prior to 1853 was not denoted as an action at law or a suit in equity.

(3) "Provisional remedy" means a proceeding ancillary to an action, including, but not limited to, a proceeding for a preliminary injunction, attachment, discovery of privileged matter, suppression of evidence, a prima-facie showing pursuant to section 2307.85 or 2307.86 of the Revised Code, a prima-facie showing pursuant to section 2307.92 of the Revised Code, or a finding made pursuant to division (A)(3) of section 2307.93 of the Revised Code.

(B) An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:

(1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment;

(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

(3) An order that vacates or sets aside a judgment or grants a new trial;

(4) An order that grants or denies a provisional remedy and to which both of the following apply:

(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.

(5) An order that determines that an action may or may not be maintained as a class action;

(6) An order determining the constitutionality of any changes to the Revised Code made by Am. Sub. S.B. 281 of the 124th general assembly, including the amendment of sections 1751.67, 2117.06, 2305.11, 2305.15, 2305.234, 2317.02, 2317.54, 2323.56, 2711.21, 2711.22, 2711.23, 2711.24, 2743.02, 2743.43, 2919.16, 3923.63, 3923.64, 4705.15, and 5111.018

(renumbered as 5164.07 by H.B. 59 of the 130th general assembly), and the enactment of sections 2305.113, 2323.41, 2323.43, and 2323.55 of the Revised Code or any changes made by Sub. S.B. 80 of the 125th general assembly, including the amendment of sections 2125.02, 2305.10, 2305.131, 2315.18, 2315.19, and 2315.21 of the Revised Code;

(7) An order in an appropriation proceeding that may be appealed pursuant to division (B)(3) of section 163.09 of the Revised Code.

(C) When a court issues an order that vacates or sets aside a judgment or grants a new trial, the court, upon the request of either party, shall state in the order the grounds upon which the new trial is granted or the judgment vacated or set aside.

(D) This section applies to and governs any action, including an appeal, that is pending in any court on July 22, 1998, and all claims filed or actions commenced on or after July 22, 1998, notwithstanding any provision of any prior statute or rule of law of this state.

Sec. 2743.48. (A) As used in this section and section 2743.49 of the Revised Code, a "wrongfully imprisoned individual" means an individual who satisfies each of the following:

(1) The individual was charged with a violation of a section of the Revised Code by an indictment or information, and the violation charged was an aggravated felony or felony.

(2) The individual was found guilty of, but did not plead guilty to, the particular charge or a lesser-included offense by the court or jury involved, and the offense of which the individual was found guilty was an aggravated felony or felony.

(3) The individual was sentenced to an indefinite or definite term of imprisonment in a state correctional institution for the offense of which the individual was found guilty.

(4) The individual's conviction was vacated, dismissed, or reversed on appeal, the prosecuting attorney in the case cannot or will not seek any further appeal of right or upon leave of court, and no criminal proceeding is pending, can be brought, or will be brought by any prosecuting attorney, city director of law, village solicitor, or other chief legal officer of a municipal corporation against the individual for any act associated with that conviction.

(5) Subsequent to sentencing and during or subsequent to imprisonment, an error in procedure resulted in the individual's release, or it was determined by the court of common pleas in the county where the underlying criminal action was initiated that the charged offense, including all lesser-included offenses, either was not committed by the individual or

was not committed by any person.

(B)(1) A person may file a civil action to be declared a wrongfully imprisoned individual in the court of common pleas in the county where the underlying criminal action was initiated. That civil action shall be separate from the underlying finding of guilt by the court of common pleas. Upon the filing of a civil action to be determined a wrongfully imprisoned individual, the attorney general shall be served with a copy of the complaint and shall be heard.

(2) When the court of common pleas in the county where the underlying criminal action was initiated determines in a separate civil action that a person is a wrongfully imprisoned individual, the court shall provide the person with a copy of this section and orally inform the person and the person's attorney of the person's rights under this section to commence a civil action against the state in the court of claims because of the person's wrongful imprisonment and to be represented in that civil action by counsel of the person's own choice.

(3) The court described in division (B)(1) of this section shall notify the clerk of the court of claims, in writing and within seven days after the date of the entry of its determination that the person is a wrongfully imprisoned individual, of the name and proposed mailing address of the person and of the fact that the person has the rights to commence a civil action and to have legal representation as provided in this section. The clerk of the court of claims shall maintain in the clerk's office a list of wrongfully imprisoned individuals for whom notices are received under this section and shall create files in the clerk's office for each such individual.

(4) Within sixty days after the date of the entry of the determination by the court of common pleas in the county where the underlying criminal action was initiated that a person is a wrongfully imprisoned individual, the clerk of the court of claims shall forward a preliminary judgment to the president of the controlling board requesting the payment of fifty per cent of the amount described in division (E)(2)(b) of this section to the wrongfully imprisoned individual. The board shall take all actions necessary to cause the payment of that amount out of the emergency purposes special purpose account of the board.

(5) If an individual was serving at the time of the wrongful imprisonment concurrent sentences on other convictions that were not vacated, dismissed, or reversed on appeal, the individual is not eligible for compensation as described in this section for any portion of that wrongful imprisonment that occurred during a concurrent sentence of that nature.

(C)(1) In a civil action under this section, a wrongfully imprisoned

individual has the right to have counsel of the individual's own choice.

(2) If a wrongfully imprisoned individual who is the subject of a court determination as described in division (B)(2) of this section does not commence a civil action under this section within six months after the entry of that determination, the clerk of the court of claims shall send a letter to the wrongfully imprisoned individual, at the address set forth in the notice received from the court of common pleas pursuant to division (B)(3) of this section or to any later address provided by the wrongfully imprisoned individual, that reminds the wrongfully imprisoned individual of the wrongfully imprisoned individual's rights under this section. Until the statute of limitations provided in division (H) of this section expires and unless the wrongfully imprisoned individual commences a civil action under this section, the clerk of the court of claims shall send a similar letter in a similar manner to the wrongfully imprisoned individual at least once each three months after the sending of the first reminder.

(D) Notwithstanding any provisions of this chapter to the contrary, a wrongfully imprisoned individual has and may file a civil action against the state, in the court of claims, to recover a sum of money as described in this section, because of the individual's wrongful imprisonment. The court of claims shall have exclusive, original jurisdiction over such a civil action. The civil action shall proceed, be heard, and be determined as provided in sections 2743.01 to 2743.20 of the Revised Code, except that if a provision of this section conflicts with a provision in any of those sections, the provision in this section controls.

(E)(1) In a civil action as described in division (D) of this section, the complainant may establish that the claimant is a wrongfully imprisoned individual by submitting to the court of claims a certified copy of the judgment entry of the court of common pleas associated with the claimant's conviction and sentencing, and a certified copy of the entry of the determination of the court of common pleas that the claimant is a wrongfully imprisoned individual under division (B)(2) of this section. No other evidence shall be required of the complainant to establish that the claimant is a wrongfully imprisoned individual, and the claimant shall be irrebuttably presumed to be a wrongfully imprisoned individual.

(2) In a civil action as described in division (D) of this section, upon presentation of requisite proof to the court of claims, a wrongfully imprisoned individual is entitled to receive a sum of money that equals the total of each of the following amounts:

(a) The amount of any fine or court costs imposed and paid, and the reasonable attorney's fees and other expenses incurred by the wrongfully

imprisoned individual in connection with all associated criminal proceedings and appeals, and, if applicable, in connection with obtaining the wrongfully imprisoned individual's discharge from confinement in the state correctional institution;

(b) For each full year of imprisonment in the state correctional institution for the offense of which the wrongfully imprisoned individual was found guilty, forty thousand three hundred thirty dollars or the adjusted amount determined by the auditor of state pursuant to section 2743.49 of the Revised Code, and for each part of a year of being so imprisoned, a pro-rated share of forty thousand three hundred thirty dollars or the adjusted amount determined by the auditor of state pursuant to section 2743.49 of the Revised Code;

(c) Any loss of wages, salary, or other earned income that directly resulted from the wrongfully imprisoned individual's arrest, prosecution, conviction, and wrongful imprisonment;

(d) The amount of the following cost debts the department of rehabilitation and correction recovered from the wrongfully imprisoned individual who was in custody of the department or under the department's supervision:

(i) Any user fee or copayment for services at a detention facility, including, but not limited to, a fee or copayment for sick call visits;

(ii) The cost of housing and feeding the wrongfully imprisoned individual in a detention facility;

(iii) The cost of supervision of the wrongfully imprisoned individual;

(iv) The cost of any ancillary services provided to the wrongfully imprisoned individual.

(F)(1) If the court of claims determines in a civil action as described in division (D) of this section that the complainant is a wrongfully imprisoned individual, it shall enter judgment for the wrongfully imprisoned individual in the amount of the sum of money to which the wrongfully imprisoned individual is entitled under division (E)(2) of this section. In determining that sum, the court of claims shall not take into consideration any expenses incurred by the state or any of its political subdivisions in connection with the arrest, prosecution, and imprisonment of the wrongfully imprisoned individual, including, but not limited to, expenses for food, clothing, shelter, and medical services. The court shall reduce that sum by the amount of the payment to the wrongfully imprisoned individual described in division (B)(4) of this section.

(2) If the wrongfully imprisoned individual was represented in the civil action under this section by counsel of the wrongfully imprisoned

individual's own choice, the court of claims shall include in the judgment entry referred to in division (F)(1) of this section an award for the reasonable attorney's fees of that counsel. These fees shall be paid as provided in division (G) of this section.

(3) The state consents to be sued by a wrongfully imprisoned individual because the imprisonment was wrongful, and to liability on its part because of that fact, only as provided in this section. However, this section does not affect any liability of the state or of its employees to a wrongfully imprisoned individual on a claim for relief that is not based on the fact of the wrongful imprisonment, including, but not limited to, a claim for relief that arises out of circumstances occurring during the wrongfully imprisoned individual's confinement in the state correctional institution.

(G) The clerk of the court of claims shall forward a certified copy of a judgment under division (F) of this section to the president of the controlling board. The board shall take all actions necessary to cause the payment of the judgment out of the emergency purposes special purpose account of the board.

(H) To be eligible to recover a sum of money as described in this section because of wrongful imprisonment, both of the following shall apply to a wrongfully imprisoned individual:

(1) The wrongfully imprisoned individual shall not have been, prior to September 24, 1986, the subject of an act of the general assembly that authorized an award of compensation for the wrongful imprisonment or have been the subject of an action before the former sundry claims board that resulted in an award of compensation for the wrongful imprisonment.

(2) The wrongfully imprisoned individual shall commence a civil action under this section in the court of claims no later than two years after the date of the entry of the determination of the court of common pleas that the individual is a wrongfully imprisoned individual under division (B)(2) of this section.

Sec. 2744.05. Notwithstanding any other provisions of the Revised Code or rules of a court to the contrary, in an action against a political subdivision to recover damages for injury, death, or loss to person or property caused by an act or omission in connection with a governmental or proprietary function:

(A) Punitive or exemplary damages shall not be awarded.

(B)(1) If a claimant receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against a political subdivision

recovered by that claimant. No insurer or other person is entitled to bring an action under a subrogation provision in an insurance or other contract against a political subdivision with respect to those benefits.

The amount of the benefits shall be deducted from an award against a political subdivision under division (B)(1) of this section regardless of whether the claimant may be under an obligation to pay back the benefits upon recovery, in whole or in part, for the claim. A claimant whose benefits have been deducted from an award under division (B)(1) of this section is not considered fully compensated and shall not be required to reimburse a subrogated claim for benefits deducted from an award pursuant to division (B)(1) of this section.

(2) Nothing in division (B)(1) of this section shall be construed to do either of the following:

(a) Limit the rights of a beneficiary under a life insurance policy or the rights of sureties under fidelity or surety bonds;

(b) Prohibit the department of ~~job and family services~~ medicaid from recovering from the political subdivision, pursuant to section ~~5101.58~~ 5160.37 of the Revised Code, the cost of medical assistance ~~benefits provided under Chapter 5107. or 5111. of the Revised Code~~ provided under a medical assistance program.

(C)(1) There shall not be any limitation on compensatory damages that represent the actual loss of the person who is awarded the damages. However, except in wrongful death actions brought pursuant to Chapter 2125. of the Revised Code, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages shall not exceed two hundred fifty thousand dollars in favor of any one person. The limitation on damages that do not represent the actual loss of the person who is awarded the damages provided in this division does not apply to court costs that are awarded to a plaintiff, or to interest on a judgment rendered in favor of a plaintiff, in an action against a political subdivision.

(2) As used in this division, "the actual loss of the person who is awarded the damages" includes all of the following:

(a) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the person injured;

(b) All expenditures of the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services,

or for other care, treatment, services, products, or accommodations that were necessary because of the injury;

(c) All expenditures to be incurred in the future, as determined by the court, by the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that will be necessary because of the injury;

(d) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property that was injured or destroyed;

(e) All expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved;

(f) Any other expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed that the court determines represent an actual loss experienced because of the personal or property injury or property loss.

"The actual loss of the person who is awarded the damages" does not include any fees paid or owed to an attorney for any services rendered in relation to a personal or property injury or property loss, and does not include any damages awarded for pain and suffering, for the loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education of the person injured, for mental anguish, or for any other intangible loss.

Sec. 2901.13. (A)(1) Except as provided in division (A)(2) or (3) of this section or as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

(a) For a felony, six years;

(b) For a misdemeanor other than a minor misdemeanor, two years;

(c) For a minor misdemeanor, six months.

(2) There is no period of limitation for the prosecution of a violation of section 2903.01 or 2903.02 of the Revised Code.

(3) Except as otherwise provided in divisions (B) to (H) of this section, a prosecution of any of the following offenses shall be barred unless it is commenced within twenty years after the offense is committed:

(a) A violation of section 2903.03, 2903.04, 2905.01, 2905.32, 2907.02,

2907.03, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of section 2903.11 or 2903.12 of the Revised Code if the victim is a peace officer, a violation of section 2903.13 of the Revised Code that is a felony, or a violation of former section 2907.12 of the Revised Code;

(b) A conspiracy to commit, attempt to commit, or complicity in committing a violation set forth in division (A)(3)(a) of this section.

(B)(1) Except as otherwise provided in division (B)(2) of this section, if the period of limitation provided in division (A)(1) or (3) of this section has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by the aggrieved person's legal representative who is not a party to the offense.

(2) If the period of limitation provided in division (A)(1) or (3) of this section has expired, prosecution for a violation of section 2913.49 of the Revised Code shall be commenced within five years after discovery of the offense either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.

(C)(1) If the period of limitation provided in division (A)(1) or (3) of this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:

(a) For an offense involving misconduct in office by a public servant, at any time while the accused remains a public servant, or within two years thereafter;

(b) For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.

(2) As used in this division:

(a) An "offense is directly related to the misconduct in office of a public servant" includes, but is not limited to, a violation of section 101.71, 101.91, 121.61 or 2921.13, division (F) or (H) of section 102.03, division (A) of section 2921.02, division (A) or (B) of section 2921.43, or division (F) or (G) of section 3517.13 of the Revised Code, that is directly related to an offense involving misconduct in office of a public servant.

(b) "Public servant" has the same meaning as in section 2921.01 of the Revised Code.

(D) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of

conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

(E) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation, or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation, or other process, unless reasonable diligence is exercised to execute the same.

(F) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.

(G) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused departed this state or concealed the accused's identity or whereabouts is prima-facie evidence of the accused's purpose to avoid prosecution.

(H) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this state, even though the indictment, information, or process that commenced the prosecution is quashed or the proceedings on the indictment, information, or process are set aside or reversed on appeal.

(I) The period of limitation for a violation of any provision of Title XXIX of the Revised Code that involves a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen years of age or of a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age shall not begin to run until either of the following occurs:

(1) The victim of the offense reaches the age of majority.

(2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred.

(J) As used in this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code.

Sec. 2901.30. (A) As used in sections 2901.30 to 2901.32 of the Revised Code:

(1) "Information" means information that can be integrated into the

computer system and that relates to the physical or mental description of a minor including, but not limited to, height, weight, color of hair and eyes, use of eyeglasses or contact lenses, skin coloring, physical or mental handicaps, special medical conditions or needs, abnormalities, problems, scars and marks, and distinguishing characteristics, and other information that could assist in identifying a minor including, but not limited to, full name and nickname, date and place of birth, age, names and addresses of parents and other relatives, fingerprints, dental records, photographs, social security number, driver's license number, credit card numbers, bank account numbers, and clothing.

(2) "Minor" means a person under eighteen years of age.

(3) "Missing children" or "missing child" means either of the following:

(a) A minor who has run away from or who otherwise is missing from the home of, or the care, custody, and control of, the minor's parents, parent who is the residential parent and legal custodian, guardian, legal custodian, or other person having responsibility for the care of the minor;

(b) A minor who is missing and about whom there is reason to believe the minor could be the victim of a violation of section 2905.01, 2905.02, 2905.03, or 2919.23 of the Revised Code or of a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996.

(B) When a law enforcement agency in this state that has jurisdiction in the matter is informed that a minor is or may be a missing child and that the person providing the information wishes to file a missing child report, the law enforcement agency shall take that report. Upon taking the report, the law enforcement agency shall take prompt action upon it, including, but not limited to, concerted efforts to locate the missing child. No law enforcement agency in this state shall have a rule or policy that prohibits or discourages the filing of or the taking of action upon a missing child report, within a specified period following the discovery or formulation of a belief that a minor is or could be a missing child.

(C) If a missing child report is made to a law enforcement agency in this state that has jurisdiction in the matter, the law enforcement agency shall gather readily available information about the missing child and integrate it into the national crime information center computer immediately following the making of the report. The law enforcement agency shall make reasonable efforts to acquire additional information about the missing child following the transmittal of the initially available information, and promptly integrate any additional information acquired into such computer systems.

Whenever a law enforcement agency integrates information about a missing child into the national crime information center computer, the law

enforcement agency promptly shall notify the missing child's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian, or any other person responsible for the care of the missing child, that it has so integrated the information.

The parents, parent who is the residential parent and legal custodian, guardian, legal custodian, or other person responsible for the care of the missing child shall provide available information upon request, and may provide information voluntarily, to the law enforcement agency during the information gathering process. The law enforcement agency also may obtain available information about the missing child from other persons, subject to constitutional and statutory limitations.

(D) Upon the filing of a missing child report, the law enforcement agency involved may notify the public or nonpublic school in which the missing child is or was most recently enrolled, as ascertained by the agency, that the child is the subject of a missing child report and that the child's school records are to be marked in accordance with section 3313.672 of the Revised Code.

(E) Upon the filing of a missing child report, the law enforcement agency involved promptly shall make a reasonable attempt to notify other law enforcement agencies within its county and, if the agency has jurisdiction in a municipal corporation or township that borders another county, to notify the law enforcement agency for the municipal corporation or township in the other county with which it shares the border, that it has taken a missing child report and may be requesting assistance or cooperation in the case, and provide relevant information to the other law enforcement agencies. The agency may notify additional law enforcement agencies, or appropriate public children services agencies, about the case, request their assistance or cooperation in the case, and provide them with relevant information.

Upon request from a law enforcement agency, a public children services agency shall grant the law enforcement agency access to all information concerning a missing child that the agency possesses that may be relevant to the law enforcement agency in investigating a missing child report concerning that child. The information obtained by the law enforcement agency shall be used only to further the investigation to locate the missing child.

(F) Upon request, law enforcement agencies in this state shall provide assistance to, and cooperate with, other law enforcement agencies in their investigation of missing child cases. The assistance and cooperation under this paragraph shall be pursuant to any terms agreed upon by the law

enforcement agencies, which may include the provision of law enforcement services or the use of law enforcement equipment or the interchange of services and equipment among the cooperating law enforcement agencies. Chapter 2744. of the Revised Code, insofar as it applies to the operation of law enforcement agencies, shall apply to the cooperating political subdivisions and to the law enforcement agency employees when they are rendering services pursuant to this paragraph outside the territory of the political subdivision by which they are employed. Law enforcement agency employees rendering services outside the territory of the political subdivision in which they are employed, pursuant to this paragraph, shall be entitled to participate in any indemnity fund established by their employer to the same extent as if they were rendering service within the territory of their employing political subdivision. Those law enforcement agency employees also shall be entitled to all the rights and benefits of Chapter 4123. of the Revised Code to the same extent as if rendering services within the territory of their employing political subdivision.

The information in any missing child report made to a law enforcement agency shall be made available, upon request, to law enforcement personnel of this state, other states, and the federal government when the law enforcement personnel indicate that the request is to aid in identifying or locating a missing child or the possible identification of a deceased minor who, upon discovery, cannot be identified.

(G) When a missing child has not been located within thirty days after the date on which the missing child report pertaining to the child was filed with a law enforcement agency, that law enforcement agency shall request the missing child's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian, or any other person responsible for the care of the missing child, to provide written consent for the law enforcement agency to contact the missing child's dentist and request the missing child's dental records. Upon receipt of such written consent, the dentist shall release a copy of the missing child's dental records to the law enforcement agency and shall provide and encode the records in such form as requested by the law enforcement agency. The law enforcement agency then shall integrate information in the records into the national crime information center computer in order to compare the records to those of unidentified deceased persons. This division does not prevent a law enforcement agency from seeking consent to obtain copies of a missing child's dental records, or prevent a missing child's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian, or any other person responsible for the care of the missing child, from granting

consent for the release of copies of the missing child's dental records to a law enforcement agency, at any time.

(H) A missing child's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian, or any other persons responsible for the care of a missing child, immediately shall notify the law enforcement agency with which they filed the missing child report whenever the child has returned to their home or to their care, custody, and control, has been released if the missing child was the victim of an offense listed in division (A)(3)(b) of this section, or otherwise has been located. Upon such notification or upon otherwise learning that a missing child has returned to the home of, or to the care, custody, and control of the missing child's parents, parent who is the residential parent and legal custodian, guardian, legal custodian, or other person responsible for the missing child's care, has been released if the missing child was the victim of an offense listed in division (A)(3)(b) of this section, or otherwise has been located, the law enforcement agency involved promptly shall integrate the fact that the minor no longer is a missing child into the national crime information center computer and shall inform any school that was notified under division (D) of this section that the minor is no longer a missing child.

~~(I) Nothing contained in this section shall be construed to impair the confidentiality of services provided to runaway minors by shelters for runaway minors pursuant to sections 5119.64 to 5119.68 of the Revised Code.~~

Sec. 2903.13. (A) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.

(B) No person shall recklessly cause serious physical harm to another or to another's unborn.

(C)(1) Whoever violates this section is guilty of assault, and the court shall sentence the offender as provided in this division and divisions (C)(1), (2), (3), (4), (5), (6), (7), (8), ~~and (9), and (10)~~ of this section. Except as otherwise provided in division (C)(2), (3), (4), (5), (6), (7), ~~or (8), or (9)~~ of this section, assault is a misdemeanor of the first degree.

(2) Except as otherwise provided in this division, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care, assault is a felony of the fourth degree. If the offense is committed by a caretaker against a functionally impaired person under the caretaker's care, if the offender previously has been convicted of or pleaded guilty to a violation of this section or section 2903.11 or 2903.16 of the Revised Code, and if in relation to the previous conviction the offender was a caretaker and the victim was a functionally impaired person under the

offender's care, assault is a felony of the third degree.

(3) If the offense occurs in or on the grounds of a state correctional institution or an institution of the department of youth services, the victim of the offense is an employee of the department of rehabilitation and correction or the department of youth services, and the offense is committed by a person incarcerated in the state correctional institution or by a person institutionalized in the department of youth services institution pursuant to a commitment to the department of youth services, assault is a felony of the third degree.

(4) If the offense is committed in any of the following circumstances, assault is a felony of the fifth degree:

~~(a) The offense occurs in or on the grounds of a state correctional institution or an institution of the department of youth services, the victim of the offense is an employee of the department of rehabilitation and correction, the department of youth services, or a probation department or is on the premises of the particular institution for business purposes or as a visitor, and the offense is committed by a person incarcerated in the state correctional institution, by a person institutionalized in the department of youth services institution pursuant to a commitment to the department of youth services, by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post release control, or by an offender under any other type of supervision by a government agency.~~

(b) The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person's being charged with or convicted of any crime, or subsequent to the person's being alleged to be or adjudicated a delinquent child.

~~(e)~~(b) The offense occurs off the grounds of a state correctional institution and off the grounds of an institution of the department of youth services, the victim of the offense is an employee of the department of rehabilitation and correction, the department of youth services, or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person incarcerated in a state correctional institution or institutionalized in the department of youth services who temporarily is outside of the institution for any purpose, by a

parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.

~~(d)~~(c) The offense occurs off the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person being charged with or convicted of any crime, or subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.

~~(e)~~(d) The victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus, or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises.

~~(4)~~(5) If the victim of the offense is a peace officer or an investigator of the bureau of criminal identification and investigation, a firefighter, or a person performing emergency medical service, while in the performance of their official duties, assault is a felony of the fourth degree.

~~(5)~~(6) If the victim of the offense is a peace officer or an investigator of the bureau of criminal identification and investigation and if the victim suffered serious physical harm as a result of the commission of the offense, assault is a felony of the fourth degree, and the court, pursuant to division (F) of section 2929.13 of the Revised Code, shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the fourth degree that is at least twelve months in duration.

~~(6)~~(7) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance

of official responsibilities or duties, assault is either a felony of the fifth degree or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, a felony of the fourth degree.

~~(7)~~(8) If the victim of the offense is a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital whom the offender knows or has reasonable cause to know is a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital, if the victim is engaged in the performance of the victim's duties, and if the hospital offers de-escalation or crisis intervention training for such professionals, workers, or officers, assault is one of the following:

(a) Except as otherwise provided in division (C)~~(7)~~(8)(b) of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. Notwithstanding the fine specified in division (A)(2)(b) of section 2929.28 of the Revised Code for a misdemeanor of the first degree, in sentencing the offender under this division and if the court decides to impose a fine, the court may impose upon the offender a fine of not more than five thousand dollars.

(b) If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against hospital personnel, assault committed in the specified circumstances is a felony of the fifth degree.

~~(8)~~(9) If the victim of the offense is a judge, magistrate, prosecutor, or court official or employee whom the offender knows or has reasonable cause to know is a judge, magistrate, prosecutor, or court official or employee, and if the victim is engaged in the performance of the victim's duties, assault is one of the following:

(a) Except as otherwise provided in division (C)~~(7)~~(8)(b) of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. In sentencing the offender under this division, if the court decides to impose a fine, notwithstanding the fine specified in division (A)(2)(b) of section 2929.28 of the Revised Code for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than five thousand dollars.

(b) If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against justice system

personnel, assault committed in the specified circumstances is a felony of the fifth degree.

~~(9)~~(10) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of section 2929.24 of the Revised Code.

If an offender who is convicted of or pleads guilty to assault when it is a felony also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, except as otherwise provided in division (C)~~(5)~~(6) of this section, the court shall sentence the offender to a mandatory prison term as provided in division (B)(8) of section 2929.14 of the Revised Code.

(D) As used in this section:

(1) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(2) "Firefighter" has the same meaning as in section 3937.41 of the Revised Code.

(3) "Emergency medical service" has the same meaning as in section 4765.01 of the Revised Code.

(4) "Local correctional facility" means a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, a minimum security jail established under section 341.23 or 753.21 of the Revised Code, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.

(5) "Employee of a local correctional facility" means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of the facility.

(6) "School teacher or administrator" means either of the following:

(a) A person who is employed in the public schools of the state under a contract described in section 3311.77 or 3319.08 of the Revised Code in a position in which the person is required to have a certificate issued pursuant to sections 3319.22 to 3319.311 of the Revised Code.

(b) A person who is employed by a nonpublic school for which the state

board of education prescribes minimum standards under section 3301.07 of the Revised Code and who is certificated in accordance with section 3301.071 of the Revised Code.

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

(8) "Escorted visit" means an escorted visit granted under section 2967.27 of the Revised Code.

(9) "Post-release control" and "transitional control" have the same meanings as in section 2967.01 of the Revised Code.

(10) "Investigator of the bureau of criminal identification and investigation" has the same meaning as in section 2903.11 of the Revised Code.

(11) "Health care professional" and "health care worker" have the same meanings as in section 2305.234 of the Revised Code.

(12) "Assault or homicide offense committed against hospital personnel" means a violation of this section or of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, or 2903.14 of the Revised Code committed in circumstances in which all of the following apply:

(a) The victim of the offense was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital.

(b) The offender knew or had reasonable cause to know that the victim was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital.

(c) The victim was engaged in the performance of the victim's duties.

(d) The hospital offered de-escalation or crisis intervention training for such professionals, workers, or officers.

(13) "De-escalation or crisis intervention training" means de-escalation or crisis intervention training for health care professionals of a hospital, health care workers of a hospital, and security officers of a hospital to facilitate interaction with patients, members of a patient's family, and visitors, including those with mental impairments.

(14) "Assault or homicide offense committed against justice system personnel" means a violation of this section or of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, or 2903.14 of the Revised Code committed in circumstances in which the victim of the offense was a judge, magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, magistrate, prosecutor, or court official or employee, and the victim was engaged in the performance of the victim's duties.

(15) "Court official or employee" means any official or employee of a court created under the constitution or statutes of this state or of a United States court located in this state.

(16) "Judge" means a judge of a court created under the constitution or statutes of this state or of a United States court located in this state.

(17) "Magistrate" means an individual who is appointed by a court of record of this state and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this state who has similar powers and functions.

(18) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(19)(a) "Hospital" means, subject to division (D)(19)(b) of this section, an institution classified as a hospital under section 3701.01 of the Revised Code in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.

(b) "Hospital" does not include any of the following:

(i) A facility licensed under Chapter 3721. of the Revised Code, a health care facility operated by the department of mental health or the department of developmental disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;

(ii) An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing twenty-four-hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(20) "Health maintenance organization" has the same meaning as in section 3727.01 of the Revised Code.

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the Revised Code:

(A) "Care facility" means any of the following:

(1) Any "home" as defined in section 3721.10 ~~or 5111.20~~ of the Revised Code;

(2) Any "residential facility" as defined in section 5123.19 of the Revised Code;

(3) Any institution or facility operated or provided by the department of ~~mental health~~ mental health and addiction services or by the department of developmental disabilities pursuant to sections ~~5119.02~~ 5119.14 and 5123.03 of the Revised Code;

(4) Any "residential facility" as defined in section ~~5119.22~~ 5119.34 of the Revised Code;

(5) Any unit of any hospital, as defined in section 3701.01 of the Revised Code, that provides the same services as a nursing home, as defined in section 3721.01 of the Revised Code;

(6) Any institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to one individual or two unrelated individuals who are dependent upon the services of others.

(B) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a person by physical contact with the person or by the inappropriate use of a physical or chemical restraint, medication, or isolation on the person.

(C)(1) "Gross neglect" means knowingly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in physical harm or serious physical harm to the person.

(2) "Neglect" means recklessly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in serious physical harm to the person.

(D) "Inappropriate use of a physical or chemical restraint, medication, or isolation" means the use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in quantities that preclude habilitation and treatment.

Sec. 2907.22. (A) No person shall knowingly:

(1) Establish, maintain, operate, manage, supervise, control, or have an interest in a brothel or any other enterprise a purpose of which is to facilitate engagement in sexual activity for hire;

(2) Supervise, manage, or control the activities of a prostitute in engaging in sexual activity for hire;

(3) Transport another, or cause another to be transported ~~across the boundary of this state or of any county in this state,~~ in order to facilitate the other person's engaging in sexual activity for hire;

(4) For the purpose of violating or facilitating a violation of this section, induce or procure another to engage in sexual activity for hire.

(B) Whoever violates this section is guilty of promoting prostitution. Except as otherwise provided in this division, promoting prostitution is a felony of the fourth degree. If any prostitute in the brothel involved in the offense, or the prostitute whose activities are supervised, managed, or controlled by the offender, or the person transported, induced, or procured by the offender to engage in sexual activity for hire, is a minor, whether or not the offender knows the age of the minor, then promoting prostitution is a felony of the third degree. If the offender in any case also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

Sec. 2913.01. As used in this chapter, unless the context requires that a term be given a different meaning:

(A) "Deception" means knowingly deceiving another or causing another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

(B) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

(C) "Deprive" means to do any of the following:

(1) Withhold property of another permanently, or for a period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;

(2) Dispose of property so as to make it unlikely that the owner will recover it;

(3) Accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.

(D) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

(E) "Services" include labor, personal services, professional services,

rental services, public utility services including wireless service as defined in division (F)(1) of section ~~5507.04~~ 128.01 of the Revised Code, common carrier services, and food, drink, transportation, entertainment, and cable television services and, for purposes of section 2913.04 of the Revised Code, include cable services as defined in that section.

(F) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film, or other thing having in or upon it any written, typewritten, or printed matter, and any token, stamp, seal, credit card, badge, trademark, label, or other symbol of value, right, privilege, license, or identification.

(G) "Forge" means to fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.

(H) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver, or display.

(I) "Coin machine" means any mechanical or electronic device designed to do both of the following:

(1) Receive a coin, bill, or token made for that purpose;

(2) In return for the insertion or deposit of a coin, bill, or token, automatically dispense property, provide a service, or grant a license.

(J) "Slug" means an object that, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.

(K) "Theft offense" means any of the following:

(1) A violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, 2913.48, former section 2913.47 or 2913.48, or section 2913.51, 2915.05, or 2921.41 of the Revised Code;

(2) A violation of an existing or former municipal ordinance or law of this or any other state, or of the United States, substantially equivalent to any section listed in division (K)(1) of this section or a violation of section 2913.41, 2913.81, or 2915.06 of the Revised Code as it existed prior to July 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of this or any other state, or of the United States, involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (K)(1), (2), or (3) of this section.

(L) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is contained within a computer system or computer network.

(M) "Computer" means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program, or communication facilities that are connected, or related, in a computer system or network to an electronic device of that nature.

(N) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output, and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.

(O) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

(P) "Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, cause the computer to process data.

(Q) "Computer software" means computer programs, procedures, and other documentation associated with the operation of a computer system.

(R) "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system, or computer network. For purposes of section 2913.47 of the Revised Code, "data" has the additional meaning set forth in division (A) of that section.

(S) "Cable television service" means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.

(T) "Gain access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a

computer, computer system, or computer network, or any cable service or cable system both as defined in section 2913.04 of the Revised Code.

(U) "Credit card" includes, but is not limited to, a card, code, device, or other means of access to a customer's account for the purpose of obtaining money, property, labor, or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine, or a cash dispensing machine. It also includes a county procurement card issued under section 301.29 of the Revised Code.

(V) "Electronic fund transfer" has the same meaning as in 92 Stat. 3728, 15 U.S.C.A. 1693a, as amended.

(W) "Rented property" means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.

(X) "Telecommunication" means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence of any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method.

(Y) "Telecommunications device" means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.

(Z) "Telecommunications service" means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.

(AA) "Counterfeit telecommunications device" means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. "Counterfeit telecommunications device" includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of

telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.

(BB)(1) "Information service" means, subject to division (BB)(2) of this section, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.

(2) "Information service" does not include any use of a capability of a type described in division (BB)(1) of this section for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

(CC) "Elderly person" means a person who is sixty-five years of age or older.

(DD) "Disabled adult" means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unable to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons.

(EE) "Firearm" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(FF) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(GG) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.

(HH) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.

(II)(1) "Computer hacking" means any of the following:

(a) Gaining access or attempting to gain access to all or part of a computer, computer system, or a computer network without express or implied authorization with the intent to defraud or with intent to commit a crime;

(b) Misusing computer or network services including, but not limited to, mail transfer programs, file transfer programs, proxy servers, and web servers by performing functions not authorized by the owner of the

computer, computer system, or computer network or other person authorized to give consent. As used in this division, "misuse of computer and network services" includes, but is not limited to, the unauthorized use of any of the following:

(i) Mail transfer programs to send mail to persons other than the authorized users of that computer or computer network;

(ii) File transfer program proxy services or proxy servers to access other computers, computer systems, or computer networks;

(iii) Web servers to redirect users to other web pages or web servers.

(c)(i) Subject to division (II)(1)(c)(ii) of this section, using a group of computer programs commonly known as "port scanners" or "probes" to intentionally access any computer, computer system, or computer network without the permission of the owner of the computer, computer system, or computer network or other person authorized to give consent. The group of computer programs referred to in this division includes, but is not limited to, those computer programs that use a computer network to access a computer, computer system, or another computer network to determine any of the following: the presence or types of computers or computer systems on a network; the computer network's facilities and capabilities; the availability of computer or network services; the presence or versions of computer software including, but not limited to, operating systems, computer services, or computer contaminants; the presence of a known computer software deficiency that can be used to gain unauthorized access to a computer, computer system, or computer network; or any other information about a computer, computer system, or computer network not necessary for the normal and lawful operation of the computer initiating the access.

(ii) The group of computer programs referred to in division (II)(1)(c)(i) of this section does not include standard computer software used for the normal operation, administration, management, and test of a computer, computer system, or computer network including, but not limited to, domain name services, mail transfer services, and other operating system services, computer programs commonly called "ping," "tcpdump," and "traceroute" and other network monitoring and management computer software, and computer programs commonly known as "nslookup" and "whois" and other systems administration computer software.

(d) The intentional use of a computer, computer system, or a computer network in a manner that exceeds any right or permission granted by the owner of the computer, computer system, or computer network or other person authorized to give consent.

(2) "Computer hacking" does not include the introduction of a computer

contaminant, as defined in section 2909.01 of the Revised Code, into a computer, computer system, computer program, or computer network.

(JJ) "Police dog or horse" has the same meaning as in section 2921.321 of the Revised Code.

(KK) "Anhydrous ammonia" is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this division. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two per cent nitrogen to eighteen per cent hydrogen.

(LL) "Assistance dog" has the same meaning as in section 955.011 of the Revised Code.

(MM) "Federally licensed firearms dealer" has the same meaning as in section 5502.63 of the Revised Code.

Sec. 2913.40. (A) As used in this section:

(1) "Statement or representation" means any oral, written, electronic, electronic impulse, or magnetic communication that is used to identify an item of goods or a service for which reimbursement may be made under the ~~medical assistance~~ medicaid program or that states income and expense and is or may be used to determine a rate of reimbursement under the ~~medical assistance~~ medicaid program.

~~(2) "Medical assistance program" means the program established by the department of job and family services to provide medical assistance under section 5111.01 of the Revised Code and the medicaid program of Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.~~

~~(3) "Provider" means any person who has signed a provider agreement with the department of job and family services medicaid to provide goods or services pursuant to the ~~medical assistance~~ medicaid program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the ~~medical assistance~~ medicaid program.~~

~~(4)(3) "Provider agreement" means an oral or written agreement between the department of job and family services and a person in which the person agrees to provide goods or services under the ~~medical assistance~~ medicaid program has the same meaning as in section 5164.01 of the Revised Code.~~

~~(5)(4) "Recipient" means any individual who receives goods or services from a provider under the ~~medical assistance~~ medicaid program.~~

~~(6)(5) "Records" means any medical, professional, financial, or business records relating to the treatment or care of any recipient, to goods or~~

services provided to any recipient, or to rates paid for goods or services provided to any recipient and any records that are required by the rules of the medicaid director ~~of job and family services~~ to be kept for the ~~medical assistance~~ medicaid program.

(B) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the ~~medical assistance~~ medicaid program.

(C) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:

(1) Contrary to the terms of the person's provider agreement, charge, solicit, accept, or receive for goods or services that the person provides under the ~~medical assistance~~ medicaid program any property, money, or other consideration in addition to the amount of reimbursement under the ~~medical assistance~~ medicaid program and the person's provider agreement for the goods or services and any cost-sharing expenses authorized by section ~~5111.0112~~ 5162.20 of the Revised Code or rules adopted ~~pursuant to section 5111.01, 5111.011, or 5111.02 of the Revised Code~~ by the medicaid director regarding the medicaid program.

(2) Solicit, offer, or receive any remuneration, other than any cost-sharing expenses authorized by section ~~5111.0112~~ 5162.20 of the Revised Code or rules adopted ~~under section 5111.01, 5111.011, or 5111.02 of the Revised Code~~ by the medicaid director regarding the medicaid program, in cash or in kind, including, but not limited to, a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the ~~medical assistance~~ medicaid program.

(D) No person, having submitted a claim for or provided goods or services under the ~~medical assistance~~ medicaid program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the ~~medical assistance~~ medicaid program:

(1) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received, by the person;

(2) Knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based for the person.

(E) Whoever violates this section is guilty of medicaid fraud. Except as otherwise provided in this division, medicaid fraud is a misdemeanor of the

first degree. If the value of property, services, or funds obtained in violation of this section is one thousand dollars or more and is less than seven thousand five hundred dollars, medicaid fraud is a felony of the fifth degree. If the value of property, services, or funds obtained in violation of this section is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, medicaid fraud is a felony of the fourth degree. If the value of the property, services, or funds obtained in violation of this section is one hundred fifty thousand dollars or more, medicaid fraud is a felony of the third degree.

(F) Upon application of the governmental agency, office, or other entity that conducted the investigation and prosecution in a case under this section, the court shall order any person who is convicted of a violation of this section for receiving any reimbursement for furnishing goods or services under the ~~medical assistance~~ medicaid program to which the person is not entitled to pay to the applicant its cost of investigating and prosecuting the case. The costs of investigation and prosecution that a defendant is ordered to pay pursuant to this division shall be in addition to any other penalties for the receipt of that reimbursement that are provided in this section, section ~~5111.03~~ 5164.35 of the Revised Code, or any other provision of law.

(G) The provisions of this section are not intended to be exclusive remedies and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section.

Sec. 2913.401. (A) As used in this section:

(1) "~~Medicaid benefits services~~" ~~means benefits under the medical assistance program established under Chapter 5111.~~ has the same meaning as in section 5164.01 of the Revised Code.

(2) "Property" means any real or personal property or other asset in which a person has any legal title or interest.

(B) No person shall knowingly do any of the following in an application for enrollment in the medicaid benefits program or in a document that requires a disclosure of assets for the purpose of determining eligibility ~~to receive for the medicaid benefits program~~:

(1) Make or cause to be made a false or misleading statement;

(2) Conceal an interest in property;

(3)(a) Except as provided in division (B)(3)(b) of this section, fail to disclose a transfer of property that occurred during the period beginning thirty-six months before submission of the application or document and ending on the date the application or document was submitted;

(b) Fail to disclose a transfer of property that occurred during the period beginning sixty months before submission of the application or document

and ending on the date the application or document was submitted and that was made to an irrevocable trust a portion of which is not distributable to the applicant for ~~medicaid benefits~~ or the recipient of ~~medicaid benefits~~ or to a revocable trust.

(C)(1) Whoever violates this section is guilty of medicaid eligibility fraud. Except as otherwise provided in this division, a violation of this section is a misdemeanor of the first degree. If the value of the ~~medicaid benefits~~ services paid as a result of the violation is one thousand dollars or more and is less than seven thousand five hundred dollars, a violation of this section is a felony of the fifth degree. If the value of the ~~medicaid benefits~~ services paid as a result of the violation is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, a violation of this section is a felony of the fourth degree. If the value of the ~~medicaid benefits~~ services paid as a result of the violation is one hundred fifty thousand dollars or more, a violation of this section is a felony of the third degree.

(2) In addition to imposing a sentence under division (C)(1) of this section, the court shall order that a person who is guilty of medicaid eligibility fraud make restitution in the full amount of any ~~medicaid benefits~~ services paid on behalf of an applicant for or recipient of ~~medicaid benefits~~ for which the applicant or recipient was not eligible, plus interest at the rate applicable to judgments on unreimbursed amounts from the date on which the ~~benefits~~ medicaid services were paid to the date on which restitution is made.

(3) The remedies and penalties provided in this section are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section.

(D) This section does not apply to a person who fully disclosed in an application for ~~medicaid benefits~~ or in a document that requires a disclosure of assets for the purpose of determining eligibility ~~to receive~~ for ~~medicaid benefits~~ all of the interests in property of the applicant for or recipient of ~~medicaid benefits~~, all transfers of property by the applicant for or recipient of ~~medicaid benefits~~, and the circumstances of all those transfers.

(E) Any amounts of ~~medicaid benefits~~ services recovered as restitution under this section and any interest on those amounts shall be credited to the general revenue fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States.

Sec. 2919.19. As used in this section and sections 2919.191 to 2919.193 of the Revised Code:

(A) "Fetal heartbeat" means cardiac activity or the steady and repetitive

rhythmic contraction of the fetal heart within the gestational sac.

(B) "Fetus" means the human offspring developing during pregnancy from the moment of conception and includes the embryonic stage of development.

(C) "Gestational age" means the age of an unborn human individual as calculated from the first day of the last menstrual period of a pregnant woman.

(D) "Gestational sac" means the structure that comprises the extraembryonic membranes that envelop the fetus and that is typically visible by ultrasound after the fourth week of pregnancy.

(E) "Medical emergency" has the same meaning as in section 2919.16 of the Revised Code.

(F) "Physician" has the same meaning as in section 2305.113 of the Revised Code.

(G) "Pregnancy" means the human female reproductive condition that begins with fertilization, when the woman is carrying the developing human offspring, and that is calculated from the first day of the last menstrual period of the woman.

(H) "Serious risk of the substantial and irreversible impairment of a major bodily function" has the same meaning as in section 2919.16 of the Revised Code.

(I) "Standard medical practice" means the degree of skill, care, and diligence that a physician of the same medical specialty would employ in like circumstances. As applied to the method used to determine the presence of a fetal heartbeat for purposes of section 2919.191 of the Revised Code, "standard medical practice" includes employing the appropriate means of detection depending on the estimated gestational age of the fetus and the condition of the woman and her pregnancy.

(J) "Unborn human individual" means an individual organism of the species homo sapiens from fertilization until live birth.

Sec. 2919.191. (A) A person who intends to perform or induce an abortion on a pregnant woman shall determine whether there is a detectable fetal heartbeat of the unborn human individual the pregnant woman is carrying. The method of determining the presence of a fetal heartbeat shall be consistent with the person's good faith understanding of standard medical practice, provided that if rules have been adopted under division (C) of this section, the method chosen shall be one that is consistent with the rules. The person who determines the presence or absence of a fetal heartbeat shall record in the pregnant woman's medical record the estimated gestational age of the unborn human individual, the method used to test for a fetal heartbeat,

the date and time of the test, and the results of the test.

(B)(1) Except when a medical emergency exists that prevents compliance with this division, no person shall perform or induce an abortion on a pregnant woman prior to determining if the unborn human individual the pregnant woman is carrying has a detectable fetal heartbeat. Any person who performs or induces an abortion on a pregnant woman based on the exception in this division shall note in the pregnant woman's medical records that a medical emergency necessitating the abortion existed and shall also note the medical condition of the pregnant woman that prevented compliance with this division. The person shall maintain a copy of the notes described in this division in the person's own records for at least seven years after the notes are entered into the medical records.

(2) The person who performs the examination for the presence of a fetal heartbeat shall give the pregnant woman the option to view or hear the fetal heartbeat.

(C) The director of health may promulgate rules pursuant to section 111.15 of the Revised Code specifying the appropriate methods of performing an examination for the presence of a fetal heartbeat of an unborn individual based on standard medical practice. The rules shall require only that an examination shall be performed externally.

(D) A person is not in violation of division (A) or (B) of this section if that person has performed an examination for the presence of a fetal heartbeat in the fetus utilizing standard medical practice, that examination does not reveal a fetal heartbeat or the person has been informed by a physician who has performed the examination for fetal heartbeat that the examination did not reveal a fetal heartbeat, and the person notes in the pregnant woman's medical records the procedure utilized to detect the presence of a fetal heartbeat.

(E) Except as provided in division (F) of this section, no person shall knowingly and purposefully perform or induce an abortion on a pregnant woman before determining in accordance with division (A) of this section whether the unborn human individual the pregnant woman is carrying has a detectable heartbeat. The failure of a person to satisfy the requirements of this section prior to performing or inducing an abortion on a pregnant woman may be the basis for either of the following:

(1) A civil action for compensatory and exemplary damages;

(2) Disciplinary action under section 4731.22 of the Revised Code.

(F) Division (E) of this section does not apply to a physician who performs or induces the abortion if the physician believes that a medical emergency exists that prevents compliance with that division.

(G) The director of health may determine and specify in rules adopted pursuant to section 111.15 of the Revised Code and based upon available medical evidence the statistical probability of bringing an unborn human individual to term based on the gestational age of an unborn human individual who possesses a detectable fetal heartbeat.

(H) A woman on whom an abortion is performed in violation of division (B) of this section or division (B)(3) of section 2317.56 of the Revised Code may file a civil action for the wrongful death of the woman's unborn child and may receive at the mother's election at any time prior to final judgment damages in an amount equal to ten thousand dollars or an amount determined by the trier of fact after consideration of the evidence subject to the same defenses and requirements of proof, except any requirement of live birth, as would apply to a suit for the wrongful death of a child who had been born alive.

Sec. 2919.192. (A) If a person who intends to perform or induce an abortion on a pregnant woman has determined, under section 2919.191 of the Revised Code, that the unborn human individual the pregnant woman is carrying has a detectable heartbeat, the person shall not, except as provided in division (B) of this section, perform or induce the abortion until all of the following requirements have been met and at least twenty-four hours have elapsed after the last of the requirements is met:

(1) The person intending to perform or induce the abortion shall inform the pregnant woman in writing that the unborn human individual the pregnant woman is carrying has a fetal heartbeat.

(2) The person intending to perform or induce the abortion shall inform the pregnant woman, to the best of the person's knowledge, of the statistical probability of bringing the unborn human individual possessing a detectable fetal heartbeat to term based on the gestational age of the unborn human individual or, if the director of health has specified statistical probability information pursuant to rules adopted under division (C) of this section, shall provide to the pregnant woman that information.

(B) Division (A) of this section does not apply if the person who intends to perform or induce the abortion believes that a medical emergency exists that prevents compliance with that division.

(C) The director of health may adopt rules that specify information regarding the statistical probability of bringing an unborn human individual possessing a detectable heartbeat to term based on the gestational age of the unborn human individual. The rules shall be based on available medical evidence and shall be adopted in accordance with section 111.15 of the Revised Code.

(D) This section does not have the effect of repealing or limiting any other provision of the Revised Code relating to informed consent for an abortion, including the provisions in section 2317.56 of the Revised Code.

(E) Whoever violates division (A) of this section is guilty of performing or inducing an abortion without informed consent when there is a detectable fetal heartbeat, a misdemeanor of the first degree on a first offense and a felony of the fourth degree on each subsequent offense.

Sec. 2919.193. A pregnant woman on whom an abortion is performed or induced in violation of section 2919.191 or 2919.192 of the Revised Code is not guilty of violating any of those sections; is not guilty of attempting to commit, conspiring to commit, or complicity in committing a violation of any of those sections; and is not subject to a civil penalty based on the abortion being performed or induced in violation of any of those sections.

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a violation of section 2919.27 of the Revised Code or of a municipal ordinance that is substantially similar to that section, the court may order an evaluation of the mental condition of the defendant if the court determines that either of the following criteria apply:

(i) If the alleged violation is a violation of a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, that the violation allegedly involves conduct by the defendant that caused physical harm to the person or property of a family or household member covered by the order or agreement, or conduct by the defendant that caused a family or household member to believe that the defendant would cause physical harm to that member or that member's property.

(ii) If the alleged violation is a violation of a protection order issued pursuant to section 2903.213 or 2903.214 of the Revised Code or a protection order issued by a court of another state, that the violation allegedly involves conduct by the defendant that caused physical harm to the person or property of the person covered by the order, or conduct by the defendant that caused the person covered by the order to believe that the defendant would cause physical harm to that person or that person's property.

(b) If a defendant is charged with a violation of section 2903.211 of the Revised Code or of a municipal ordinance that is substantially similar to that section, the court may order an evaluation of the mental condition of the defendant.

(2) An evaluation ordered under division (A)(1) of this section shall be completed no later than thirty days from the date the order is entered pursuant to that division. In that order, the court shall do either of the

following:

(a) Order that the evaluation of the mental condition of the defendant be preceded by an examination conducted either by a forensic center that is designated by the department of ~~mental health~~ mental health and addiction services to conduct examinations and make evaluations of defendants charged with violations of section 2903.211 or 2919.27 of the Revised Code or of substantially similar municipal ordinances in the area in which the court is located, or by any other program or facility that is designated by the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities to conduct examinations and make evaluations of defendants charged with violations of section 2903.211 or 2919.27 of the Revised Code or of substantially similar municipal ordinances, and that is operated by either department or is certified by either department as being in compliance with the standards established under division ~~(H)(B)(7)~~ of section ~~5119.04~~ 5119.10 of the Revised Code or division (C) of section 5123.04 of the Revised Code.

(b) Designate a center, program, or facility other than one designated by the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities, as described in division (A)(2)(a) of this section, to conduct the evaluation and preceding examination of the mental condition of the defendant.

Whether the court acts pursuant to division (A)(2)(a) or (b) of this section, the court may designate examiners other than the personnel of the center, program, facility, or department involved to make the evaluation and preceding examination of the mental condition of the defendant.

(B) If the court considers that additional evaluations of the mental condition of a defendant are necessary following the evaluation authorized by division (A) of this section, the court may order up to two additional similar evaluations. These evaluations shall be completed no later than thirty days from the date the applicable court order is entered. If more than one evaluation of the mental condition of the defendant is ordered under this division, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations and preceding examinations.

(C)(1) The court may order a defendant who has been released on bail to submit to an examination under division (A) or (B) of this section. The examination shall be conducted either at the detention facility in which the defendant would have been confined if the defendant had not been released on bail, or, if so specified by the center, program, facility, or examiners involved, at the premises of the center, program, or facility. Additionally,

the examination shall be conducted at the times established by the examiners involved. If such a defendant refuses to submit to an examination or a complete examination as required by the court or the center, program, facility, or examiners involved, the court may amend the conditions of the bail of the defendant and order the sheriff to take the defendant into custody and deliver the defendant to the detention facility in which the defendant would have been confined if the defendant had not been released on bail, or, if so specified by the center, program, facility, or examiners involved, to the premises of the center, program, or facility, for purposes of the examination.

(2) A defendant who has not been released on bail shall be examined at the detention facility in which the defendant is confined or, if so specified by the center, program, facility, or examiners involved, at the premises of the center, program, or facility.

(D) The examiner of the mental condition of a defendant under division (A) or (B) of this section shall file a written report with the court within thirty days after the entry of an order for the evaluation of the mental condition of the defendant. The report shall contain the findings of the examiner; the facts in reasonable detail on which the findings are based; the opinion of the examiner as to the mental condition of the defendant; the opinion of the examiner as to whether the defendant represents a substantial risk of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that placed other persons in reasonable fear of violent behavior and serious physical harm, or evidence of present dangerousness; and the opinion of the examiner as to the types of treatment or counseling that the defendant needs. The court shall provide copies of the report to the prosecutor and defense counsel.

(E) The costs of any evaluation and preceding examination of a defendant that is ordered pursuant to division (A) or (B) of this section shall be taxed as court costs in the criminal case.

(F) If the examiner considers it necessary in order to make an accurate evaluation of the mental condition of a defendant, an examiner under division (A) or (B) of this section may request any family or household member of the defendant to provide the examiner with information. A family or household member may, but is not required to, provide information to the examiner upon receipt of the request.

(G) As used in this section:

(1) "Bail" includes a recognizance.

(2) "Examiner" means a psychiatrist, a licensed independent social worker who is employed by a forensic center that is certified as being in

compliance with the standards established under division ~~(H)(B)(7)~~ of section ~~5119.01~~ 5119.10 or division (C) of section 5123.04 of the Revised Code, a licensed professional clinical counselor who is employed at a forensic center that is certified as being in compliance with such standards, or a licensed clinical psychologist, except that in order to be an examiner, a licensed clinical psychologist shall meet the criteria of division (I)(1) of section 5122.01 of the Revised Code or be employed to conduct examinations by the department of ~~mental health~~ mental health and addiction services or by a forensic center certified as being in compliance with the standards established under division ~~(H)(B)(7)~~ of section ~~5119.01~~ 5119.10 or division (C) of section 5123.04 of the Revised Code that is designated by the department of ~~mental health~~ mental health and addiction services.

(3) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(4) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(5) "Psychiatrist" and "licensed clinical psychologist" have the same meanings as in section 5122.01 of the Revised Code.

(6) "Protection order issued by a court of another state" has the same meaning as in section 2919.27 of the Revised Code.

Sec. 2921.01. As used in sections 2921.01 to 2921.45 of the Revised Code:

(A) "Public official" means any elected or appointed officer, or employee, or agent of the state or any political subdivision, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges, and law enforcement officers. "Public official" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code.

(B) "Public servant" means any of the following:

(1) Any public official;

(2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor, or consultant;

(3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this division if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to

have the person's name placed on the ballot in a primary, general, or special election, or if the person campaigns as a write-in candidate in any primary, general, or special election.

"Public servant" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code.

(C) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this state, by virtue of which the person directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

(D) "Official proceeding" means any proceeding before a legislative, judicial, administrative, or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with an official proceeding.

(E) "Detention" means arrest; confinement in any vehicle subsequent to an arrest; confinement in any public or private facility for custody of persons charged with or convicted of crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States; hospitalization, institutionalization, or confinement in any public or private facility that is ordered pursuant to or under the authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation; except as provided in this division, supervision by any employee of any facility of any of those natures that is incidental to hospitalization, institutionalization, or confinement in the facility but that occurs outside the facility; supervision by an employee of the department of rehabilitation and correction of a person on any type of release from a state correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this state into this state by a private person or entity pursuant to a contract entered into under division (E) of section 311.29 of the Revised Code or division (B) of section 5149.03 of the Revised Code. For a person confined in a county jail who participates in a county jail industry program pursuant to section 5147.30 of the Revised Code, "detention" includes time spent at an assigned work site and going to and from the work site.

(F) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this state

or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States.

(G) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.

(H) "Campaign committee," "contribution," "political action committee," "legislative campaign fund," "political party," and "political contributing entity" have the same meanings as in section 3517.01 of the Revised Code.

(I) "Provider agreement" ~~and "medical assistance program" have~~ has the same ~~meanings~~ meaning as in section ~~2913.40~~ 5164.01 of the Revised Code.

Sec. 2921.22. (A)(1) Except as provided in division (A)(2) of this section, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(2) No person, knowing that a violation of division (B) of section 2913.04 of the Revised Code has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.

(B) Except for conditions that are within the scope of division (E) of this section, no physician, limited practitioner, nurse, or other person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the physician, limited practitioner, nurse, or person, or any serious physical harm to persons that the physician, limited practitioner, nurse, or person knows or has reasonable cause to believe resulted from an offense of violence.

(C) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained.

(D) No person shall fail to provide upon request of the person to whom a report required by division (C) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.

(E)(1) As used in this division, "burn injury" means any of the following:

- (a) Second or third degree burns;
- (b) Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;
- (c) Any burn injury or wound that may result in death;
- (d) Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by section 3743.01 of the Revised Code.

(2) No physician, nurse, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device or that shows evidence of having been inflicted in a violent, malicious, or criminal manner shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(3) No manager, superintendent, or other person in charge of a hospital, sanitarium, or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device or that shows evidence of having been inflicted in a violent, malicious, or criminal manner shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury under division (E)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the state fire marshal. The report shall comply with the uniform standard developed by the state fire marshal pursuant to division (A)(15) of section 3737.22 of the Revised Code.

(5) Anyone participating in the making of reports under division (E) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding section 4731.22 of the Revised Code, the physician-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under division (E) of this section.

(F)(1) Any doctor of medicine or osteopathic medicine, hospital intern

or resident, registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, professional clinical counselor, or professional counselor who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in section 3113.31 of the Revised Code, shall note that knowledge or belief and the basis for it in the patient's or client's records.

(2) Notwithstanding section 4731.22 of the Revised Code, the doctor-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under division (F)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.

(G) Divisions (A) and (D) of this section do not require disclosure of information, when any of the following applies:

(1) The information is privileged by reason of the relationship between attorney and client; doctor and patient; licensed psychologist or licensed school psychologist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.

(2) The information would tend to incriminate a member of the actor's immediate family.

(3) Disclosure of the information would amount to revealing a news source, privileged under section 2739.04 or 2739.12 of the Revised Code.

(4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.

(5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or ~~organization~~ services provider certified pursuant to section ~~3793.06~~ 5119.36 of the Revised Code.

(6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of section 2907.02 or 2907.05 of the Revised Code or to victims

of felonious sexual penetration in violation of former section 2907.12 of the Revised Code. As used in this division, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.

(H) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(I) Whoever violates division (A) or (B) of this section is guilty of failure to report a crime. Violation of division (A)(1) of this section is a misdemeanor of the fourth degree. Violation of division (A)(2) or (B) of this section is a misdemeanor of the second degree.

(J) Whoever violates division (C) or (D) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

(K)(1) Whoever negligently violates division (E) of this section is guilty of a minor misdemeanor.

(2) Whoever knowingly violates division (E) of this section is guilty of a misdemeanor of the second degree.

Sec. 2921.36. (A) No person shall knowingly convey, or attempt to convey, onto the grounds of a detention facility or of an institution, office building, or other place that is under the control of the department of ~~mental health~~ mental health and addiction services, the department of developmental disabilities, the department of youth services, or the department of rehabilitation and correction any of the following items:

(1) Any deadly weapon or dangerous ordnance, as defined in section 2923.11 of the Revised Code, or any part of or ammunition for use in such a deadly weapon or dangerous ordnance;

(2) Any drug of abuse, as defined in section 3719.011 of the Revised Code;

(3) Any intoxicating liquor, as defined in section 4301.01 of the Revised Code.

(B) Division (A) of this section does not apply to any person who conveys or attempts to convey an item onto the grounds of a detention facility or of an institution, office building, or other place under the control of the department of ~~mental health~~ mental health and addiction services, the department of developmental disabilities, the department of youth services, or the department of rehabilitation and correction pursuant to the written authorization of the person in charge of the detention facility or the institution, office building, or other place and in accordance with the written rules of the detention facility or the institution, office building, or other place.

(C) No person shall knowingly deliver, or attempt to deliver, to any

person who is confined in a detention facility, to a child confined in a youth services facility, to a prisoner who is temporarily released from confinement for a work assignment, or to any patient in an institution under the control of the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities any item listed in division (A)(1), (2), or (3) of this section.

(D) No person shall knowingly deliver, or attempt to deliver, cash to any person who is confined in a detention facility, to a child confined in a youth services facility, or to a prisoner who is temporarily released from confinement for a work assignment.

(E) No person shall knowingly deliver, or attempt to deliver, to any person who is confined in a detention facility, to a child confined in a youth services facility, or to a prisoner who is temporarily released from confinement for a work assignment a cellular telephone, two-way radio, or other electronic communications device.

(F)(1) It is an affirmative defense to a charge under division (A)(1) of this section that the weapon or dangerous ordnance in question was being transported in a motor vehicle for any lawful purpose, that it was not on the actor's person, and, if the weapon or dangerous ordnance in question was a firearm, that it was unloaded and was being carried in a closed package, box, or case or in a compartment that can be reached only by leaving the vehicle.

(2) It is an affirmative defense to a charge under division (C) of this section that the actor was not otherwise prohibited by law from delivering the item to the confined person, the child, the prisoner, or the patient and that either of the following applies:

(a) The actor was permitted by the written rules of the detention facility or the institution, office building, or other place to deliver the item to the confined person or the patient.

(b) The actor was given written authorization by the person in charge of the detention facility or the institution, office building, or other place to deliver the item to the confined person or the patient.

(G)(1) Whoever violates division (A)(1) of this section or commits a violation of division (C) of this section involving an item listed in division (A)(1) of this section is guilty of illegal conveyance of weapons onto the grounds of a specified governmental facility, a felony of the third degree. If the offender is an officer or employee of the department of rehabilitation and correction, the court shall impose a mandatory prison term.

(2) Whoever violates division (A)(2) of this section or commits a violation of division (C) of this section involving any drug of abuse is guilty

of illegal conveyance of drugs of abuse onto the grounds of a specified governmental facility, a felony of the third degree. If the offender is an officer or employee of the department of rehabilitation and correction or of the department of youth services, the court shall impose a mandatory prison term.

(3) Whoever violates division (A)(3) of this section or commits a violation of division (C) of this section involving any intoxicating liquor is guilty of illegal conveyance of intoxicating liquor onto the grounds of a specified governmental facility, a misdemeanor of the second degree.

(4) Whoever violates division (D) of this section is guilty of illegal conveyance of cash onto the grounds of a detention facility, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (D) of this section, illegal conveyance of cash onto the grounds of a detention facility is a felony of the fifth degree.

(5) Whoever violates division (E) of this section is guilty of illegal conveyance of a communications device onto the grounds of a specified governmental facility, a misdemeanor of the first degree, or if the offender previously has been convicted of or pleaded guilty to a violation of division (E) of this section, a felony of the fifth degree.

Sec. 2921.38. (A) No person who is confined in a detention facility, with intent to harass, annoy, threaten, or alarm another person, shall cause or attempt to cause the other person to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the other person, by expelling the bodily substance upon the other person, or in any other manner.

(B) No person, with intent to harass, annoy, threaten, or alarm a law enforcement officer, shall cause or attempt to cause the law enforcement officer to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the law enforcement officer, by expelling the bodily substance upon the law enforcement officer, or in any other manner.

(C) No person, with knowledge that the person is a carrier of the virus that causes acquired immunodeficiency syndrome, is a carrier of a hepatitis virus, or is infected with tuberculosis and with intent to harass, annoy, threaten, or alarm another person, shall cause or attempt to cause the other person to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the other person, by expelling the bodily substance upon the other person, or in any other manner.

(D) Whoever violates this section is guilty of harassment with a bodily substance. A violation of division (A) or (B) of this section is a felony of the fifth degree. A violation of division (C) of this section is a felony of the third degree.

(E)(1) The court, on request of the prosecutor, or the law enforcement authority responsible for the investigation of the violation, shall cause a person who allegedly has committed a violation of this section to submit to one or more appropriate tests to determine if the person is a carrier of the virus that causes acquired immunodeficiency syndrome, is a carrier of a hepatitis virus, or is infected with tuberculosis.

(2) The court shall charge the offender with the costs of the test or tests ordered under division (E)(1) of this section unless the court determines that the accused is unable to pay, in which case the costs shall be charged to the entity that operates the detention facility in which the alleged offense occurred.

(F) This section does not apply to a person who is hospitalized, institutionalized, or confined in a facility operated by the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities.

Sec. 2923.125. (A) This section applies with respect to the application for and issuance by this state of concealed handgun licenses other than concealed handgun licenses on a temporary emergency basis that are issued under section 2923.1213 of the Revised Code. Upon the request of a person who wishes to obtain a concealed handgun license with respect to which this section applies or to renew a concealed handgun license with respect to which this section applies, a sheriff, as provided in division (I) of this section, shall provide to the person free of charge an application form and the web site address at which the pamphlet described in division (B) of section 109.731 of the Revised Code may be found. A sheriff shall accept a completed application form and the fee, items, materials, and information specified in divisions (B)(1) to (5) of this section at the times and in the manners described in division (I) of this section.

(B) An applicant for a concealed handgun license with respect to which this section applies shall submit a completed application form and all of the following to the sheriff of the county in which the applicant resides or to the sheriff of any county adjacent to the county in which the applicant resides:

(1)(a) A nonrefundable license fee as described in either of the following:

(i) For an applicant who has been a resident of this state for five or more years, a fee of sixty-seven dollars;

(ii) For an applicant who has been a resident of this state for less than five years, a fee of sixty-seven dollars plus the actual cost of having a background check performed by the federal bureau of investigation.

(b) No sheriff shall require an applicant to pay for the cost of a background check performed by the bureau of criminal identification and investigation.

(c) A sheriff shall waive the payment of the license fee described in division (B)(1)(a) of this section in connection with an initial or renewal application for a license that is submitted by an applicant who is a retired peace officer, a retired person described in division (B)(1)(b) of section 109.77 of the Revised Code, or a retired federal law enforcement officer who, prior to retirement, was authorized under federal law to carry a firearm in the course of duty, unless the retired peace officer, person, or federal law enforcement officer retired as the result of a mental disability.

(d) The sheriff shall deposit all fees paid by an applicant under division (B)(1)(a) of this section into the sheriff's concealed handgun license issuance fund established pursuant to section 311.42 of the Revised Code. The county shall distribute the fees in accordance with section 311.42 of the Revised Code.

(2) A color photograph of the applicant that was taken within thirty days prior to the date of the application;

(3) One or more of the following competency certifications, each of which shall reflect that, regarding a certification described in division (B)(3)(a), (b), (c), (e), or (f) of this section, within the three years immediately preceding the application the applicant has performed that to which the competency certification relates and that, regarding a certification described in division (B)(3)(d) of this section, the applicant currently is an active or reserve member of the armed forces of the United States or within the six years immediately preceding the application the honorable discharge or retirement to which the competency certification relates occurred:

(a) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification or firearms safety instructor course, class, or program that was offered by or under the auspices of the national rifle association and that complies with the requirements set forth in division (G) of this section;

(b) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification or firearms safety instructor course, class, or program that satisfies all of the following criteria:

(i) It was open to members of the general public.

(ii) It utilized qualified instructors who were certified by the national

rifle association, the executive director of the Ohio peace officer training commission pursuant to section 109.75 or 109.78 of the Revised Code, or a governmental official or entity of another state.

(iii) It was offered by or under the auspices of a law enforcement agency of this or another state or the United States, a public or private college, university, or other similar postsecondary educational institution located in this or another state, a firearms training school located in this or another state, or another type of public or private entity or organization located in this or another state.

(iv) It complies with the requirements set forth in division (G) of this section.

(c) An original or photocopy of a certificate of completion of a state, county, municipal, or department of natural resources peace officer training school that is approved by the executive director of the Ohio peace officer training commission pursuant to section 109.75 of the Revised Code and that complies with the requirements set forth in division (G) of this section, or the applicant has satisfactorily completed and been issued a certificate of completion of a basic firearms training program, a firearms requalification training program, or another basic training program described in section 109.78 or 109.801 of the Revised Code that complies with the requirements set forth in division (G) of this section;

(d) A document that evidences both of the following:

(i) That the applicant is an active or reserve member of the armed forces of the United States, was honorably discharged from military service in the active or reserve armed forces of the United States, is a retired trooper of the state highway patrol, or is a retired peace officer or federal law enforcement officer described in division (B)(1) of this section or a retired person described in division (B)(1)(b) of section 109.77 of the Revised Code and division (B)(1) of this section;

(ii) That, through participation in the military service or through the former employment described in division (B)(3)(d)(i) of this section, the applicant acquired experience with handling handguns or other firearms, and the experience so acquired was equivalent to training that the applicant could have acquired in a course, class, or program described in division (B)(3)(a), (b), or (c) of this section.

(e) A certificate or another similar document that evidences satisfactory completion of a firearms training, safety, or requalification or firearms safety instructor course, class, or program that is not otherwise described in division (B)(3)(a), (b), (c), or (d) of this section, that was conducted by an instructor who was certified by an official or entity of the government of this

or another state or the United States or by the national rifle association, and that complies with the requirements set forth in division (G) of this section;

(f) An affidavit that attests to the applicant's satisfactory completion of a course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section and that is subscribed by the applicant's instructor or an authorized representative of the entity that offered the course, class, or program or under whose auspices the course, class, or program was offered.

(4) A certification by the applicant that the applicant has read the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code that reviews firearms, dispute resolution, and use of deadly force matters.

(5) A set of fingerprints of the applicant provided as described in section 311.41 of the Revised Code through use of an electronic fingerprint reading device or, if the sheriff to whom the application is submitted does not possess and does not have ready access to the use of such a reading device, on a standard impression sheet prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code.

(C) Upon receipt of the completed application form, supporting documentation, and, if not waived, license fee of an applicant under this section, a sheriff, in the manner specified in section 311.41 of the Revised Code, shall conduct or cause to be conducted the criminal records check and the incompetency records check described in section 311.41 of the Revised Code.

(D)(1) Except as provided in division (D)(3) or (4) of this section, within forty-five days after a sheriff's receipt of an applicant's completed application form for a concealed handgun license under this section, the supporting documentation, and, if not waived, the license fee, the sheriff shall make available through the law enforcement automated data system in accordance with division (H) of this section the information described in that division and, upon making the information available through the system, shall issue to the applicant a concealed handgun license that shall expire as described in division (D)(2)(a) of this section if all of the following apply:

(a) The applicant is legally living in the United States, has been a resident of this state for at least forty-five days, and has been a resident of the county in which the person seeks the license or a county adjacent to the county in which the person seeks the license for at least thirty days. For purposes of division (D)(1)(a) of this section:

(i) If a person is absent from the United States, from this state, or from a particular county in this state in compliance with military or naval orders as

an active or reserve member of the armed forces of the United States and if prior to leaving this state in compliance with those orders the person was legally living in the United States and was a resident of this state, the person, solely by reason of that absence, shall not be considered to have lost the person's status as living in the United States or the person's residence in this state or in the county in which the person was a resident prior to leaving this state in compliance with those orders, without regard to whether or not the person intends to return to this state or to that county, shall not be considered to have acquired a residence in any other state, and shall not be considered to have become a resident of any other state.

(ii) If a person is present in this state in compliance with military or naval orders as an active or reserve member of the armed forces of the United States for at least forty-five days, the person shall be considered to have been a resident of this state for that period of at least forty-five days, and, if a person is present in a county of this state in compliance with military or naval orders as an active or reserve member of the armed forces of the United States for at least thirty days, the person shall be considered to have been a resident of that county for that period of at least thirty days.

(b) The applicant is at least twenty-one years of age.

(c) The applicant is not a fugitive from justice.

(d) The applicant is not under indictment for or otherwise charged with a felony; an offense under Chapter 2925., 3719., or 4729. of the Revised Code that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; a misdemeanor offense of violence; or a violation of section 2903.14 or 2923.1211 of the Revised Code.

(e) Except as otherwise provided in division (D)(5) of this section, the applicant has not been convicted of or pleaded guilty to a felony or an offense under Chapter 2925., 3719., or 4729. of the Revised Code that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; has not been adjudicated a delinquent child for committing an act that if committed by an adult would be a felony or would be an offense under Chapter 2925., 3719., or 4729. of the Revised Code that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; and has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of section 2903.13 of the Revised Code when the victim of the violation is a peace officer, regardless of whether the applicant was sentenced under division (C)~~(3)~~(4) of that section.

(f) Except as otherwise provided in division (D)(5) of this section, the

applicant, within three years of the date of the application, has not been convicted of or pleaded guilty to a misdemeanor offense of violence other than a misdemeanor violation of section 2921.33 of the Revised Code or a violation of section 2903.13 of the Revised Code when the victim of the violation is a peace officer, or a misdemeanor violation of section 2923.1211 of the Revised Code; and has not been adjudicated a delinquent child for committing an act that if committed by an adult would be a misdemeanor offense of violence other than a misdemeanor violation of section 2921.33 of the Revised Code or a violation of section 2903.13 of the Revised Code when the victim of the violation is a peace officer or for committing an act that if committed by an adult would be a misdemeanor violation of section 2923.1211 of the Revised Code.

(g) Except as otherwise provided in division (D)(1)(e) of this section, the applicant, within five years of the date of the application, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing two or more violations of section 2903.13 or 2903.14 of the Revised Code.

(h) Except as otherwise provided in division (D)(5) of this section, the applicant, within ten years of the date of the application, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of section 2921.33 of the Revised Code.

(i) The applicant has not been adjudicated as a mental defective, has not been committed to any mental institution, is not under adjudication of mental incompetence, has not been found by a court to be a mentally ill person subject to hospitalization by court order, and is not an involuntary patient other than one who is a patient only for purposes of observation. As used in this division, "mentally ill person subject to hospitalization by court order" and "patient" have the same meanings as in section 5122.01 of the Revised Code.

(j) The applicant is not currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of another state.

(k) The applicant certifies that the applicant desires a legal means to carry a concealed handgun for defense of the applicant or a member of the applicant's family while engaged in lawful activity.

(l) The applicant submits a competency certification of the type described in division (B)(3) of this section and submits a certification of the type described in division (B)(4) of this section regarding the applicant's reading of the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code.

(m) The applicant currently is not subject to a suspension imposed under division (A)(2) of section 2923.128 of the Revised Code of a concealed handgun license that previously was issued to the applicant under this section or section 2923.1213 of the Revised Code.

(2)(a) A concealed handgun license that a sheriff issues under division (D)(1) of this section shall expire five years after the date of issuance.

If a sheriff issues a license under this section, the sheriff shall place on the license a unique combination of letters and numbers identifying the license in accordance with the procedure prescribed by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code.

(b) If a sheriff denies an application under this section because the applicant does not satisfy the criteria described in division (D)(1) of this section, the sheriff shall specify the grounds for the denial in a written notice to the applicant. The applicant may appeal the denial pursuant to section 119.12 of the Revised Code in the county served by the sheriff who denied the application. If the denial was as a result of the criminal records check conducted pursuant to section 311.41 of the Revised Code and if, pursuant to section 2923.127 of the Revised Code, the applicant challenges the criminal records check results using the appropriate challenge and review procedure specified in that section, the time for filing the appeal pursuant to section 119.12 of the Revised Code and this division is tolled during the pendency of the request or the challenge and review. If the court in an appeal under section 119.12 of the Revised Code and this division enters a judgment sustaining the sheriff's refusal to grant to the applicant a concealed handgun license, the applicant may file a new application beginning one year after the judgment is entered. If the court enters a judgment in favor of the applicant, that judgment shall not restrict the authority of a sheriff to suspend or revoke the license pursuant to section 2923.128 or 2923.1213 of the Revised Code or to refuse to renew the license for any proper cause that may occur after the date the judgment is entered. In the appeal, the court shall have full power to dispose of all costs.

(3) If the sheriff with whom an application for a concealed handgun license was filed under this section becomes aware that the applicant has been arrested for or otherwise charged with an offense that would disqualify the applicant from holding the license, the sheriff shall suspend the processing of the application until the disposition of the case arising from the arrest or charge.

(4) If the sheriff determines that the applicant is legally living in the United States and is a resident of the county in which the applicant seeks the

license or of an adjacent county but does not yet meet the residency requirements described in division (D)(1)(a) of this section, the sheriff shall not deny the license because of the residency requirements but shall not issue the license until the applicant meets those residency requirements.

(5) If an applicant has been convicted of or pleaded guilty to an offense identified in division (D)(1)(e), (f), or (h) of this section or has been adjudicated a delinquent child for committing an act or violation identified in any of those divisions, and if a court has ordered the sealing or expungement of the records of that conviction, guilty plea, or adjudication pursuant to sections 2151.355 to 2151.358, sections 2953.31 to 2953.36, or section 2953.37 of the Revised Code or a court has granted the applicant relief pursuant to section 2923.14 of the Revised Code from the disability imposed pursuant to section 2923.13 of the Revised Code relative to that conviction, guilty plea, or adjudication, the sheriff with whom the application was submitted shall not consider the conviction, guilty plea, or adjudication in making a determination under division (D)(1) or (F) of this section or, in relation to an application for a concealed handgun license on a temporary emergency basis submitted under section 2923.1213 of the Revised Code, in making a determination under division (B)(2) of that section.

(E) If a concealed handgun license issued under this section is lost or is destroyed, the licensee may obtain from the sheriff who issued that license a duplicate license upon the payment of a fee of fifteen dollars and the submission of an affidavit attesting to the loss or destruction of the license. The sheriff, in accordance with the procedures prescribed in section 109.731 of the Revised Code, shall place on the replacement license a combination of identifying numbers different from the combination on the license that is being replaced.

(F)(1) A licensee who wishes to renew a concealed handgun license issued under this section shall do so not earlier than ninety days before the expiration date of the license or at any time after the expiration date of the license by filing with the sheriff of the county in which the applicant resides or with the sheriff of an adjacent county an application for renewal of the license obtained pursuant to division (D) of this section, a certification by the applicant that, subsequent to the issuance of the license, the applicant has reread the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code that reviews firearms, dispute resolution, and use of deadly force matters, and a nonrefundable license renewal fee in an amount determined pursuant to division (F)(4) of this section unless the fee is waived.

(2) A sheriff shall accept a completed renewal application, the license renewal fee, and the information specified in division (F)(1) of this section at the times and in the manners described in division (I) of this section. Upon receipt of a completed renewal application, of certification that the applicant has reread the specified pamphlet prepared by the Ohio peace officer training commission, and of a license renewal fee unless the fee is waived, a sheriff, in the manner specified in section 311.41 of the Revised Code shall conduct or cause to be conducted the criminal records check and the incompetency records check described in section 311.41 of the Revised Code. The sheriff shall renew the license if the sheriff determines that the applicant continues to satisfy the requirements described in division (D)(1) of this section, except that the applicant is not required to meet the requirements of division (D)(1)(l) of this section. A renewed license shall expire five years after the date of issuance. A renewed license is subject to division (E) of this section and sections 2923.126 and 2923.128 of the Revised Code. A sheriff shall comply with divisions (D)(2) to (4) of this section when the circumstances described in those divisions apply to a requested license renewal. If a sheriff denies the renewal of a concealed handgun license, the applicant may appeal the denial, or challenge the criminal record check results that were the basis of the denial if applicable, in the same manner as specified in division (D)(2)(b) of this section and in section 2923.127 of the Revised Code, regarding the denial of a license under this section.

(3) A renewal application submitted pursuant to division (F) of this section shall only require the licensee to list on the application form information and matters occurring since the date of the licensee's last application for a license pursuant to division (B) or (F) of this section. A sheriff conducting the criminal records check and the incompetency records check described in section 311.41 of the Revised Code shall conduct the check only from the date of the licensee's last application for a license pursuant to division (B) or (F) of this section through the date of the renewal application submitted pursuant to division (F) of this section.

(4) An applicant for a renewal concealed handgun license under this section shall submit to the sheriff of the county in which the applicant resides or to the sheriff of any county adjacent to the county in which the applicant resides a nonrefundable license fee as described in either of the following:

- (a) For an applicant who has been a resident of this state for five or more years, a fee of fifty dollars;
- (b) For an applicant who has been a resident of this state for less than

five years, a fee of fifty dollars plus the actual cost of having a background check performed by the federal bureau of investigation.

(G)(1) Each course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section shall provide to each person who takes the course, class, or program the web site address at which the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code that reviews firearms, dispute resolution, and use of deadly force matters may be found. Each such course, class, or program described in one of those divisions shall include at least twelve hours of training in the safe handling and use of a firearm that shall include all of the following:

(a) At least ten hours of training on the following matters:

(i) The ability to name, explain, and demonstrate the rules for safe handling of a handgun and proper storage practices for handguns and ammunition;

(ii) The ability to demonstrate and explain how to handle ammunition in a safe manner;

(iii) The ability to demonstrate the knowledge, skills, and attitude necessary to shoot a handgun in a safe manner;

(iv) Gun handling training.

(b) At least two hours of training that consists of range time and live-fire training.

(2) To satisfactorily complete the course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section, the applicant shall pass a competency examination that shall include both of the following:

(a) A written section on the ability to name and explain the rules for the safe handling of a handgun and proper storage practices for handguns and ammunition;

(b) A physical demonstration of competence in the use of a handgun and in the rules for safe handling and storage of a handgun and a physical demonstration of the attitude necessary to shoot a handgun in a safe manner.

(3) The competency certification described in division (B)(3)(a), (b), (c), or (e) of this section shall be dated and shall attest that the course, class, or program the applicant successfully completed met the requirements described in division (G)(1) of this section and that the applicant passed the competency examination described in division (G)(2) of this section.

(H) Upon deciding to issue a concealed handgun license, deciding to issue a replacement concealed handgun license, or deciding to renew a concealed handgun license pursuant to this section, and before actually issuing or renewing the license, the sheriff shall make available through the

law enforcement automated data system all information contained on the license. If the license subsequently is suspended under division (A)(1) or (2) of section 2923.128 of the Revised Code, revoked pursuant to division (B)(1) of section 2923.128 of the Revised Code, or lost or destroyed, the sheriff also shall make available through the law enforcement automated data system a notation of that fact. The superintendent of the state highway patrol shall ensure that the law enforcement automated data system is so configured as to permit the transmission through the system of the information specified in this division.

(I) A sheriff shall accept a completed application form or renewal application, and the fee, items, materials, and information specified in divisions (B)(1) to (5) or division (F) of this section, whichever is applicable, and shall provide an application form or renewal application to any person during at least fifteen hours a week and shall provide the web site address at which the pamphlet described in division (B) of section 109.731 of the Revised Code may be found at any time, upon request. The sheriff shall post notice of the hours during which the sheriff is available to accept or provide the information described in this division.

Sec. 2923.126. (A) A concealed handgun license that is issued under section 2923.125 of the Revised Code shall expire five years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of thirty days after the licensee's license expires during which the licensee's license remains valid. Except as provided in divisions (B) and (C) of this section, a licensee who has been issued a concealed handgun license under section 2923.125 or 2923.1213 of the Revised Code may carry a concealed handgun anywhere in this state if the licensee also carries a valid license and valid identification when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within forty-five days after that change.

If a licensee is the driver or an occupant of a motor vehicle that is stopped as the result of a traffic stop or a stop for another law enforcement purpose and if the licensee is transporting or has a loaded handgun in the motor vehicle at that time, the licensee shall promptly inform any law enforcement officer who approaches the vehicle while stopped that the licensee has been issued a concealed handgun license and that the licensee currently possesses or has a loaded handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the motor vehicle is stopped, knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the

licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of division (E) of section 2923.16 of the Revised Code, after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves. Additionally, if a licensee is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in section 5503.04 of the Revised Code and if the licensee is transporting or has a loaded handgun in the commercial motor vehicle at that time, the licensee shall promptly inform the employee of the unit who approaches the vehicle while stopped that the licensee has been issued a concealed handgun license and that the licensee currently possesses or has a loaded handgun.

If a licensee is stopped for a law enforcement purpose and if the licensee is carrying a concealed handgun at the time the officer approaches, the licensee shall promptly inform any law enforcement officer who approaches the licensee while stopped that the licensee has been issued a concealed handgun license and that the licensee currently is carrying a concealed handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the licensee is stopped or knowingly fail to keep the licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly remove, attempt to remove, grasp, or hold the loaded handgun or knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of division (B) of section 2923.12 of the Revised Code, after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves.

(B) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under division (B) of section 2923.12 of the Revised Code or in any manner prohibited under section 2923.16 of the Revised Code. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:

(1) A police station, sheriff's office, or state highway patrol station, premises controlled by the bureau of criminal identification and investigation, a state correctional institution, jail, workhouse, or other detention facility, an airport passenger terminal, or an institution that is

maintained, operated, managed, and governed pursuant to division (A) of section ~~5119.02~~ 5119.14 of the Revised Code or division (A)(1) of section 5123.03 of the Revised Code;

(2) A school safety zone if the licensee's carrying the concealed handgun is in violation of section 2923.122 of the Revised Code;

(3) A courthouse or another building or structure in which a courtroom is located, in violation of section 2923.123 of the Revised Code;

(4) Any premises or open air arena for which a D permit has been issued under Chapter 4303. of the Revised Code if the licensee's carrying the concealed handgun is in violation of section 2923.121 of the Revised Code;

(5) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;

(6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;

(7) A child day-care center, a type A family day-care home, a type B family day-care home, or a type C family day-care home, except that this division does not prohibit a licensee who resides in a type A family day-care home, a type B family day-care home, or a type C family day-care home from carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day-care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home;

(8) An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft;

(9) Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to division (B)(3) of this section;

(10) A place in which federal law prohibits the carrying of handguns.

(C)(1) Nothing in this section shall negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. Nothing in this section shall

require a private employer of that nature to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.

(2)(a) A private employer shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer. As used in this division, "private employer" includes a private college, university, or other institution of higher education.

(b) A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in Chapter 2744. of the Revised Code, for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased, or otherwise under the control of the political subdivision. As used in this division, "political subdivision" has the same meaning as in section 2744.01 of the Revised Code.

(3)(a) Except as provided in division (C)(3)(b) of this section, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. Except as otherwise provided in this division, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of division (A)(4) of section 2911.21 of the Revised Code and is guilty of a misdemeanor of the fourth degree. If a person knowingly violates a posted prohibition of that nature and the posted land or premises primarily was a parking lot or other parking facility, the person is not guilty of criminal trespass in violation of division (A)(4) of section 2911.21 of the Revised Code and instead is subject only to a civil cause of action for trespass based on the violation.

(b) A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008, enters into a rental agreement with the landlord for the use of residential premises, and the tenant's guest while the

tenant is present, from lawfully carrying or possessing a handgun on those residential premises.

(c) As used in division (C)(3) of this section:

(i) "Residential premises" has the same meaning as in section 5321.01 of the Revised Code, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.

(ii) "Landlord," "tenant," and "rental agreement" have the same meanings as in section 5321.01 of the Revised Code.

(D) A person who holds a concealed handgun license issued by another state that is recognized by the attorney general pursuant to a reciprocity agreement entered into pursuant to section 109.69 of the Revised Code has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code and is subject to the same restrictions that apply to a person who carries a license issued under that section.

(E) A peace officer has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code. For purposes of reciprocity with other states, a peace officer shall be considered to be a licensee in this state.

(F)(1) A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (F)(2) of this section and a valid firearms requalification certification issued pursuant to division (F)(3) of this section has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code and is subject to the same restrictions that apply to a person who carries a license issued under that section. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (F)(2) of this section and a valid firearms requalification certification issued pursuant to division (F)(3) of this section shall be considered to be a licensee in this state.

(2)(a) Each public agency of this state or of a political subdivision of this state that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following:

(i) The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.

(ii) Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.

(iii) At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.

(iv) Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of fifteen years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency.

(b) A retired peace officer identification card issued to a person under division (F)(2)(a) of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this state from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section. In addition to the required content specified in this division, a retired peace officer identification card issued to a person under division (F)(2)(a) of this section may include the firearms requalification certification described in division (F)(3) of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with division (F)(2)(a) of this section by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section, provided that the credentials so issued to retired peace officers are stamped with the word "RETIRED."

(c) A public agency of this state or of a political subdivision of this state may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card pursuant to division (F)(2)(a) of this section.

(3) If a person retired from service as a peace officer with a public agency of this state or of a political subdivision of this state and the person satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section,

the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under section 109.801 of the Revised Code. The retired peace officer may be required to pay the cost of the course.

If a retired peace officer who satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under section 109.801 of the Revised Code, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of division (F) of this section for five years from the date on which the program was successfully completed, and the requalification is valid during that five-year period. If a retired peace officer who satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under division (F)(2) of this section.

A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under section 109.801 of the Revised Code may be required to pay the cost of the program.

(G) As used in this section:

(1) "Qualified retired peace officer" means a person who satisfies all of the following:

(a) The person satisfies the criteria set forth in divisions (F)(2)(a)(i) to (v) of this section.

(b) The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(c) The person is not prohibited by federal law from receiving firearms.

(2) "Retired peace officer identification card" means an identification card that is issued pursuant to division (F)(2) of this section to a person who is a retired peace officer.

(3) "Government facility of this state or a political subdivision of this state" means any of the following:

(a) A building or part of a building that is owned or leased by the government of this state or a political subdivision of this state and where employees of the government of this state or the political subdivision regularly are present for the purpose of performing their official duties as employees of the state or political subdivision;

(b) The office of a deputy registrar serving pursuant to Chapter 4503. of the Revised Code that is used to perform deputy registrar functions.

Sec. 2925.03. (A) No person shall knowingly do any of the following:

(1) Sell or offer to sell a controlled substance or a controlled substance analog;

(2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale by the offender or another person.

(B) This section does not apply to any of the following:

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code;

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States food and drug administration;

(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that act.

(C) Whoever violates division (A) of this section is guilty of one of the following:

(1) If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule I or schedule II, with the exception of marihuana, cocaine, L.S.D., heroin, hashish, and controlled substance analogs, whoever violates division (A) of this section is guilty of aggravated trafficking in drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(1)(b), (c), (d), (e), or (f)

of this section, aggravated trafficking in drugs is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(1)(c), (d), (e), or (f) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, aggravated trafficking in drugs is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If aggravated trafficking in drugs is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(e) If the amount of the drug involved equals or exceeds fifty times the bulk amount but is less than one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds one hundred times the bulk amount and regardless of whether the offense was committed

in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(2) If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule III, IV, or V, whoever violates division (A) of this section is guilty of trafficking in drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(2)(b), (c), (d), or (e) of this section, trafficking in drugs is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(2)(c), (d), or (e) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, trafficking in drugs is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, trafficking in drugs is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in drugs is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty times the bulk amount, trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved equals or exceeds fifty times the bulk amount and if the offense was committed in the vicinity of a

school or in the vicinity of a juvenile, trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(3) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates division (A) of this section is guilty of trafficking in marihuana. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(3)(b), (c), (d), (e), (f), (g), or (h) of this section, trafficking in marihuana is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(3)(c), (d), (e), (f), (g), or (h) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred grams but is less than one thousand grams, trafficking in marihuana is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than five thousand grams, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five thousand grams but is less than twenty thousand grams, trafficking in marihuana is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was

committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty thousand grams but is less than forty thousand grams, trafficking in marihuana is a felony of the second degree, and the court shall impose a mandatory prison term of five, six, seven, or eight years. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(g) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds forty thousand grams, trafficking in marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree. If the amount of the drug involved equals or exceeds forty thousand grams and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(h) Except as otherwise provided in this division, if the offense involves a gift of twenty grams or less of marihuana, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense. If the offense involves a gift of twenty grams or less of marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(4) If the drug involved in the violation is cocaine or a compound, mixture, preparation, or substance containing cocaine, whoever violates division (A) of this section is guilty of trafficking in cocaine. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(4)(b), (c), (d), (e), (f), or (g) of this section, trafficking in cocaine is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(4)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in

determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five grams but is less than ten grams of cocaine, trafficking in cocaine is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than twenty grams of cocaine, trafficking in cocaine is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If trafficking in cocaine is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty grams but is less than twenty-seven grams of cocaine, trafficking in cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds twenty-seven grams but is less than one hundred grams of cocaine and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds one hundred grams of cocaine and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine

is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(5) If the drug involved in the violation is L.S.D. or a compound, mixture, preparation, or substance containing L.S.D., whoever violates division (A) of this section is guilty of trafficking in L.S.D. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(5)(b), (c), (d), (e), (f), or (g) of this section, trafficking in L.S.D. is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(5)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses of L.S.D. in a solid form or equals or exceeds one gram but is less than five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty unit doses but is less than two hundred fifty unit doses of L.S.D. in a solid form or equals or exceeds five grams but is less than twenty-five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If trafficking in L.S.D. is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a

felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred fifty unit doses but is less than one thousand unit doses of L.S.D. in a solid form or equals or exceeds twenty-five grams but is less than one hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in L.S.D. is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds one thousand unit doses but is less than five thousand unit doses of L.S.D. in a solid form or equals or exceeds one hundred grams but is less than five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds five thousand unit doses of L.S.D. in a solid form or equals or exceeds five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(6) If the drug involved in the violation is heroin or a compound, mixture, preparation, or substance containing heroin, whoever violates division (A) of this section is guilty of trafficking in heroin. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(6)(b), (c), (d), (e), (f), or (g) of this section, trafficking in heroin is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(6)(c), (d), (e), (f), or

(g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses or equals or exceeds one gram but is less than five grams, trafficking in heroin is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty unit doses but is less than one hundred unit doses or equals or exceeds five grams but is less than ten grams, trafficking in heroin is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one hundred unit doses but is less than five hundred unit doses or equals or exceeds ten grams but is less than fifty grams, trafficking in heroin is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds five hundred unit doses but is less than two thousand five hundred unit doses or equals or exceeds fifty grams but is less than two hundred fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds two thousand

five hundred unit doses or equals or exceeds two hundred fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(7) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates division (A) of this section is guilty of trafficking in hashish. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(7)(b), (c), (d), (e), (f), or (g) of this section, trafficking in hashish is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(7)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than fifty grams of hashish in a solid form or equals or exceeds two grams but is less than ten grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty grams but is less than two hundred fifty grams of hashish in a solid form or equals or exceeds ten grams but is less than fifty grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison

term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred fifty grams but is less than one thousand grams of hashish in a solid form or equals or exceeds fifty grams but is less than two hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than two thousand grams of hashish in a solid form or equals or exceeds two hundred grams but is less than four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the second degree, and the court shall impose a mandatory prison term of five, six, seven, or eight years. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(g) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two thousand grams of hashish in a solid form or equals or exceeds four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the second degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree. If the amount of the drug involved equals or exceeds two thousand grams of hashish in a solid form or equals or exceeds four hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(8) If the drug involved in the violation is a controlled substance analog or compound, mixture, preparation, or substance that contains a controlled substance analog, whoever violates division (A) of this section is guilty of trafficking in a controlled substance analog. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(8)(b), (c), (d), (e), (f), or (g) of this section, trafficking in a controlled substance analog is a felony of the fifth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(8)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than twenty grams, trafficking in a controlled substance analog is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty grams but is less than thirty grams, trafficking in a controlled substance analog is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds thirty grams but is less than forty grams, trafficking in a controlled substance analog is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds forty grams but is less than fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a

controlled substance analog is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(g) If the amount of the drug involved equals or exceeds fifty grams and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(D) In addition to any prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section shall do all of the following that are applicable regarding the offender:

(1) If the violation of division (A) of this section is a felony of the first, second, or third degree, the court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent. Except as otherwise provided in division (H)(1) of this section, a mandatory fine or any other fine imposed for a violation of this section is subject to division (F) of this section. If a person is charged with a violation of this section that is a felony of the first, second, or third degree, posts bail, and forfeits the bail, the clerk of the court shall pay the forfeited bail pursuant to divisions (D)(1) and (F) of this section, as if the forfeited bail was a fine imposed for a violation of this section. If any amount of the forfeited bail remains after that payment and if a fine is imposed under division (H)(1) of this section, the clerk of the court shall pay the remaining amount of the forfeited bail pursuant to divisions (H)(2) and (3) of this section, as if that remaining amount was a fine imposed under division (H)(1) of this section.

(2) The court shall suspend the driver's or commercial driver's license or permit of the offender in accordance with division (G) of this section.

(3) If the offender is a professionally licensed person, the court immediately shall comply with section 2925.38 of the Revised Code.

(E) When a person is charged with the sale of or offer to sell a bulk amount or a multiple of a bulk amount of a controlled substance, the jury, or the court trying the accused, shall determine the amount of the controlled substance involved at the time of the offense and, if a guilty verdict is

returned, shall return the findings as part of the verdict. In any such case, it is unnecessary to find and return the exact amount of the controlled substance involved, and it is sufficient if the finding and return is to the effect that the amount of the controlled substance involved is the requisite amount, or that the amount of the controlled substance involved is less than the requisite amount.

(F)(1) Notwithstanding any contrary provision of section 3719.21 of the Revised Code and except as provided in division (H) of this section, the clerk of the court shall pay any mandatory fine imposed pursuant to division (D)(1) of this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to division (A) or (B)(5) of section 2929.18 of the Revised Code to the county, township, municipal corporation, park district, as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (F)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (F)(2) of this section.

(2)(a) Prior to receiving any fine moneys under division (F)(1) of this section or division (B) of section 2925.42 of the Revised Code, a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. All financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under section 149.43 of the Revised Code. Additionally, a written internal control policy adopted under this division is such a public record, and the agency that adopted it shall comply with it.

~~(b) Each law enforcement agency that receives in any calendar year any fine moneys under division (F)(1) of this section or division (B) of section~~

~~2925.42 of the Revised Code shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (F)(2)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year in which the reports are received, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:~~

~~(i) Indicates that the attorney general has received from law enforcement agencies reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;~~

~~(ii) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;~~

~~(iii) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.~~

(3) As used in division (F) of this section:

(a) "Law enforcement agencies" includes, but is not limited to, the state board of pharmacy and the office of a prosecutor.

(b) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(G) When required under division (D)(2) of this section or any other provision of this chapter, the court shall suspend for not less than six months or more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section or any other specified provision of this chapter. If an offender's driver's or commercial driver's license or permit is suspended pursuant to this division, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed or from the day on which the offender finally was released from a prison term under the sentence, whichever is later, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension.

(H)(1) In addition to any prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, in

addition to any other penalty or sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, and in addition to the forfeiture of property in connection with the offense as prescribed in Chapter 2981. of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section may impose upon the offender an additional fine specified for the offense in division (B)(4) of section 2929.18 of the Revised Code. A fine imposed under division (H)(1) of this section is not subject to division (F) of this section and shall be used solely for the support of one or more eligible ~~alcohol and drug~~ community addiction programs services provider in accordance with divisions (H)(2) and (3) of this section.

(2) The court that imposes a fine under division (H)(1) of this section shall specify in the judgment that imposes the fine one or more eligible ~~alcohol and drug~~ community addiction programs services provider for the support of which the fine money is to be used. No ~~alcohol and drug~~ community addiction program services provider shall receive or use money paid or collected in satisfaction of a fine imposed under division (H)(1) of this section unless the ~~program services provider~~ program services provider is specified in the judgment that imposes the fine. No ~~alcohol and drug~~ community addiction program services provider shall be specified in the judgment unless the ~~program services provider~~ program services provider is an eligible ~~alcohol and drug~~ community addiction program services provider and, except as otherwise provided in division (H)(2) of this section, unless the ~~program services provider~~ program services provider is located in the county in which the court that imposes the fine is located or in a county that is immediately contiguous to the county in which that court is located. If no eligible ~~alcohol and drug~~ community addiction program services provider is located in any of those counties, the judgment may specify an eligible ~~alcohol and drug~~ community addiction program services provider that is located anywhere within this state.

(3) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, the clerk of the court shall pay any fine imposed under division (H)(1) of this section to the eligible ~~alcohol and drug~~ community addiction program services provider specified pursuant to division (H)(2) of this section in the judgment. The eligible ~~alcohol and drug~~ community addiction program services provider that receives the fine moneys shall use the moneys only for the alcohol and drug addiction services identified in the application for certification under section ~~3793.06~~ 5119.36 of the Revised Code or in the application for a license under section ~~3793.14~~ 5119.39 of the Revised Code filed with the department of ~~alcohol and drug~~ addiction services mental health and addiction services by the ~~alcohol and drug~~ addiction services mental health and addiction services.

community addiction program services provider specified in the judgment.

(4) Each ~~alcohol and drug~~ community addiction program services provider that receives in a calendar year any fine moneys under division (H)(3) of this section shall file an annual report covering that calendar year with the court of common pleas and the board of county commissioners of the county in which the program services provider is located, with the court of common pleas and the board of county commissioners of each county from which the program services provider received the moneys if that county is different from the county in which the program services provider is located, and with the attorney general. The ~~alcohol and drug~~ community addiction program services provider shall file the report no later than the first day of March in the calendar year following the calendar year in which the program services provider received the fine moneys. The report shall include statistics on the number of persons served by the ~~alcohol and drug~~ community addiction program services provider, identify the types of alcohol and drug addiction services provided to those persons, and include a specific accounting of the purposes for which the fine moneys received were used. No information contained in the report shall identify, or enable a person to determine the identity of, any person served by the ~~alcohol and drug~~ community addiction program services provider. Each report received by a court of common pleas, a board of county commissioners, or the attorney general is a public record open for inspection under section 149.43 of the Revised Code.

(5) As used in divisions (H)(1) to (5) of this section:

(a) "~~Alcohol and drug~~ Community addiction program services provider" and "alcohol and drug addiction services" have the same meanings as in section ~~3793.04~~ 5119.01 of the Revised Code.

(b) "Eligible ~~alcohol and drug~~ community addiction program services provider" means ~~an alcohol and drug~~ a community addiction program services provider that is certified under section ~~3793.06~~ 5119.36 of the Revised Code or licensed under section ~~3793.11~~ 5119.39 of the Revised Code by the department of ~~alcohol and drug addiction services~~ mental health and addiction services.

(I) As used in this section, "drug" includes any substance that is represented to be a drug.

(J) It is an affirmative defense to a charge of trafficking in a controlled substance analog under division (C)(8) of this section that the person charged with violating that offense sold or offered to sell, or prepared for shipment, shipped, transported, delivered, prepared for distribution, or distributed an item described in division (HH)(2)(a), (b), or (c) of section

3719.01 of the Revised Code.

Sec. 2929.13. (A) Except as provided in division (E), (F), or (G) of this section and unless a specific sanction is required to be imposed or is precluded from being imposed pursuant to law, a court that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender that are provided in sections 2929.14 to 2929.18 of the Revised Code.

If the offender is eligible to be sentenced to community control sanctions, the court shall consider the appropriateness of imposing a financial sanction pursuant to section 2929.18 of the Revised Code or a sanction of community service pursuant to section 2929.17 of the Revised Code as the sole sanction for the offense. Except as otherwise provided in this division, if the court is required to impose a mandatory prison term for the offense for which sentence is being imposed, the court also shall impose any financial sanction pursuant to section 2929.18 of the Revised Code that is required for the offense and may impose any other financial sanction pursuant to that section but may not impose any additional sanction or combination of sanctions under section 2929.16 or 2929.17 of the Revised Code.

If the offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, in addition to the mandatory term of local incarceration or the mandatory prison term required for the offense by division (G)(1) or (2) of this section, the court shall impose upon the offender a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code and may impose whichever of the following is applicable:

(1) For a fourth degree felony OVI offense for which sentence is imposed under division (G)(1) of this section, an additional community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code. If the court imposes upon the offender a community control sanction and the offender violates any condition of the community control sanction, the court may take any action prescribed in division (B) of section 2929.15 of the Revised Code relative to the offender, including imposing a prison term on the offender pursuant to that division.

(2) For a third or fourth degree felony OVI offense for which sentence is imposed under division (G)(2) of this section, an additional prison term as described in division (B)(4) of section 2929.14 of the Revised Code or a community control sanction as described in division (G)(2) of this section.

(B)(1)(a) Except as provided in division (B)(1)(b) of this section, if an

offender is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense, the court shall sentence the offender to a community control sanction of at least one year's duration if all of the following apply:

(i) The offender previously has not been convicted of or pleaded guilty to a felony offense.

(ii) The most serious charge against the offender at the time of sentencing is a felony of the fourth or fifth degree.

(iii) If the court made a request of the department of rehabilitation and correction pursuant to division (B)(1)(c) of this section, the department, within the forty-five-day period specified in that division, provided the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court.

(iv) The offender previously has not been convicted of or pleaded guilty to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence is being imposed.

(b) The court has discretion to impose a prison term upon an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense if any of the following apply:

(i) The offender committed the offense while having a firearm on or about the offender's person or under the offender's control.

(ii) If the offense is a qualifying assault offense, the offender caused serious physical harm to another person while committing the offense, and, if the offense is not a qualifying assault offense, the offender caused physical harm to another person while committing the offense.

(iii) The offender violated a term of the conditions of bond as set by the court.

(iv) The court made a request of the department of rehabilitation and correction pursuant to division (B)(1)(c) of this section, and the department, within the forty-five-day period specified in that division, did not provide the court with the name of, contact information for, and program details of any community control sanction of at least one year's duration that is available for persons sentenced by the court.

(v) The offense is a sex offense that is a fourth or fifth degree felony violation of any provision of Chapter 2907. of the Revised Code.

(vi) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with a deadly weapon.

(vii) In committing the offense, the offender attempted to cause or made

an actual threat of physical harm to a person, and the offender previously was convicted of an offense that caused physical harm to a person.

(viii) The offender held a public office or position of trust, and the offense related to that office or position; the offender's position obliged the offender to prevent the offense or to bring those committing it to justice; or the offender's professional reputation or position facilitated the offense or was likely to influence the future conduct of others.

(ix) The offender committed the offense for hire or as part of an organized criminal activity.

(x) The offender at the time of the offense was serving, or the offender previously had served, a prison term.

(xi) The offender committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance.

(c) If a court that is sentencing an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense believes that no community control sanctions are available for its use that, if imposed on the offender, will adequately fulfill the overriding principles and purposes of sentencing, the court shall contact the department of rehabilitation and correction and ask the department to provide the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court. Not later than forty-five days after receipt of a request from a court under this division, the department shall provide the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court, if any. Upon making a request under this division that relates to a particular offender, a court shall defer sentencing of that offender until it receives from the department the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court or for forty-five days, whichever is the earlier.

If the department provides the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court within the forty-five-day period specified in this division, the court shall impose upon the offender a community control sanction under division (B)(1)(a) of this section, except that the court may impose a prison term under division (B)(1)(b) of this section if a factor

described in division (B)(1)(b)(i) or (ii) of this section applies. If the department does not provide the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court within the forty-five-day period specified in this division, the court may impose upon the offender a prison term under division (B)(1)(b)(iv) of this section.

(d) A sentencing court may impose an additional penalty under division (B) of section 2929.15 of the Revised Code upon an offender sentenced to a community control sanction under division (B)(1)(a) of this section if the offender violates the conditions of the community control sanction, violates a law, or leaves the state without the permission of the court or the offender's probation officer.

(2) If division (B)(1) of this section does not apply, except as provided in division (E), (F), or (G) of this section, in determining whether to impose a prison term as a sanction for a felony of the fourth or fifth degree, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(C) Except as provided in division (D), (E), (F), or (G) of this section, in determining whether to impose a prison term as a sanction for a felony of the third degree or a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to this division for purposes of sentencing, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(D)(1) Except as provided in division (E) or (F) of this section, for a felony of the first or second degree, for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, and for a violation of division (A)(4) or (B) of section 2907.05 of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, it is presumed that a prison term is necessary in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code. Division (D)(2) of this section does not apply to a presumption established under this division for a violation of division (A)(4) of section 2907.05 of the Revised Code.

(2) Notwithstanding the presumption established under division (D)(1) of this section for the offenses listed in that division other than a violation of division (A)(4) or (B) of section 2907.05 of the Revised Code, the

sentencing court may impose a community control sanction or a combination of community control sanctions instead of a prison term on an offender for a felony of the first or second degree or for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable if it makes both of the following findings:

(a) A community control sanction or a combination of community control sanctions would adequately punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a lesser likelihood of recidivism outweigh the applicable factors under that section indicating a greater likelihood of recidivism.

(b) A community control sanction or a combination of community control sanctions would not demean the seriousness of the offense, because one or more factors under section 2929.12 of the Revised Code that indicate that the offender's conduct was less serious than conduct normally constituting the offense are applicable, and they outweigh the applicable factors under that section that indicate that the offender's conduct was more serious than conduct normally constituting the offense.

(E)(1) Except as provided in division (F) of this section, for any drug offense that is a violation of any provision of Chapter 2925. of the Revised Code and that is a felony of the third, fourth, or fifth degree, the applicability of a presumption under division (D) of this section in favor of a prison term or of division (B) or (C) of this section in determining whether to impose a prison term for the offense shall be determined as specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the Revised Code, whichever is applicable regarding the violation.

(2) If an offender who was convicted of or pleaded guilty to a felony violates the conditions of a community control sanction imposed for the offense solely by reason of producing positive results on a drug test, the court, as punishment for the violation of the sanction, shall not order that the offender be imprisoned unless the court determines on the record either of the following:

(a) The offender had been ordered as a sanction for the felony to participate in a drug treatment program, in a drug education program, or in narcotics anonymous or a similar program, and the offender continued to use illegal drugs after a reasonable period of participation in the program.

(b) The imprisonment of the offender for the violation is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the

Revised Code.

(3) A court that sentences an offender for a drug abuse offense that is a felony of the third, fourth, or fifth degree may require that the offender be assessed by a properly credentialed professional within a specified period of time. The court shall require the professional to file a written assessment of the offender with the court. If the offender is eligible for a community control sanction and after considering the written assessment, the court may impose a community control sanction that includes treatment and recovery support services authorized by section 3793.02 of the Revised Code. If the court imposes treatment and recovery support services as a community control sanction, the court shall direct the level and type of treatment and recovery support services after considering the assessment and recommendation of treatment and recovery support services providers.

(F) Notwithstanding divisions (A) to (E) of this section, the court shall impose a prison term or terms under sections 2929.02 to 2929.06, section 2929.14, section 2929.142, or section 2971.03 of the Revised Code and except as specifically provided in section 2929.20, divisions (C) to (I) of section 2967.19, or section 2967.191 of the Revised Code or when parole is authorized for the offense under section 2967.13 of the Revised Code shall not reduce the term or terms pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code for any of the following offenses:

(1) Aggravated murder when death is not imposed or murder;

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape if, had the offender completed the rape that was attempted, the offender would have been guilty of a violation of division (A)(1)(b) of section 2907.02 of the Revised Code and would be sentenced under section 2971.03 of the Revised Code;

(3) Gross sexual imposition or sexual battery, if the victim is less than thirteen years of age and if any of the following applies:

(a) Regarding gross sexual imposition, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, gross sexual imposition, or sexual battery, and the victim of the previous offense was less than thirteen years of age;

(b) Regarding gross sexual imposition, the offense was committed on or after August 3, 2006, and evidence other than the testimony of the victim was admitted in the case corroborating the violation.

(c) Regarding sexual battery, either of the following applies:

(i) The offense was committed prior to August 3, 2006, the offender previously was convicted of or pleaded guilty to rape, the former offense of

felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than thirteen years of age.

(ii) The offense was committed on or after August 3, 2006.

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2905.32, or 2907.07 of the Revised Code if the section requires the imposition of a prison term;

(5) A first, second, or third degree felony drug offense for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 4729.99 of the Revised Code, whichever is applicable regarding the violation, requires the imposition of a mandatory prison term;

(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree felony, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to one of those offenses;

(7) Any offense that is a third degree felony and either is a violation of section 2903.04 of the Revised Code or an attempt to commit a felony of the second degree that is an offense of violence and involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person if the offender previously was convicted of or pleaded guilty to any of the following offenses:

(a) Aggravated murder, murder, involuntary manslaughter, rape, felonious sexual penetration as it existed under section 2907.12 of the Revised Code prior to September 3, 1996, a felony of the first or second degree that resulted in the death of a person or in physical harm to a person, or complicity in or an attempt to commit any of those offenses;

(b) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense listed in division (F)(7)(a) of this section that resulted in the death of a person or in physical harm to a person.

(8) Any offense, other than a violation of section 2923.12 of the Revised Code, that is a felony, if the offender had a firearm on or about the offender's person or under the offender's control while committing the felony, with respect to a portion of the sentence imposed pursuant to division (B)(1)(a) of section 2929.14 of the Revised Code for having the firearm;

(9) Any offense of violence that is a felony, if the offender wore or carried body armor while committing the felony offense of violence, with

respect to the portion of the sentence imposed pursuant to division (B)(1)(d) of section 2929.14 of the Revised Code for wearing or carrying the body armor;

(10) Corrupt activity in violation of section 2923.32 of the Revised Code when the most serious offense in the pattern of corrupt activity that is the basis of the offense is a felony of the first degree;

(11) Any violent sex offense or designated homicide, assault, or kidnapping offense if, in relation to that offense, the offender is adjudicated a sexually violent predator;

(12) A violation of division (A)(1) or (2) of section 2921.36 of the Revised Code, or a violation of division (C) of that section involving an item listed in division (A)(1) or (2) of that section, if the offender is an officer or employee of the department of rehabilitation and correction;

(13) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, with respect to the portion of the sentence imposed pursuant to division (B)(5) of section 2929.14 of the Revised Code;

(14) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the offender has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, with respect to the portion of the sentence imposed pursuant to division (B)(6) of section 2929.14 of the Revised Code;

(15) Kidnapping, in the circumstances specified in section 2971.03 of the Revised Code and when no other provision of division (F) of this section applies;

(16) Kidnapping, abduction, compelling prostitution, promoting prostitution, engaging in a pattern of corrupt activity, illegal use of a minor in a nudity-oriented material or performance in violation of division (A)(1) or (2) of section 2907.323 of the Revised Code, or endangering children in violation of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code, if the offender is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense;

(17) A felony violation of division (A) or (B) of section 2919.25 of the Revised Code if division (D)(3), (4), or (5) of that section, and division

(D)(6) of that section, require the imposition of a prison term;

(18) A felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code, if the victim of the offense was a woman that the offender knew was pregnant at the time of the violation, with respect to a portion of the sentence imposed pursuant to division (B)(8) of section 2929.14 of the Revised Code.

(G) Notwithstanding divisions (A) to (E) of this section, if an offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, the court shall impose upon the offender a mandatory term of local incarceration or a mandatory prison term in accordance with the following:

(1) If the offender is being sentenced for a fourth degree felony OVI offense and if the offender has not been convicted of and has not pleaded guilty to a specification of the type described in section 2941.1413 of the Revised Code, the court may impose upon the offender a mandatory term of local incarceration of sixty days or one hundred twenty days as specified in division (G)(1)(d) of section 4511.19 of the Revised Code. The court shall not reduce the term pursuant to section 2929.20, 2967.193, or any other provision of the Revised Code. The court that imposes a mandatory term of local incarceration under this division shall specify whether the term is to be served in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility, and the offender shall serve the term in the type of facility specified by the court. A mandatory term of local incarceration imposed under division (G)(1) of this section is not subject to any other Revised Code provision that pertains to a prison term except as provided in division (A)(1) of this section.

(2) If the offender is being sentenced for a third degree felony OVI offense, or if the offender is being sentenced for a fourth degree felony OVI offense and the court does not impose a mandatory term of local incarceration under division (G)(1) of this section, the court shall impose upon the offender a mandatory prison term of one, two, three, four, or five years if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or shall impose upon the offender a mandatory prison term of sixty days or one hundred twenty days as specified in division (G)(1)(d) or (e) of section 4511.19 of the Revised Code if the offender has not been convicted of and has not pleaded guilty to a specification of that type. Subject to divisions (C) to (I) of section 2967.19 of the Revised Code, the court shall not reduce the term pursuant to section 2929.20, 2967.19, 2967.193, or any other provision of the Revised Code. The offender shall serve the one-, two-, three-, four-,

or five-year mandatory prison term consecutively to and prior to the prison term imposed for the underlying offense and consecutively to any other mandatory prison term imposed in relation to the offense. In no case shall an offender who once has been sentenced to a mandatory term of local incarceration pursuant to division (G)(1) of this section for a fourth degree felony OVI offense be sentenced to another mandatory term of local incarceration under that division for any violation of division (A) of section 4511.19 of the Revised Code. In addition to the mandatory prison term described in division (G)(2) of this section, the court may sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve the prison term prior to serving the community control sanction. The department of rehabilitation and correction may place an offender sentenced to a mandatory prison term under this division in an intensive program prison established pursuant to section 5120.033 of the Revised Code if the department gave the sentencing judge prior notice of its intent to place the offender in an intensive program prison established under that section and if the judge did not notify the department that the judge disapproved the placement. Upon the establishment of the initial intensive program prison pursuant to section 5120.033 of the Revised Code that is privately operated and managed by a contractor pursuant to a contract entered into under section 9.06 of the Revised Code, both of the following apply:

(a) The department of rehabilitation and correction shall make a reasonable effort to ensure that a sufficient number of offenders sentenced to a mandatory prison term under this division are placed in the privately operated and managed prison so that the privately operated and managed prison has full occupancy.

(b) Unless the privately operated and managed prison has full occupancy, the department of rehabilitation and correction shall not place any offender sentenced to a mandatory prison term under this division in any intensive program prison established pursuant to section 5120.033 of the Revised Code other than the privately operated and managed prison.

(H) If an offender is being sentenced for a sexually oriented offense or child-victim oriented offense that is a felony committed on or after January 1, 1997, the judge shall require the offender to submit to a DNA specimen collection procedure pursuant to section 2901.07 of the Revised Code.

(I) If an offender is being sentenced for a sexually oriented offense or a child-victim oriented offense committed on or after January 1, 1997, the judge shall include in the sentence a summary of the offender's duties imposed under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the

Revised Code and the duration of the duties. The judge shall inform the offender, at the time of sentencing, of those duties and of their duration. If required under division (A)(2) of section 2950.03 of the Revised Code, the judge shall perform the duties specified in that section, or, if required under division (A)(6) of section 2950.03 of the Revised Code, the judge shall perform the duties specified in that division.

(J)(1) Except as provided in division (J)(2) of this section, when considering sentencing factors under this section in relation to an offender who is convicted of or pleads guilty to an attempt to commit an offense in violation of section 2923.02 of the Revised Code, the sentencing court shall consider the factors applicable to the felony category of the violation of section 2923.02 of the Revised Code instead of the factors applicable to the felony category of the offense attempted.

(2) When considering sentencing factors under this section in relation to an offender who is convicted of or pleads guilty to an attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense, the sentencing court shall consider the factors applicable to the felony category that the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt.

(K) As used in this section:

(1) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.

(2) "Qualifying assault offense" means a violation of section 2903.13 of the Revised Code for which the penalty provision in division (C)~~(7)~~(8)(b) or (C)~~(8)~~(9)(b) of that section applies.

(L) At the time of sentencing an offender for any sexually oriented offense, if the offender is a tier III sex offender/child-victim offender relative to that offense and the offender does not serve a prison term or jail term, the court may require that the offender be monitored by means of a global positioning device. If the court requires such monitoring, the cost of monitoring shall be borne by the offender. If the offender is indigent, the cost of compliance shall be paid by the crime victims reparations fund.

Sec. 2929.15. (A)(1) If in sentencing an offender for a felony the court is not required to impose a prison term, a mandatory prison term, or a term of life imprisonment upon the offender, the court may directly impose a sentence that consists of one or more community control sanctions authorized pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised

Code. If the court is sentencing an offender for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code, in addition to the mandatory term of local incarceration imposed under that division and the mandatory fine required by division (B)(3) of section 2929.18 of the Revised Code, the court may impose upon the offender a community control sanction or combination of community control sanctions in accordance with sections 2929.16 and 2929.17 of the Revised Code. If the court is sentencing an offender for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, in addition to the mandatory prison term or mandatory prison term and additional prison term imposed under that division, the court also may impose upon the offender a community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

The duration of all community control sanctions imposed upon an offender under this division shall not exceed five years. If the offender absconds or otherwise leaves the jurisdiction of the court in which the offender resides without obtaining permission from the court or the offender's probation officer to leave the jurisdiction of the court, or if the offender is confined in any institution for the commission of any offense while under a community control sanction, the period of the community control sanction ceases to run until the offender is brought before the court for its further action. If the court sentences the offender to one or more nonresidential sanctions under section 2929.17 of the Revised Code, the court shall impose as a condition of the nonresidential sanctions that, during the period of the sanctions, the offender must abide by the law and must not leave the state without the permission of the court or the offender's probation officer. The court may impose any other conditions of release under a community control sanction that the court considers appropriate, including, but not limited to, requiring that the offender not ingest or be injected with a drug of abuse and submit to random drug testing as provided in division (D) of this section to determine whether the offender ingested or was injected with a drug of abuse and requiring that the results of the drug test indicate that the offender did not ingest or was not injected with a drug of abuse.

(2)(a) If a court sentences an offender to any community control sanction or combination of community control sanctions authorized pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, the court shall place the offender under the general control and supervision of a

department of probation in the county that serves the court for purposes of reporting to the court a violation of any condition of the sanctions, any condition of release under a community control sanction imposed by the court, a violation of law, or the departure of the offender from this state without the permission of the court or the offender's probation officer. Alternatively, if the offender resides in another county and a county department of probation has been established in that county or that county is served by a multicounty probation department established under section 2301.27 of the Revised Code, the court may request the court of common pleas of that county to receive the offender into the general control and supervision of that county or multicounty department of probation for purposes of reporting to the court a violation of any condition of the sanctions, any condition of release under a community control sanction imposed by the court, a violation of law, or the departure of the offender from this state without the permission of the court or the offender's probation officer, subject to the jurisdiction of the trial judge over and with respect to the person of the offender, and to the rules governing that department of probation.

If there is no department of probation in the county that serves the court, the court shall place the offender, regardless of the offender's county of residence, under the general control and supervision of the adult parole authority for purposes of reporting to the court a violation of any of the sanctions, any condition of release under a community control sanction imposed by the court, a violation of law, or the departure of the offender from this state without the permission of the court or the offender's probation officer.

(b) If the court imposing sentence upon an offender sentences the offender to any community control sanction or combination of community control sanctions authorized pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, and if the offender violates any condition of the sanctions, any condition of release under a community control sanction imposed by the court, violates any law, or departs the state without the permission of the court or the offender's probation officer, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation or departure directly to the sentencing court, or shall report the violation or departure to the county or multicounty department of probation with general control and supervision over the offender under division (A)(2)(a) of this section or the officer of that department who supervises the offender, or, if there is no such department with general control and supervision over the

offender under that division, to the adult parole authority. If the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction reports the violation or departure to the county or multicounty department of probation or the adult parole authority, the department's or authority's officers may treat the offender as if the offender were on probation and in violation of the probation, and shall report the violation of the condition of the sanction, any condition of release under a community control sanction imposed by the court, the violation of law, or the departure from the state without the required permission to the sentencing court.

(3) If an offender who is eligible for community control sanctions under this section admits to being drug addicted or the court has reason to believe that the offender is drug addicted, and if the offense for which the offender is being sentenced was related to the addiction, the court may require that the offender be assessed by a properly credentialed professional within a specified period of time and shall require the professional to file a written assessment of the offender with the court. If a court imposes treatment and recovery support services as a community control sanction, the court shall direct the level and type of treatment and recovery support services after consideration of the written assessment, if available at the time of sentencing, and recommendations of the professional and other treatment and recovery support services providers.

(4) If an assessment completed pursuant to division (A)(3) of this section indicates that the offender is addicted to drugs or alcohol, the court may include in any community control sanction imposed for a violation of section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the Revised Code a requirement that the offender participate in a treatment and recovery support services program certified under section ~~3793.06~~ 5119.36 of the Revised Code or offered by another properly credentialed ~~program~~ community addiction services provider.

(B)(1) If the conditions of a community control sanction are violated or if the offender violates a law or leaves the state without the permission of the court or the offender's probation officer, the sentencing court may impose upon the violator one or more of the following penalties:

(a) A longer time under the same sanction if the total time under the sanctions does not exceed the five-year limit specified in division (A) of this section;

(b) A more restrictive sanction under section 2929.16, 2929.17, or 2929.18 of the Revised Code;

(c) A prison term on the offender pursuant to section 2929.14 of the Revised Code.

(2) The prison term, if any, imposed upon a violator pursuant to this division shall be within the range of prison terms available for the offense for which the sanction that was violated was imposed and shall not exceed the prison term specified in the notice provided to the offender at the sentencing hearing pursuant to division (B)(2) of section 2929.19 of the Revised Code. The court may reduce the longer period of time that the offender is required to spend under the longer sanction, the more restrictive sanction, or a prison term imposed pursuant to this division by the time the offender successfully spent under the sanction that was initially imposed.

(C) If an offender, for a significant period of time, fulfills the conditions of a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code in an exemplary manner, the court may reduce the period of time under the sanction or impose a less restrictive sanction, but the court shall not permit the offender to violate any law or permit the offender to leave the state without the permission of the court or the offender's probation officer.

(D)(1) If a court under division (A)(1) of this section imposes a condition of release under a community control sanction that requires the offender to submit to random drug testing, the department of probation or the adult parole authority that has general control and supervision of the offender under division (A)(2)(a) of this section may cause the offender to submit to random drug testing performed by a laboratory or entity that has entered into a contract with any of the governmental entities or officers authorized to enter into a contract with that laboratory or entity under section 341.26, 753.33, or 5120.63 of the Revised Code.

(2) If no laboratory or entity described in division (D)(1) of this section has entered into a contract as specified in that division, the department of probation or the adult parole authority that has general control and supervision of the offender under division (A)(2)(a) of this section shall cause the offender to submit to random drug testing performed by a reputable public laboratory to determine whether the individual who is the subject of the drug test ingested or was injected with a drug of abuse.

(3) A laboratory or entity that has entered into a contract pursuant to section 341.26, 753.33, or 5120.63 of the Revised Code shall perform the random drug tests under division (D)(1) of this section in accordance with the applicable standards that are included in the terms of that contract. A public laboratory shall perform the random drug tests under division (D)(2) of this section in accordance with the standards set forth in the policies and

procedures established by the department of rehabilitation and correction pursuant to section 5120.63 of the Revised Code. An offender who is required under division (A)(1) of this section to submit to random drug testing as a condition of release under a community control sanction and whose test results indicate that the offender ingested or was injected with a drug of abuse shall pay the fee for the drug test if the department of probation or the adult parole authority that has general control and supervision of the offender requires payment of a fee. A laboratory or entity that performs the random drug testing on an offender under division (D)(1) or (2) of this section shall transmit the results of the drug test to the appropriate department of probation or the adult parole authority that has general control and supervision of the offender under division (A)(2)(a) of this section.

Sec. 2929.18. (A) Except as otherwise provided in this division and in addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a felony may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section or, in the circumstances specified in section 2929.32 of the Revised Code, may impose upon the offender a fine in accordance with that section. Financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. If the court imposes restitution, the court shall order that the restitution be made to the victim in open court, to the adult probation department that serves the county on behalf of the victim, to the clerk of courts, or to another agency designated by the court. If the court imposes restitution, at sentencing, the court shall determine the amount of restitution to be made by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold a hearing on restitution if the offender, victim, or survivor disputes the amount. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender.

If the court imposes restitution, the court may order that the offender

pay a surcharge of not more than five per cent of the amount of the restitution otherwise ordered to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision, or as described in division (B)(2) of this section to one or more law enforcement agencies, with the amount of the fine based on a standard percentage of the offender's daily income over a period of time determined by the court and based upon the seriousness of the offense. A fine ordered under this division shall not exceed the maximum conventional fine amount authorized for the level of the offense under division (A)(3) of this section.

(3) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision when appropriate for a felony, or as described in division (B)(2) of this section to one or more law enforcement agencies, in the following amount:

(a) For a felony of the first degree, not more than twenty thousand dollars;

(b) For a felony of the second degree, not more than fifteen thousand dollars;

(c) For a felony of the third degree, not more than ten thousand dollars;

(d) For a felony of the fourth degree, not more than five thousand dollars;

(e) For a felony of the fifth degree, not more than two thousand five hundred dollars.

(4) A state fine or costs as defined in section 2949.111 of the Revised Code.

(5)(a) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including the following:

(i) All or part of the costs of implementing any community control sanction, including a supervision fee under section 2951.021 of the Revised Code;

(ii) All or part of the costs of confinement under a sanction imposed pursuant to section 2929.14, 2929.142, or 2929.16 of the Revised Code, provided that the amount of reimbursement ordered under this division shall not exceed the total amount of reimbursement the offender is able to pay as determined at a hearing and shall not exceed the actual cost of the

confinement;

(iii) All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under section 4510.13 of the Revised Code.

(b) If the offender is sentenced to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a facility operated by a board of county commissioners, a legislative authority of a municipal corporation, or another local governmental entity, if, pursuant to section 307.93, 341.14, 341.19, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, the board, legislative authority, or other local governmental entity requires prisoners to reimburse the county, municipal corporation, or other entity for its expenses incurred by reason of the prisoner's confinement, and if the court does not impose a financial sanction under division (A)(5)(a)(ii) of this section, confinement costs may be assessed pursuant to section 2929.37 of the Revised Code. In addition, the offender may be required to pay the fees specified in section 2929.38 of the Revised Code in accordance with that section.

(c) Reimbursement by the offender for costs pursuant to section 2929.71 of the Revised Code.

(B)(1) For a first, second, or third degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code, the sentencing court shall impose upon the offender a mandatory fine of at least one-half of, but not more than, the maximum statutory fine amount authorized for the level of the offense pursuant to division (A)(3) of this section. If an offender alleges in an affidavit filed with the court prior to sentencing that the offender is indigent and unable to pay the mandatory fine and if the court determines the offender is an indigent person and is unable to pay the mandatory fine described in this division, the court shall not impose the mandatory fine upon the offender.

(2) Any mandatory fine imposed upon an offender under division (B)(1) of this section and any fine imposed upon an offender under division (A)(2) or (3) of this section for any fourth or fifth degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code shall be paid to law enforcement agencies pursuant to division (F) of section 2925.03 of the Revised Code.

(3) For a fourth degree felony OVI offense and for a third degree felony OVI offense, the sentencing court shall impose upon the offender a mandatory fine in the amount specified in division (G)(1)(d) or (e) of

section 4511.19 of the Revised Code, whichever is applicable. The mandatory fine so imposed shall be disbursed as provided in the division pursuant to which it is imposed.

(4) Notwithstanding any fine otherwise authorized or required to be imposed under division (A)(2) or (3) or (B)(1) of this section or section 2929.31 of the Revised Code for a violation of section 2925.03 of the Revised Code, in addition to any penalty or sanction imposed for that offense under section 2925.03 or sections 2929.11 to 2929.18 of the Revised Code and in addition to the forfeiture of property in connection with the offense as prescribed in Chapter 2981. of the Revised Code, the court that sentences an offender for a violation of section 2925.03 of the Revised Code may impose upon the offender a fine in addition to any fine imposed under division (A)(2) or (3) of this section and in addition to any mandatory fine imposed under division (B)(1) of this section. The fine imposed under division (B)(4) of this section shall be used as provided in division (H) of section 2925.03 of the Revised Code. A fine imposed under division (B)(4) of this section shall not exceed whichever of the following is applicable:

(a) The total value of any personal or real property in which the offender has an interest and that was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of section 2925.03 of the Revised Code, including any property that constitutes proceeds derived from that offense;

(b) If the offender has no interest in any property of the type described in division (B)(4)(a) of this section or if it is not possible to ascertain whether the offender has an interest in any property of that type in which the offender may have an interest, the amount of the mandatory fine for the offense imposed under division (B)(1) of this section or, if no mandatory fine is imposed under division (B)(1) of this section, the amount of the fine authorized for the level of the offense imposed under division (A)(3) of this section.

(5) Prior to imposing a fine under division (B)(4) of this section, the court shall determine whether the offender has an interest in any property of the type described in division (B)(4)(a) of this section. Except as provided in division (B)(6) or (7) of this section, a fine that is authorized and imposed under division (B)(4) of this section does not limit or affect the imposition of the penalties and sanctions for a violation of section 2925.03 of the Revised Code prescribed under those sections or sections 2929.11 to 2929.18 of the Revised Code and does not limit or affect a forfeiture of property in connection with the offense as prescribed in Chapter 2981. of the Revised Code.

(6) If the sum total of a mandatory fine amount imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code under division (B)(1) of this section plus the amount of any fine imposed under division (B)(4) of this section does not exceed the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code, the court may impose a fine for the offense in addition to the mandatory fine and the fine imposed under division (B)(4) of this section. The sum total of the amounts of the mandatory fine, the fine imposed under division (B)(4) of this section, and the additional fine imposed under division (B)(6) of this section shall not exceed the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code. The clerk of the court shall pay any fine that is imposed under division (B)(6) of this section to the county, township, municipal corporation, park district as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender pursuant to division (F) of section 2925.03 of the Revised Code.

(7) If the sum total of the amount of a mandatory fine imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code plus the amount of any fine imposed under division (B)(4) of this section exceeds the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code, the court shall not impose a fine under division (B)(6) of this section.

(8)(a) If an offender who is convicted of or pleads guilty to a violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the sentencing court shall sentence the offender to a financial sanction of restitution by the offender to the victim or any survivor of the victim, with the restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of the following:

(i) The gross income or value to the offender of the victim's labor or services;

(ii) The value of the victim's labor as guaranteed under the minimum

wage and overtime provisions of the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 20 U.S.C. 207, and state labor laws.

(b) If a court imposing sentence upon an offender for a felony is required to impose upon the offender a financial sanction of restitution under division (B)(8)(a) of this section, in addition to that financial sanction of restitution, the court may sentence the offender to any other financial sanction or combination of financial sanctions authorized under this section, including a restitution sanction under division (A)(1) of this section.

(9) In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for a felony that is a sexually oriented offense or a child-victim oriented offense, as those terms are defined in section 2950.01 of the Revised Code, may impose a fine of not less than fifty nor more than five hundred dollars.

(C)(1) The offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by the department of rehabilitation and correction in operating a prison or other facility used to confine offenders pursuant to sanctions imposed under section 2929.14, 2929.142, or 2929.16 of the Revised Code to the treasurer of state. The treasurer of state shall deposit the reimbursements in the confinement cost reimbursement fund that is hereby created in the state treasury. The department of rehabilitation and correction shall use the amounts deposited in the fund to fund the operation of facilities used to confine offenders pursuant to sections 2929.14, 2929.142, and 2929.16 of the Revised Code.

(2) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by a county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code to the county treasurer. The county treasurer shall deposit the reimbursements in the sanction cost reimbursement fund that each board of county commissioners shall create in its county treasury. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(3) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to

division (A)(5)(a) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in a special fund that shall be established in the treasury of each municipal corporation. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(4) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed pursuant to division (A)(5)(a) of this section for the costs incurred by a private provider pursuant to a sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code to the provider.

(D) Except as otherwise provided in this division, a financial sanction imposed pursuant to division (A) or (B) of this section is a judgment in favor of the state or a political subdivision in which the court that imposed the financial sanction is located, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (A)(5)(a)(ii) of this section upon an offender who is incarcerated in a state facility or a municipal jail is a judgment in favor of the state or the municipal corporation, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed upon an offender pursuant to this section for costs incurred by a private provider of sanctions is a judgment in favor of the private provider, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (A)(1) or (B)(8) of this section is an order in favor of the victim of the offender's criminal act that can be collected through a certificate of judgment as described in division (D)(1) of this section, through execution as described in division (D)(2) of this section, or through an order as described in division (D)(3) of this section, and the offender shall be considered for purposes of the collection as the judgment debtor. Imposition of a financial sanction and execution on the judgment does not preclude any other power of the court to impose or enforce sanctions on the offender. Once the financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may do

any of the following:

(1) Obtain from the clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;

(2) Obtain execution of the judgment or order through any available procedure, including:

(a) An execution against the property of the judgment debtor under Chapter 2329. of the Revised Code;

(b) An execution against the person of the judgment debtor under Chapter 2331. of the Revised Code;

(c) A proceeding in aid of execution under Chapter 2333. of the Revised Code, including:

(i) A proceeding for the examination of the judgment debtor under sections 2333.09 to 2333.12 and sections 2333.15 to 2333.27 of the Revised Code;

(ii) A proceeding for attachment of the person of the judgment debtor under section 2333.28 of the Revised Code;

(iii) A creditor's suit under section 2333.01 of the Revised Code.

(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;

(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.

(3) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.

(E) A court that imposes a financial sanction upon an offender may hold a hearing if necessary to determine whether the offender is able to pay the sanction or is likely in the future to be able to pay it.

(F) Each court imposing a financial sanction upon an offender under this section or under section 2929.32 of the Revised Code may designate the clerk of the court or another person to collect the financial sanction. The clerk or other person authorized by law or the court to collect the financial sanction may enter into contracts with one or more public agencies or private vendors for the collection of, amounts due under the financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code, a court shall comply with sections 307.86 to 307.92 of the Revised Code.

(G) If a court that imposes a financial sanction under division (A) or (B) of this section finds that an offender satisfactorily has completed all other

sanctions imposed upon the offender and that all restitution that has been ordered has been paid as ordered, the court may suspend any financial sanctions imposed pursuant to this section or section 2929.32 of the Revised Code that have not been paid.

(H) No financial sanction imposed under this section or section 2929.32 of the Revised Code shall preclude a victim from bringing a civil action against the offender.

Sec. 2930.01. As used in this chapter:

(A) "Crime" means any of the following:

(1) A felony;

(2) A violation of section 2903.05, 2903.06, 2903.13, 2903.21, 2903.211, 2903.22, 2907.06, 2919.25, or 2921.04 of the Revised Code, a violation of section 2903.07 of the Revised Code as it existed prior to March 23, 2000, or a violation of a substantially equivalent municipal ordinance;

(3) A violation of division (A) or (B) of section 4511.19, division (A) or (B) of section 1547.11, or division (A)(3) of section 4561.15 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions that is the proximate cause of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident in which the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

(4) A motor vehicle accident to which both of the following apply:

(a) The motor vehicle accident is caused by a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher.

(b) As a result of the motor vehicle accident, the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

(B) "Custodial agency" means one of the following:

(1) The entity that has custody of a defendant or an alleged juvenile offender who is incarcerated for a crime, is under detention for the commission of a specified delinquent act, or who is detained after a finding of incompetence to stand trial or not guilty by reason of insanity relative to a crime, including any of the following:

(a) The department of rehabilitation and correction or the adult parole authority;

(b) A county sheriff;

(c) The entity that administers a jail, as defined in section 2929.01 of the Revised Code;

(d) The entity that administers a community-based correctional facility and program or a district community-based correctional facility and program;

(e) The department of ~~mental health~~ mental health and addiction services or other entity to which a defendant found incompetent to stand trial or not guilty by reason of insanity is committed.

(2) The entity that has custody of an alleged juvenile offender pursuant to an order of disposition of a juvenile court, including the department of youth services or a school, camp, institution, or other facility operated for the care of delinquent children.

(C) "Defendant" means a person who is alleged to be the perpetrator of a crime in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the basis for the criminal prosecution and subsequent proceedings to which this chapter makes reference.

(D) "Member of the victim's family" means a spouse, child, stepchild, sibling, parent, stepparent, grandparent, or other relative of a victim but does not include a person who is charged with, convicted of, or adjudicated to be a delinquent child for the crime or specified delinquent act against the victim or another crime or specified delinquent act arising from the same conduct, criminal episode, or plan.

(E) "Prosecutor" means one of the following:

(1) With respect to a criminal case, it has the same meaning as in section 2935.01 of the Revised Code and also includes the attorney general and, when appropriate, the employees of any person listed in section 2935.01 of the Revised Code or of the attorney general.

(2) With respect to a delinquency proceeding, it includes any person listed in division (C) of section 2935.01 of the Revised Code or an employee of a person listed in that division who prosecutes a delinquency proceeding.

(F) "Public agency" means an office, agency, department, bureau, or other governmental entity of the state or of a political subdivision of the state.

(G) "Public official" has the same meaning as in section 2921.01 of the Revised Code.

(H) "Victim" means either of the following:

(1) A person who is identified as the victim of a crime or specified delinquent act in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the

basis for the criminal prosecution or delinquency proceeding and subsequent proceedings to which this chapter makes reference.

(2) A person who receives injuries as a result of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident that is proximately caused by a violation described in division (A)(3) of this section or a motor vehicle accident that is proximately caused by a violation described in division (A)(4) of this section and who receives medical treatment as described in division (A)(3) or (4) of this section, whichever is applicable.

(I) "Victim's representative" means a member of the victim's family or another person who pursuant to the authority of section 2930.02 of the Revised Code exercises the rights of a victim under this chapter.

(J) "Court" means a court of common pleas, juvenile court, municipal court, or county court.

(K) "Delinquency proceeding" means all proceedings in a juvenile court that are related to a case in which a complaint has been filed alleging that a child is a delinquent child.

(L) "Case" means a delinquency proceeding and all related activity or a criminal prosecution and all related activity.

(M) The "defense" means the defense against criminal charges in a criminal prosecution or the defense against a delinquent child complaint in a delinquency proceeding.

(N) The "prosecution" means the prosecution of criminal charges in a criminal prosecution or the prosecution of a delinquent child complaint in a delinquency proceeding.

(O) "Specified delinquent act" means any of the following:

(1) An act committed by a child that if committed by an adult would be a felony;

(2) An act committed by a child that is a violation of a section listed in division (A)(1) or (2) of this section or is a violation of a substantially equivalent municipal ordinance;

(3) An act committed by a child that is described in division (A)(3) or (4) of this section.

(P)(1) "Alleged juvenile offender" means a child who is alleged to have committed a specified delinquent act in a police report or in a complaint in juvenile court that charges the commission of a specified delinquent act and that provides the basis for the delinquency proceeding and all subsequent proceedings to which this chapter makes reference.

(2) As used in divisions (O) and (P)(1) of this section, "child" has the same meaning as in section 2151.011 of the Revised Code.

(Q) "Motor vehicle accident" means any accident involving a motor

vehicle.

(R) "Motor vehicle" has the same meaning as in section 4509.01 of the Revised Code.

(S) "Aircraft" has the same meaning as in section 4561.01 of the Revised Code.

(T) "Aquatic device" means any vessel, or any water skis, aquaplane, or similar device.

(U) "Vehicle," "streetcar," and "trackless trolley" have the same meanings as in section 4511.01 of the Revised Code.

(V) "Vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident" means any accident involving a vehicle, streetcar, trackless trolley, aquatic device, or aircraft.

(W) "Vessel" has the same meaning as in section 1547.01 of the Revised Code.

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, township constable, police officer of a township or joint police district, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, state university law enforcement officer appointed under section 3345.04 of the Revised Code, veterans' home police officer appointed under section 5907.02 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, or a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended, shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected, a law of this state, an ordinance of a municipal

corporation, or a resolution of a township.

(2) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code, or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the peace officer's, state fire marshal law enforcement officer's, or individual's territorial jurisdiction, a law of this state.

(3) The house sergeant at arms, if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code, and an assistant house sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at arms's or assistant sergeant at arms's territorial jurisdiction specified in division (D)(1)(a) of section 101.311 of the Revised Code or while providing security pursuant to division (D)(1)(f) of section 101.311 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(4) The senate sergeant at arms and an assistant senate sergeant at arms shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the sergeant at arms's or assistant sergeant at arms's territorial jurisdiction specified in division (B) of section 101.312 of the Revised Code, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(B)(1) When there is reasonable ground to believe that an offense of violence, the offense of criminal child enticement as defined in section 2905.05 of the Revised Code, the offense of public indecency as defined in section 2907.09 of the Revised Code, the offense of domestic violence as defined in section 2919.25 of the Revised Code, the offense of violating a protection order as defined in section 2919.27 of the Revised Code, the offense of menacing by stalking as defined in section 2903.211 of the Revised Code, the offense of aggravated trespass as defined in section 2911.211 of the Revised Code, a theft offense as defined in section 2913.01 of the Revised Code, or a felony drug abuse offense as defined in section 2925.01 of the Revised Code, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, veterans' home operated under Chapter 5907. of the Revised Code, port

authority, or municipal airport or other municipal air navigation facility, in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a peace officer described in division (A) of this section may arrest and detain until a warrant can be obtained any person who the peace officer has reasonable cause to believe is guilty of the violation.

(2) For purposes of division (B)(1) of this section, the execution of any of the following constitutes reasonable ground to believe that the offense alleged in the statement was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation:

(a) A written statement by a person alleging that an alleged offender has committed the offense of menacing by stalking or aggravated trespass;

(b) A written statement by the administrator of the interstate compact on mental health appointed under section ~~5119.51~~ 5119.71 of the Revised Code alleging that a person who had been hospitalized, institutionalized, or confined in any facility under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code;

(c) A written statement by the administrator of any facility in which a person has been hospitalized, institutionalized, or confined under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code.

(3)(a) For purposes of division (B)(1) of this section, a peace officer described in division (A) of this section has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense if any of the following occurs:

(i) A person executes a written statement alleging that the person in question has committed the offense of domestic violence or the offense of

violating a protection order against the person who executes the statement or against a child of the person who executes the statement.

(ii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer, based upon the peace officer's own knowledge and observation of the facts and circumstances of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order or based upon any other information, including, but not limited to, any reasonably trustworthy information given to the peace officer by the alleged victim of the alleged incident of the offense or any witness of the alleged incident of the offense, concludes that there are reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that the person in question is guilty of committing the offense.

(iii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer witnessed the person in question commit the offense of domestic violence or the offense of violating a protection order.

(b) If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense, it is the preferred course of action in this state that the officer arrest and detain that person pursuant to division (B)(1) of this section until a warrant can be obtained.

If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that family or household members have committed the offense against each other, it is the preferred course of action in this state that the officer, pursuant to division (B)(1) of this section, arrest and detain until a warrant can be obtained the family or household member who committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the

primary physical aggressor.

(c) If a peace officer described in division (A) of this section does not arrest and detain a person whom the officer has reasonable cause to believe committed the offense of domestic violence or the offense of violating a protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of this section that the officer arrest that person, the officer shall articulate in the written report of the incident required by section 2935.032 of the Revised Code a clear statement of the officer's reasons for not arresting and detaining that person until a warrant can be obtained.

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of violating a protection order against each other, a peace officer described in division (A) of this section, in addition to any other relevant circumstances, should consider all of the following:

(i) Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain;

(ii) If violence is alleged, whether the alleged violence was caused by a person acting in self-defense;

(iii) Each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of the use of force against any person, and the reasonableness of that fear;

(iv) The comparative severity of any injuries suffered by the persons involved in the alleged offense.

(e)(i) A peace officer described in division (A) of this section shall not require, as a prerequisite to arresting or charging a person who has committed the offense of domestic violence or the offense of violating a protection order, that the victim of the offense specifically consent to the filing of charges against the person who has committed the offense or sign a complaint against the person who has committed the offense.

(ii) If a person is arrested for or charged with committing the offense of domestic violence or the offense of violating a protection order and if the victim of the offense does not cooperate with the involved law enforcement or prosecuting authorities in the prosecution of the offense or, subsequent to the arrest or the filing of the charges, informs the involved law enforcement or prosecuting authorities that the victim does not wish the prosecution of

the offense to continue or wishes to drop charges against the alleged offender relative to the offense, the involved prosecuting authorities, in determining whether to continue with the prosecution of the offense or whether to dismiss charges against the alleged offender relative to the offense and notwithstanding the victim's failure to cooperate or the victim's wishes, shall consider all facts and circumstances that are relevant to the offense, including, but not limited to, the statements and observations of the peace officers who responded to the incident that resulted in the arrest or filing of the charges and of all witnesses to that incident.

(f) In determining pursuant to divisions (B)(3)(a) to (g) of this section whether to arrest a person pursuant to division (B)(1) of this section, a peace officer described in division (A) of this section shall not consider as a factor any possible shortage of cell space at the detention facility to which the person will be taken subsequent to the person's arrest or any possibility that the person's arrest might cause, contribute to, or exacerbate overcrowding at that detention facility or at any other detention facility.

(g) If a peace officer described in division (A) of this section intends pursuant to divisions (B)(3)(a) to (g) of this section to arrest a person pursuant to division (B)(1) of this section and if the officer is unable to do so because the person is not present, the officer promptly shall seek a warrant for the arrest of the person.

(h) If a peace officer described in division (A) of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to Chapter 2981. of the Revised Code. Upon the seizure of a deadly weapon pursuant to division (B)(3)(h) of this section, section 2981.12 of the Revised Code shall apply regarding the treatment and disposition of the deadly weapon. For purposes of that section, the "underlying criminal offense" that was the basis of the seizure of a deadly weapon under division (B)(3)(h) of this section and to which the deadly weapon had a relationship is any of the following that is applicable:

(i) The alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded;

(ii) Any offense that arose out of the same facts and circumstances as

the report of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded.

(4) If, in the circumstances described in divisions (B)(3)(a) to (g) of this section, a peace officer described in division (A) of this section arrests and detains a person pursuant to division (B)(1) of this section, or if, pursuant to division (B)(3)(h) of this section, a peace officer described in division (A) of this section seizes a deadly weapon, the officer, to the extent described in and in accordance with section 9.86 or 2744.03 of the Revised Code, is immune in any civil action for damages for injury, death, or loss to person or property that arises from or is related to the arrest and detention or the seizure.

(C) When there is reasonable ground to believe that a violation of division (A)(1), (2), (3), (4), or (5) of section 4506.15 or a violation of section 4511.19 of the Revised Code has been committed by a person operating a motor vehicle subject to regulation by the public utilities commission of Ohio under Title XLIX of the Revised Code, a peace officer with authority to enforce that provision of law may stop or detain the person whom the officer has reasonable cause to believe was operating the motor vehicle in violation of the division or section and, after investigating the circumstances surrounding the operation of the vehicle, may arrest and detain the person.

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in division (A) of this section, township constable, police officer of a township or joint police district, state university law enforcement officer appointed under section 3345.04 of the Revised Code, peace officer of the department of natural resources, individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code, the house sergeant at arms if the house sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code, or an assistant house sergeant at arms is authorized by division (A) or (B) of this section to arrest and detain, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit

authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a person until a warrant can be obtained, the peace officer, outside the limits of that territory, may pursue, arrest, and detain that person until a warrant can be obtained if all of the following apply:

(1) The pursuit takes place without unreasonable delay after the offense is committed;

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer;

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to section 4510.036 of the Revised Code.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until a warrant can be obtained, any person found violating section 4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 4549.62, or Chapter 4511. or 4513. of the Revised Code on the portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint police district created under section 505.482 of the Revised Code, or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this

section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint police district, in the case of a member of a township police district or joint police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the township that created the township police district served by the member's police force, or the townships and municipal corporations that created the joint police district served by the member's police force, or the township that is served by the township constable, is sixty thousand or less, the member of the township police district or joint police district police force or the township constable may not make an arrest under division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section on the portion of any street or highway that is located immediately adjacent to the boundaries of the municipal corporation in which the police officer or village marshal is appointed, elected, or employed.

(4) A peace officer of the department of natural resources, a state fire marshal law enforcement officer described in division (A)(23) of section 109.71 of the Revised Code, or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the lands and waters that constitute the territorial jurisdiction of the peace officer or state fire marshal law enforcement officer.

(F)(1) A department of ~~mental health~~ mental health and addiction services special police officer or a department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person found committing on the premises of any institution under the jurisdiction of the particular department a misdemeanor under a law of the state.

A department of ~~mental health~~ mental health and addiction services special police officer or a department of developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be

obtained any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code and who is found committing on the premises of any institution under the jurisdiction of the particular department a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution.

(2)(a) If a department of ~~mental health~~ mental health and addiction services special police officer or a department of developmental disabilities special police officer finds any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code committing a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution, or if there is reasonable ground to believe that a violation of section 2921.34 of the Revised Code has been committed that involves an escape from the premises of an institution under the jurisdiction of the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities and if a department of ~~mental health~~ mental health and addiction services special police officer or a department of developmental disabilities special police officer has reasonable cause to believe that a particular person who has been hospitalized, institutionalized, or confined in the institution pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code is guilty of the violation, the special police officer, outside of the premises of the institution, may pursue, arrest, and detain that person for that violation of section 2921.34 of the Revised Code, until a warrant can be obtained, if both of the following apply:

(i) The pursuit takes place without unreasonable delay after the offense is committed;

(ii) The pursuit is initiated within the premises of the institution from which the violation of section 2921.34 of the Revised Code occurred.

(b) For purposes of division (F)(2)(a) of this section, the execution of a written statement by the administrator of the institution in which a person had been hospitalized, institutionalized, or confined pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the premises of the institution in violation of section 2921.34 of the Revised Code constitutes reasonable ground to believe that the

violation was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation.

(G) As used in this section:

(1) A "department of ~~mental health~~ mental health and addiction services special police officer" means a special police officer of the department of ~~mental health~~ mental health and addiction services designated under section ~~5119.14~~ 5119.08 of the Revised Code who is certified by the Ohio peace officer training commission under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(2) A "department of developmental disabilities special police officer" means a special police officer of the department of developmental disabilities designated under section 5123.13 of the Revised Code who is certified by the Ohio peace officer training council under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(3) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(4) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(5) "Street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(6) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

(7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 of the Revised Code, a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code.

(8) "Portion of any street or highway" means all lanes of the street or highway irrespective of direction of travel, including designated turn lanes, and any berm, median, or shoulder.

Sec. 2935.33. (A) If a person charged with a misdemeanor is taken before a judge of a court of record and if it appears to the judge that the person is an alcoholic or is suffering from acute alcohol intoxication and

that the person would benefit from services provided by ~~an alcohol and drug~~ a community addiction program services provider certified under Chapter ~~3793.~~ 5119. of the Revised Code, the judge may place the person temporarily in a ~~program services provider~~ certified under that chapter in the area in which the court has jurisdiction for inpatient care and treatment for an indefinite period not exceeding five days. The commitment does not limit the right to release on bail. The judge may dismiss a charge of a violation of division (B) of section 2917.11 of the Revised Code or of a municipal ordinance substantially equivalent to that division if the defendant complies with all the conditions of treatment ordered by the court.

The court may order that any fines or court costs collected by the court from defendants who have received inpatient care from ~~an alcohol and drug~~ a community addiction program services provider be paid, for the benefit of the program, to the board of alcohol, drug addiction, and mental health services of the alcohol, drug addiction, and mental health service district in which the ~~program services provider~~ is located or to the director of ~~alcohol and drug addiction services~~ mental health and addiction services.

(B) If a person is being sentenced for a violation of division (B) of section 2917.11 or section 4511.19 of the Revised Code, a misdemeanor violation of section 2919.25 of the Revised Code, a misdemeanor violation of section 2919.27 of the Revised Code involving a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, or a violation of a municipal ordinance substantially equivalent to that division or any of those sections and if it appears to the judge at the time of sentencing that the person is an alcoholic or is suffering from acute alcohol intoxication and that, in lieu of imprisonment, the person would benefit from services provided by ~~an alcohol and drug~~ a community addiction program services provider certified under Chapter ~~3793.~~ 5119. of the Revised Code, the court may commit the person to close supervision in any facility in the area in which the court has jurisdiction that is, or is operated by, such a ~~program services provider~~. Such close supervision may include outpatient services and part-time release, except that a person convicted of a violation of division (A) of section 4511.19 of the Revised Code shall be confined to the facility for at least three days and except that a person convicted of a misdemeanor violation of section 2919.25 of the Revised Code, a misdemeanor violation of section 2919.27 of the Revised Code involving a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, or a violation of a substantially equivalent municipal ordinance shall be confined to the facility in accordance with the order of commitment. A commitment of a

person to a facility for purposes of close supervision shall not exceed the maximum term for which the person could be imprisoned.

(C) A law enforcement officer who finds a person subject to prosecution for violation of division (B) of section 2917.11 of the Revised Code or a municipal ordinance substantially equivalent to that division and who has reasonable cause to believe that the person is an alcoholic or is suffering from acute alcohol intoxication and would benefit from immediate treatment immediately may place the person in ~~an alcohol and drug~~ a community addiction program services provider certified under Chapter ~~3793.~~ 5119. of the Revised Code in the area in which the person is found, for emergency treatment, in lieu of other arrest procedures, for a maximum period of forty-eight hours. During that time, if the person desires to leave such custody, the person shall be released forthwith.

(D) As used in this section:

(1) "Alcoholic" has the same meaning as in section ~~3793.01~~ 5119.01 of the Revised Code;

(2) "Acute alcohol intoxication" means a heavy consumption of alcohol over a relatively short period of time, resulting in dysfunction of the brain centers controlling behavior, speech, and memory and causing characteristic withdrawal symptoms.

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 of the Revised Code:

(1) "Prosecutor" means a prosecuting attorney or a city director of law, village solicitor, or similar chief legal officer of a municipal corporation who has authority to prosecute a criminal case that is before the court or the criminal case in which a defendant in a criminal case has been found incompetent to stand trial or not guilty by reason of insanity.

(2) "Examiner" means either of the following:

(a) A psychiatrist or a licensed clinical psychologist who satisfies the criteria of division (I)(1) of section 5122.01 of the Revised Code or is employed by a certified forensic center designated by the department of ~~mental health~~ mental health and addiction services to conduct examinations or evaluations.

(b) For purposes of a separate mental retardation evaluation that is ordered by a court pursuant to division (H) of section 2945.371 of the Revised Code, a psychologist designated by the director of developmental disabilities pursuant to that section to conduct that separate mental retardation evaluation.

(3) "Nonsecured status" means any unsupervised, off-grounds movement or trial visit from a hospital or institution, or any conditional

release, that is granted to a person who is found incompetent to stand trial and is committed pursuant to section 2945.39 of the Revised Code or to a person who is found not guilty by reason of insanity and is committed pursuant to section 2945.40 of the Revised Code.

(4) "Unsupervised, off-grounds movement" includes only off-grounds privileges that are unsupervised and that have an expectation of return to the hospital or institution on a daily basis.

(5) "Trial visit" means a patient privilege of a longer stated duration of unsupervised community contact with an expectation of return to the hospital or institution at designated times.

(6) "Conditional release" means a commitment status under which the trial court at any time may revoke a person's conditional release and order the rehospitalization or reinstitutionalization of the person as described in division (A) of section 2945.402 of the Revised Code and pursuant to which a person who is found incompetent to stand trial or a person who is found not guilty by reason of insanity lives and receives treatment in the community for a period of time that does not exceed the maximum prison term or term of imprisonment that the person could have received for the offense in question had the person been convicted of the offense instead of being found incompetent to stand trial on the charge of the offense or being found not guilty by reason of insanity relative to the offense.

(7) "Licensed clinical psychologist," "mentally ill person subject to hospitalization by court order," and "psychiatrist" have the same meanings as in section 5122.01 of the Revised Code.

(8) "Mentally retarded person subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code.

(B) In a criminal action in a court of common pleas, a county court, or a municipal court, the court, prosecutor, or defense may raise the issue of the defendant's competence to stand trial. If the issue is raised before the trial has commenced, the court shall hold a hearing on the issue as provided in this section. If the issue is raised after the trial has commenced, the court shall hold a hearing on the issue only for good cause shown or on the court's own motion.

(C) The court shall conduct the hearing required or authorized under division (B) of this section within thirty days after the issue is raised, unless the defendant has been referred for evaluation in which case the court shall conduct the hearing within ten days after the filing of the report of the evaluation or, in the case of a defendant who is ordered by the court pursuant to division (H) of section 2945.371 of the Revised Code to undergo a separate mental retardation evaluation conducted by a psychologist

designated by the director of developmental disabilities, within ten days after the filing of the report of the separate mental retardation evaluation under that division. A hearing may be continued for good cause.

(D) The defendant shall be represented by counsel at the hearing conducted under division (C) of this section. If the defendant is unable to obtain counsel, the court shall appoint counsel under Chapter 120. of the Revised Code or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code before proceeding with the hearing.

(E) The prosecutor and defense counsel may submit evidence on the issue of the defendant's competence to stand trial. A written report of the evaluation of the defendant may be admitted into evidence at the hearing by stipulation, but, if either the prosecution or defense objects to its admission, the report may be admitted under sections 2317.36 to 2317.38 of the Revised Code or any other applicable statute or rule.

(F) The court shall not find a defendant incompetent to stand trial solely because the defendant is receiving or has received treatment as a voluntary or involuntary mentally ill patient under Chapter 5122. or a voluntary or involuntary mentally retarded resident under Chapter 5123. of the Revised Code or because the defendant is receiving or has received psychotropic drugs or other medication, even if the defendant might become incompetent to stand trial without the drugs or medication.

(G) A defendant is presumed to be competent to stand trial. If, after a hearing, the court finds by a preponderance of the evidence that, because of the defendant's present mental condition, the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the court shall find the defendant incompetent to stand trial and shall enter an order authorized by section 2945.38 of the Revised Code.

(H) Municipal courts shall follow the procedures set forth in sections 2945.37 to 2945.402 of the Revised Code. Except as provided in section 2945.371 of the Revised Code, a municipal court shall not order an evaluation of the defendant's competence to stand trial or the defendant's mental condition at the time of the commission of the offense to be conducted at any hospital operated by the department of ~~mental health~~ mental health and addiction services. Those evaluations shall be performed through community resources including, but not limited to, certified forensic centers, court probation departments, and community mental health ~~agencies~~ services providers. All expenses of the evaluations shall be borne by the legislative authority of the municipal court, as defined in section 1901.03 of

the Revised Code, and shall be taxed as costs in the case. If a defendant is found incompetent to stand trial or not guilty by reason of insanity, a municipal court may commit the defendant as provided in sections 2945.38 to 2945.402 of the Revised Code.

Sec. 2945.371. (A) If the issue of a defendant's competence to stand trial is raised or if a defendant enters a plea of not guilty by reason of insanity, the court may order one or more evaluations of the defendant's present mental condition or, in the case of a plea of not guilty by reason of insanity, of the defendant's mental condition at the time of the offense charged. An examiner shall conduct the evaluation.

(B) If the court orders more than one evaluation under division (A) of this section, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations. If a defendant enters a plea of not guilty by reason of insanity and if the court does not designate an examiner recommended by the defendant, the court shall inform the defendant that the defendant may have independent expert evaluation and that, if the defendant is unable to obtain independent expert evaluation, it will be obtained for the defendant at public expense if the defendant is indigent.

(C) If the court orders an evaluation under division (A) of this section, the defendant shall be available at the times and places established by the examiners who are to conduct the evaluation. The court may order a defendant who has been released on bail or recognizance to submit to an evaluation under this section. If a defendant who has been released on bail or recognizance refuses to submit to a complete evaluation, the court may amend the conditions of bail or recognizance and order the sheriff to take the defendant into custody and deliver the defendant to a center, program, or facility operated or certified by the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days.

(D) A defendant who has not been released on bail or recognizance may be evaluated at the defendant's place of detention. Upon the request of the examiner, the court may order the sheriff to transport the defendant to a program or facility operated or certified by the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities, where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days, and to return the defendant to the place of detention after the evaluation. A municipal court may make an order under this division only upon the request of a certified forensic center

examiner.

(E) If a court orders the evaluation to determine a defendant's mental condition at the time of the offense charged, the court shall inform the examiner of the offense with which the defendant is charged.

(F) In conducting an evaluation of a defendant's mental condition at the time of the offense charged, the examiner shall consider all relevant evidence. If the offense charged involves the use of force against another person, the relevant evidence to be considered includes, but is not limited to, any evidence that the defendant suffered, at the time of the commission of the offense, from the "battered woman syndrome."

(G) The examiner shall file a written report with the court within thirty days after entry of a court order for evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the following:

(1) The examiner's findings;

(2) The facts in reasonable detail on which the findings are based;

(3) If the evaluation was ordered to determine the defendant's competence to stand trial, all of the following findings or recommendations that are applicable:

(a) Whether the defendant is capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense;

(b) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, whether the defendant presently is mentally ill or mentally retarded and, if the examiner's opinion is that the defendant presently is mentally retarded, whether the defendant appears to be a mentally retarded person subject to institutionalization by court order;

(c) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the examiner's opinion as to the likelihood of the defendant becoming capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense within one year if the defendant is provided with a course of treatment;

(d) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that the defendant presently is mentally ill or mentally retarded, the examiner's

recommendation as to the least restrictive placement or commitment alternative, consistent with the defendant's treatment needs for restoration to competency and with the safety of the community.

(4) If the evaluation was ordered to determine the defendant's mental condition at the time of the offense charged, the examiner's findings as to whether the defendant, at the time of the offense charged, did not know, as a result of a severe mental disease or defect, the wrongfulness of the defendant's acts charged.

(H) If the examiner's report filed under division (G) of this section indicates that in the examiner's opinion the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that in the examiner's opinion the defendant appears to be a mentally retarded person subject to institutionalization by court order, the court shall order the defendant to undergo a separate mental retardation evaluation conducted by a psychologist designated by the director of developmental disabilities. Divisions (C) to (F) of this section apply in relation to a separate mental retardation evaluation conducted under this division. The psychologist appointed under this division to conduct the separate mental retardation evaluation shall file a written report with the court within thirty days after the entry of the court order requiring the separate mental retardation evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the information described in divisions (G)(1) to (4) of this section. If the court orders a separate mental retardation evaluation of a defendant under this division, the court shall not conduct a hearing under divisions (B) to (H) of section 2945.37 of the Revised Code regarding that defendant until a report of the separate mental retardation evaluation conducted under this division has been filed. Upon the filing of that report, the court shall conduct the hearing within the period of time specified in division (C) of section 2945.37 of the Revised Code.

(I) An examiner appointed under divisions (A) and (B) of this section or under division (H) of this section to evaluate a defendant to determine the defendant's competence to stand trial also may be appointed to evaluate a defendant who has entered a plea of not guilty by reason of insanity, but an examiner of that nature shall prepare separate reports on the issue of competence to stand trial and the defense of not guilty by reason of insanity.

(J) No statement that a defendant makes in an evaluation or hearing under divisions (A) to (H) of this section relating to the defendant's competence to stand trial or to the defendant's mental condition at the time

of the offense charged shall be used against the defendant on the issue of guilt in any criminal action or proceeding, but, in a criminal action or proceeding, the prosecutor or defense counsel may call as a witness any person who evaluated the defendant or prepared a report pursuant to a referral under this section. Neither the appointment nor the testimony of an examiner appointed under this section precludes the prosecutor or defense counsel from calling other witnesses or presenting other evidence on competency or insanity issues.

(K) Persons appointed as examiners under divisions (A) and (B) of this section or under division (H) of this section shall be paid a reasonable amount for their services and expenses, as certified by the court. The certified amount shall be paid by the county in the case of county courts and courts of common pleas and by the legislative authority, as defined in section 1901.03 of the Revised Code, in the case of municipal courts.

Sec. 2945.38. (A) If the issue of a defendant's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law. If the court finds the defendant competent to stand trial and the defendant is receiving psychotropic drugs or other medication, the court may authorize the continued administration of the drugs or medication or other appropriate treatment in order to maintain the defendant's competence to stand trial, unless the defendant's attending physician advises the court against continuation of the drugs, other medication, or treatment.

(B)(1)(a) If, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial and that there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order the defendant to undergo treatment. If the defendant has been charged with a felony offense and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order continuing evaluation and treatment of the defendant for a period not to exceed four months to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.

(b) The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the defendant, if determined to require mental health treatment or continuing evaluation and treatment, either shall be committed to the department of ~~mental health~~ mental health and addiction services for treatment or continuing evaluation and treatment at a hospital, facility, or agency, as determined to be clinically appropriate by the department of ~~mental health~~ mental health and addiction services or shall be committed to a facility certified by the department of ~~mental health~~ mental health and addiction services as being qualified to treat mental illness, to a public or community mental health facility, or to a psychiatrist or another mental health professional for treatment or continuing evaluation and treatment. Prior to placing the defendant, the department of ~~mental health~~ mental health and addiction services shall obtain court approval for that placement following a hearing. The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the defendant, if determined to require treatment or continuing evaluation and treatment for mental retardation, shall receive treatment or continuing evaluation and treatment at an institution or facility operated by the department of developmental disabilities, at a facility certified by the department of developmental disabilities as being qualified to treat mental retardation, at a public or private mental retardation facility, or by a psychiatrist or another mental retardation professional. In any case, the order may restrict the defendant's freedom of movement as the court considers necessary. The prosecutor in the defendant's case shall send to the chief clinical officer of the hospital, facility, or agency where the defendant is placed by the department of ~~mental health~~ mental health and addiction services, or to the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed, copies of relevant police reports and other background information that pertains to the defendant and is available to the prosecutor unless the prosecutor determines that the release of any of the information in the police reports or any of the other background information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person.

In determining the place of commitment, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and shall order the least restrictive alternative available that is consistent with public safety and treatment goals. In weighing these factors, the court shall give preference to

protecting public safety.

(c) If the defendant is found incompetent to stand trial, if the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment under division (B)(1)(b) of this section determines that medication is necessary to restore the defendant's competency to stand trial, and if the defendant lacks the capacity to give informed consent or refuses medication, the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of medication. The court shall hold a hearing on the petition within five days of the filing of the petition if the petition was filed in a municipal court or a county court regarding an incompetent defendant charged with a misdemeanor or within ten days of the filing of the petition if the petition was filed in a court of common pleas regarding an incompetent defendant charged with a felony offense. Following the hearing, the court may authorize the involuntary administration of medication or may dismiss the petition.

(2) If the court finds that the defendant is incompetent to stand trial and that, even if the defendant is provided with a course of treatment, there is not a substantial probability that the defendant will become competent to stand trial within one year, the court shall order the discharge of the defendant, unless upon motion of the prosecutor or on its own motion, the court either seeks to retain jurisdiction over the defendant pursuant to section 2945.39 of the Revised Code or files an affidavit in the probate court for the civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code alleging that the defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the defendant's mental condition that were prepared pursuant to section 2945.371 of the Revised Code.

The trial court may issue the temporary order of detention that a probate court may issue under section 5122.11 or 5123.71 of the Revised Code, to remain in effect until the probable cause or initial hearing in the probate court. Further proceedings in the probate court are civil proceedings governed by Chapter 5122. or 5123. of the Revised Code.

(C) No defendant shall be required to undergo treatment, including any continuing evaluation and treatment, under division (B)(1) of this section for longer than whichever of the following periods is applicable:

(1) One year, if the most serious offense with which the defendant is charged is one of the following offenses:

(a) Aggravated murder, murder, or an offense of violence for which a sentence of death or life imprisonment may be imposed;

(b) An offense of violence that is a felony of the first or second degree;

(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division (C)(1)(a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree.

(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C)(1) of this section;

(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree;

(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor.

(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code.

(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed by the court under this section to the department of ~~mental health~~ mental health and addiction services or is committed to an institution or facility for the treatment of mental retardation shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. The court may grant a defendant supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the person who supervises the treatment or the continuing evaluation and treatment of the defendant ordered under division (B)(1)(a) of this section informs the court that the treatment or continuing evaluation and treatment cannot be provided at the hospital or facility where the defendant is placed by the department of ~~mental health~~ mental health and addiction services or the institution or facility to which the defendant is committed. The chief clinical officer of the hospital or facility where the defendant is placed by the department of ~~mental health~~ mental health and

addiction services or the managing officer of the institution or director of the facility to which the defendant is committed, or a designee of any of those persons, may grant a defendant movement to a medical facility for an emergency medical situation with appropriate supervision to ensure the safety of the defendant, staff, and community during that emergency medical situation. The chief clinical officer of the hospital or facility where the defendant is placed by the department of ~~mental health~~ mental health and addiction services or the managing officer of the institution or director of the facility to which the defendant is committed shall notify the court within twenty-four hours of the defendant's movement to the medical facility for an emergency medical situation under this division.

(F) The person who supervises the treatment or continuing evaluation and treatment of a defendant ordered to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall file a written report with the court at the following times:

(1) Whenever the person believes the defendant is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense;

(2) For a felony offense, fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, and, for a misdemeanor offense, ten days before the expiration of the maximum time for treatment, as specified in division (C) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of a defendant ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment.

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the defendant's capability of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense. If, in the examiner's opinion, the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense and there is a substantial probability that the defendant will become capable of understanding the nature and objective of the

proceedings against the defendant and of assisting in the defendant's defense if the defendant is provided with a course of treatment, if in the examiner's opinion the defendant remains mentally ill or mentally retarded, and if the maximum time for treatment as specified in division (C) of this section has not expired, the report also shall contain the examiner's recommendation as to the least restrictive placement or commitment alternative that is consistent with the defendant's treatment needs for restoration to competency and with the safety of the community. The court shall provide copies of the report to the prosecutor and defense counsel.

(H) If a defendant is committed pursuant to division (B)(1) of this section, within ten days after the treating physician of the defendant or the examiner of the defendant who is employed or retained by the treating facility advises that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment, within ten days after the expiration of the maximum time for treatment as specified in division (C) of this section, within ten days after the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, within thirty days after a defendant's request for a hearing that is made after six months of treatment, or within thirty days after being advised by the treating physician or examiner that the defendant is competent to stand trial, whichever is the earliest, the court shall conduct another hearing to determine if the defendant is competent to stand trial and shall do whichever of the following is applicable:

(1) If the court finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law.

(2) If the court finds that the defendant is incompetent to stand trial, but that there is a substantial probability that the defendant will become competent to stand trial if the defendant is provided with a course of treatment, and the maximum time for treatment as specified in division (C) of this section has not expired, the court, after consideration of the examiner's recommendation, shall order that treatment be continued, may change the facility or program at which the treatment is to be continued, and shall specify whether the treatment is to be continued at the same or a different facility or program.

(3) If the court finds that the defendant is incompetent to stand trial, if the defendant is charged with an offense listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is

provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, further proceedings shall be as provided in sections 2945.39, 2945.401, and 2945.402 of the Revised Code.

(4) If the court finds that the defendant is incompetent to stand trial, if the most serious offense with which the defendant is charged is a misdemeanor or a felony other than a felony listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, the court shall dismiss the indictment, information, or complaint against the defendant. A dismissal under this division is not a bar to further prosecution based on the same conduct. The court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment pursuant to Chapter 5122. or 5123. of the Revised Code. If an affidavit for civil commitment is filed, the court may detain the defendant for ten days pending civil commitment. All of the following provisions apply to persons charged with a misdemeanor or a felony other than a felony listed in division (C)(1) of this section who are committed by the probate court subsequent to the court's or prosecutor's filing of an affidavit for civil commitment under authority of this division:

(a) The chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall do all of the following:

(i) Notify the prosecutor, in writing, of the discharge of the defendant, send the notice at least ten days prior to the discharge unless the discharge is by the probate court, and state in the notice the date on which the defendant will be discharged;

(ii) Notify the prosecutor, in writing, when the defendant is absent without leave or is granted unsupervised, off-grounds movement, and send this notice promptly after the discovery of the absence without leave or prior to the granting of the unsupervised, off-grounds movement, whichever is applicable;

(iii) Notify the prosecutor, in writing, of the change of the defendant's commitment or admission to voluntary status, send the notice promptly upon learning of the change to voluntary status, and state in the notice the date on which the defendant was committed or admitted on a voluntary status.

(b) Upon receiving notice that the defendant will be granted

unsupervised, off-grounds movement, the prosecutor either shall re-indict the defendant or promptly notify the court that the prosecutor does not intend to prosecute the charges against the defendant.

(I) If a defendant is convicted of a crime and sentenced to a jail or workhouse, the defendant's sentence shall be reduced by the total number of days the defendant is confined for evaluation to determine the defendant's competence to stand trial or treatment under this section and sections 2945.37 and 2945.371 of the Revised Code or by the total number of days the defendant is confined for evaluation to determine the defendant's mental condition at the time of the offense charged.

Sec. 2945.39. (A) If a defendant who is charged with an offense described in division (C)(1) of section 2945.38 of the Revised Code is found incompetent to stand trial, after the expiration of the maximum time for treatment as specified in division (C) of that section or after the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, one of the following applies:

(1) The court or the prosecutor may file an affidavit in probate court for civil commitment of the defendant in the manner provided in Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may detain the defendant for ten days pending civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code within the periods of time and under the circumstances specified in those divisions.

(2) On the motion of the prosecutor or on its own motion, the court may retain jurisdiction over the defendant if, at a hearing, the court finds both of the following by clear and convincing evidence:

(a) The defendant committed the offense with which the defendant is charged.

(b) The defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order.

(B) In making its determination under division (A)(2) of this section as to whether to retain jurisdiction over the defendant, the court may consider all relevant evidence, including, but not limited to, any relevant psychiatric,

psychological, or medical testimony or reports, the acts constituting the offense charged, and any history of the defendant that is relevant to the defendant's ability to conform to the law.

(C) If the court conducts a hearing as described in division (A)(2) of this section and if the court does not make both findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall dismiss the indictment, information, or complaint against the defendant. Upon the dismissal, the court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may order that the defendant be detained for up to ten days pending the civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code within the periods of time and under the circumstances specified in those divisions. A dismissal of charges under this division is not a bar to further criminal proceedings based on the same conduct.

(D)(1) If the court conducts a hearing as described in division (A)(2) of this section and if the court makes the findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall commit the defendant, if determined to require mental health treatment, either to the department of ~~mental health~~ mental health and addiction services for treatment at a hospital, facility, or agency as determined clinically appropriate by the department of ~~mental health~~ mental health and addiction services or to another medical or psychiatric facility, as appropriate. Prior to placing the defendant, the department of ~~mental health~~ mental health and addiction services shall obtain court approval for that placement. If the court conducts such a hearing and if it makes those findings by clear and convincing evidence, the court shall commit the defendant, if determined to require treatment for mental retardation, to a facility operated by the department of developmental disabilities, or another facility, as appropriate. In determining the place of commitment, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and shall order the least restrictive alternative available that is consistent with public safety

and the welfare of the defendant. In weighing these factors, the court shall give preference to protecting public safety.

(2) If a court makes a commitment of a defendant under division (D)(1) of this section, the prosecutor shall send to the hospital, facility, or agency where the defendant is placed by the department of ~~mental health~~ mental health and addiction services or to the defendant's place of commitment all reports of the defendant's current mental condition and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A)(2) of this section, copies of relevant police reports, and copies of any prior arrest and conviction records that pertain to the defendant and that the prosecutor possesses. The prosecutor shall send the reports of the defendant's current mental condition in every case of commitment, and, unless the prosecutor determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the prosecutor also shall send the other relevant information. Upon admission of a defendant committed under division (D)(1) of this section, the place of commitment shall send to the board of alcohol, drug addiction, and mental health services or the community mental health board serving the county in which the charges against the defendant were filed a copy of all reports of the defendant's current mental condition and a copy of the other relevant information provided by the prosecutor under this division, including, if provided, a transcript of the hearing held pursuant to division (A)(2) of this section, the relevant police reports, and the prior arrest and conviction records that pertain to the defendant and that the prosecutor possesses.

(3) If a court makes a commitment under division (D)(1) of this section, all further proceedings shall be in accordance with sections 2945.401 and 2945.402 of the Revised Code.

Sec. 2945.40. (A) If a person is found not guilty by reason of insanity, the verdict shall state that finding, and the trial court shall conduct a full hearing to determine whether the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. Prior to the hearing, if the trial judge believes that there is probable cause that the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or mentally retarded person subject to institutionalization by court order, the trial judge may issue a temporary order of detention for that person to remain in effect for ten court days or until the hearing, whichever occurs first.

Any person detained pursuant to a temporary order of detention issued under this division shall be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

(B) The court shall hold the hearing under division (A) of this section to determine whether the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order within ten court days after the finding of not guilty by reason of insanity. Failure to conduct the hearing within the ten-day period shall cause the immediate discharge of the respondent, unless the judge grants a continuance for not longer than ten court days for good cause shown or for any period of time upon motion of the respondent.

(C) If a person is found not guilty by reason of insanity, the person has the right to attend all hearings conducted pursuant to sections 2945.37 to 2945.402 of the Revised Code. At any hearing conducted pursuant to one of those sections, the court shall inform the person that the person has all of the following rights:

(1) The right to be represented by counsel and to have that counsel provided at public expense if the person is indigent, with the counsel to be appointed by the court under Chapter 120. of the Revised Code or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code;

(2) The right to have independent expert evaluation and to have that independent expert evaluation provided at public expense if the person is indigent;

(3) The right to subpoena witnesses and documents, to present evidence on the person's behalf, and to cross-examine witnesses against the person;

(4) The right to testify in the person's own behalf and to not be compelled to testify;

(5) The right to have copies of any relevant medical or mental health document in the custody of the state or of any place of commitment other than a document for which the court finds that the release to the person of information contained in the document would create a substantial risk of harm to any person.

(D) The hearing under division (A) of this section shall be open to the public, and the court shall conduct the hearing in accordance with the Rules of Civil Procedure. The court shall make and maintain a full transcript and record of the hearing proceedings. The court may consider all relevant evidence, including, but not limited to, any relevant psychiatric,

psychological, or medical testimony or reports, the acts constituting the offense in relation to which the person was found not guilty by reason of insanity, and any history of the person that is relevant to the person's ability to conform to the law.

(E) Upon completion of the hearing under division (A) of this section, if the court finds there is not clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the court shall discharge the person, unless a detainer has been placed upon the person by the department of rehabilitation and correction, in which case the person shall be returned to that department.

(F) If, at the hearing under division (A) of this section, the court finds by clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order, the court shall commit the person either to the department of ~~mental health~~ mental health and addiction services for treatment in a hospital, facility, or agency as determined clinically appropriate by the department of ~~mental health~~ mental health and addiction services or to another medical or psychiatric facility, as appropriate. Prior to placing the defendant, the department of ~~mental health~~ mental health and addiction services shall obtain court approval for that placement. If, at the hearing under division (A) of this section, the court determines by clear and convincing evidence that the person requires treatment for mental retardation, it shall commit the person to a facility operated by the department of developmental disabilities or another facility, as appropriate. Further proceedings shall be in accordance with sections 2945.401 and 2945.402 of the Revised Code. In determining the place of commitment, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and shall order the least restrictive alternative available that is consistent with public safety and the welfare of the person. In weighing these factors, the court shall give preference to protecting public safety.

(G) If a court makes a commitment of a person under division (F) of this section, the prosecutor shall send to the hospital, facility, or agency where the person is placed by the department of ~~mental health~~ mental health and addiction services or to the defendant's place of commitment all reports of the person's current mental condition, and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A) of this section, copies of relevant police reports, and copies of any prior arrest and conviction records that pertain to the person and that the prosecutor possesses. The

prosecutor shall send the reports of the person's current mental condition in every case of commitment, and, unless the prosecutor determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the prosecutor also shall send the other relevant information. Upon admission of a person committed under division (F) of this section, the place of commitment shall send to the board of alcohol, drug addiction, and mental health services or the community mental health board serving the county in which the charges against the person were filed a copy of all reports of the person's current mental condition and a copy of the other relevant information provided by the prosecutor under this division, including, if provided, a transcript of the hearing held pursuant to division (A) of this section, the relevant police reports, and the prior arrest and conviction records that pertain to the person and that the prosecutor possesses.

(H) A person who is committed pursuant to this section shall not voluntarily admit the person or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code.

Sec. 2945.401. (A) A defendant found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code or a person found not guilty by reason of insanity and committed pursuant to section 2945.40 of the Revised Code shall remain subject to the jurisdiction of the trial court pursuant to that commitment, and to the provisions of this section, until the final termination of the commitment as described in division (J)(1) of this section. If the jurisdiction is terminated under this division because of the final termination of the commitment resulting from the expiration of the maximum prison term or term of imprisonment described in division (J)(1)(b) of this section, the court or prosecutor may file an affidavit for the civil commitment of the defendant or person pursuant to Chapter 5122. or 5123. of the Revised Code.

(B) A hearing conducted under any provision of sections 2945.37 to 2945.402 of the Revised Code shall not be conducted in accordance with Chapters 5122. and 5123. of the Revised Code. Any person who is committed pursuant to section 2945.39 or 2945.40 of the Revised Code shall not voluntarily admit the person or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. All other provisions of Chapters 5122. and 5123. of the Revised Code regarding hospitalization or institutionalization shall apply to the extent they are not in conflict with this chapter. A commitment under

section 2945.39 or 2945.40 of the Revised Code shall not be terminated and the conditions of the commitment shall not be changed except as otherwise provided in division (D)(2) of this section with respect to a mentally retarded person subject to institutionalization by court order or except by order of the trial court.

(C) The department of ~~mental health~~ mental health and addiction services or the institution, facility, or program to which a defendant or person has been committed under section 2945.39 or 2945.40 of the Revised Code shall report in writing to the trial court, at the times specified in this division, as to whether the defendant or person remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order and, in the case of a defendant committed under section 2945.39 of the Revised Code, as to whether the defendant remains incompetent to stand trial. The department, institution, facility, or program shall make the reports after the initial six months of treatment and every two years after the initial report is made. The trial court shall provide copies of the reports to the prosecutor and to the counsel for the defendant or person. Within thirty days after its receipt pursuant to this division of a report from the department, institution, facility, or program, the trial court shall hold a hearing on the continued commitment of the defendant or person or on any changes in the conditions of the commitment of the defendant or person. The defendant or person may request a change in the conditions of confinement, and the trial court shall conduct a hearing on that request if six months or more have elapsed since the most recent hearing was conducted under this section.

(D)(1) Except as otherwise provided in division (D)(2) of this section, when a defendant or person has been committed under section 2945.39 or 2945.40 of the Revised Code, at any time after evaluating the risks to public safety and the welfare of the defendant or person, the designee of the department of ~~mental health~~ mental health and addiction services or the managing officer of the institution or director of the facility or program to which the defendant or person is committed may recommend a termination of the defendant's or person's commitment or a change in the conditions of the defendant's or person's commitment.

Except as otherwise provided in division (D)(2) of this section, if the designee of the department of ~~mental health~~ mental health and addiction services recommends on-grounds unsupervised movement, off-grounds supervised movement, or nonsecured status for the defendant or person or termination of the defendant's or person's commitment, the following provisions apply:

(a) If the department's designee recommends on-grounds unsupervised movement or off-grounds supervised movement, the department's designee shall file with the trial court an application for approval of the movement and shall send a copy of the application to the prosecutor. Within fifteen days after receiving the application, the prosecutor may request a hearing on the application and, if a hearing is requested, shall so inform the department's designee. If the prosecutor does not request a hearing within the fifteen-day period, the trial court shall approve the application by entering its order approving the requested movement or, within five days after the expiration of the fifteen-day period, shall set a date for a hearing on the application. If the prosecutor requests a hearing on the application within the fifteen-day period, the trial court shall hold a hearing on the application within thirty days after the hearing is requested. If the trial court, within five days after the expiration of the fifteen-day period, sets a date for a hearing on the application, the trial court shall hold the hearing within thirty days after setting the hearing date. At least fifteen days before any hearing is held under this division, the trial court shall give the prosecutor written notice of the date, time, and place of the hearing. At the conclusion of each hearing conducted under this division, the trial court either shall approve or disapprove the application and shall enter its order accordingly.

(b) If the department's designee recommends termination of the defendant's or person's commitment at any time or if the department's designee recommends the first of any nonsecured status for the defendant or person, the department's designee shall send written notice of this recommendation to the trial court and to the local forensic center. The local forensic center shall evaluate the committed defendant or person and, within thirty days after its receipt of the written notice, shall submit to the trial court and the department's designee a written report of the evaluation. The trial court shall provide a copy of the department's designee's written notice and of the local forensic center's written report to the prosecutor and to the counsel for the defendant or person. Upon the local forensic center's submission of the report to the trial court and the department's designee, all of the following apply:

(i) If the forensic center disagrees with the recommendation of the department's designee, it shall inform the department's designee and the trial court of its decision and the reasons for the decision. The department's designee, after consideration of the forensic center's decision, shall either withdraw, proceed with, or modify and proceed with the recommendation. If the department's designee proceeds with, or modifies and proceeds with, the recommendation, the department's designee shall proceed in accordance

with division (D)(1)(b)(iii) of this section.

(ii) If the forensic center agrees with the recommendation of the department's designee, it shall inform the department's designee and the trial court of its decision and the reasons for the decision, and the department's designee shall proceed in accordance with division (D)(1)(b)(iii) of this section.

(iii) If the forensic center disagrees with the recommendation of the department's designee and the department's designee proceeds with, or modifies and proceeds with, the recommendation or if the forensic center agrees with the recommendation of the department's designee, the department's designee shall work with community mental health ~~agencies~~ services providers, programs, facilities, or boards of alcohol, drug addiction, and mental health services or community mental health boards to develop a plan to implement the recommendation. If the defendant or person is on medication, the plan shall include, but shall not be limited to, a system to monitor the defendant's or person's compliance with the prescribed medication treatment plan. The system shall include a schedule that clearly states when the defendant or person shall report for a medication compliance check. The medication compliance checks shall be based upon the effective duration of the prescribed medication, taking into account the route by which it is taken, and shall be scheduled at intervals sufficiently close together to detect a potential increase in mental illness symptoms that the medication is intended to prevent.

The department's designee, after consultation with the board of alcohol, drug addiction, and mental health services or the community mental health board serving the area, shall send the recommendation and plan developed under division (D)(1)(b)(iii) of this section, in writing, to the trial court, the prosecutor, and the counsel for the committed defendant or person. The trial court shall conduct a hearing on the recommendation and plan developed under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) and (d) and (E) to (J) of this section apply regarding the hearing.

(c) If the department's designee's recommendation is for nonsecured status or termination of commitment, the prosecutor may obtain an independent expert evaluation of the defendant's or person's mental condition, and the trial court may continue the hearing on the recommendation for a period of not more than thirty days to permit time for the evaluation.

The prosecutor may introduce the evaluation report or present other evidence at the hearing in accordance with the Rules of Evidence.

(d) The trial court shall schedule the hearing on a department's

designee's recommendation for nonsecured status or termination of commitment and shall give reasonable notice to the prosecutor and the counsel for the defendant or person. Unless continued for independent evaluation at the prosecutor's request or for other good cause, the hearing shall be held within thirty days after the trial court's receipt of the recommendation and plan.

(2)(a) Division (D)(1) of this section does not apply to on-grounds unsupervised movement of a defendant or person who has been committed under section 2945.39 or 2945.40 of the Revised Code, who is a mentally retarded person subject to institutionalization by court order, and who is being provided residential habilitation, care, and treatment in a facility operated by the department of developmental disabilities.

(b) If, pursuant to section 2945.39 of the Revised Code, the trial court commits a defendant who is found incompetent to stand trial and who is a mentally retarded person subject to institutionalization by court order, if the defendant is being provided residential habilitation, care, and treatment in a facility operated by the department of developmental disabilities, if an individual who is conducting a survey for the department of health to determine the facility's compliance with the certification requirements of the medicaid program ~~under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ cites the defendant's receipt of the residential habilitation, care, and treatment in the facility as being inappropriate under the certification requirements, if the defendant's receipt of the residential habilitation, care, and treatment in the facility potentially jeopardizes the facility's continued receipt of federal medicaid moneys, and if as a result of the citation the chief clinical officer of the facility determines that the conditions of the defendant's commitment should be changed, the department of developmental disabilities may cause the defendant to be removed from the particular facility and, after evaluating the risks to public safety and the welfare of the defendant and after determining whether another type of placement is consistent with the certification requirements, may place the defendant in another facility that the department selects as an appropriate facility for the defendant's continued receipt of residential habilitation, care, and treatment and that is a no less secure setting than the facility in which the defendant had been placed at the time of the citation. Within three days after the defendant's removal and alternative placement under the circumstances described in division (D)(2)(b) of this section, the department of developmental disabilities shall notify the trial court and the prosecutor in writing of the removal and alternative placement.

The trial court shall set a date for a hearing on the removal and alternative placement, and the hearing shall be held within twenty-one days after the trial court's receipt of the notice from the department of developmental disabilities. At least ten days before the hearing is held, the trial court shall give the prosecutor, the department of developmental disabilities, and the counsel for the defendant written notice of the date, time, and place of the hearing. At the hearing, the trial court shall consider the citation issued by the individual who conducted the survey for the department of health to be prima-facie evidence of the fact that the defendant's commitment to the particular facility was inappropriate under the certification requirements of the medicaid program ~~under Chapter 5111 of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ and potentially jeopardizes the particular facility's continued receipt of federal medicaid moneys. At the conclusion of the hearing, the trial court may approve or disapprove the defendant's removal and alternative placement. If the trial court approves the defendant's removal and alternative placement, the department of developmental disabilities may continue the defendant's alternative placement. If the trial court disapproves the defendant's removal and alternative placement, it shall enter an order modifying the defendant's removal and alternative placement, but that order shall not require the department of developmental disabilities to replace the defendant for purposes of continued residential habilitation, care, and treatment in the facility associated with the citation issued by the individual who conducted the survey for the department of health.

(E) In making a determination under this section regarding nonsecured status or termination of commitment, the trial court shall consider all relevant factors, including, but not limited to, all of the following:

(1) Whether, in the trial court's view, the defendant or person currently represents a substantial risk of physical harm to the defendant or person or others;

(2) Psychiatric and medical testimony as to the current mental and physical condition of the defendant or person;

(3) Whether the defendant or person has insight into the defendant's or person's condition so that the defendant or person will continue treatment as prescribed or seek professional assistance as needed;

(4) The grounds upon which the state relies for the proposed commitment;

(5) Any past history that is relevant to establish the defendant's or person's degree of conformity to the laws, rules, regulations, and values of

society;

(6) If there is evidence that the defendant's or person's mental illness is in a state of remission, the medically suggested cause and degree of the remission and the probability that the defendant or person will continue treatment to maintain the remissive state of the defendant's or person's illness should the defendant's or person's commitment conditions be altered.

(F) At any hearing held pursuant to division (C) or (D)(1) or (2) of this section, the defendant or the person shall have all the rights of a defendant or person at a commitment hearing as described in section 2945.40 of the Revised Code.

(G) In a hearing held pursuant to division (C) or (D)(1) of this section, the prosecutor has the burden of proof as follows:

(1) For a recommendation of termination of commitment, to show by clear and convincing evidence that the defendant or person remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order;

(2) For a recommendation for a change in the conditions of the commitment to a less restrictive status, to show by clear and convincing evidence that the proposed change represents a threat to public safety or a threat to the safety of any person.

(H) In a hearing held pursuant to division (C) or (D)(1) or (2) of this section, the prosecutor shall represent the state or the public interest.

(I) At the conclusion of a hearing conducted under division (D)(1) of this section regarding a recommendation from the designee of the department of ~~mental health~~ mental health and addiction services, managing officer of the institution, or director of a facility or program, the trial court may approve, disapprove, or modify the recommendation and shall enter an order accordingly.

(J)(1) A defendant or person who has been committed pursuant to section 2945.39 or 2945.40 of the Revised Code continues to be under the jurisdiction of the trial court until the final termination of the commitment. For purposes of division (J) of this section, the final termination of a commitment occurs upon the earlier of one of the following:

(a) The defendant or person no longer is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, as determined by the trial court;

(b) The expiration of the maximum prison term or term of imprisonment that the defendant or person could have received if the defendant or person had been convicted of the most serious offense with which the defendant or person is charged or in relation to which the defendant or person was found

not guilty by reason of insanity;

(c) The trial court enters an order terminating the commitment under the circumstances described in division (J)(2)(a)(ii) of this section.

(2)(a) If a defendant is found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code, if neither of the circumstances described in divisions (J)(1)(a) and (b) of this section applies to that defendant, and if a report filed with the trial court pursuant to division (C) of this section indicates that the defendant presently is competent to stand trial or if, at any other time during the period of the defendant's commitment, the prosecutor, the counsel for the defendant, or the designee of the department of ~~mental health~~ mental health and addiction services or the managing officer of the institution or director of the facility or program to which the defendant is committed files an application with the trial court alleging that the defendant presently is competent to stand trial and requesting a hearing on the competency issue or the trial court otherwise has reasonable cause to believe that the defendant presently is competent to stand trial and determines on its own motion to hold a hearing on the competency issue, the trial court shall schedule a hearing on the competency of the defendant to stand trial, shall give the prosecutor, the counsel for the defendant, and the department's designee or the managing officer of the institution or the director of the facility to which the defendant is committed notice of the date, time, and place of the hearing at least fifteen days before the hearing, and shall conduct the hearing within thirty days of the filing of the application or of its own motion. If, at the conclusion of the hearing, the trial court determines that the defendant presently is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense, the trial court shall order that the defendant is competent to stand trial and shall be proceeded against as provided by law with respect to the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code and shall enter whichever of the following additional orders is appropriate:

(i) If the trial court determines that the defendant remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the trial court shall order that the defendant's commitment to the department of ~~mental health~~ mental health and addiction services or to an institution, facility, or program for the treatment of mental retardation be continued during the pendency of the trial on the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code.

(ii) If the trial court determines that the defendant no longer is a

mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the trial court shall order that the defendant's commitment to the department of ~~mental health~~ mental health and addiction services or to an institution, facility, or program for the treatment of mental retardation shall not be continued during the pendency of the trial on the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code. This order shall be a final termination of the commitment for purposes of division (J)(1)(c) of this section.

(b) If, at the conclusion of the hearing described in division (J)(2)(a) of this section, the trial court determines that the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the trial court shall order that the defendant continues to be incompetent to stand trial, that the defendant's commitment to the department of ~~mental health~~ mental health and addiction services or to an institution, facility, or program for the treatment of mental retardation shall be continued, and that the defendant remains subject to the jurisdiction of the trial court pursuant to that commitment, and to the provisions of this section, until the final termination of the commitment as described in division (J)(1) of this section.

Sec. 2950.012. If a court sentences a person who commits a sexually oriented offense or a child-victim oriented offense to a community control sanction, the court may make payment of the registration fee required by section 311.172 of the Revised Code a condition of the community control sanction.

Sec. 2951.041. (A)(1) If an offender is charged with a criminal offense, including but not limited to a violation of section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 of the Revised Code, and the court has reason to believe that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged or that, at the time of committing that offense, the offender had a mental illness or was a person with intellectual disability and that the mental illness or status as a person with intellectual disability was a factor leading to the offender's criminal behavior, the court may accept, prior to the entry of a guilty plea, the offender's request for intervention in lieu of conviction. The request shall include a statement from the offender as to whether the offender is alleging that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged or is alleging that, at the time of committing that offense, the offender had a mental illness or was a person with intellectual disability and that the mental illness or status as a

person with intellectual disability was a factor leading to the criminal offense with which the offender is charged. The request also shall include a waiver of the defendant's right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment against the offender, and arraignment, unless the hearing, indictment, or arraignment has already occurred. The court may reject an offender's request without a hearing. If the court elects to consider an offender's request, the court shall conduct a hearing to determine whether the offender is eligible under this section for intervention in lieu of conviction and shall stay all criminal proceedings pending the outcome of the hearing. If the court schedules a hearing, the court shall order an assessment of the offender for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.

If the offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the court may order that the offender be assessed by ~~a program~~ an addiction services provider certified pursuant to section ~~3793.06~~ 5119.36 of the Revised Code or a properly credentialed professional for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan. The ~~program~~ addiction services provider or the properly credentialed professional shall provide a written assessment of the offender to the court.

(2) The victim notification provisions of division (C) of section 2930.08 of the Revised Code apply in relation to any hearing held under division (A)(1) of this section.

(B) An offender is eligible for intervention in lieu of conviction if the court finds all of the following:

(1) The offender previously has not been convicted of or pleaded guilty to a felony offense of violence or previously has been convicted of or pleaded guilty to any felony that is not an offense of violence and the prosecuting attorney recommends that the offender be found eligible for participation in intervention in lieu of conviction under this section, previously has not been through intervention in lieu of conviction under this section or any similar regimen, and is charged with a felony for which the court, upon conviction, would impose a community control sanction on the offender under division (B)(2) of section 2929.13 of the Revised Code or with a misdemeanor.

(2) The offense is not a felony of the first, second, or third degree, is not an offense of violence, is not a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code, is not a violation of division (A)(1) of section

2903.08 of the Revised Code, is not a violation of division (A) of section 4511.19 of the Revised Code or a municipal ordinance that is substantially similar to that division, and is not an offense for which a sentencing court is required to impose a mandatory prison term, a mandatory term of local incarceration, or a mandatory term of imprisonment in a jail.

(3) The offender is not charged with a violation of section 2925.02, 2925.04, or 2925.06 of the Revised Code, is not charged with a violation of section 2925.03 of the Revised Code that is a felony of the first, second, third, or fourth degree, and is not charged with a violation of section 2925.11 of the Revised Code that is a felony of the first, second, or third degree.

(4) If an offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the court has ordered that the offender be assessed by ~~a program~~ an addiction services provider certified pursuant to section ~~3793.06~~ 5119.36 of the Revised Code or a properly credentialed professional for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan, the offender has been assessed by ~~a program~~ an addiction services provider of that nature or a properly credentialed professional in accordance with the court's order, and the ~~program~~ addiction services provider or properly credentialed professional has filed the written assessment of the offender with the court.

(5) If an offender alleges that, at the time of committing the criminal offense with which the offender is charged, the offender had a mental illness or was a person with intellectual disability and that the mental illness or status as a person with intellectual disability was a factor leading to that offense, the offender has been assessed by a psychiatrist, psychologist, independent social worker, or professional clinical counselor for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan.

(6) The offender's drug usage, alcohol usage, mental illness, or intellectual disability, whichever is applicable, was a factor leading to the criminal offense with which the offender is charged, intervention in lieu of conviction would not demean the seriousness of the offense, and intervention would substantially reduce the likelihood of any future criminal activity.

(7) The alleged victim of the offense was not sixty-five years of age or older, permanently and totally disabled, under thirteen years of age, or a peace officer engaged in the officer's official duties at the time of the alleged offense.

(8) If the offender is charged with a violation of section 2925.24 of the Revised Code, the alleged violation did not result in physical harm to any person, and the offender previously has not been treated for drug abuse.

(9) The offender is willing to comply with all terms and conditions imposed by the court pursuant to division (D) of this section.

(10) The offender is not charged with an offense that would result in the offender being disqualified under Chapter 4506. of the Revised Code from operating a commercial motor vehicle or would subject the offender to any other sanction under that chapter.

(C) At the conclusion of a hearing held pursuant to division (A) of this section, the court shall enter its determination as to whether the offender is eligible for intervention in lieu of conviction and as to whether to grant the offender's request. If the court finds under division (B) of this section that the offender is eligible for intervention in lieu of conviction and grants the offender's request, the court shall accept the offender's plea of guilty and waiver of the defendant's right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment against the offender, and arraignment, unless the hearing, indictment, or arraignment has already occurred. In addition, the court then may stay all criminal proceedings and order the offender to comply with all terms and conditions imposed by the court pursuant to division (D) of this section. If the court finds that the offender is not eligible or does not grant the offender's request, the criminal proceedings against the offender shall proceed as if the offender's request for intervention in lieu of conviction had not been made.

(D) If the court grants an offender's request for intervention in lieu of conviction, the court shall place the offender under the general control and supervision of the county probation department, the adult parole authority, or another appropriate local probation or court services agency, if one exists, as if the offender was subject to a community control sanction imposed under section 2929.15, 2929.18, or 2929.25 of the Revised Code. The court shall establish an intervention plan for the offender. The terms and conditions of the intervention plan shall require the offender, for at least one year from the date on which the court grants the order of intervention in lieu of conviction, to abstain from the use of illegal drugs and alcohol, to participate in treatment and recovery support services, and to submit to regular random testing for drug and alcohol use and may include any other treatment terms and conditions, or terms and conditions similar to community control sanctions, which may include community service or restitution, that are ordered by the court.

(E) If the court grants an offender's request for intervention in lieu of conviction and the court finds that the offender has successfully completed the intervention plan for the offender, including the requirement that the offender abstain from using illegal drugs and alcohol for a period of at least one year from the date on which the court granted the order of intervention in lieu of conviction, the requirement that the offender participate in treatment and recovery support services, and all other terms and conditions ordered by the court, the court shall dismiss the proceedings against the offender. Successful completion of the intervention plan and period of abstinence under this section shall be without adjudication of guilt and is not a criminal conviction for purposes of any disqualification or disability imposed by law and upon conviction of a crime, and the court may order the sealing of records related to the offense in question in the manner provided in sections 2953.31 to 2953.36 of the Revised Code.

(F) If the court grants an offender's request for intervention in lieu of conviction and the offender fails to comply with any term or condition imposed as part of the intervention plan for the offender, the supervising authority for the offender promptly shall advise the court of this failure, and the court shall hold a hearing to determine whether the offender failed to comply with any term or condition imposed as part of the plan. If the court determines that the offender has failed to comply with any of those terms and conditions, it shall enter a finding of guilty and shall impose an appropriate sanction under Chapter 2929. of the Revised Code. If the court sentences the offender to a prison term, the court, after consulting with the department of rehabilitation and correction regarding the availability of services, may order continued court-supervised activity and treatment of the offender during the prison term and, upon consideration of reports received from the department concerning the offender's progress in the program of activity and treatment, may consider judicial release under section 2929.20 of the Revised Code.

(G) As used in this section:

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

(2) "Intervention in lieu of conviction" means any court-supervised activity that complies with this section.

(3) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(4) "Mental illness" and "psychiatrist" have the same meanings as in section 5122.01 of the Revised Code.

(5) "Person with intellectual disability" means a person having

significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

(6) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

(H) Whenever the term "mentally retarded person" is used in any statute, rule, contract, grant, or other document, the reference shall be deemed to include a "person with intellectual disability," as defined in this section.

Sec. 2967.22. Whenever it is brought to the attention of the adult parole authority or a department of probation that a parolee, person under a community control sanction, person under transitional control, or releasee appears to be a mentally ill person subject to hospitalization by court order, as defined in section 5122.01 of the Revised Code, or a mentally retarded person subject to institutionalization by court order, as defined in section 5123.01 of the Revised Code, the parole or probation officer, subject to the approval of the chief of the adult parole authority, the designee of the chief of the adult parole authority, or the chief probation officer, may file an affidavit under section 5122.11 or 5123.71 of the Revised Code. A parolee, person under a community control sanction, or releasee who is involuntarily detained under Chapter 5122. or 5123. of the Revised Code shall receive credit against the period of parole or community control or the term of post-release control for the period of involuntary detention.

If a parolee, person under a community control sanction, person under transitional control, or releasee escapes from an institution or facility within the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities, the superintendent of the institution immediately shall notify the chief of the adult parole authority or the chief probation officer. Notwithstanding the provisions of section 5122.26 of the Revised Code, the procedure for the apprehension, detention, and return of the parolee, person under a community control sanction, person under transitional control, or releasee is the same as that provided for the apprehension, detention, and return of persons who escape from institutions operated by the department of rehabilitation and correction. If the escaped parolee, person under transitional control, or releasee is not apprehended and returned to the custody of the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities within ninety days after the escape, the parolee, person under transitional control, or releasee shall be discharged from the custody of the department of ~~mental health~~ mental health and addiction services or the

department of developmental disabilities and returned to the custody of the department of rehabilitation and correction. If the escaped person under a community control sanction is not apprehended and returned to the custody of the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities within ninety days after the escape, the person under a community control sanction shall be discharged from the custody of the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities and returned to the custody of the court that sentenced that person.

Sec. 2981.01. (A) Forfeitures under this chapter shall be governed by all of the following purposes:

(1) To provide economic disincentives and remedies to deter and offset the economic effect of offenses by seizing and forfeiting contraband, proceeds, and certain instrumentalities;

(2) To ensure that seizures and forfeitures of instrumentalities are proportionate to the offense committed;

(3) To protect third parties from wrongful forfeiture of their property;

(4) To prioritize restitution for victims of offenses.

(B) As used in this chapter:

(1) "Aircraft" has the same meaning as in section 4561.01 of the Revised Code.

(2) "Computers," "computer networks," "computer systems," "computer software," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(3) "Financial institution" means a bank, credit union, savings and loan association, or a licensee or registrant under Chapter 1321. of the Revised Code.

(4) "Firearm" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(5) "Innocent person" includes any bona fide purchaser of property that is subject to forfeiture, including any person who establishes a valid claim to or interest in the property in accordance with section 2923.04 of the Revised Code, and any victim of an alleged offense.

(6) "Instrumentality" means property otherwise lawful to possess that is used in or intended to be used in an offense. An "instrumentality" may include, but is not limited to, a firearm, a mobile instrumentality, a computer, a computer network, a computer system, computer software, a telecommunications device, money, and any other means of exchange.

(7) "Law enforcement agency" includes, but is not limited to, the state board of pharmacy, the enforcement division of the department of taxation,

the Ohio casino control commission, and the office of the prosecutor.

(8) "Mobile instrumentality" means an instrumentality that is inherently mobile and used in the routine transport of persons. "Mobile instrumentality" includes, but is not limited to, any vehicle, any watercraft, and any aircraft.

(9) "Money" has the same meaning as in section 1301.201 of the Revised Code.

(10) "Offense" means any act or omission that could be charged as a criminal offense or a delinquent act, whether or not a formal criminal prosecution or delinquent child proceeding began at the time the forfeiture is initiated. Except as otherwise specified, an offense for which property may be forfeited includes any felony and any misdemeanor. The commission of an "offense" includes the commission of a delinquent act.

(11) "Proceeds" means both of the following:

(a) In cases involving unlawful goods, services, or activities, "proceeds" means any property derived directly or indirectly from an offense. "Proceeds" may include, but is not limited to, money or any other means of exchange. "Proceeds" is not limited to the net gain or profit realized from the offense.

(b) In cases involving lawful goods or services that are sold or provided in an unlawful manner, "proceeds" means the amount of money or other means of exchange acquired through the illegal transactions resulting in the forfeiture, less the direct costs lawfully incurred in providing the goods or services. The lawful costs deduction does not include any part of the overhead expenses of, or income taxes paid by, the entity providing the goods or services. The alleged offender or delinquent child has the burden to prove that any costs are lawfully incurred.

(12) "Property" means "property" as defined in section 2901.01 of the Revised Code and any benefit, privilege, claim, position, interest in an enterprise, or right derived, directly or indirectly, from the offense.

(13) "Property subject to forfeiture" includes contraband and proceeds and may include instrumentalities as provided in this chapter.

(14) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code. When relevant, "prosecutor" also includes the attorney general.

(15) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(16) "Watercraft" has the same meaning as in section 1547.01 of the Revised Code.

(C) The penalties and procedures under Chapters 2923., 2925., and

2933. and 3772. of the Revised Code remain in effect to the extent that they do not conflict with this chapter.

Sec. 2981.12. (A) Unclaimed or forfeited property in the custody of a law enforcement agency, other than property described in division (A)(2) of section 2981.11 of the Revised Code, shall be disposed of by order of any court of record that has territorial jurisdiction over the political subdivision that employs the law enforcement agency, as follows:

(1) Drugs shall be disposed of pursuant to section 3719.11 of the Revised Code or placed in the custody of the secretary of the treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.

(2) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public auction pursuant to division (B) of this section. The agency may sell other firearms and dangerous ordnance to a federally licensed firearms dealer in a manner that the court considers proper. The agency shall destroy any firearms or dangerous ordnance not given to a law enforcement agency or sold or shall send them to the bureau of criminal identification and investigation for destruction by the bureau.

(3) Obscene materials shall be destroyed.

(4) Beer, intoxicating liquor, or alcohol seized from a person who does not hold a permit issued under Chapters 4301. and 4303. of the Revised Code or otherwise forfeited to the state for an offense under section 4301.45 or 4301.53 of the Revised Code shall be sold by the division of liquor control if the division determines that it is fit for sale or shall be placed in the custody of the investigations unit in the department of public safety and be used for training relating to law enforcement activities. The department, with the assistance of the division of liquor control, shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the distribution to state or local law enforcement agencies upon their request. If any tax imposed under Title XLIII of the Revised Code has not been paid in relation to the beer, intoxicating liquor, or alcohol, any moneys acquired from the sale shall first be used to pay the tax. All other money collected under this division shall be paid into the state treasury. Any beer, intoxicating liquor, or alcohol that the division determines to be unfit for sale shall be destroyed.

(5) Money received by an inmate of a correctional institution from an unauthorized source or in an unauthorized manner shall be returned to the sender, if known, or deposited in the inmates' industrial and entertainment

fund of the institution if the sender is not known.

(6)(a) Any mobile instrumentality forfeited under this chapter may be given to the law enforcement agency that initially seized the mobile instrumentality for use in performing its duties, if the agency wants the mobile instrumentality. The agency shall take the mobile instrumentality subject to any security interest or lien on the mobile instrumentality.

(b) Vehicles and vehicle parts forfeited under sections 4549.61 to 4549.63 of the Revised Code may be given to a law enforcement agency for use in performing its duties. Those parts may be incorporated into any other official vehicle. Parts that do not bear vehicle identification numbers or derivatives of them may be sold or disposed of as provided by rules of the director of public safety. Parts from which a vehicle identification number or derivative of it has been removed, defaced, covered, altered, or destroyed and that are not suitable for police work or incorporation into an official vehicle shall be destroyed and sold as junk or scrap.

(7) Computers, computer networks, computer systems, and computer software suitable for police work may be given to a law enforcement agency for that purpose or disposed of under division (B) of this section.

(8) Money seized in connection with a violation of section 2905.32, 2907.21, or 2907.22 of the Revised Code shall be deposited in the victims of human trafficking fund created by section 5101.87 of the Revised Code.

(B) Unclaimed or forfeited property that is not described in division (A) of this section or division (A)(2) of section 2981.11 of the Revised Code, with court approval, may be used by the law enforcement agency in possession of it. If it is not used by the agency, it may be sold without appraisal at a public auction to the highest bidder for cash or disposed of in another manner that the court considers proper.

(C) Except as provided in divisions (A) and (F) of this section and after compliance with division (D) of this section when applicable, any moneys acquired from the sale of property disposed of pursuant to this section shall be placed in the general revenue fund of the state, or the general fund of the county, the township, or the municipal corporation of which the law enforcement agency involved is an agency.

(D) If the property was in the possession of the law enforcement agency in relation to a delinquent child proceeding in a juvenile court, ten per cent of any moneys acquired from the sale of property disposed of under this section shall be applied to one or more ~~alcohol and drug~~ community addiction treatment programs services providers that are certified by the department of ~~alcohol and drug addiction services~~ mental health and addiction services under section ~~3793.06~~ 5119.36 of the Revised Code. A

juvenile court shall not specify a ~~program services provider~~, except as provided in this division, unless the ~~program services provider~~ is in the same county as the court or in a contiguous county. If no certified ~~program services provider~~ is located in any of those counties, the juvenile court may specify a certified ~~program services provider~~ anywhere in Ohio. The remaining ninety per cent of the proceeds or cash shall be applied as provided in division (C) of this section.

Each ~~treatment program services provider~~ that receives in any calendar year forfeited money under this division shall file an annual report for that year with the attorney general and with the court of common pleas and board of county commissioners of the county in which the ~~program services provider~~ is located and of any other county from which the ~~program services provider~~ received forfeited money. The ~~program services provider~~ shall file the report on or before the first day of March in the calendar year following the calendar year in which the ~~program services provider~~ received the money. The report shall include statistics on the number of persons the ~~program services provider~~ served, identify the types of treatment services it provided to them, and include a specific accounting of the purposes for which it used the money so received. No information contained in the report shall identify, or enable a person to determine the identity of, any person served by the ~~program services provider~~.

(E) Each certified ~~alcohol and drug~~ community addiction ~~treatment program services provider~~ that receives in any calendar year money under this section or under section 2981.13 of the Revised Code as the result of a juvenile forfeiture order shall file an annual report for that calendar year with the attorney general and with the court of common pleas and board of county commissioners of the county in which the ~~program services provider~~ is located and of any other county from which the ~~program services provider~~ received the money. The ~~program services provider~~ shall file the report on or before the first day of March in the calendar year following the year in which the ~~program services provider~~ received the money. The report shall include statistics on the number of persons served with the money, identify the types of treatment services provided, and specifically account for how the money was used. No information in the report shall identify or enable a person to determine the identity of anyone served by the ~~program services provider~~.

As used in this division, "juvenile-related forfeiture order" means any forfeiture order issued by a juvenile court under section 2981.04 or 2981.05 of the Revised Code and any disposal of property ordered by a court under section 2981.11 of the Revised Code regarding property that was in the

possession of a law enforcement agency in relation to a delinquent child proceeding in a juvenile court.

(F) Each board of county commissioners that recognizes a citizens' reward program under section 9.92 of the Revised Code shall notify each law enforcement agency of that county and of a township or municipal corporation wholly located in that county of the recognition by filing a copy of its resolution conferring that recognition with each of those agencies. When the board recognizes a citizens' reward program and the county includes a part, but not all, of the territory of a municipal corporation, the board shall so notify the law enforcement agency of that municipal corporation of the recognition of the citizens' reward program only if the county contains the highest percentage of the municipal corporation's population.

Upon being so notified, each law enforcement agency shall pay twenty-five per cent of any forfeited proceeds or cash derived from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively to pay rewards. No part of the funds may be used to pay expenses associated with the program. If a citizens' reward program that operates in more than one county or in another state in addition to this state receives funds under this section, the funds shall be used to pay rewards only for tips and information to law enforcement agencies concerning offenses committed in the county from which the funds were received.

Receiving funds under this section or section 2981.11 of the Revised Code does not make the citizens' reward program a governmental unit or public office for purposes of section 149.43 of the Revised Code.

(G) Any property forfeited under this chapter shall not be used to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying criminal offense or a different offense arising out of the same facts and circumstances.

(H) Any moneys acquired from the sale of personal effects, tools, or other property seized because the personal effects, tools, or other property were used in the commission of a violation of section 2905.32, 2907.21, or 2907.22 of the Revised Code or derived from the proceeds of the commission of a violation of section 2905.32, 2907.21, or 2907.22 of the Revised Code and disposed of pursuant to this section shall be placed in the victims of human trafficking fund created by section 5101.87 of the Revised Code.

Sec. 2981.13. (A) Except as otherwise provided in this section, property ordered forfeited as contraband, proceeds, or an instrumentality pursuant to

this chapter shall be disposed of, used, or sold pursuant to section 2981.12 of the Revised Code. If the property is to be sold under that section, the prosecutor shall cause notice of the proposed sale to be given in accordance with law.

(B) If the contraband or instrumentality forfeited under this chapter is sold, any moneys acquired from a sale and any proceeds forfeited under this chapter shall be applied in the following order:

(1) First, to pay costs incurred in the seizure, storage, maintenance, security, and sale of the property and in the forfeiture proceeding;

(2) Second, in a criminal forfeiture case, to satisfy any restitution ordered to the victim of the offense or, in a civil forfeiture case, to satisfy any recovery ordered for the person harmed, unless paid from other assets;

(3) Third, to pay the balance due on any security interest preserved under this chapter;

(4) Fourth, apply the remaining amounts as follows:

(a) If the forfeiture was ordered by a juvenile court, ten per cent to one or more certified alcohol and drug addiction treatment programs as provided in division (D) of section 2981.12 of the Revised Code;

(b) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecutor and to the following fund supporting the law enforcement agency that substantially conducted the investigation: the law enforcement trust fund of the county sheriff, municipal corporation, township, or park district created under section 511.18 or 1545.01 of the Revised Code; the state highway patrol contraband, forfeiture, and other fund; the department of public safety investigative unit contraband, forfeiture, and other fund; the department of taxation enforcement fund; the board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code; the medicaid fraud investigation and prosecution fund; the casino control commission enforcement fund created by section 3772.36 of the Revised Code; or the treasurer of state for deposit into the peace officer training commission fund if any other state law enforcement agency substantially conducted the investigation. In the case of property forfeited for medicaid fraud, any remaining amount shall be used by the attorney general to investigate and prosecute medicaid fraud offenses.

If the prosecutor declines to accept any of the remaining amounts, the amounts shall be applied to the fund of the agency that substantially conducted the investigation.

(c) If more than one law enforcement agency is substantially involved in

the seizure of property forfeited under this chapter, the court ordering the forfeiture shall equitably divide the amounts, after calculating any distribution to the law enforcement trust fund of the prosecutor pursuant to division (B)(4) of this section, among the entities that the court determines were substantially involved in the seizure.

(C)(1) A law enforcement trust fund shall be established by the prosecutor of each county who intends to receive any remaining amounts pursuant to this section, by the sheriff of each county, by the legislative authority of each municipal corporation, by the board of township trustees of each township that has a township police department, township or joint police district police force, or office of the constable, and by the board of park commissioners of each park district created pursuant to section 511.18 or 1545.01 of the Revised Code that has a park district police force or law enforcement department, for the purposes of this section.

There is hereby created in the state treasury the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the medicaid fraud investigation and prosecution fund, the department of taxation enforcement fund, and the peace officer training commission fund, for the purposes of this section.

Amounts distributed to any municipal corporation, township, or park district law enforcement trust fund shall be allocated from the fund by the legislative authority only to the police department of the municipal corporation, by the board of township trustees only to the township police department, township police district police force, or office of the constable, by the joint police district board only to the joint police district, and by the board of park commissioners only to the park district police force or law enforcement department.

(2)(a) No amounts shall be allocated to a fund created under this section or used by an agency unless the agency has adopted a written internal control policy that addresses the use of moneys received from the appropriate fund. The appropriate fund shall be expended only in accordance with that policy and, subject to the requirements specified in this section, only for the following purposes:

(i) To pay the costs of protracted or complex investigations or prosecutions;

(ii) To provide reasonable technical training or expertise;

(iii) To provide matching funds to obtain federal grants to aid law enforcement, in the support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the

use of drugs of abuse;

(iv) To pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory;

(v) For other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, prosecutor, county sheriff, legislative authority, department of taxation, Ohio casino control commission, board of township trustees, or board of park commissioners determines to be appropriate.

(b) The board of pharmacy drug law enforcement fund shall be expended only in accordance with the written internal control policy so adopted by the board and only in accordance with section 4729.65 of the Revised Code, except that it also may be expended to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory.

(c) The state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, the casino control commission enforcement fund, and a law enforcement trust fund shall not be used to meet the operating costs of the state highway patrol, of the investigative unit of the department of public safety, of the state board of pharmacy, of any political subdivision, of the Ohio casino control commission, or of any office of a prosecutor or county sheriff that are unrelated to law enforcement.

(d) Forfeited moneys that are paid into the state treasury to be deposited into the peace officer training commission fund shall be used by the commission only to pay the costs of peace officer training.

(3) Any of the following offices or agencies that receive amounts under this section during any calendar year shall file a report with the specified entity, not later than the thirty-first day of January of the next calendar year, verifying that the moneys were expended only for the purposes authorized by this section or other relevant statute and specifying the amounts expended for each authorized purpose:

(a) Any sheriff or prosecutor shall file the report with the county auditor.

(b) Any municipal corporation police department shall file the report

with the legislative authority of the municipal corporation.

(c) Any township police department, township or joint police district police force, or office of the constable shall file the report with the board of township trustees of the township.

(d) Any park district police force or law enforcement department shall file the report with the board of park commissioners of the park district.

(e) The superintendent of the state highway patrol and the tax commissioner shall file the report with the attorney general.

(f) The executive director of the state board of pharmacy shall file the report with the attorney general, verifying that cash and forfeited proceeds paid into the board of pharmacy drug law enforcement fund were used only in accordance with section 4729.65 of the Revised Code.

(g) The peace officer training commission shall file a report with the attorney general, verifying that cash and forfeited proceeds paid into the peace officer training commission fund pursuant to this section during the prior calendar year were used by the commission during the prior calendar year only to pay the costs of peace officer training.

(h) The executive director of the Ohio casino control commission shall file the report with the attorney general, verifying that cash and forfeited proceeds paid into the casino control commission enforcement fund were used only in accordance with section 3772.36 of the Revised Code.

(D) The written internal control policy of a county sheriff, prosecutor, municipal corporation police department, township police department, township or joint police district police force, office of the constable, or park district police force or law enforcement department shall provide that at least ten per cent of the first one hundred thousand dollars of amounts deposited during each calendar year in the agency's law enforcement trust fund under this section, and at least twenty per cent of the amounts exceeding one hundred thousand dollars that are so deposited, shall be used in connection with community preventive education programs. The manner of use shall be determined by the sheriff, prosecutor, department, police force, or office of the constable after receiving and considering advice on appropriate community preventive education programs from the county's board of alcohol, drug addiction, and mental health services, from the county's alcohol and drug addiction services board, or through appropriate community dialogue.

The financial records kept under the internal control policy shall specify the amount deposited during each calendar year in the portion of that amount that was used pursuant to this division, and the programs in connection with which the portion of that amount was so used.

As used in this division, "community preventive education programs" include, but are not limited to, DARE programs and other programs designed to educate adults or children with respect to the dangers associated with using drugs of abuse.

(E) Upon the sale, under this section or section 2981.12 of the Revised Code, of any property that is required by law to be titled or registered, the state shall issue an appropriate certificate of title or registration to the purchaser. If the state is vested with title and elects to retain property that is required to be titled or registered under law, the state shall issue an appropriate certificate of title or registration.

(F) Any failure of a law enforcement officer or agency, prosecutor, court, or the attorney general to comply with this section in relation to any property seized does not affect the validity of the seizure and shall not be considered to be the basis for suppressing any evidence resulting from the seizure, provided the seizure itself was lawful.

Sec. 3101.051. (A) Except as provided in division (B) of this section, a probate court shall make available to any person for inspection the records pertaining to the issuance of marriage licenses as provided under section 149.43 of the Revised Code.

(B) Before it makes available to a person any records pertaining to the issuance of a marriage license as described in division (A) of this section, subject to division (C) of this section, a probate court shall delete or otherwise remove any social security numbers of the parties to a marriage so that they are not available to the person inspecting the records.

(C) Division (B) of this section does not apply in any of the following circumstances:

(1) If the records in question are inspected by authorized personnel of the division of child support in the department of job and family services under section ~~5101.31~~ 5101.37 of the Revised Code;

(2) If the records in question are inspected by law enforcement personnel for purposes of a criminal investigation;

(3) If the records in question with the social security numbers are necessary for use in a civil or criminal trial and the release of the records with the social security numbers is ordered by a court with jurisdiction over the trial;

(4) If the records in question are inspected by either party to the marriage to which the records pertain;

(5) If the court possessed the records in question prior to the effective date of this section.

Sec. 3107.083. Not later than ninety days after June 20, 1996, the

director of job and family services shall do all of the following:

(A)(1) For a parent of a child who, if adopted, will be an adopted person as defined in section 3107.45 of the Revised Code, prescribe a form that has the following six components:

(a) A component the parent signs under section 3107.071, 3107.081, or 5103.151 of the Revised Code to indicate the requirements of section 3107.082 or 5103.152 of the Revised Code have been met. The component shall be as follows:

"Statement Concerning Ohio Law and Adoption Materials

By signing this component of this form, I acknowledge that it has been explained to me, and I understand, that, if I check the space on the next component of this form that indicates that I authorize the release, the adoption file maintained by the Ohio Department of Health, which contains identifying information about me at the time of my child's birth, will be released, on request, to the adoptive parent when the adoptee is at least age eighteen but younger than age twenty-one and to the adoptee when he or she is age twenty-one or older. It has also been explained to me, and I understand, that I may prohibit the release of identifying information about me contained in the adoption file by checking the space on the next component of this form that indicates that I do not authorize the release of the identifying information. It has additionally been explained to me, and I understand, that I may change my mind regarding the decision I make on the next component of this form at any time and as many times as I desire by signing, dating, and having filed with the Ohio Department of Health a denial of release form or authorization of release form prescribed and provided by the Department of Health and providing the Department two items of identification.

By signing this component of this form, I also acknowledge that I have been provided a copy of written materials about adoption prepared by the Ohio Department of Job and Family Services, the adoption process and ramifications of consenting to adoption or entering into a voluntary permanent custody surrender agreement have been discussed with me, and I have been provided the opportunity to review the materials and ask questions about the materials and discussion.

Signature of biological parent:

Signature of witness:

Date: "

(b) A component the parent signs under section 3107.071, 3107.081, or 5103.151 of the Revised Code regarding the parent's decision whether to allow identifying information about the parent contained in an adoption file

maintained by the department of health to be released to the parent's child and adoptive parent pursuant to section 3107.47 of the Revised Code. The component shall be as follows:

"Statement Regarding Release of Identifying Information

The purpose of this component of this form is to allow a biological parent to decide whether to allow the Ohio Department of Health to provide an adoptee and adoptive parent identifying information about the adoptee's biological parent contained in an adoption file maintained by the Department. Please check one of the following spaces:

- YES, I authorize the Ohio Department of Health to release identifying information about me, on request, to the adoptive parent when the adoptee is at least age eighteen but younger than age twenty-one and to the adoptee when he or she is age twenty-one or older.
- NO, I do not authorize the release of identifying information about me to the adoptive parent or adoptee.

Signature of biological parent:

Signature of witness:

Date: "

(c) A component the parent, if the mother of the child, completes and signs under section 3107.071, 3107.081, or 5103.151 of the Revised Code to indicate, to the extent of the mother's knowledge, all of the following:

(i) Whether the mother, during her pregnancy, was a recipient of the ~~medical assistance~~ medicaid program established under ~~Chapter 5111. of the Revised Code~~ or other public health insurance program and, if so, the dates her eligibility began and ended;

(ii) Whether the mother, during her pregnancy, was covered by private health insurance and, if so, the dates the coverage began and ended, the name of the insurance provider, the type of coverage, and the identification number of the coverage;

(iii) The name and location of the hospital, freestanding ~~birth~~ birthing center, or other place where the mother gave birth and, if different, received medical care immediately after giving birth;

(iv) The expenses of the obstetrical and neonatal care;

(v) Whether the mother has been informed that the adoptive parent or the agency or attorney arranging the adoption are to pay expenses involved in the adoption, including expenses the mother has paid and expects to receive or has received reimbursement, and, if so, what expenses are to be or have been paid and an estimate of the expenses;

(vi) Any other information related to expenses the department determines appropriate to be included in this component.

(d) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent materials, other than photographs of the parent, that the parent requests be given to the child or adoptive parent pursuant to section 3107.68 of the Revised Code.

(e) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent photographs of the parent pursuant to section 3107.68 of the Revised Code.

(f) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent the first name of the parent pursuant to section 3107.68 of the Revised Code.

(2) State at the bottom of the form that the parent is to receive a copy of the form the parent signed.

(3) Provide copies of the form prescribed under this division to probate and juvenile courts, public children services agencies, private child placing agencies, private noncustodial agencies, attorneys, and persons authorized to take acknowledgments.

(B)(1) For a parent of a child who, if adopted, will become an adopted person as defined in section 3107.39 of the Revised Code, prescribe a form that has the following five components:

(a) A component the parent signs under section 3107.071, 3107.081, or 5103.151 of the Revised Code to attest that the requirement of division (A) of section 3107.082 or division (A) of section 5103.152 of the Revised Code has been met;

(b) A component the parent, if the mother of the child, completes and signs under section 3107.071, 3107.081, or 5103.151 of the Revised Code to indicate, to the extent of the mother's knowledge, all of the following:

(i) Whether the mother, during her pregnancy, was a recipient of the ~~medical assistance~~ medicaid program established under ~~Chapter 5111~~ of the ~~Revised Code~~ or other public health insurance program and, if so, the dates her eligibility began and ended;

(ii) Whether the mother, during her pregnancy, was covered by private health insurance and, if so, the dates the coverage began and ended, the name of the insurance provider, the type of coverage, and the identification number of the coverage;

(iii) The name and location of the hospital, freestanding ~~birth~~ birthing center, or other place where the mother gave birth and, if different, received medical care immediately after giving birth;

(iv) The expenses of the obstetrical and neonatal care;

(v) Whether the mother has been informed that the adoptive parent or the agency or attorney arranging the adoption are to pay expenses involved in the adoption, including expenses the mother has paid and expects to receive or has received reimbursement for, and, if so, what expenses are to be or have been paid and an estimate of the expenses;

(vi) Any other information related to expenses the department determines appropriate to be included in the component.

(c) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent materials, other than photographs of the parent, that the parent requests be given to the child or adoptive parent pursuant to section 3107.68 of the Revised Code.

(d) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent photographs of the parent pursuant to section 3107.68 of the Revised Code.

(e) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent the first name of the parent pursuant to section 3107.68 of the Revised Code.

(2) State at the bottom of the form that the parent is to receive a copy of the form the parent signed.

(3) Provide copies of the form prescribed under this division to probate and juvenile courts, public children services agencies, private child placing agencies, private noncustodial agencies, and attorneys.

(C) Prepare the written materials about adoption that are required to be given to parents under division (A) of section 3107.082 and division (A) of section 5103.152 of the Revised Code. The materials shall provide information about the adoption process, including ramifications of a parent consenting to a child's adoption or entering into a voluntary permanent custody surrender agreement. The materials also shall include referral information for professional counseling and adoption support organizations. The director shall provide the materials to assessors.

(D) Adopt rules in accordance with Chapter 119. of the Revised Code specifying the documents that must be filed with a probate court under divisions (B) and (D) of section 3107.081 of the Revised Code and a juvenile court under divisions (C) and (E) of section 5103.151 of the Revised Code.

Sec. 3109.15. There is hereby created within the department of job and family services the children's trust fund board consisting of fifteen members. The directors of ~~alcohol and drug addiction services~~ mental health and addiction services, health, and job and family services shall be members of

the board. Eight public members shall be appointed by the governor. These members shall be persons with demonstrated knowledge in programs for children, shall be representative of the demographic composition of this state, and, to the extent practicable, shall be representative of the following categories: the educational community; the legal community; the social work community; the medical community; the voluntary sector; and professional providers of child abuse and child neglect services. Five of these members shall be residents of metropolitan statistical areas as defined by the United States office of management and budget where the population exceeds four hundred thousand; no two such members shall be residents of the same metropolitan statistical area. Two members of the board shall be members of the house of representatives appointed by the speaker of the house of representatives and shall be members of two different political parties. Two members of the board shall be members of the senate appointed by the president of the senate and shall be members of two different political parties. All members of the board appointed by the speaker of the house of representatives or the president of the senate shall serve until the expiration of the sessions of the general assembly during which they were appointed. They may be reappointed to an unlimited number of successive terms of two years at the pleasure of the speaker of the house of representatives or president of the senate. Public members shall serve terms of three years. Each member shall serve until the member's successor is appointed, or until a period of sixty days has elapsed, whichever occurs first. No public member may serve more than two consecutive full terms. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner as the original appointment.

Any member of the board may be removed by the member's appointing authority for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in the member's own behalf. Pursuant to section 3.17 of the Revised Code, a member, except a member of the general assembly or a judge of any court in the state, who fails to attend at least three-fifths of the regular and special meetings held by the board during any two-year period forfeits the member's position on the board.

Each member of the board shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of official duties.

At the beginning of the first year of each even-numbered general assembly, the chairperson of the board shall be appointed by the speaker of the house of representatives from among members of the board who are members of the house of representatives. At the beginning of the first year

of each odd-numbered general assembly, the chairperson of the board shall be appointed by the president of the senate from among the members of the board who are senate members.

The board shall biennially select a vice-chair from among its nonlegislative members.

Sec. 3111.04. (A) An action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement agency of the county in which the child resides if the child's mother, father, or alleged father is a recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, or the alleged father's personal representative.

(B) An agreement does not bar an action under this section.

(C) If an action under this section is brought before the birth of the child and if the action is contested, all proceedings, except service of process and the taking of depositions to perpetuate testimony, may be stayed until after the birth.

(D) A recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, shall cooperate with the child support enforcement agency of the county in which a child resides to obtain an administrative determination pursuant to sections 3111.38 to 3111.54 of the Revised Code, or, if necessary, a court determination pursuant to sections 3111.01 to 3111.18 of the Revised Code, of the existence or nonexistence of a parent and child relationship between the father and the child. If the recipient fails to cooperate, the agency may commence an action to determine the existence or nonexistence of a parent and child relationship between the father and the child pursuant to sections 3111.01 to 3111.18 of the Revised Code.

(E) As used in this section, "public assistance" means all of the following:

- (1) Medicaid ~~under Chapter 5111. of the Revised Code;~~
- (2) Ohio works first under Chapter 5107. of the Revised Code;
- (3) Disability financial assistance under Chapter 5115. of the Revised Code.

Sec. 3111.72. The contract between the department of job and family services and a local hospital shall require all of the following:

(A) That the hospital provide a staff person to meet with each unmarried mother who gave birth in or en route to the hospital within twenty-four hours of the birth or before the mother is released from the hospital;

(B) That the staff person attempt to meet with the father of the unmarried mother's child if possible;

(C) That the staff person explain to the unmarried mother and the father, if he is present, the benefit to the child of establishing a parent and child relationship between the father and the child and the various proper procedures for establishing a parent and child relationship;

(D) That the staff person present to the unmarried mother and, if possible, the father, the pamphlet or statement regarding the rights and responsibilities of a natural parent that is prepared and provided by the department of job and family services pursuant to section 3111.32 of the Revised Code;

(E) That the staff person provide the mother and, if possible, the father, all forms and statements necessary to voluntarily establish a parent and child relationship, including, but not limited to, the acknowledgment of paternity affidavit prepared by the department of job and family services pursuant to section 3111.31 of the Revised Code;

(F) That the staff person, at the request of both the mother and father, help the mother and father complete any form or statement necessary to establish a parent and child relationship;

(G) That the hospital provide a notary public to notarize an acknowledgment of paternity affidavit signed by the mother and father;

(H) That the staff person present to an unmarried mother who is not participating in the Ohio works first program established under Chapter 5107. of the Revised Code or receiving ~~medical assistance under Chapter 5111. of the Revised Code~~ medicaid an application for Title IV-D services;

(I) That the staff person forward any completed acknowledgment of paternity, no later than ten days after it is completed, to the office of child support in the department of job and family services;

(J) That the department of job and family services pay the hospital twenty dollars for every correctly signed and notarized acknowledgment of paternity affidavit from the hospital.

Sec. 3119.29. (A) As used in this section and sections 3119.30 to 3119.56 of the Revised Code:

(1) "Cash medical support" means an amount ordered to be paid in a child support order toward the cost of health insurance provided by a public entity, another parent, or person with whom the child resides, through employment or otherwise, or for other medical cost not covered by insurance.

(2) "Federal poverty line" has the same meaning as defined in section 5104.01 of the Revised Code.

(3) "Health care" means such medical support that includes coverage under a health insurance plan, payment of costs of premiums, ~~co-payments~~ copayments, and deductibles, or payment for medical expenses incurred on behalf of the child.

(4) "Health insurance coverage" means accessible private health insurance that provides primary care services within thirty miles from the residence of the child subject to the child support order.

(5) "Health plan administrator" means any entity authorized under Title XXXIX of the Revised Code to engage in the business of insurance in this state, any health insuring corporation, any legal entity that is self-insured and provides benefits to its employees or members, and the administrator of any such entity or corporation.

(6) "National medical support notice" means a form required by the "Child Support Performance and Incentive Act of 1998," P.L. 105-200, 112 Stat. 659, 42 U.S.C. 666(a)(19), as amended, and jointly developed and promulgated by the secretary of health and human services and the secretary of labor in federal regulations adopted under that act as modified by the department of job and family services under section 3119.291 of the Revised Code.

(7) "Person required to provide health insurance coverage" means the obligor, obligee, or both, required by the court under a court child support order or by the child support enforcement agency under an administrative child support order to provide health insurance coverage pursuant to section 3119.30 of the Revised Code.

(8) Subject to division (B) of this section, "reasonable cost" means the contributing cost of private family health insurance to the person responsible for the health care of the children subject to the child support order that does not exceed an amount equal to five per cent of the annual gross income of that person.

(9) "Title XIX" has the same meaning as ~~defined~~ in section ~~5111.20~~ 5165.01 of the Revised Code.

(B) If the United States secretary of health and human services issues a regulation defining "reasonable cost" or a similar term or phrase relevant to the provisions in child support orders relating to the provision of health care for children subject to the orders, and if that definition is substantively different from the meaning of "reasonable cost" as defined in division (A) of this section, "reasonable cost" as used in this section shall have the meaning as defined by the United States secretary of health and human services.

Sec. 3119.54. A party to a child support order issued in accordance with section 3119.30 of the Revised Code shall notify any physician, hospital, or

other provider of medical services that provides medical services to the child who is the subject of the child support order of the number of any health insurance or health care policy, contract, or plan that covers the child if the child is eligible for ~~medical assistance under Chapter 5111. of the Revised Code~~ medicaid. The party shall include in the notice the name and address of the insurer. Any physician, hospital, or other provider of medical services ~~for which medical assistance is available under Chapter 5111. of the Revised Code~~ covered by the medicaid program who is notified under this section of the existence of a health insurance or health care policy, contract, or plan with coverage for children who are eligible for ~~medical assistance~~ medicaid shall first bill the insurer for any services provided for those children. If the insurer fails to pay all or any part of a claim filed under this section and the services for which the claim is filed are covered by ~~Chapter 5111. of the Revised Code~~ the medicaid program, the physician, hospital, or other medical services provider shall bill the remaining unpaid costs of the services ~~in accordance with Chapter 5111. of the Revised Code~~ to the medicaid program.

Sec. 3121.441. (A) Notwithstanding the provisions of this chapter, Chapters 3119., 3123., and 3125., and sections 3770.071 and 5107.20 of the Revised Code providing for the office of child support in the department of job and family services to collect, withhold, or deduct spousal support, when a court pursuant to section 3105.18 or 3105.65 of the Revised Code issues or modifies an order requiring an obligor to pay spousal support or grants or modifies a decree of dissolution of marriage incorporating a separation agreement that provides for spousal support, or at any time after the issuance, granting, or modification of an order or decree of that type, the court may permit the obligor to make the spousal support payments directly to the obligee instead of to the office if the obligee and the obligor have no minor children born as a result of their marriage and the obligee has not assigned the spousal support amounts to the department pursuant to section ~~5101.59 or 5107.20~~ or 5160.38 of the Revised Code.

(B) A court that permits an obligor to make spousal support payments directly to the obligee pursuant to division (A) of this section shall order the obligor to make the spousal support payments as a check, as a money order, or in any other form that establishes a clear record of payment.

(C) If a court permits an obligor to make spousal support payments directly to an obligee pursuant to division (A) of this section and the obligor is in default in making any spousal support payment to the obligee, the court, upon motion of the obligee or on its own motion, may rescind the permission granted under that division. After the rescission, the court shall

determine the amount of arrearages in the spousal support payments and order the obligor to make to the office of child support in the department of job and family services any spousal support payments that are in arrears and any future spousal support payments. Upon the issuance of the order of the court under this division, the provisions of this chapter, Chapters 3119., 3123., and 3125., and sections 3770.071 and 5107.20 of the Revised Code apply with respect to the collection, withholding, or deduction of the obligor's spousal support payments that are the subject of that order of the court.

Sec. 3121.89. As used in sections 3121.891 to 3121.8911 of the Revised Code:

(A) "Contractor" means an individual who provides services to an employer as an independent contractor for compensation that is reported as income other than wages and who is an individual, the sole shareholder of a corporation, or the sole member of a limited liability company. "Contractor" does not include any of the following:

(1) An individual performing intelligence or counterintelligence functions for a state agency if the head of the agency has determined that reporting pursuant to this section could endanger the safety of the individual or compromise an ongoing investigation or intelligence mission;

(2) A professionally licensed person who is providing services to the employer under that license;

(3) An individual who will receive for the services provided under the contract compensation of less than two thousand five hundred dollars per year or a greater amount that the director of job and family services establishes by rule adopted under section 3121.896 of the Revised Code.

(B) "Employee" means an individual who is employed to provide services to an employer for compensation that is reported as income from wages. "Employee" does not include an individual performing intelligence or counterintelligence functions for a state agency, if the head of the agency has determined that reporting pursuant to this section could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(C) "Employer" means any person or governmental entity other than the federal government for which an individual performs any service, of whatever nature, as the employee or contractor of such person, except that:

(1) If the person for whom the individual performs services does not have control of the payment of compensation for the services, "employer" means the person having control of the payment of the compensation.

(2) In the case of a person paying compensation on behalf of a

nonresident alien individual, foreign partnership, or foreign corporation not engaged in trade or business within the United States, "employer" means the person paying the compensation.

(3) In the case of compensation paid to a contractor, "employer" does not include any person or entity that lacks a federal employer identification number.

(D) "Newly hired employee" means either of the following:

(1) An employee who has not previously been employed by the employer;

(2) An employee who was previously employed by an employer but has been separated from that prior employment for at least sixty consecutive days.

(E) "Professionally licensed person" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 3121.891. (A) Except as provided in division (B) or (C) of this section, every employer shall make a new hire report to the department of job and family services regarding ~~the hiring, rehiring, or return to work as an~~ a newly hired employee or a contractor of a person who resides, works, or will be assigned to work in this state to whom the employer anticipates paying compensation.

(B) An employer with employees or contractors in two or more states that transmits new hire reports magnetically or electronically may make the new hire report to another state if the employer does both of the following:

(1) Notifies the Ohio department of job and family services and the United States secretary of health and human services in writing that the employer has designated another state as the state to which the employer will transmit the report;

(2) Transmits the report to that state in compliance with federal law.

(C) The department may by rule exempt employers from making new hire reports on any classification of contractors if the department determines that exempting the employer will assist the administration of the new hire reporting requirement.

Sec. 3121.892. (A) An employer shall include all of the following in each new hire report:

(1) For each employee, the employee's name, address, date of birth, social security number, and date of hire, ~~rehire, or return to work~~;

(2) For each contractor, the contractor's name, address, social security or tax identification number, the date payments begin, and the length of time the contractor will be performing services for the employer;

(3) The employer's name, address, and identification number.

(B) The department of job and family services may by rule require that additional information, specified in the rule, be included in each new hire report.

Sec. 3121.893. An employer shall make a new hire report for each newly hired employee or contractor in a manner prescribed by the department of job and family services. The department may require that the report include or consist of the submission of a copy of the United States internal revenue service form W-4 (employee's withholding allowance certificate) for the employee, a form provided by the department, or any other hiring document or data storage device or mechanism the department authorizes. An employer may make the new hire report by mail, fax, magnetic or electronic means, or other means the department authorizes. If an employer makes a new hire report by mail, the date of making the report is the postmark date if the report is mailed in the United States with first class postage and is addressed as the department authorizes. An employer shall make the new hire report not later than twenty days after the date on which the employer hires ~~or rehires~~ an employee ~~or the employee returns to work~~ or the date on which the employer engages or re-engages the contractor or the contractor resumes providing services under the contract.

Sec. 3121.898. The department of job and family services shall use the new hire reports it receives for any of the following purposes set forth in 42 U.S.C. 653a, as amended, including:

(A) To locate individuals for the purposes of establishing paternity and for establishing, modifying, and enforcing child support orders.

(B) As used in this division, "state agency" means every department, bureau, board, commission, office, or other organized body established by the constitution or laws of this state for the exercise of state government; every entity of county government that is subject to the rules of a state agency; and every contractual agent of a state agency.

To make available to any state agency responsible for administering any of the following programs for purposes of verifying program eligibility:

(1) Any Title IV-A program as defined in section 5101.80 of the Revised Code;

(2) The medicaid program ~~authorized by Chapter 5111. of the Revised Code;~~

(3) The unemployment compensation program authorized by Chapter 4141. of the Revised Code;

(4) The supplemental nutrition assistance program authorized by section 5101.54 of the Revised Code;

(5) Any other program authorized in 42 U.S.C. 1320b-7(b), as amended.

(C) The administration of the employment security program under the director of job and family services.

Sec. 3123.958. The office of child support ~~shall~~ may publish and distribute ~~the first~~ a set of posters throughout the state ~~not later than October 1, 1992. The office shall publish and distribute subsequent sets of posters not less than twice annually.~~

Sec. 3125.18. A child support enforcement agency shall administer a Title IV-A program identified under division (A)(4)(c) or ~~(f)~~(g) of section 5101.80 of the Revised Code that the department of job and family services provides for the agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code.

Sec. 3125.36. (A) Subject to division (B) of this section, all support orders that are administered by a child support enforcement agency designated under section 307.981 of the Revised Code or former section 2301.35 of the Revised Code and are eligible for Title IV-D services shall be Title IV-D cases under Title IV-D of the "Social Security Act." Subject to division (B) of this section, all obligees of support orders administered by the agency shall be considered to have filed a signed application for Title IV-D services.

(B) Except as provided in division (D) of this section, a court that issues or modifies a support order shall require the obligee under the order to sign, at the time of the issuance or modification of the order, an application for Title IV-D services and to file, as soon as possible, the signed application with the child support enforcement agency that will administer the order. The application shall be on a form prescribed by the department of job and family services. Except as provided in division (D) of this section, a support order that is administered by a child support enforcement agency, and that is eligible for Title IV-D services shall be a Title IV-D case under Title IV-D of the "Social Security Act" only upon the filing of the signed application for Title IV-D services.

(C) A child support enforcement agency shall make available an application for Title IV-D services to all persons requesting a child support enforcement agency's assistance in an action under sections 3111.01 to 3111.18 of the Revised Code or in an administrative proceeding brought to establish a parent and child relationship, to establish or modify an administrative support order, or to establish or modify an order to provide health insurance coverage for the children subject to a support order.

(D) An obligee under a support order who has assigned the right to the support pursuant to section ~~5101.59~~ or 5107.20 or 5160.38 of the Revised Code shall not be required to sign an application for Title IV-D services.

The support order shall be considered a Title IV-D case.

Sec. 3301.07. The state board of education shall exercise under the acts of the general assembly general supervision of the system of public education in the state. In addition to the powers otherwise imposed on the state board under the provisions of law, the board shall have the powers described in this section.

(A) The state board shall exercise policy forming, planning, and evaluative functions for the public schools of the state except as otherwise provided by law.

(B)(1) The state board shall exercise leadership in the improvement of public education in this state, and administer the educational policies of this state relating to public schools, and relating to instruction and instructional material, building and equipment, transportation of pupils, administrative responsibilities of school officials and personnel, and finance and organization of school districts, educational service centers, and territory. Consultative and advisory services in such matters shall be provided by the board to school districts and educational service centers of this state.

(2) The state board also shall develop a standard of financial reporting which shall be used by each school district board of education and ~~educational service center~~ each governing board of an educational service center, each governing authority of a community school established under Chapter 3314., each governing body of a STEM school established under Chapter 3328., and each board of trustees of a college-preparatory boarding school established under Chapter 3328. of the Revised Code to make its financial information and annual budgets for each school building under its control available to the public in a format understandable by the average citizen. The format shall show, ~~among other things,~~ both at the district ~~and educational service center level or~~ and at the school building level, as ~~determined appropriate by the department of education,~~ revenue by source; expenditures for salaries, wages, and benefits of employees, showing such amounts separately for classroom teachers, other employees required to hold licenses issued pursuant to sections 3319.22 to 3319.31 of the Revised Code, and all other employees; expenditures other than for personnel, by category, including utilities, textbooks and other educational materials, equipment, permanent improvements, pupil transportation, extracurricular athletics, and other extracurricular activities; and per pupil expenditures. The format shall also include information on total revenue and expenditures, per pupil revenue, and expenditures for both classroom and nonclassroom purposes, as defined by the standards adopted under section 3302.20 of the Revised Code in the aggregate and for each subgroup of students, as defined

by section 3317.40 of the Revised Code, that receives services provided for by state or federal funding.

(3) Each school district board, governing authority, governing body, or board of trustees, or its respective designee, shall annually report, to the department of education, all financial information required by the standards for financial reporting, as prescribed by division (B)(2) of this section and adopted by the state board. The department shall make all reports submitted pursuant to this division available in such a way that allows for comparison between financial information included in these reports and financial information included in reports produced prior to July 1, 2013. The department shall post these reports in a prominent location on its web site and shall notify each school when reports are made available.

(C) The state board shall administer and supervise the allocation and distribution of all state and federal funds for public school education under the provisions of law, and may prescribe such systems of accounting as are necessary and proper to this function. It may require county auditors and treasurers, boards of education, educational service center governing boards, treasurers of such boards, teachers, and other school officers and employees, or other public officers or employees, to file with it such reports as it may prescribe relating to such funds, or to the management and condition of such funds.

(D)(1) Wherever in Titles IX, XXIII, XXIX, XXXIII, XXXVII, XLVII, and LI of the Revised Code a reference is made to standards prescribed under this section or division (D) of this section, that reference shall be construed to refer to the standards prescribed under division (D)(2) of this section, unless the context specifically indicates a different meaning or intent.

(2) The state board shall formulate and prescribe minimum standards to be applied to all elementary and secondary schools in this state for the purpose of ~~requiring~~ providing children access to a general education of high quality according to the learning needs of each individual, including students with disabilities, economically disadvantaged students, limited English proficient students, and students identified as gifted. Such standards shall provide adequately for: the licensing of teachers, administrators, and other professional personnel and their assignment according to training and qualifications; efficient and effective instructional materials and equipment, including library facilities; the proper organization, administration, and supervision of each school, including regulations for preparing all necessary records and reports and the preparation of a statement of policies and objectives for each school; the provision of safe buildings, grounds, health

and sanitary facilities and services; admission of pupils, and such requirements for their promotion from grade to grade as will assure that they are capable and prepared for the level of study to which they are certified; requirements for graduation; and such other factors as the board finds necessary.

The state board shall base any standards governing the promotion of students or requirements for graduation on the ability of students, at any grade level, to earn credits or advance upon demonstration of mastery of knowledge and skills through competency-based learning models. Credits of grade level advancement shall not require a minimum number of days or hours in a classroom.

The state board shall base any standards governing the assignment of staff on ensuring each school has a sufficient number of teachers to ensure a student has an appropriate level of interaction to meet each student's personal learning goals.

In the formulation and administration of such standards for nonpublic schools the board shall also consider the particular needs, methods and objectives of those schools, provided they do not conflict with the provision of a general education of a high quality and provided that regular procedures shall be followed for promotion from grade to grade of pupils who have met the educational requirements prescribed.

~~In the formulation and administration of such standards as they relate to instructional materials and equipment in public schools, including library materials, the board shall require that the material and equipment be aligned with and promote skills expected under the statewide academic standards adopted under section 3301.079 of the Revised Code.~~

(3) In addition to the minimum standards required by division (D)(2) of this section, the state board may formulate and prescribe the following additional minimum operating standards for school districts:

(a) ~~Standards for the effective and efficient organization, administration, and supervision of each school district so that it becomes a thinking and learning organization according to principles of systems design and collaborative professional learning communities research as defined by the superintendent of public instruction, including a focus on the personalized and individualized needs of each student; a shared responsibility among school boards, administrators, faculty, and staff to develop a common vision, mission, and set of guiding principles; a shared responsibility among school boards, administrators, faculty, and staff to engage in a process of collective inquiry, action orientation, and experimentation to ensure the academic success of all students; commitment to teaching and learning~~

~~strategies that utilize technological tools and emphasize inter-disciplinary, real-world, project-based, and technology-oriented learning experiences to meet the individual needs of every student; with a commitment to high expectations for every student based on the learning needs of each individual, including students with disabilities, economically disadvantaged students, limited English proficient students, and students identified as gifted, and commitment to closing the achievement gap without suppressing the achievement levels of higher achieving students so that all students achieve core knowledge and skills in accordance with the statewide academic standards adopted under section 3301.079 of the Revised Code; commitment to the use of assessments to diagnose the needs of each student; effective connections and relationships with families and others that support student success; and commitment to the use of positive behavior intervention supports throughout a district to ensure a safe and secure learning environment for all students;~~

(b) Standards for the establishment of business advisory councils under section 3313.82 of the Revised Code;

(c) Standards for school district buildings that may require:

(i) ~~The the effective and efficient organization, administration, and supervision of each school district building so that it becomes a thinking and learning organization according to principles of systems design and collaborative professional learning communities research as defined by the state superintendent, including a focus on the personalized and individualized needs of each student; a shared responsibility among building administrators, faculty, and staff to develop a common vision, mission, and set of guiding principles; a shared responsibility among building administrators, faculty, and staff to engage in a process of collective inquiry, action orientation, and experimentation to ensure the academic success of all students; commitment to job embedded professional development and professional mentoring and coaching; established periods of time for teachers to pursue planning time for the development of lesson plans, professional development, and shared learning; commitment to effective management strategies that allow administrators reasonable access to classrooms for observation and professional development experiences; commitment to teaching and learning strategies that utilize technological tools and emphasize inter-disciplinary, real-world, project-based, and technology-oriented learning experiences to meet the individual needs of every student; with a commitment to high expectations for every student based on the learning needs of each individual, including students with disabilities, economically disadvantaged students, limited English proficient~~

students, and students identified as gifted, and commitment to closing the achievement gap without suppressing the achievement levels of higher achieving students so that all students achieve core knowledge and skills in accordance with the statewide academic standards adopted under section 3301.079 of the Revised Code; ~~commitment to the use of assessments to diagnose the needs of each student; effective connections and relationships with families and others that support student success; commitment to the use of positive behavior intervention supports throughout the building to ensure a safe and secure learning environment for all students;~~

~~(ii) A school building leadership team to coordinate positive behavior intervention supports, learning environments, thinking and learning systems, collaborative planning, planning time, student academic interventions, student extended learning opportunities, and other activities identified by the team and approved by the district board of education. The team shall include the building principal, representatives from each collective bargaining unit, a classroom teacher, parents, business representatives, and others that support student success.~~

(E) The state board may require as part of the health curriculum information developed under section 2108.34 of the Revised Code promoting the donation of anatomical gifts pursuant to Chapter 2108. of the Revised Code and may provide the information to high schools, educational service centers, and joint vocational school district boards of education;

(F) The state board shall prepare and submit annually to the governor and the general assembly a report on the status, needs, and major problems of the public schools of the state, with recommendations for necessary legislative action and a ten-year projection of the state's public and nonpublic school enrollment, by year and by grade level.

(G) The state board shall prepare and submit to the director of budget and management the biennial budgetary requests of the state board of education, for its agencies and for the public schools of the state.

(H) The state board shall cooperate with federal, state, and local agencies concerned with the health and welfare of children and youth of the state.

(I) The state board shall require such reports from school districts and educational service centers, school officers, and employees as are necessary and desirable. The superintendents and treasurers of school districts and educational service centers shall certify as to the accuracy of all reports required by law or state board or state department of education rules to be submitted by the district or educational service center and which contain information necessary for calculation of state funding. Any superintendent

who knowingly falsifies such report shall be subject to license revocation pursuant to section 3319.31 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the state board shall adopt procedures, standards, and guidelines for the education of children with disabilities pursuant to Chapter 3323. of the Revised Code, including procedures, standards, and guidelines governing programs and services operated by county boards of developmental disabilities pursuant to section 3323.09 of the Revised Code.

(K) For the purpose of encouraging the development of special programs of education for academically gifted children, the state board shall employ competent persons to analyze and publish data, promote research, advise and counsel with boards of education, and encourage the training of teachers in the special instruction of gifted children. The board may provide financial assistance out of any funds appropriated for this purpose to boards of education and educational service center governing boards for developing and conducting programs of education for academically gifted children.

(L) The state board shall require that all public schools emphasize and encourage, within existing units of study, the teaching of energy and resource conservation as recommended to each district board of education by leading business persons involved in energy production and conservation, beginning in the primary grades.

(M) The state board shall formulate and prescribe minimum standards requiring the use of phonics as a technique in the teaching of reading in grades kindergarten through three. In addition, the state board shall provide in-service training programs for teachers on the use of phonics as a technique in the teaching of reading in grades kindergarten through three.

(N) The state board may adopt rules necessary for carrying out any function imposed on it by law, and may provide rules as are necessary for its government and the government of its employees, and may delegate to the superintendent of public instruction the management and administration of any function imposed on it by law. It may provide for the appointment of board members to serve on temporary committees established by the board for such purposes as are necessary. Permanent or standing committees shall not be created.

(O) Upon application from the board of education of a school district, the superintendent of public instruction may issue a waiver exempting the district from compliance with the standards adopted under divisions (B)(2) and (D) of this section, as they relate to the operation of a school operated by the district. The state board shall adopt standards for the approval or disapproval of waivers under this division. The state superintendent shall

consider every application for a waiver, and shall determine whether to grant or deny a waiver in accordance with the state board's standards. For each waiver granted, the state superintendent shall specify the period of time during which the waiver is in effect, which shall not exceed five years. A district board may apply to renew a waiver.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish to, grade, and score all assessments required by divisions (A)(1) and (B)(1) of section 3301.0710 of the Revised Code to be administered by city, local, exempted village, and joint vocational school districts, except that each district shall score any assessment administered pursuant to division (B)(10) of this section. Each assessment so furnished shall include the data verification code of the student to whom the assessment will be administered, as assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code. In furnishing the practice versions of Ohio graduation tests prescribed by division (D) of section 3301.0710 of the Revised Code, the department shall make the tests available on its web site for reproduction by districts. In awarding contracts for grading assessments, the department shall give preference to Ohio-based entities employing Ohio residents.

(2) Adopt rules for the ethical use of assessments and prescribing the manner in which the assessments prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the English language arts assessments prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the third grade who have not attained the score designated for that assessment under division (A)(2)(c) of section 3301.0710 of the Revised Code.

(2) Administer the mathematics assessment prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code at least once annually to all students in the third grade.

(3) Administer the assessments prescribed under division (A)(1)(b) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade.

(4) Administer the assessments prescribed under division (A)(1)(c) of section 3301.0710 of the Revised Code at least once annually to all students in the fifth grade.

(5) Administer the assessments prescribed under division (A)(1)(d) of

section 3301.0710 of the Revised Code at least once annually to all students in the sixth grade.

(6) Administer the assessments prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade.

(7) Administer the assessments prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade.

(8) Except as provided in division (B)(9) of this section, administer any assessment prescribed under division (B)(1) of section 3301.0710 of the Revised Code as follows:

(a) At least once annually to all tenth grade students and at least twice annually to all students in eleventh or twelfth grade who have not yet attained the score on that assessment designated under that division;

(b) To any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such assessment, at any time such assessment is administered in the district.

(9) In lieu of the board of education of any city, local, or exempted village school district in which the student is also enrolled, the board of a joint vocational school district shall administer any assessment prescribed under division (B)(1) of section 3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that assessment designated under that division. A board of a joint vocational school district may also administer such an assessment to any student described in division (B)(8)(b) of this section.

(10) If the district has a three-year average graduation rate of not more than seventy-five per cent, administer each assessment prescribed by division (D) of section 3301.0710 of the Revised Code in September to all ninth grade students, beginning in the school year that starts July 1, 2005.

Except as provided in section 3313.614 of the Revised Code for administration of an assessment to a person who has fulfilled the curriculum requirement for a high school diploma but has not passed one or more of the required assessments, the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code and the practice assessments prescribed under division (D) of that section and required to be administered under divisions (B)(8), (9), and (10) of this section shall not be administered after the assessment system prescribed by division (B)(2) of section

3301.0710 and section 3301.0712 of the Revised Code is implemented under rule of the state board adopted under division (D)(1) of section 3301.0712 of the Revised Code.

(11) Administer the assessments prescribed by division (B)(2) of section 3301.0710 and section 3301.0712 of the Revised Code in accordance with the timeline and plan for implementation of those assessments prescribed by rule of the state board adopted under division (D)(1) of section 3301.0712 of the Revised Code.

(C)(1)(a) In the case of a student receiving special education services under Chapter 3323. of the Revised Code, the individualized education program developed for the student under that chapter shall specify the manner in which the student will participate in the assessments administered under this section. The individualized education program may excuse the student from taking any particular assessment required to be administered under this section if it instead specifies an alternate assessment method approved by the department of education as conforming to requirements of federal law for receipt of federal funds for disadvantaged pupils. To the extent possible, the individualized education program shall not excuse the student from taking an assessment unless no reasonable accommodation can be made to enable the student to take the assessment.

(b) Any alternate assessment approved by the department for a student under this division shall produce measurable results comparable to those produced by the assessment it replaces in order to allow for the student's results to be included in the data compiled for a school district or building under section 3302.03 of the Revised Code.

(c) Any student enrolled in a chartered nonpublic school who has been identified, based on an evaluation conducted in accordance with section 3323.03 of the Revised Code or section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 794, as amended, as a child with a disability shall be excused from taking any particular assessment required to be administered under this section if a plan developed for the student pursuant to rules adopted by the state board excuses the student from taking that assessment. In the case of any student so excused from taking an assessment, the chartered nonpublic school shall not prohibit the student from taking the assessment.

(2) A district board may, for medical reasons or other good cause, excuse a student from taking an assessment administered under this section on the date scheduled, but that assessment shall be administered to the excused student not later than nine days following the scheduled date. The district board shall annually report the number of students who have not

taken one or more of the assessments required by this section to the state board of education not later than the thirtieth day of June.

(3) As used in this division, "limited English proficient student" has the same meaning as in 20 U.S.C. 7801.

No school district board shall excuse any limited English proficient student from taking any particular assessment required to be administered under this section, except that any limited English proficient student who has been enrolled in United States schools for less than one full school year shall not be required to take any reading, writing, or English language arts assessment. However, no board shall prohibit a limited English proficient student who is not required to take an assessment under this division from taking the assessment. A board may permit any limited English proficient student to take an assessment required to be administered under this section with appropriate accommodations, as determined by the department. For each limited English proficient student, each school district shall annually assess that student's progress in learning English, in accordance with procedures approved by the department.

The governing authority of a chartered nonpublic school may excuse a limited English proficient student from taking any assessment administered under this section. However, no governing authority shall prohibit a limited English proficient student from taking the assessment.

(D)(1) In the school year next succeeding the school year in which the assessments prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code or former division (A)(1), (A)(2), or (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, are administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide to the student intervention services commensurate with the student's performance, including any intensive intervention required under section 3313.608 of the Revised Code, in any skill in which the student failed to demonstrate at least a score at the proficient level on the assessment.

(2) Following any administration of the assessments prescribed by division (D) of section 3301.0710 of the Revised Code to ninth grade students, each school district that has a three-year average graduation rate of not more than seventy-five per cent shall determine for each high school in the district whether the school shall be required to provide intervention services to any students who took the assessments. In determining which high schools shall provide intervention services based on the resources available, the district shall consider each school's graduation rate and scores on the practice assessments. The district also shall consider the scores

received by ninth grade students on the English language arts and mathematics assessments prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code in the eighth grade in determining which high schools shall provide intervention services.

Each high school selected to provide intervention services under this division shall provide intervention services to any student whose results indicate that the student is failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio graduation tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times.

(E) Except as provided in section 3313.608 of the Revised Code and division (M) of this section, no school district board of education shall utilize any student's failure to attain a specified score on an assessment administered under this section as a factor in any decision to deny the student promotion to a higher grade level. However, a district board may choose not to promote to the next grade level any student who does not take an assessment administered under this section or make up an assessment as provided by division (C)(2) of this section and who is not exempt from the requirement to take the assessment under division (C)(3) of this section.

(F) No person shall be charged a fee for taking any assessment administered under this section.

(G)(1) Each school district board shall designate one location for the collection of assessments administered in the spring under division (B)(1) of this section and those administered under divisions (B)(2) to (7) of this section. Each district board shall submit the assessments to the entity with which the department contracts for the scoring of the assessments as follows:

(a) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was less than two thousand five hundred, not later than the Friday after all of the assessments have been administered;

(b) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was two thousand five hundred or more, but less than seven thousand, not later than the Monday after all of the assessments have been administered;

(c) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was seven thousand or

more, not later than the Tuesday after all of the assessments have been administered.

However, any assessment that a student takes during the make-up period described in division (C)(2) of this section shall be submitted not later than the Friday following the day the student takes the assessment.

(2) The department or an entity with which the department contracts for the scoring of the assessment shall send to each school district board a list of the individual scores of all persons taking an assessment prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code within sixty days after its administration, but in no case shall the scores be returned later than the fifteenth day of June following the administration. For assessments administered under this section by a joint vocational school district, the department or entity shall also send to each city, local, or exempted village school district a list of the individual scores of any students of such city, local, or exempted village school district who are attending school in the joint vocational school district.

(H) Individual scores on any assessments administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate results in any manner that conflicts with rules for the ethical use of assessments adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department or an entity with which the department contracts for the scoring of the assessment shall not release any individual scores on any assessment administered under this section. The state board of education shall adopt rules to ensure the protection of student confidentiality at all times. The rules may require the use of the data verification codes assigned to students pursuant to division (D)(2) of section 3301.0714 of the Revised Code to protect the confidentiality of student scores.

(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the cooperative education school district for administering any assessment prescribed under

this section to students of the city, exempted village, or local school district who are attending school in the cooperative education school district.

(2) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any assessment prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(8)(b) of this section.

Any assessment of students pursuant to such an agreement shall be in lieu of any assessment of such students or persons pursuant to this section.

~~(K)(1) As a condition of compliance with section 3313.612 of the Revised Code, each chartered nonpublic school that educates~~ (a) Except as otherwise provided in division (K)(1)(a) of this section, each chartered nonpublic school for which at least sixty-five per cent of its total enrollment is made up of students who are participating in state scholarship programs shall administer the assessments prescribed by section 3301.0710 of the Revised Code. In accordance with procedures and deadlines prescribed by the department, the parent or guardian of a student enrolled in the school who is not participating in a state scholarship program may submit notice to the chief administrative officer of the school that the parent or guardian does not wish to have the student take the elementary assessments prescribed for the student's grade level under division (A) of section 3301.0710 of the Revised Code. If a parent or guardian submits an opt-out notice, the school shall not administer the assessments to that student. This option does not apply to any assessment required for a high school diploma under section 3313.612 of the Revised Code.

(b) If a chartered nonpublic school is not subject to division (K)(1)(a) of this section and is educating students in grades nine through twelve, it shall administer the assessments prescribed by divisions (B)(1) and (2) of section 3301.0710 of the Revised Code as a condition of compliance with section 3313.612 of the Revised Code. Any chartered nonpublic school that is not subject to division (K)(1)(a) of this section may participate in the assessment program by administering any of the assessments prescribed by division (A) of section 3301.0710 of the Revised Code. The chief administrator of the school shall specify which assessments the school will administer. Such

specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which assessments are administered and shall include a pledge that the nonpublic school will administer the specified assessments in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the assessments prescribed by section 3301.0710 or 3301.0712 of the Revised Code to each chartered nonpublic school that is subject to division (K)(1)(a) of this section or participates under this division (K)(1)(b) of this section.

(L)(1) The superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the assessments described by sections 3301.0710 and 3301.0712 of the Revised Code. Each superintendent shall administer the assessments in the same manner as district boards are required to do under this section and rules adopted by the department of education and in conformity with division (C)(1)(a) of this section.

(2) The department of education shall furnish the assessments described by sections 3301.0710 and 3301.0712 of the Revised Code to each superintendent.

(M) Notwithstanding division (E) of this section, a school district may use a student's failure to attain a score in at least the proficient range on the mathematics assessment described by division (A)(1)(a) of section 3301.0710 of the Revised Code or on an assessment described by division (A)(1)(b), (c), (d), (e), or (f) of section 3301.0710 of the Revised Code as a factor in retaining that student in the current grade level.

(N)(1) In the manner specified in divisions (N)(3) and (4) of this section, the assessments required by division (A)(1) of section 3301.0710 of the Revised Code shall become public records pursuant to section 149.43 of the Revised Code on the first day of July following the school year that the assessments were administered.

(2) The department may field test proposed questions with samples of students to determine the validity, reliability, or appropriateness of questions for possible inclusion in a future year's assessment. The department also may use anchor questions on assessments to ensure that different versions of the same assessment are of comparable difficulty.

Field test questions and anchor questions shall not be considered in computing scores for individual students. Field test questions and anchor questions may be included as part of the administration of any assessment required by division (A)(1) or (B)(1) of section 3301.0710 of the Revised

Code.

(3) Any field test question or anchor question administered under division (N)(2) of this section shall not be a public record. Such field test questions and anchor questions shall be redacted from any assessments which are released as a public record pursuant to division (N)(1) of this section.

(4) This division applies to the assessments prescribed by division (A) of section 3301.0710 of the Revised Code.

(a) The first administration of each assessment, as specified in former section 3301.0712 of the Revised Code, shall be a public record.

(b) For subsequent administrations of each assessment prior to the 2011-2012 school year, not less than forty per cent of the questions on the assessment that are used to compute a student's score shall be a public record. The department shall determine which questions will be needed for reuse on a future assessment and those questions shall not be public records and shall be redacted from the assessment prior to its release as a public record. However, for each redacted question, the department shall inform each city, local, and exempted village school district of the statewide academic standard adopted by the state board of education under section 3301.079 of the Revised Code and the corresponding benchmark to which the question relates. The preceding sentence does not apply to field test questions that are redacted under division (N)(3) of this section.

(c) The administrations of each assessment in the 2011-2012 school year and later shall not be a public record.

(5) Each assessment prescribed by division (B)(1) of section 3301.0710 of the Revised Code shall not be a public record.

(O) As used in this section:

(1) "Three-year average" means the average of the most recent consecutive three school years of data.

(2) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has departed the country.

(3) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation

as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins.

(4) "State scholarship programs" means the educational choice scholarship pilot program established under sections 3310.01 to 3310.17 of the Revised Code, the autism scholarship program established under section 3310.41 of the Revised Code, the Jon Peterson special needs scholarship program established under sections 3310.51 to 3310.64 of the Revised Code, and the pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code.

Sec. 3301.0712. (A) The state board of education, the superintendent of public instruction, and the chancellor of the Ohio board of regents shall develop a system of college and work ready assessments as described in divisions (B)(1) and (2) of this section to assess whether each student upon graduating from high school is ready to enter college or the workforce. The system shall replace the Ohio graduation tests prescribed in division (B)(1) of section 3301.0710 of the Revised Code as a measure of student academic performance and a prerequisite for eligibility for a high school diploma in the manner prescribed by rule of the state board adopted under division (D) of this section.

(B) The college and work ready assessment system shall consist of the following:

(1) A nationally standardized assessment that measures college and career readiness selected jointly by the state superintendent and the chancellor.

(2) A series of end-of-course examinations in the areas of science, mathematics, English language arts, American history, and American government selected jointly by the state superintendent and the chancellor in consultation with faculty in the appropriate subject areas at institutions of higher education of the university system of Ohio. For each subject area, the state superintendent and chancellor shall select multiple assessments that school districts, public schools, and chartered nonpublic schools may use as end-of-course examinations. Subject to division (B)(3)(b) of this section, those assessments shall include nationally recognized subject area assessments, such as advanced placement examinations, SAT subject tests, international baccalaureate examinations, and other assessments of college and work readiness.

(3)(a) Not later than July 1, 2013, each school district board of education shall adopt interim end-of-course examinations that comply with the requirements of divisions (B)(3)(b)(i) and (ii) of this section to assess mastery of American history and American government standards adopted

under division (A)(1)(b) of section 3301.079 of the Revised Code and the topics required under division (M) of section 3313.603 of the Revised Code. Each high school of the district shall use the interim examinations until the state superintendent and chancellor select end-of-course examinations in American history and American government under division (B)(2) of this section.

(b) Not later than July 1, 2014, the state superintendent and the chancellor shall select the end-of-course examinations in American history and American government.

(i) The end-of-course examinations in American history and American government shall require demonstration of mastery of the American history and American government content for social studies standards adopted under division (A)(1)(b) of section 3301.079 of the Revised Code and the topics required under division (M) of section 3313.603 of the Revised Code.

(ii) At least twenty per cent of the end-of-course examination in American government shall address the topics on American history and American government described in division (M) of section 3313.603 of the Revised Code.

(C) The state board shall convene a group of national experts, state experts, and local practitioners to provide advice, guidance, and recommendations for the alignment of standards and model curricula to the assessments and in the design of the end-of-course examinations prescribed by this section.

(D) Upon completion of the development of the assessment system, the state board shall adopt rules prescribing all of the following:

(1) A timeline and plan for implementation of the assessment system, including a phased implementation if the state board determines such a phase-in is warranted;

(2) The date after which a person entering ninth grade shall meet the requirements of the entire assessment system as a prerequisite for a high school diploma under section 3313.61, 3313.612, or 3325.08 of the Revised Code;

(3) The date after which a person shall meet the requirements of the entire assessment system as a prerequisite for a diploma of adult education under section 3313.611 of the Revised Code;

(4) Whether and the extent to which a person may be excused from an American history end-of-course examination and an American government end-of-course examination under division (H) of section 3313.61 and division (B)~~(2)~~(3) of section 3313.612 of the Revised Code;

(5) The date after which a person who has fulfilled the curriculum

requirement for a diploma but has not passed one or more of the required assessments at the time the person fulfilled the curriculum requirement shall meet the requirements of the entire assessment system as a prerequisite for a high school diploma under division (B) of section 3313.614 of the Revised Code;

(6) The extent to which the assessment system applies to students enrolled in a dropout recovery and prevention program for purposes of division (F) of section 3313.603 and section 3314.36 of the Revised Code.

No rule adopted under this division shall be effective earlier than one year after the date the rule is filed in final form pursuant to Chapter 119. of the Revised Code.

(E) Not later than forty-five days prior to the state board's adoption of a resolution directing the department of education to file the rules prescribed by division (D) of this section in final form under section 119.04 of the Revised Code, the superintendent of public instruction shall present the assessment system developed under this section to the respective committees of the house of representatives and senate that consider education legislation.

Sec. 3301.0714. (A) The state board of education shall adopt rules for a statewide education management information system. The rules shall require the state board to establish guidelines for the establishment and maintenance of the system in accordance with this section and the rules adopted under this section. The guidelines shall include:

(1) Standards identifying and defining the types of data in the system in accordance with divisions (B) and (C) of this section;

(2) Procedures for annually collecting and reporting the data to the state board in accordance with division (D) of this section;

(3) Procedures for annually compiling the data in accordance with division (G) of this section;

(4) Procedures for annually reporting the data to the public in accordance with division (H) of this section.

(B) The guidelines adopted under this section shall require the data maintained in the education management information system to include at least the following:

(1) Student participation and performance data, for each grade in each school district as a whole and for each grade in each school building in each school district, that includes:

(a) The numbers of students receiving each category of instructional service offered by the school district, such as regular education instruction, vocational education instruction, specialized instruction programs or

enrichment instruction that is part of the educational curriculum, instruction for gifted students, instruction for students with disabilities, and remedial instruction. The guidelines shall require instructional services under this division to be divided into discrete categories if an instructional service is limited to a specific subject, a specific type of student, or both, such as regular instructional services in mathematics, remedial reading instructional services, instructional services specifically for students gifted in mathematics or some other subject area, or instructional services for students with a specific type of disability. The categories of instructional services required by the guidelines under this division shall be the same as the categories of instructional services used in determining cost units pursuant to division (C)(3) of this section.

(b) The numbers of students receiving support or extracurricular services for each of the support services or extracurricular programs offered by the school district, such as counseling services, health services, and extracurricular sports and fine arts programs. The categories of services required by the guidelines under this division shall be the same as the categories of services used in determining cost units pursuant to division (C)(4)(a) of this section.

(c) Average student grades in each subject in grades nine through twelve;

(d) Academic achievement levels as assessed under sections 3301.0710, 3301.0711, and 3301.0712 of the Revised Code;

(e) The number of students designated as having a disabling condition pursuant to division (C)(1) of section 3301.0711 of the Revised Code;

(f) The numbers of students reported to the state board pursuant to division (C)(2) of section 3301.0711 of the Revised Code;

(g) Attendance rates and the average daily attendance for the year. For purposes of this division, a student shall be counted as present for any field trip that is approved by the school administration.

(h) Expulsion rates;

(i) Suspension rates;

(j) Dropout rates;

(k) Rates of retention in grade;

(l) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;

(m) Graduation rates, to be calculated in a manner specified by the department of education that reflects the rate at which students who were in the ninth grade three years prior to the current year complete school and that

is consistent with nationally accepted reporting requirements;

(n) Results of diagnostic assessments administered to kindergarten students as required under section 3301.0715 of the Revised Code to permit a comparison of the academic readiness of kindergarten students. However, no district shall be required to report to the department the results of any diagnostic assessment administered to a kindergarten student if the parent of that student requests the district not to report those results.

(2) Personnel and classroom enrollment data for each school district, including:

(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category of instructional service, instructional support service, and administrative support service used pursuant to division (C)(3) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(b) The total number of employees and the number of full-time equivalent employees providing each category of service used pursuant to divisions (C)(4)(a) and (b) of this section, and the total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category used pursuant to division (C)(4)(c) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(c) The total number of regular classroom teachers teaching classes of regular education and the average number of pupils enrolled in each such class, in each of grades kindergarten through five in the district as a whole and in each school building in the school district.

(d) The number of lead teachers employed by each school district and each school building.

(3)(a) Student demographic data for each school district, including information regarding the gender ratio of the school district's pupils, the racial make-up of the school district's pupils, the number of limited English proficient students in the district, and an appropriate measure of the number of the school district's pupils who reside in economically disadvantaged households. The demographic data shall be collected in a manner to allow

correlation with data collected under division (B)(1) of this section. Categories for data collected pursuant to division (B)(3) of this section shall conform, where appropriate, to standard practices of agencies of the federal government.

(b) With respect to each student entering kindergarten, whether the student previously participated in a public preschool program, a private preschool program, or a head start program, and the number of years the student participated in each of these programs.

(4) Any data required to be collected pursuant to federal law.

(C) The education management information system shall include cost accounting data for each district as a whole and for each school building in each school district. The guidelines adopted under this section shall require the cost data for each school district to be maintained in a system of mutually exclusive cost units and shall require all of the costs of each school district to be divided among the cost units. The guidelines shall require the system of mutually exclusive cost units to include at least the following:

(1) Administrative costs for the school district as a whole. The guidelines shall require the cost units under this division (C)(1) to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil in formula ADM in the school district, as determined pursuant to section 3317.03 of the Revised Code.

(2) Administrative costs for each school building in the school district. The guidelines shall require the cost units under this division (C)(2) to be designed so that each of them may be compiled and reported in terms of average expenditure per full-time equivalent pupil receiving instructional or support services in each building.

(3) Instructional services costs for each category of instructional service provided directly to students and required by guidelines adopted pursuant to division (B)(1)(a) of this section. The guidelines shall require the cost units under division (C)(3) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each instructional services category required by guidelines adopted under division (B)(1)(a) of this section that is provided directly to students by a classroom teacher;

(b) The cost of the instructional support services, such as services provided by a speech-language pathologist, classroom aide, multimedia

aide, or librarian, provided directly to students in conjunction with each instructional services category;

(c) The cost of the administrative support services related to each instructional services category, such as the cost of personnel that develop the curriculum for the instructional services category and the cost of personnel supervising or coordinating the delivery of the instructional services category.

(4) Support or extracurricular services costs for each category of service directly provided to students and required by guidelines adopted pursuant to division (B)(1)(b) of this section. The guidelines shall require the cost units under division (C)(4) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each support or extracurricular services category required by guidelines adopted under division (B)(1)(b) of this section that is provided directly to students by a licensed employee, such as services provided by a guidance counselor or any services provided by a licensed employee under a supplemental contract;

(b) The cost of each such services category provided directly to students by a nonlicensed employee, such as janitorial services, cafeteria services, or services of a sports trainer;

(c) The cost of the administrative services related to each services category in division (C)(4)(a) or (b) of this section, such as the cost of any licensed or nonlicensed employees that develop, supervise, coordinate, or otherwise are involved in administering or aiding the delivery of each services category.

(D)(1) The guidelines adopted under this section shall require school districts to collect information about individual students, staff members, or both in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines may also require school districts to report information about individual staff members in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines shall not authorize school districts to request social security numbers of individual students. The guidelines shall prohibit the reporting under this section of a student's name, address, and social security number to the state board of education or the department of

education. The guidelines shall also prohibit the reporting under this section of any personally identifiable information about any student, except for the purpose of assigning the data verification code required by division (D)(2) of this section, to any other person unless such person is employed by the school district or the information technology center operated under section 3301.075 of the Revised Code and is authorized by the district or technology center to have access to such information or is employed by an entity with which the department contracts for the scoring or the development of state assessments. The guidelines may require school districts to provide the social security numbers of individual staff members and the county of residence for a student. Nothing in this section prohibits the state board of education or department of education from providing a student's county of residence to the department of taxation to facilitate the distribution of tax revenue.

(2)(a) The guidelines shall provide for each school district or community school to assign a data verification code that is unique on a statewide basis over time to each student whose initial Ohio enrollment is in that district or school and to report all required individual student data for that student utilizing such code. The guidelines shall also provide for assigning data verification codes to all students enrolled in districts or community schools on the effective date of the guidelines established under this section. The assignment of data verification codes for other entities, as described in division (D)(2)(c) of this section, the use of those codes, and the reporting and use of associated individual student data shall be coordinated by the department in accordance with state and federal law.

School districts shall report individual student data to the department through the information technology centers utilizing the code. The entities described in division (D)(2)(c) of this section shall report individual student data to the department in the manner prescribed by the department.

Except as provided in sections 3301.941, 3310.11, 3310.42, 3310.63, 3313.978, and 3317.20 of the Revised Code, at no time shall the state board or the department have access to information that would enable any data verification code to be matched to personally identifiable student data.

(b) Each school district and community school shall ensure that the data verification code is included in the student's records reported to any subsequent school district, community school, or state institution of higher education, as defined in section 3345.011 of the Revised Code, in which the student enrolls. Any such subsequent district or school shall utilize the same identifier in its reporting of data under this section.

(c) The director of any state agency that administers a publicly funded

program providing services to children who are younger than compulsory school age, as defined in section 3321.01 of the Revised Code, including the directors of health, job and family services, ~~mental health~~ mental health and addiction services, and developmental disabilities, shall request and receive, pursuant to sections 3301.0723 and 3701.62 of the Revised Code, a data verification code for a child who is receiving those services.

(E) The guidelines adopted under this section may require school districts to collect and report data, information, or reports other than that described in divisions (A), (B), and (C) of this section for the purpose of complying with other reporting requirements established in the Revised Code. The other data, information, or reports may be maintained in the education management information system but are not required to be compiled as part of the profile formats required under division (G) of this section or the annual statewide report required under division (H) of this section.

(F) Beginning with the school year that begins July 1, 1991, the board of education of each school district shall annually collect and report to the state board, in accordance with the guidelines established by the board, the data required pursuant to this section. A school district may collect and report these data notwithstanding section 2151.357 or 3319.321 of the Revised Code.

(G) The state board shall, in accordance with the procedures it adopts, annually compile the data reported by each school district pursuant to division (D) of this section. The state board shall design formats for profiling each school district as a whole and each school building within each district and shall compile the data in accordance with these formats. These profile formats shall:

(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district;

(2) Present the data on academic achievement levels as assessed by the testing of student achievement maintained pursuant to division (B)(1)(d) of this section.

(H)(1) The state board shall, in accordance with the procedures it adopts, annually prepare a statewide report for all school districts and the general public that includes the profile of each of the school districts developed pursuant to division (G) of this section. Copies of the report shall be sent to each school district.

(2) The state board shall, in accordance with the procedures it adopts, annually prepare an individual report for each school district and the general

public that includes the profiles of each of the school buildings in that school district developed pursuant to division (G) of this section. Copies of the report shall be sent to the superintendent of the district and to each member of the district board of education.

(3) Copies of the reports received from the state board under divisions (H)(1) and (2) of this section shall be made available to the general public at each school district's offices. Each district board of education shall make copies of each report available to any person upon request and payment of a reasonable fee for the cost of reproducing the report. The board shall annually publish in a newspaper of general circulation in the school district, at least twice during the two weeks prior to the week in which the reports will first be available, a notice containing the address where the reports are available and the date on which the reports will be available.

(I) Any data that is collected or maintained pursuant to this section and that identifies an individual pupil is not a public record for the purposes of section 149.43 of the Revised Code.

(J) As used in this section:

(1) "School district" means any city, local, exempted village, or joint vocational school district and, in accordance with section 3314.17 of the Revised Code, any community school. As used in division (L) of this section, "school district" also includes any educational service center or other educational entity required to submit data using the system established under this section.

(2) "Cost" means any expenditure for operating expenses made by a school district excluding any expenditures for debt retirement except for payments made to any commercial lending institution for any loan approved pursuant to section 3313.483 of the Revised Code.

(K) Any person who removes data from the information system established under this section for the purpose of releasing it to any person not entitled under law to have access to such information is subject to section 2913.42 of the Revised Code prohibiting tampering with data.

(L)(1) In accordance with division (L)(2) of this section and the rules adopted under division (L)(10) of this section, the department of education may sanction any school district that reports incomplete or inaccurate data, reports data that does not conform to data requirements and descriptions published by the department, fails to report data in a timely manner, or otherwise does not make a good faith effort to report data as required by this section.

(2) If the department decides to sanction a school district under this division, the department shall take the following sequential actions:

(a) Notify the district in writing that the department has determined that data has not been reported as required under this section and require the district to review its data submission and submit corrected data by a deadline established by the department. The department also may require the district to develop a corrective action plan, which shall include provisions for the district to provide mandatory staff training on data reporting procedures.

(b) Withhold up to ten per cent of the total amount of state funds due to the district for the current fiscal year and, if not previously required under division (L)(2)(a) of this section, require the district to develop a corrective action plan in accordance with that division;

(c) Withhold an additional amount of up to twenty per cent of the total amount of state funds due to the district for the current fiscal year;

(d) Direct department staff or an outside entity to investigate the district's data reporting practices and make recommendations for subsequent actions. The recommendations may include one or more of the following actions:

(i) Arrange for an audit of the district's data reporting practices by department staff or an outside entity;

(ii) Conduct a site visit and evaluation of the district;

(iii) Withhold an additional amount of up to thirty per cent of the total amount of state funds due to the district for the current fiscal year;

(iv) Continue monitoring the district's data reporting;

(v) Assign department staff to supervise the district's data management system;

(vi) Conduct an investigation to determine whether to suspend or revoke the license of any district employee in accordance with division (N) of this section;

(vii) If the district is issued a report card under section 3302.03 of the Revised Code, indicate on the report card that the district has been sanctioned for failing to report data as required by this section;

(viii) If the district is issued a report card under section 3302.03 of the Revised Code and incomplete or inaccurate data submitted by the district likely caused the district to receive a higher performance rating than it deserved under that section, issue a revised report card for the district;

(ix) Any other action designed to correct the district's data reporting problems.

(3) Any time the department takes an action against a school district under division (L)(2) of this section, the department shall make a report of the circumstances that prompted the action. The department shall send a

copy of the report to the district superintendent or chief administrator and maintain a copy of the report in its files.

(4) If any action taken under division (L)(2) of this section resolves a school district's data reporting problems to the department's satisfaction, the department shall not take any further actions described by that division. If the department withheld funds from the district under that division, the department may release those funds to the district, except that if the department withheld funding under division (L)(2)(c) of this section, the department shall not release the funds withheld under division (L)(2)(b) of this section and, if the department withheld funding under division (L)(2)(d) of this section, the department shall not release the funds withheld under division (L)(2)(b) or (c) of this section.

(5) Notwithstanding anything in this section to the contrary, the department may use its own staff or an outside entity to conduct an audit of a school district's data reporting practices any time the department has reason to believe the district has not made a good faith effort to report data as required by this section. If any audit conducted by an outside entity under division (L)(2)(d)(i) or (5) of this section confirms that a district has not made a good faith effort to report data as required by this section, the district shall reimburse the department for the full cost of the audit. The department may withhold state funds due to the district for this purpose.

(6) Prior to issuing a revised report card for a school district under division (L)(2)(d)(viii) of this section, the department may hold a hearing to provide the district with an opportunity to demonstrate that it made a good faith effort to report data as required by this section. The hearing shall be conducted by a referee appointed by the department. Based on the information provided in the hearing, the referee shall recommend whether the department should issue a revised report card for the district. If the referee affirms the department's contention that the district did not make a good faith effort to report data as required by this section, the district shall bear the full cost of conducting the hearing and of issuing any revised report card.

(7) If the department determines that any inaccurate data reported under this section caused a school district to receive excess state funds in any fiscal year, the district shall reimburse the department an amount equal to the excess funds, in accordance with a payment schedule determined by the department. The department may withhold state funds due to the district for this purpose.

(8) Any school district that has funds withheld under division (L)(2) of this section may appeal the withholding in accordance with Chapter 119. of

the Revised Code.

(9) In all cases of a disagreement between the department and a school district regarding the appropriateness of an action taken under division (L)(2) of this section, the burden of proof shall be on the district to demonstrate that it made a good faith effort to report data as required by this section.

(10) The state board of education shall adopt rules under Chapter 119. of the Revised Code to implement division (L) of this section.

(M) No information technology center or school district shall acquire, change, or update its student administration software package to manage and report data required to be reported to the department unless it converts to a student software package that is certified by the department.

(N) The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke a license as defined under division (A) of section 3319.31 of the Revised Code that has been issued to any school district employee found to have willfully reported erroneous, inaccurate, or incomplete data to the education management information system.

(O) No person shall release or maintain any information about any student in violation of this section. Whoever violates this division is guilty of a misdemeanor of the fourth degree.

(P) The department shall disaggregate the data collected under division (B)(1)(n) of this section according to the race and socioeconomic status of the students assessed. No data collected under that division shall be included on the report cards required by section 3302.03 of the Revised Code.

(Q) If the department cannot compile any of the information required by division (H) of section 3302.03 of the Revised Code based upon the data collected under this section, the department shall develop a plan and a reasonable timeline for the collection of any data necessary to comply with that division.

Sec. 3301.0715. (A) Except as otherwise required under division (B)(1) of section 3313.608 of the Revised Code, the board of education of each city, local, and exempted village school district shall administer each applicable diagnostic assessment developed and provided to the district in accordance with section 3301.079 of the Revised Code to the following:

(1) Any student who transfers into the district or to a different school within the district if each applicable diagnostic assessment was not administered by the district or school the student previously attended in the current school year, within thirty days after the date of transfer. If the district or school into which the student transfers cannot determine whether the

student has taken any applicable diagnostic assessment in the current school year, the district or school may administer the diagnostic assessment to the student.

(2) ~~Each~~ (a) Prior to July 1, 2014, each kindergarten student, not earlier than four weeks prior to the first day of school and not later than the first day of October. ~~For~~

(b) Beginning July 1, 2014, each kindergarten student, not earlier than the first day of the school year and not later than the first day of November, except that the language and reading skills portion of the assessment shall be administered by the thirtieth day of September to fulfill the requirements of division (B) of section 3313.608 of the Revised Code.

For the purpose of division (A)(2) of this section, the district shall administer the kindergarten readiness assessment provided by the department of education. In no case shall the results of the readiness assessment be used to prohibit a student from enrolling in kindergarten.

(3) Each student enrolled in first, second, or third grade.

(B) Each district board shall administer each diagnostic assessment when the board deems appropriate, provided the administration complies with section 3313.608 of the Revised Code. However, the board shall administer any diagnostic assessment at least once annually to all students in the appropriate grade level. A district board may administer any diagnostic assessment in the fall and spring of a school year to measure the amount of academic growth attributable to the instruction received by students during that school year.

(C) Any district that received an excellent or effective rating for the immediately preceding school year, pursuant to section 3302.03 of the Revised Code as it existed prior to ~~the effective date of this amendment~~ March 22, 2013, or the equivalent of such rating as determined by the department of education, may use different diagnostic assessments from those adopted under division (D) of section 3301.079 of the Revised Code in order to satisfy the requirements of division (A)(2) of this section.

(D) Each district board shall utilize and score any diagnostic assessment administered under division (A) of this section in accordance with rules established by the department. After the administration of any diagnostic assessment, each district shall provide a student's completed diagnostic assessment, the results of such assessment, and any other accompanying documents used during the administration of the assessment to the parent of that student, and shall include all such documents and information in any plan developed for the student under division (C) of section 3313.608 of the Revised Code. Each district shall submit to the department, in the manner

the department prescribes, the results of the diagnostic assessments administered under this section, regardless of the type of assessment used under section 3313.608 of the Revised Code. The department may issue reports with respect to the data collected.

(E) Each district board shall provide intervention services to students whose diagnostic assessments show that they are failing to make satisfactory progress toward attaining the academic standards for their grade level.

Sec. 3301.0723. (A) The independent contractor engaged by the department of education to create and maintain for school districts and community schools the student data verification codes required by division (D)(2) of section 3301.0714 of the Revised Code, upon request of the director of any state agency that administers a publicly funded program providing services to children who are younger than compulsory school age, as defined in section 3321.01 of the Revised Code, including the directors of health, job and family services, ~~mental health~~ mental health and addiction services, and developmental disabilities, shall assign a data verification code to a child who is receiving such services and shall provide that code to the director. The contractor also shall provide that code to the department of education.

(B) The director of a state agency that receives a child's data verification code under division (A) of this section shall use that code to submit information for that child to the department of education in accordance with section 3301.0714 of the Revised Code.

(C) A public school that receives from the independent contractor the data verification code for a child assigned under division (A) of this section shall not request or assign to that child another data verification code under division (D)(2) of section 3301.0714 of the Revised Code. That school and any other public school in which the child subsequently enrolls shall use the data verification code assigned under division (A) of this section to report data relative to that student required under section 3301.0714 of the Revised Code.

Sec. 3301.0725. A school district may employ certificated instructional personnel for ~~more days during a school year than the district normally employs its regular classroom teachers~~ hours outside of the normal school day for the purpose of providing extended programming. Extended programming, as defined by rule of the state board of education, shall be based upon learner needs and, if applicable, business and industry validated standards and competencies and shall enhance student learning opportunities. Extended programming shall be subject to the requirements of sections 3313.6018 and 3313.6019 of the Revised Code.

No rule of the state board shall require extended programming employment of certificated instructional personnel as a condition of eligibility for funding under any other section of the Revised Code.

Sec. 3301.15. The state board of education or its authorized representatives may inspect all institutions under the control of the department of job and family services, the department of ~~mental health~~ mental health and addiction services, the department of developmental disabilities, and the department of rehabilitation and correction which employ teachers, and may make a report on the teaching, discipline, and school equipment in these institutions to the director of job and family services, the director of ~~mental health~~ mental health and addiction services, the director of developmental disabilities, the director of rehabilitation and correction, and the governor.

Sec. 3301.16. Pursuant to standards prescribed by the state board of education as provided in division (D) of section 3301.07 of the Revised Code, the state board shall classify and charter school districts and individual schools within each district except that no charter shall be granted to a nonpublic school unless the school complies with division (K)(1)(a) of section 3301.0711, if applicable, and section 3313.612 of the Revised Code.

In the course of considering the charter of a new school district created under section 3311.26 or 3311.38 of the Revised Code, the state board shall require the party proposing creation of the district to submit to the board a map, certified by the county auditor of the county in which the proposed new district is located, showing the boundaries of the proposed new district. In the case of a proposed new district located in more than one county, the map shall be certified by the county auditor of each county in which the proposed district is located.

The state board shall revoke the charter of any school district or school which fails to meet the standards for elementary and high schools as prescribed by the board. The state board shall also revoke the charter of any nonpublic school that does not comply with division (K)(1)(a) of section 3301.0711, if applicable, and section 3313.612 of the Revised Code.

In the issuance and revocation of school district or school charters, the state board shall be governed by the provisions of Chapter 119. of the Revised Code.

No school district, or individual school operated by a school district, shall operate without a charter issued by the state board under this section.

In case a school district charter is revoked pursuant to this section, the state board may dissolve the school district and transfer its territory to one or more adjacent districts. An equitable division of the funds, property, and

indebtedness of the school district shall be made by the state board among the receiving districts. The board of education of a receiving district shall accept such territory pursuant to the order of the state board. Prior to dissolving the school district, the state board shall notify the appropriate educational service center governing board and all adjacent school district boards of education of its intention to do so. Boards so notified may make recommendations to the state board regarding the proposed dissolution and subsequent transfer of territory. Except as provided in section 3301.161 of the Revised Code, the transfer ordered by the state board shall become effective on the date specified by the state board, but the date shall be at least thirty days following the date of issuance of the order.

A high school is one of higher grade than an elementary school, in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which also offers other subjects of study more advanced than those taught in the elementary schools and such other subjects as may be approved by the state board of education.

An elementary school is one in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which offers such other subjects as may be approved by the state board of education. In districts wherein a junior high school is maintained, the elementary schools in that district may be considered to include only the work of the first six school years inclusive, plus the kindergarten year.

Sec. 3302.01. As used in this chapter:

(A) "Performance index score" means the average of the totals derived from calculations for each subject area of English language arts, mathematics, science, and social studies of the weighted proportion of untested students and students scoring at each level of skill described in division (A)(2) of section 3301.0710 of the Revised Code on the assessments prescribed by divisions (A) and (B)(1) of that section. The department of education shall assign weights such that students who do not take an assessment receive a weight of zero and students who take an assessment receive progressively larger weights dependent upon the level of skill attained on the assessment. The department shall assign additional weights to students who have been permitted to pass over a subject in accordance with a student acceleration policy adopted under section 3324.10 of the Revised Code. If such a student attains the proficient score prescribed under division (A)(2)(c) of section 3301.0710 of the Revised Code or higher on an assessment, the department shall assign the student the weight prescribed for the next higher scoring level. If such a student attains the advanced score, prescribed under division (A)(2)(a) of section 3301.0710 of

the Revised Code, on an assessment, the department shall assign to the student an additional proportional weight, as approved by the state board. For each school year that such a student's score is included in the performance index score and the student attains the proficient score on an assessment, that additional weight shall be assigned to the student on a subject-by-subject basis.

Students shall be included in the "performance index score" in accordance with division (K)(2) of section 3302.03 of the Revised Code.

(B) "Subgroup" means a subset of the entire student population of the state, a school district, or a school building and includes each of the following:

- (1) Major racial and ethnic groups;
- (2) Students with disabilities;
- (3) Economically disadvantaged students;
- (4) Limited English proficient students;

(5) Students identified as gifted in superior cognitive ability and specific academic ability fields under Chapter 3324. of the Revised Code. For students who are gifted in specific academic ability fields, the department shall use data for those students with specific academic ability in math and reading. If any other academic field is assessed, the department shall also include data for students with specific academic ability in that field.

(6) Students in the lowest quintile for achievement statewide, as determined by a method prescribed by the state board of education.

(C) "No Child Left Behind Act of 2001" includes the statutes codified at 20 U.S.C. 6301 et seq. and any amendments, waivers, or both thereto, rules and regulations promulgated pursuant to those statutes, guidance documents, and any other policy directives regarding implementation of that act issued by the United States department of education.

(D) "Adequate yearly progress" means a measure of annual academic performance as calculated in accordance with the "No Child Left Behind Act of 2001."

(E) "Supplemental educational services" means additional academic assistance, such as tutoring, remediation, or other educational enrichment activities, that is conducted outside of the regular school day by a provider approved by the department in accordance with the "No Child Left Behind Act of 2001."

(F) "Value-added progress dimension" means a measure of academic gain for a student or group of students over a specific period of time that is calculated by applying a statistical methodology to individual student achievement data derived from the achievement assessments prescribed by

section 3301.0710 of the Revised Code. The "value-added progress dimension" shall be developed and implemented in accordance with section 3302.021 of the Revised Code.

(G)(1) "Four-year adjusted cohort graduation rate" means the number of students who graduate in four years or less with a regular high school diploma divided by the number of students who form the adjusted cohort for the graduating class.

(2) "Five-year adjusted cohort graduation rate" means the number of students who graduate in five years with a regular high school diploma divided by the number of students who form the adjusted cohort for the four-year graduation rate.

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

(I) "Annual measurable objectives" means a measure of student progress determined in accordance with an agreement between the department of education and the United States department of education.

Sec. 3302.03. Annually, not later than the fifteenth day of September or the preceding Friday when that day falls on a Saturday or Sunday, the department of education shall assign a letter grade for overall academic performance and for each separate performance measure for each school district, and each school building in a district, in accordance with this section. The state board shall adopt rules pursuant to Chapter 119. of the Revised Code to establish performance criteria for each letter grade and prescribe a method by which the department assigns each letter grade. For a school building to which any of the performance measures do not apply, due to grade levels served by the building, the state board shall designate the performance measures that are applicable to the building and that must be calculated separately and used to calculate the building's overall grade. The department shall issue annual report cards reflecting the performance of each school district, each building within each district, and for the state as a whole using the performance measures and letter grade system described in this section. The department shall include on the report card for each district and each building within each district the most recent two-year trend data in student achievement for each subject and each grade.

(A)(1) For the 2012-2013 school year, the department shall issue grades as described in division (E) of this section for each of the following performance measures:

(a) Annual measurable objectives;

(b) Performance index score for a school district or building. Grades shall be awarded as a percentage of the total possible points on the

performance index system as adopted by the state board. In adopting benchmarks for assigning letter grades under division (A)(1)(b) of this section, the state board of education shall designate ninety per cent or higher for an "A," at least seventy per cent but not more than eighty per cent for a "C," and less than fifty per cent for an "F."

(c) The extent to which the school district or building meets each of the applicable performance indicators established by the state board under section 3302.02 of the Revised Code and the percentage of applicable performance indicators that have been achieved. In adopting benchmarks for assigning letter grades under division (A)(1)(c) of this section, the state board shall designate ninety per cent or higher for an "A."

(d) The four- and five-year adjusted cohort graduation rates.

In adopting benchmarks for assigning letter grades under division (A)(1)(d), (B)(1)(d), or (C)(1)(d) of this section, the department shall designate a four-year adjusted cohort graduation rate of ninety-three per cent or higher for an "A" and a five-year cohort graduation rate of ninety-five per cent or higher for an "A."

(e) The overall score under the value-added progress dimension of a school district or building, for which the department shall use up to three years of value-added data as available. The letter grade assigned for this growth measure shall be as follows:

(i) A score that is at least two standard errors of measure above the mean score shall be designated as an "A."

(ii) A score that is at least one standard error of measure but less than two standard errors of measure above the mean score shall be designated as a "B."

(iii) A score that is less than one standard error of measure above the mean score but greater than or equal to one standard error of measure below the mean score shall be designated as a "C."

(iv) A score that is not greater than one standard error of measure below the mean score but is greater than or equal to two standard errors of measure below the mean score shall be designated as a "D."

(v) A score that is not greater than two standard errors of measure below the mean score shall be designated as an "F."

Whenever the value-added progress dimension is used as a graded performance measure, whether as an overall measure or as a measure of separate subgroups, the grades for the measure shall be calculated in the same manner as prescribed in division (A)(1)(e) of this section.

(f) The value-added progress dimension score for a school district or building disaggregated for each of the following subgroups: students

identified as gifted, students with disabilities, and students whose performance places them in the lowest quintile for achievement on a statewide basis. Each subgroup shall be a separate graded measure.

(2) Not later than April 30, 2013, the state board of education shall adopt a resolution describing the performance measures, benchmarks, and grading system for the 2012-2013 school year and, not later than June 30, 2013, shall adopt rules in accordance with Chapter 119. of the Revised Code that prescribe the methods by which the performance measures under division (A)(1) of this section shall be assessed and assigned a letter grade, including performance benchmarks for each letter grade.

At least forty-five days prior to the state board's adoption of rules to prescribe the methods by which the performance measures under division (A)(1) of this section shall be assessed and assigned a letter grade, the department shall conduct a public presentation before the standing committees of the house of representatives and the senate that consider education legislation describing such methods, including performance benchmarks.

(3) There shall not be an overall letter grade for a school district or building for the 2012-2013 school year.

(B)(1) For the 2013-2014 school year, the department shall issue grades as described in division (E) of this section for each of the following performance measures:

(a) Annual measurable objectives;

(b) Performance index score for a school district or building. Grades shall be awarded as a percentage of the total possible points on the performance index system as created by the department. In adopting benchmarks for assigning letter grades under division (B)(1)(b) of this section, the state board shall designate ninety per cent or higher for an "A," at least seventy per cent but not more than eighty per cent for a "C," and less than fifty per cent for an "F."

(c) The extent to which the school district or building meets each of the applicable performance indicators established by the state board under section 3302.03 of the Revised Code and the percentage of applicable performance indicators that have been achieved. In adopting benchmarks for assigning letter grades under division (B)(1)(c) of this section, the state board shall designate ninety per cent or higher for an "A."

(d) The four- and five-year adjusted cohort graduation rates;

(e) The overall score under the value-added progress dimension of a school district or building, for which the department shall use up to three years of value-added data as available.

(f) The value-added progress dimension score for a school district or building disaggregated for each of the following subgroups: students identified as gifted in superior cognitive ability and specific academic ability fields under Chapter 3324. of the Revised Code, students with disabilities, and students whose performance places them in the lowest quintile for achievement on a statewide basis. Each subgroup shall be a separate graded measure.

(g) Whether a school district or building is making progress in improving literacy in grades kindergarten through three, as determined using a method prescribed by the state board. The state board shall adopt rules to prescribe benchmarks and standards for assigning grades to districts and buildings for purposes of division (B)(1)(~~j~~)(g) of this section. In adopting benchmarks for assigning letter grades under divisions (B)(1)(g) and (C)(1)(g) of this section, the state board shall determine progress made based on the reduction in the percentage of students scoring below grade level, or below proficient, compared from year to year on the ~~English language arts~~ reading and writing diagnostic assessments administered under section 3301.0715 of the Revised Code and the third grade English language arts assessment under section 3301.0710 of the Revised Code, as applicable. The state board shall designate for a "C" grade a value that is not lower than the statewide average value for this measure. No grade shall be issued under divisions (B)(1)(g) and (C)(1)(~~j~~)(g) of this section for a district or building in which less than five per cent of students have scored below grade level on the diagnostic assessment administered to students in kindergarten under division (B)(1) of section 3313.608 of the Revised Code.

(2) In addition to the graded measures in division (B)(1) of this section, the department shall include on a school district's or building's report card all of the following without an assigned letter grade:

(a) The percentage of students enrolled in a district or building participating in advanced placement classes and the percentage of those students who received a score of three or better on advanced placement examinations;

(b) The number of a district's or building's students who have earned at least three college credits through dual enrollment programs, such as the post-secondary enrollment options program under Chapter 3365. of the Revised Code and state-approved career-technical courses offered through dual enrollment or statewide articulation, that appear on a student's transcript or other official document, either of which is issued by the institution of higher education from which the student earned the college credit. The credits earned that are reported under divisions (B)(2)(b) and

(C)(2)(c) of this section shall not include any that are remedial or developmental and shall include those that count toward the curriculum requirements established for completion of a degree.

(c) The percentage of students enrolled in a district or building who have taken a national standardized test used for college admission determinations and the percentage of those students who are determined to be remediation-free in accordance with standards adopted under division (F) of section 3345.061 of the Revised Code;

(d) The percentage of the district's or the building's students who receive industry credentials. The state board shall adopt criteria for acceptable industry credentials.

(e) The percentage of students enrolled in a district or building who are participating in an international baccalaureate program and the percentage of those students who receive a score of four or better on the international baccalaureate examinations.

(f) The percentage of the district's or building's students who receive an honors diploma under division (B) of section 3313.61 of the Revised Code.

(3) Not later than December 31, 2013, the state board shall adopt rules in accordance with Chapter 119. of the Revised Code that prescribe the methods by which the performance measures under divisions (B)(1)(f) and (B)(1)(g) of this section will be assessed and assigned a letter grade, including performance benchmarks for each grade.

At least forty-five days prior to the state board's adoption of rules to prescribe the methods by which the performance measures under division (B)(1) of this section shall be assessed and assigned a letter grade, the department shall conduct a public presentation before the standing committees of the house of representatives and the senate that consider education legislation describing such methods, including performance benchmarks.

(4) There shall not be an overall letter grade for a school district or building for the 2013-2014 school year.

(C)(1) For the 2014-2015 school year and each school year thereafter, the department shall issue grades as described in division (E) of this section for each of the following performance measures and an overall letter grade based on an aggregate of those measures:

(a) Annual measurable objectives;

(b) Performance index score for a school district or building. Grades shall be awarded as a percentage of the total possible points on the performance index system as created by the department. In adopting benchmarks for assigning letter grades under division (C)(1)(b) of this

section, the state board shall designate ninety per cent or higher for an "A," at least seventy per cent but not more than eighty per cent for a "C," and less than fifty per cent for an "F."

(c) The extent to which the school district or building meets each of the applicable performance indicators established by the state board under section 3302.03 of the Revised Code and the percentage of applicable performance indicators that have been achieved. In adopting benchmarks for assigning letter grades under division (C)(1)(c) of this section, the state board shall designate ninety per cent or higher for an "A."

(d) The four- and five-year adjusted cohort graduation rates;

(e) The overall score under the value-added progress dimension, or another measure of student academic progress if adopted by the state board, of a school district or building, for which the department shall use up to three years of value-added data as available.

In adopting benchmarks for assigning letter grades for overall score on value-added progress dimension under division (C)(1)(e) of this section, the state board shall prohibit the assigning of a grade of "A" for that measure unless the district's or building's grade assigned for value-added progress dimension for all subgroups under division (C)(1)(~~f~~)(f) of this section is a "B" or higher.

For the metric prescribed by division (C)(1)(e) of this section, the state board may adopt a student academic progress measure to be used instead of the value-added progress dimension. If the state board adopts such a measure, it also shall prescribe a method for assigning letter grades for the new measure that is comparable to the method prescribed in division (A)(1)(e) of this section.

(f) The value-added progress dimension score of a school district or building disaggregated for each of the following subgroups: students identified as gifted in superior cognitive ability and specific academic ability fields under Chapter 3324. of the Revised Code, students with disabilities, and students whose performance places them in the lowest quintile for achievement on a statewide basis, as determined by a method prescribed by the state board. Each subgroup shall be a separate graded measure.

The state board may adopt student academic progress measures to be used instead of the value-added progress dimension. If the state board adopts such measures, it also shall prescribe a method for assigning letter grades for the new measures that is comparable to the method prescribed in division (A)(1)(e) of this section.

(g) Whether a school district or building is making progress in improving literacy in grades kindergarten through three, as determined using

a method prescribed by the state board. The state board shall adopt rules to prescribe benchmarks and standards for assigning grades to a district or building for purposes of division (C)(1)(~~j~~)(g) of this section. The state board shall designate for a "C" grade a value that is not lower than the statewide average value for this measure. No grade shall be issued under division (C)(1)(g) of this section for a district or building in which less than five per cent of students have scored below grade level on the kindergarten diagnostic assessment under division (B)(1) of section 3313.608 of the Revised Code.

(2) In addition to the graded measures in division (C)(1) of this section, the department shall include on a school district's or building's report card all of the following without an assigned letter grade:

(a) The percentage of students enrolled in a district or building who have taken a national standardized test used for college admission determinations and the percentage of those students who are determined to be remediation-free in accordance with the standards adopted under division (F) of section 3345.061 of the Revised Code;

(b) The percentage of students enrolled in a district or building participating in advanced placement classes and the percentage of those students who received a score of three or better on advanced placement examinations;

(c) The number of a district's or building's students who have earned at least three college credits through dual enrollment programs, such as the post-secondary enrollment options program under Chapter 3365. of the Revised Code and state-approved career-technical courses offered through dual enrollment or statewide articulation, that appear on a student's transcript or other official document, either of which is issued by the institution of higher education from which the student earned the college credit. The credits earned that are reported under divisions (B)(2)(b) and (C)(2)(c) of this section shall not include any that are remedial or developmental and shall include those that count toward the curriculum requirements established for completion of a degree.

(d) The percentage of the district's or building's students who receive an honor's diploma under division (B) of section 3313.61 of the Revised Code;

(e) The percentage of the district's or building's students who receive industry credentials;

(f) The percentage of students enrolled in a district or building who are participating in an international baccalaureate program and the percentage of those students who receive a score of four or better on the international baccalaureate examinations;

(g) The results of the college and career-ready assessments administered under division (B)(1) of section 3301.0712 of the Revised Code.

(3) The state board shall adopt rules pursuant to Chapter 119. of the Revised Code that establish a method to assign an overall grade for a school district or school building for the 2014-2015 school year and each school year thereafter. The rules shall group the performance measures in divisions (C)(1) and (2) of this section into the following components:

(a) Gap closing, which shall include the performance measure in division (C)(1)(a) of this section;

(b) Achievement, which shall include the performance measures in divisions (C)(1)(b) and (c) of this section;

(c) Progress, which shall include the performance measures in divisions (C)(1)(e) and ~~(f)~~ of this section;

(d) Graduation, which shall include the performance measure in division (C)(1)(d) of this section;

(e) Kindergarten through third-grade literacy, which shall include the performance measure in division (C)(1)~~(k)~~(g) of this section;

(f) Prepared for success, which shall include the performance measures in divisions (C)(2)(a), (b), (c), (d), (e), and (f) of this section. The state board shall develop a method to determine a grade for the component in division (C)(3)(f) of this section using the performance measures in divisions (C)(2)(a), (b), (c), (d), (e), and (f) of this section. When available, the state board may incorporate the performance measure under division (C)(2)(g) of this section into the component under division (C)(3)(f) of this section. When determining the overall grade for the prepared for success component prescribed by division (C)(3)(f) of this section, no individual student shall be counted in more than one performance measure. However, if a student qualifies for more than one performance measure in the component, the state board may, in its method to determine a grade for the component, specify an additional weight for such a student that is not greater than or equal to 1.0. In determining the overall score under division (C)(3)(f) of this section, the state board shall ensure that the pool of students included in the performance measures aggregated under that division are all of the students included in the four- and five-year adjusted graduation cohort.

In the rules adopted under division (C)(3) of this section, the state board shall adopt a method for determining a grade for each component in divisions (C)(3)(a) to (f) of this section. The state board also shall establish a method to assign an overall grade of "A," "B," "C," "D," or "F" using the grades assigned for each component. The method the state board adopts for

assigning an overall grade shall give equal weight to the components in divisions (C)(3)(b) and (c) of this section.

At least forty-five days prior to the state board's adoption of rules to prescribe the methods for calculating the overall grade for the report card, as required by this division, the department shall conduct a public presentation before the standing committees of the house of representatives and the senate that consider education legislation describing the format for the report card, weights that will be assigned to the components of the overall grade, and the method for calculating the overall grade.

(D) Not later than July 1, 2015, the state board shall develop a measure of student academic progress for high school students. Beginning with the report card for the 2015-2016 school year, each school district and applicable school building shall be assigned a separate letter grade for this measure and the district's or building's grade for that measure shall be included in determining the district's or building's overall letter grade. This measure shall be included within the measure prescribed in division (C)~~(2)~~(3)(c) of this section in the calculation for the overall letter grade.

(E) The letter grades assigned to a school district or building under this section shall be as follows:

- (1) "A" for a district or school making excellent progress;
- (2) "B" for a district or school making above average progress;
- (3) "C" for a district or school making average progress;
- (4) "D" for a district or school making below average progress;
- (5) "F" for a district or school failing to meet minimum progress.

(F) When reporting data on student achievement and progress, the department shall disaggregate that data according to the following categories:

- (1) Performance of students by grade-level;
- (2) Performance of students by race and ethnic group;
- (3) Performance of students by gender;
- (4) Performance of students grouped by those who have been enrolled in a district or school for three or more years;
- (5) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years;
- (6) Performance of students grouped by those who have been enrolled in a district or school for one year or less;
- (7) Performance of students grouped by those who are economically disadvantaged;
- (8) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the

Revised Code;

(9) Performance of students grouped by those who are classified as limited English proficient;

(10) Performance of students grouped by those who have disabilities;

(11) Performance of students grouped by those who are classified as migrants;

(12) Performance of students grouped by those who are identified as gifted in superior cognitive ability and the specific academic ability fields of reading and math pursuant to Chapter 3324. of the Revised Code. In disaggregating specific academic ability fields for gifted students, the department shall use data for those students with specific academic ability in math and reading. If any other academic field is assessed, the department shall also include data for students with specific academic ability in that field as well.

(13) Performance of students grouped by those who perform in the lowest quintile for achievement on a statewide basis, as determined by a method prescribed by the state board.

The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (F)(1) to (13) of this section that it deems relevant.

In reporting data pursuant to division (F) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student performance data for any group identified in division (F) of this section that contains less than ten students. If the department does not report student performance data for a group because it contains less than ten students, the department shall indicate on the report card that is why data was not reported.

(G) The department may include with the report cards any additional education and fiscal performance data it deems valuable.

(H) The department shall include on each report card a list of additional information collected by the department that is available regarding the district or building for which the report card is issued. When available, such additional information shall include student mobility data disaggregated by race and socioeconomic status, college enrollment data, and the reports prepared under section 3302.031 of the Revised Code.

The department shall maintain a site on the world wide web. The report

card shall include the address of the site and shall specify that such additional information is available to the public at that site. The department shall also provide a copy of each item on the list to the superintendent of each school district. The district superintendent shall provide a copy of any item on the list to anyone who requests it.

(I) Division (I) of this section does not apply to conversion community schools that primarily enroll students between sixteen and twenty-two years of age who dropped out of high school or are at risk of dropping out of high school due to poor attendance, disciplinary problems, or suspensions.

(1) For any district that sponsors a conversion community school under Chapter 3314. of the Revised Code, the department shall combine data regarding the academic performance of students enrolled in the community school with comparable data from the schools of the district for the purpose of determining the performance of the district as a whole on the report card issued for the district under this section or section 3302.033 of the Revised Code.

(2) Any district that leases a building to a community school located in the district or that enters into an agreement with a community school located in the district whereby the district and the school endorse each other's programs may elect to have data regarding the academic performance of students enrolled in the community school combined with comparable data from the schools of the district for the purpose of determining the performance of the district as a whole on the district report card. Any district that so elects shall annually file a copy of the lease or agreement with the department.

(3) Any municipal school district, as defined in section 3311.71 of the Revised Code, that sponsors a community school located within the district's territory, or that enters into an agreement with a community school located within the district's territory whereby the district and the community school endorse each other's programs, may exercise either or both of the following elections:

(a) To have data regarding the academic performance of students enrolled in that community school combined with comparable data from the schools of the district for the purpose of determining the performance of the district as a whole on the district's report card;

(b) To have the number of students attending that community school noted separately on the district's report card.

The election authorized under division (I)(3)(a) of this section is subject to approval by the governing authority of the community school.

Any municipal school district that exercises an election to combine or

include data under division (I)(3) of this section, by the first day of October of each year, shall file with the department documentation indicating eligibility for that election, as required by the department.

(J) The department shall include on each report card the percentage of teachers in the district or building who are highly qualified, as defined by the "No Child Left Behind Act of 2001," and a comparison of that percentage with the percentages of such teachers in similar districts and buildings.

(K)(1) In calculating English language arts, mathematics, social studies, or science assessment passage rates used to determine school district or building performance under this section, the department shall include all students taking an assessment with accommodation or to whom an alternate assessment is administered pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code.

(2) In calculating performance index scores, rates of achievement on the performance indicators established by the state board under section 3302.02 of the Revised Code, and annual measurable objectives for determining adequate yearly progress for school districts and buildings under this section, the department shall do all of the following:

(a) Include for each district or building only those students who are included in the ADM certified for the first full school week of October and are continuously enrolled in the district or building through the time of the spring administration of any assessment prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code that is administered to the student's grade level;

(b) Include cumulative totals from both the fall and spring administrations of the third grade English language arts achievement assessment;

(c) Except as required by the "No Child Left Behind Act of 2001," exclude for each district or building any limited English proficient student who has been enrolled in United States schools for less than one full school year.

(L) Beginning with the 2015-2016 school year and at least once every three years thereafter, the state board of education shall review and may adjust the benchmarks for assigning letter grades to the performance measures and components prescribed under divisions (C)(3) and (D) of this section.

Sec. 3302.20. (A) The department of education shall develop standards for determining, from the existing data reported in accordance with sections 3301.0714 and 3314.17 of the Revised Code, the amount of annual

operating expenditures for classroom instructional purposes and for nonclassroom purposes for each city, exempted village, local, and joint vocational school district, each community school established under Chapter 3314. that is not an internet- or computer-based community school, each internet- or computer-based community school, and each STEM school established under Chapter 3326. of the Revised Code. The department shall present those standards to the state board of education for consideration. In developing the standards, the department shall adapt existing standards used by professional organizations, research organizations, and other state governments. The department also shall align the expenditure categories required for reporting under the standards with the categories that are required for reporting to the United States department of education under federal law.

The state board shall consider the proposed standards and adopt a final set of standards not later than December 31, 2012. School districts, community schools, and STEM schools shall begin reporting data in accordance with the standards on June 30, 2013.

(B)(1) The department shall categorize all city, exempted village, and local school districts into not less than three nor more than five groups based primarily on average daily student enrollment as reported on the most recent report card issued for each district under section 3302.03 of the Revised Code.

(2) The department shall categorize all joint vocational school districts into not less than three nor more than five groups based primarily on average daily membership as reported under division (D) of section 3317.03 of the Revised Code rounded to the nearest whole number.

(3) The department shall categorize all community schools that are not internet- or computer-based community schools into not less than three nor more than five groups based primarily on average daily student enrollment as reported on the most recent report card issued for each community school under sections 3302.03 and 3314.012 of the Revised Code or, in the case of a school to which section 3314.017 of the Revised Code applies, on the total number of students reported under divisions (B)(2)(a) and (b) of section 3314.08 of the Revised Code.

(4) The department shall categorize all internet- or computer-based community schools into a single category.

(5) The department shall categorize all STEM schools into a single category.

(C) Using the standards adopted under division (A) of this section and the data reported under sections 3301.0714 and 3314.17 of the Revised

Code, the department shall compute annually for each fiscal year, the following:

(1) The percentage of each district's, community school's, or STEM school's total operating budget spent for classroom instructional purposes;

(2) The statewide average percentage for all districts, community schools, and STEM schools combined spent for classroom instructional purposes;

(3) The average percentage for each of the categories of districts and schools established under division (B) of this section spent for classroom instructional purposes;

(4) The ranking of each district, community school, or STEM school within its respective category established under division (B) of this section according to the following:

(a) From highest to lowest percentage spent for classroom instructional purposes;

(b) From lowest to highest percentage spent for noninstructional purposes.

(5) The total operating expenditures per pupil for each district, community school, and STEM school;

(6) The total operating expenditure per equivalent pupils for each district, community school, and STEM school.

(D) In its display of rankings within each category under division (C)(4) of this section, the department shall make the following notations:

(1) Within each category of city, exempted village, and local school districts, the department shall denote each district that is:

(a) Among the twenty per cent of all city, exempted village, and local school districts statewide with the lowest total operating ~~expenditures~~ expenditure per pupil equivalent pupils;

(b) Among the twenty per cent of all city, exempted village, and local school districts statewide with the highest performance index scores.

(2) Within each category of joint vocational school districts, the department shall denote each district that is:

(a) Among the twenty per cent of all joint vocational school districts statewide with the lowest total operating ~~expenditures~~ expenditure per pupil equivalent pupils;

(b) Among the twenty per cent of all joint vocational school districts statewide with the highest report card scores under section 3302.033 of the Revised Code.

(3) Within each category of community schools that are not internet- or computer-based community schools, the department shall denote each

school that is:

(a) Among the twenty per cent of all such community schools statewide with the lowest total operating ~~expenditures~~ expenditure per pupil equivalent pupils;

(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores, excluding such community schools to which section 3314.017 of the Revised Code applies.

(4) Within the category of internet- or computer-based community schools, the department shall denote each school that is:

(a) Among the twenty per cent of all such community schools statewide with the lowest total operating ~~expenditures~~ expenditure per pupil equivalent pupils;

(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores, excluding such community schools to which section 3314.017 of the Revised Code applies.

(5) Within the category of STEM schools, the department shall denote each school that is:

(a) Among the twenty per cent of all STEM schools statewide with the lowest total operating ~~expenditures~~ expenditure per pupil equivalent pupils;

(b) Among the twenty per cent of all STEM schools statewide with the highest performance index scores.

For purposes of divisions (D)(3)(b) and (4)(b) of this section, the display shall note that, in accordance with section 3314.017 of the Revised Code, a performance index score is not reported for some community schools that serve primarily students enrolled in dropout prevention and recovery programs.

(E) The department shall post in a prominent location on its web site the information prescribed by divisions (C) and (D) of this section. The department also shall include on each district's, community school's, and STEM school's annual report card issued under section 3302.03 or 3314.017 of the Revised Code the respective information computed for the district or school under divisions (C)(1) and (4) of this section, the statewide information computed under division (C)(2) of this section, and the information computed for the district's or school's category under division (C)(3) of this section.

(F) As used in this section:

(1) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

(2) A school district's, community school's, or STEM school's performance index score rank is its performance index score rank as

computed under section 3302.21 of the Revised Code.

(3) "Expenditure per equivalent pupils" has the same meaning as in section 3302.26 of the Revised Code.

Sec. 3302.21. (A) The department of education shall develop a system to rank order all city, exempted village, and local school districts, community schools established under Chapter 3314. of the Revised Code except those community schools to which section 3314.017 of the Revised Code applies, and STEM schools established under Chapter 3326. of the Revised Code according to the following measures:

(1) Performance index score for each school district, community school, and STEM school and for each separate building of a district, community school, or STEM school. For districts, schools, or buildings to which the performance index score does not apply, the superintendent of public instruction may develop another measure of student academic performance based on similar data and performance measures if appropriate and use that measure to include those buildings in the ranking so that districts, schools, and buildings may be reliably compared to each other.

(2) Student performance growth from year to year, using the value-added progress dimension, if applicable, and other measures of student performance growth designated by the superintendent of public instruction for subjects and grades not covered by the value-added progress dimension or the alternative student academic progress measure if adopted under division (C)(1)(e) of section 3302.03 of the Revised Code;

(3) Current operating ~~expenditures~~ expenditure per pupil equivalent pupils as ~~determined under standards adopted by the state board of education under~~ defined in section ~~3302.20~~ 3302.26 of the Revised Code;

(4) Of total current operating expenditures, percentage spent for classroom instruction as determined under standards adopted by the state board under section 3302.20 of the Revised Code;

(5) Performance of, and opportunities provided to, students identified as gifted using value-added progress dimensions, if applicable, and other relevant measures as designated by the superintendent of public instruction.

The department shall rank each district, each community school except a community school to which section 3314.017 of the Revised Code applies, and each STEM school annually in accordance with the system developed under this section.

(B) In addition to the reports required by sections 3302.03 and 3302.031 of the Revised Code, not later than the first day of September each year, the department shall issue a report for each city, exempted village, and local school district, each community school except a community school to which

section 3314.017 of the Revised Code applies, and each STEM school indicating the district's or school's rank on each measure described in divisions (A)(1) to (4) of this section, including each separate building's rank among all public school buildings according to performance index score under division (A)(1) of this section.

Sec. 3302.22. (A) The governor's effective and efficient schools recognition program is hereby created. Each year, the governor shall recognize, in a manner deemed appropriate by the governor, the top ten per cent of all public schools in this state, including ~~schools of city, exempted village, and local school districts,~~ ~~or~~ joint vocational school districts, community schools established under Chapter 3314. ~~of the Revised Code,~~ and STEM schools established under Chapter 3326. of the Revised Code.

(B) The top ten per cent of schools shall be determined by the department of education according to standards established by the department, in consultation with the governor's office of 21st century education. The standards for recognition for each type of school may vary depending upon the unique characteristics of that type of school. The standards shall include, but need not be limited to, both of the following, provided that sufficient data is available for each school:

(1) Student performance, as determined by factors ~~including that may include,~~ but not be limited to, performance indicators under section 3302.02 of the Revised Code, report cards issued under section 3302.03 of the Revised Code, performance index score rankings under section 3302.21 of the Revised Code, and any other statewide or national assessment or student performance recognition program the department selects;

(2) Fiscal performance, ~~including~~ which may include cost-effective measures taken by the school.

(C) If applicable, the standards under divisions (B)(1) and (2) of this section may be applied at the school building or district level, depending upon the quality and availability of data.

Sec. 3302.26. (A) As used in this section:

(1) "Expenditure per equivalent pupils" is the total operating expenditures of a school district divided by the measure of equivalent pupils.

(2) "Measure of equivalent pupils" is the total number of students in a school district adjusted for the relative differences in costs associated with the unique characteristics and needs of each category of pupil.

(B) The department of education shall create a performance management section on the department's public web site. The performance management section shall include information on academic and financial

performance metrics for each school district to assist schools and districts in providing an effective and efficient delivery of educational services. The section shall include, but not be limited to, all of the following:

(1) A graph that illustrates the relationship between a district's academic performance, as measured by the performance index score, and its expenditure per equivalent pupils as compared to similar districts;

(2) Each district's total operating expenditures per pupil;

(3) Statistics of academic and financial performance measures for each district to allow for a comparison and benchmarking between districts.

(C) The department may contract with an independent organization to develop and host the performance management section of its web site.

Sec. 3303.41. There is hereby created the governor's council on people with disabilities. The council shall consist of twenty-one members of which the majority shall be people with disabilities as defined in this section, appointed by the governor for a term of three years except that for initial appointments, seven members shall be appointed for a term of one year, seven members shall be appointed for a term of two years, and seven members shall be appointed for a term of three years. Members may succeed themselves not more than one time. The governor shall annually appoint a ~~chairman~~ chairperson who may succeed himself or herself not more than one time. Members of the council shall serve without compensation, but shall be paid the actual and necessary expenses they incur in the performance of their duties.

The council shall meet at least six times annually at such times and places as may be designated by the ~~chairman~~ chairperson.

The governor's council on people with disabilities shall be assigned to the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency for administrative purposes. The ~~administrator~~ executive director of the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency shall assign one professional staff person to the council to serve as executive secretary and other personnel as determined advisable.

The council shall have the following powers:

(A) To cooperate with the president's committee on employment of the handicapped;

(B) To cooperate with all employers both public and private in locating or developing employment opportunities for people with disabilities;

(C) To encourage and assist in the creation of committees at the community level;

(D) To assist local, state, and federal agencies to coordinate their

activities for the purpose of securing maximum utilization of funds and efforts that benefit people with disabilities;

(E) To encourage cooperation among public and private employers, unions, and rehabilitation agencies, bureaus, and organizations both public and private with a specific goal to facilitate employment of people with disabilities;

(F) To serve in an advisory capacity to the governor's office directly and as needed to the general assembly on issues relating to the needs, problems, and other concerns of people with disabilities;

(G) To conduct educational programs to acquaint the public with the abilities and accomplishments of people with disabilities;

(H) To promote the elimination of architectural barriers to make buildings used by the public accessible and useable by persons with physical limitations;

(I) To make such rules as it determines advisable for the conduct of its own business.

The council shall annually report to the governor on council activities and on the state of ~~Ohio's~~ the people of this state with disabilities. This report may include any recommendations believed necessary or desirable to carry out the purposes of this section.

As used in this section, "person with a disability" means any individual who has a disability or condition ~~which that~~, regardless of its physical or mental origin, imposes a functional limitation. ~~It~~

It shall be lawful for any public employee or officer to serve as a member of the council.

Sec. 3304.11. As used in sections 3304.11 to 3304.27, ~~inclusive~~, of the Revised Code:

(A) ~~"Handicapped person" or "disabled person"~~ "Person with a disability" means any person with a physical or mental ~~disability which impairment that~~ is a substantial ~~handicap impediment~~ to employment ~~and which is of a nature that~~ who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services ~~may reasonably be expected to render him fit to engage in a gainful occupation consistent with his capacities and abilities, and any person with a physical or mental disability that constitutes a substantial handicap to employment for whom vocational rehabilitation services are necessary to determine his rehabilitation potential.~~

(B) "Physical or mental disability impairment" means a physical or mental condition that materially limits, contributes to limiting or, if not corrected, will probably result in limiting a person's activities or functioning.

(C) "Substantial ~~handicap~~ impediment to employment" means a physical or mental disability that impedes a person's occupational performance, by preventing ~~his the person's~~ obtaining, retaining, or preparing for a gainful occupation consistent with ~~his the person's~~ capacities and abilities.

(D) "Vocational rehabilitation" and "vocational rehabilitation services" means any activity or service calculated to enable a ~~handicapped~~ person with a disability or groups of ~~handicapped~~ persons with disabilities to engage in gainful occupation and includes, but is not limited to, medical and vocational evaluation, including diagnostic and related services, vocational counseling, guidance and placement, including follow-up services, rehabilitation training, including books and other training materials, physical restoration, recruitment and training services designed to provide ~~handicapped~~ persons with disabilities new employment opportunities, maintenance, occupational tools, equipment, supplies, transportation, services to families of ~~handicapped~~ persons which with disabilities that contribute substantially to the rehabilitation of these persons, and any other goods or service necessary to render a ~~handicapped~~ person with a disability employable.

(E) "Establishment of a rehabilitation facility" means the expansion, remodeling, or alteration of an existing building, ~~which that~~ is necessary to adapt or to increase the effectiveness of that building for rehabilitation facility purposes, the acquisition of equipment for these purposes, and the initial staffing.

(F) "Construction" means the construction of new buildings, acquisition of land or existing buildings and their expansion, remodeling, alteration and renovation, and the initial staffing and equipment of any new, newly acquired, expanded, remodeled, altered, or renovated buildings.

(G) "Physical restoration services" means those services ~~which that~~ are necessary to correct or substantially modify within a reasonable period of time a physical or mental condition ~~which that~~ is stable or slowly progressive.

(H) "Occupational license" means any license, permit, or other written authority required by any governmental unit in order to engage in any occupation or business.

(I) "Maintenance" means money payments to ~~disabled~~ persons with disabilities who need financial assistance for their subsistence during their vocational rehabilitation.

Sec. 3304.12. (A) The governor, with the advice and consent of the senate, shall appoint a ~~rehabilitation services~~ the opportunities for Ohioans with disabilities commission within the opportunities for Ohioans with

disabilities agency consisting of seven members, no more than four of whom shall be members of the same political party and who shall include at least three from rehabilitation professions, including at least one member from the field of services to the blind, and at least four ~~handicapped~~ individuals with disabilities, no less than two nor more than three of whom have received vocational rehabilitation services offered by a state vocational rehabilitation agency or the veterans' administration. ~~Such handicapped~~ The members with disabilities shall be representative of several major categories of ~~handicapped~~ persons with disabilities served by the ~~commission~~ opportunities for Ohioans with disabilities agency.

(B) ~~Of the members first appointed to the commission, one shall be appointed for a term of seven years, one for a term of six years, one for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Thereafter, terms~~ Terms of office shall be for seven years, commencing on the ninth day of September and ending on the eighth day of September, with no person eligible to serve more than two seven-year terms. Each member shall hold office from the date of ~~his~~ the member's appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of ~~such~~ that term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. ~~Members appointed to the commission after September 1, 1977, shall be handicapped individuals representing those who have received vocational rehabilitation services offered by a state vocational rehabilitaion agency or the veterans' administration until the commission membership includes at least four such individuals.~~ Members who fail to perform their duties or who are guilty of misconduct may be removed on written charges preferred by the governor or by a majority of the commission.

(C) Members of the commission shall be reimbursed for travel and necessary expenses incurred in the conduct of their duties, and shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code while actually engaged in attendance at meetings or in the performance of their duties.

Sec. 3304.13. ~~The rehabilitation services commission~~ opportunities for Ohioans with disabilities commission shall hold its first meeting at the call of the governor, and at that meeting, shall elect one of its members as ~~chairman~~ chairperson and adopt rules governing the time and place of

regular meetings, which shall be held not less than once every four months. Special meetings shall be held at the call of the ~~chairman~~ chairperson or any three members of the commission. The ~~chairman~~ chairperson shall serve for four years, unless removed earlier by a majority vote of the commission, and shall be ineligible to serve as ~~chairman~~ chairperson during the succeeding four years. Each member of the commission, before entering upon the duties of office, shall take and subscribe an oath to uphold the constitution and laws of the United States and this state and to perform the duties of office honestly, faithfully, and impartially. Each member shall give a bond of five thousand dollars, with a sufficient surety approved by the treasurer of state. After approval, the bond shall be filed with the secretary of state. If the bond is executed by a surety company, the premiums on it shall be paid from the funds appropriated for the expenses of the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency.

Sec. ~~3304.16~~ 3304.14. ~~In carrying out~~ For the purposes of sections 3304.11 to 3304.27 of the Revised Code, the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities commission shall approve the state vocational rehabilitation plan, jointly approve the state plan for independent living with the Ohio state independent living council, appoint a consumer advisory committee, and, to the extent feasible, conduct a review and analysis of the effectiveness of and consumer satisfaction with all of the following:

(A) ~~Shall develop all necessary rules~~ The functions performed by the opportunities for Ohioans with disabilities agency;

(B) ~~Shall prepare and submit to the governor annual reports of activities and expenditures and, prior to each first regular session of the general assembly, an estimate of sums required to carry out the commission's responsibilities~~ The vocational rehabilitation services provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to persons with disabilities under the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 701, as amended;

(C) ~~Shall certify any disbursement of funds available to the commission for vocational rehabilitation activities;~~

(D) ~~Shall serve as the sole state agency designated to administer the plan under the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 701, as amended;~~

(E) ~~Shall take appropriate action to guarantee rights of and services to handicapped persons;~~

(F) ~~Shall consult with and advise other state agencies to assist them in meeting the needs of handicapped persons more effectively and to achieve~~

~~maximum coordination among programs for the handicapped;~~

~~(G) Shall establish an administrative division of consumer affairs and advocacy within the commission to promote and help guarantee the rights of handicapped persons;~~

~~(H) Shall maintain an inventory of state services that are available to handicapped persons;~~

~~(I) Shall utilize, support, assist, and cooperate with the governor's committee on employment of the handicapped;~~

~~(J) May delegate to any officer or employee of the commission any necessary powers and duties, except that the commission shall delegate to the administrator of the commission, as provided in section 3304.14 of the Revised Code, the power and duty to administer the daily operation and provision of vocational rehabilitation services;~~

~~(K) May take any other necessary or appropriate action for cooperation with public and private agencies and organizations which may include:~~

~~(1) Reciprocal agreements with other states to provide for the vocational rehabilitation of individuals within the states concerned;~~

~~(2) Contracts or other arrangements with public and other nonprofit agencies and organizations for the construction or establishment and operation of vocational rehabilitation programs and facilities;~~

~~(3) Cooperative arrangements with the federal government for carrying out sections 3304.11 to 3304.27 of the Revised Code, the "Vocational Rehabilitation Act," 41 Stat. 735 (1920), 29 U.S.C. 31, as amended, or other federal statutes pertaining to vocational rehabilitation, and to this end, may adopt plans and methods of administration found necessary by the federal government for the efficient operation of any joint arrangements or the efficient application of any federal statutes;~~

~~(4) Upon the designation of the governor, performing functions and services for the federal government relating to individuals under a physical or mental disability.~~

~~(L) May take any appropriate action necessary to obtain federal funds in the maximum amount and most advantageous proportion possible;~~

~~(M) May conduct research and demonstration projects, including inquiries concerning the causes of blindness and its prevention, provide training and instruction, including the establishment and maintenance of research fellowships and traineeships along with all necessary stipends and allowances, disseminate information, and provide technical assistance relating to vocational rehabilitation;~~

~~(N) May plan, establish, and operate programs, facilities, and services relating to vocational rehabilitation;~~

~~(O) May accept and hold, invest, reinvest, or otherwise use gifts made for the purpose of furthering vocational rehabilitation;~~

~~(P) May ameliorate the condition of the aged blind or other severely disabled individuals by establishing a program of home visitation by commission employees for the purpose of instruction;~~

~~(Q) May establish and manage small business enterprises that are operated by persons with a substantial handicap to employment, including blind persons;~~

~~(R) May purchase from insurance companies licensed to do business in this state any insurance deemed necessary by the commission for the efficient operation of a suitable vending facility as defined in division (A) of section 3304.28 of the Revised Code;~~

~~(S) May accept directly from any state agency, and any state agency may transfer directly to the commission, surplus computers and computer equipment to be used for any purposes the commission considers appropriate, notwithstanding sections 125.12 to 125.14 of the Revised Code. The employment outcomes achieved by eligible individuals receiving services under sections 3304.11 to 3304.27 of the Revised Code, including the availability of health and other employment benefits in connection with those employment outcomes.~~

~~Sec. 3304.14 3304.15. (A) There is hereby created the opportunities for Ohioans with disabilities agency. The agency is the designated state unit authorized under the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 701, as amended, to provide vocational rehabilitation to eligible persons with disabilities.~~

~~(B) The governor shall appoint an administrator executive director of the rehabilitation services commission opportunities for Ohioans with disabilities agency to serve at the pleasure of the governor and shall fix the administrator's executive director's compensation. The administrator executive director shall devote the administrator's executive director's entire time to the duties of the administrator's executive director's office, shall hold no other office or position of trust and profit, and shall engage in no other business during the administrator's executive director's term of office. The governor may grant the administrator executive director the authority to appoint, remove, and discipline without regard to sex, race, creed, color, age, or national origin, such other professional, administrative, and clerical staff members as are necessary to carry out the functions and duties of the commission agency.~~

~~(B)(1) The executive director of the opportunities for Ohioans with disabilities agency is the executive and administrative officer of the agency.~~

Whenever the Revised Code imposes a duty on or requires an action of the agency, the executive director shall perform the duty or action on behalf of the agency. The executive director may establish procedures for all of the following:

- (1) The governance of the agency;
- (2) The conduct of agency employees and officers;
- (3) The performance of agency business;
- (4) The custody, use, and preservation of agency records, papers, books, documents, and property.

(C) The ~~administrator~~ executive director shall have exclusive authority to administer the daily operation and provision of vocational rehabilitation services under this chapter. In exercising that authority, the executive director may do all of the following:

- (1) Adopt rules in accordance with Chapter 119. of the Revised Code;
- (2) Prepare and submit an annual report to the governor;
- (3) Certify any disbursement of funds available to the agency for vocational rehabilitation activities;
- (4) Take appropriate action to guarantee rights of services to people with disabilities;
- (5) Consult with and advise other state agencies and coordinate programs for persons with disabilities;
- (6) Comply with the requirements for match as part of budget submission;
- (7) Establish research and demonstration projects;
- (8) Accept, hold, invest, reinvest, or otherwise use gifts to further vocational rehabilitation;
- (9) For the purposes of the business enterprise program administered under sections 3304.28 to 3304.35 of the Revised Code:
 - (a) Establish and manage small business entities owned or operated by visually impaired persons;
 - (b) Purchase insurance;
 - (c) Accept computers.
- (10) Enter into contracts and other agreements for the provision of services.

(D) The ~~administrator~~ executive director shall establish a fee schedule for vocational rehabilitation services in accordance with 34 C.F.R. 361.50.

Sec. 3304.15 3304.16. The ~~rehabilitation services commission~~ executive director of the opportunities for Ohioans with disabilities agency shall establish administrative subdivisions ~~under its control~~ as it determines

necessary or appropriate to carry out ~~its~~ the agency's functions and duties, but there shall be a bureau of services for the visually impaired and a bureau of vocational rehabilitation, each of which has as its head a deputy director appointed by the ~~administrator, subject to commission approval~~ executive director. The ~~commission~~ executive director shall prescribe the budgets for the government of each division, and rules for the conduct of its employees, the performance of its business, and the custody, use, and preservation of the records, papers, books, documents, and property pertaining thereto.

Sec. 3304.17. The ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency shall provide vocational rehabilitation services to all eligible ~~handicapped~~ persons with disabilities, including any ~~handicapped~~ person with a disability who is eligible under the terms of an agreement or arrangement with another state or with the federal government.

Sec. 3304.18. The treasurer of state shall be the custodian of all moneys received from the federal government for vocational rehabilitation programs and shall disburse the money upon the certification of the ~~rehabilitation services commission~~ executive director of the opportunities for Ohioans with disabilities agency. If federal funds are not available to the state for vocational rehabilitation purposes, the governor shall include as part of ~~his~~ the governor's biennial budget request to the general assembly a request for funds sufficient to support the activities of the ~~commission~~ agency.

Sec. 3304.181. If the total of all funds available from nonfederal sources to support the activities of the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency does not comply with the expenditure requirements of 34 C.F.R. 361.60 and 361.62 for those activities or would cause the state to lose an allotment or fail to receive a reallocation under 34 C.F.R. 361.65, the ~~commission~~ agency may solicit additional funds from, and enter into agreements for the use of those funds with, private or public entities, including local government entities of this state. The ~~commission~~ agency may continue to solicit additional funds and enter into agreements until the total funding available is sufficient for the ~~commission~~ agency to receive federal funds at the maximum amount and in the most advantageous proportion possible.

Any agreement entered into between the ~~commission~~ agency and a private or public entity to provide funds under this section shall be in accordance with 34 C.F.R. 361.28 and section 3304.182 of the Revised Code.

Sec. 3304.182. Any agreement between the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency and a private or public entity providing funds under section 3304.181 of the Revised Code

may permit the ~~commission~~ agency to receive a specified percentage of the funds, but the percentage shall be not more than twenty-five per cent of the total funds available under the agreement. The ~~commission~~ agency may terminate an agreement at any time for just cause. It may terminate an agreement for any other reason by giving at least thirty days' notice to the public or private entity.

Any services provided under an agreement entered into under section 3304.181 of the Revised Code shall be provided by a person or government entity that meets the accreditation standards established in rules adopted by the ~~commission~~ agency under section ~~3304.16~~ 3304.15 of the Revised Code.

Sec. 3304.19. The right of a ~~handicapped~~ person with a disability to living maintenance under sections 3304.11 to 3304.27, ~~inclusive~~, of the Revised Code, is not transferable or assignable at law or in equity, and none of the money paid or payable or rights existing under this ~~act~~ chapter are subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Sec. 3304.20. Any person applying for or receiving vocational rehabilitation services who is dissatisfied with regard to the furnishing or denial of services, may file a request for an administrative review and redetermination of that action in accordance with rules of the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency. When the person is dissatisfied with the finding of this administrative review, ~~he~~ the person is entitled, in accordance with ~~commission~~ agency rules and in accordance with Chapter 119. of the Revised Code, to a fair hearing before the ~~administrator~~ executive director of the ~~rehabilitation services commission~~ agency.

Sec. 3304.21. No person shall, except for the purposes of sections 3304.11 to 3304.27, ~~inclusive~~, of the Revised Code, and in accordance with the rules established by the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency, solicit, disclose, receive, make use of, authorize, knowingly permit, participate in, or acquiesce in the use of any list of names or information concerning persons applying for or receiving any services from the ~~commission~~ agency, which information is directly or indirectly derived from the records of the agency or is acquired in the performance of the person's official duties.

Sec. 3304.22. No officer or employee of the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency, ~~the opportunities for Ohioans with disabilities agency~~, or any person engaged in the administration of a vocational rehabilitation program sponsored by or affiliated with the state shall use or permit the use of any vocational

rehabilitation program for the purpose of interfering with an election for any partisan political purpose; solicit or receive money for a partisan political purpose; or require any other person to contribute any service or money for a partisan political purpose. Whoever violates this section shall be removed from ~~his~~ the officer's or employee's office or employment.

Sec. 3304.25. The members of the ~~bureau~~ consumer advisory ~~committees~~ committee appointed under section 3304.14 of the Revised Code shall receive no compensation for their services except their actual and necessary traveling and other expenses incurred in the performance of their official duties, which shall first be approved by the ~~administrator~~ executive director of the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency.

Sec. 3304.27. All vocational rehabilitation services made available under sections 3304.11 to 3304.27, ~~inclusive~~, of the Revised Code, are made available subject to amendment or repeal of those sections ~~3304.11 to 3304.27, inclusive, of the Revised Code~~, and no ~~disabled~~ person with a disability shall have any claim by reason of ~~his~~ the person's vocational rehabilitation being affected in any way by such an amendment or repeal.

Sec. 3304.28. As used in sections 3304.28 to 3304.34 of the Revised Code:

(A) "Suitable vending facility" means automatic vending machines, cafeterias, snack bars, cart service shelters, counters, and other appropriate auxiliary food service equipment determined to be necessary by the bureau of services for the visually impaired for the automatic or manual dispensing of foods, beverages, and other such commodities for sale by persons, no fewer than one-half of whom are blind, under the supervision of a licensed blind vendor or an employee of the ~~commission~~ opportunities for Ohioans with disabilities agency.

(B) "Blind" means either of the following:

(1) Vision twenty/two hundred or less in the better eye with proper correction;

(2) Field defect in the better eye with proper correction ~~which~~ that contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than twenty degrees.

(C) "Governmental property" means any real property, building, or facility owned, leased, or rented by the state or any board, commission, department, division, or other unit or agency thereof, but does not include any institution under the management of the department of rehabilitation and correction pursuant to section 5120.05 of the Revised Code, or under the management of the department of youth services created pursuant to

section 5139.01 of the Revised Code.

Sec. 3304.41. The ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency shall establish and administer a program for the use of funds appropriated for that purpose to provide personal care assistance to enable eligible severely physically disabled persons to live independently or work, shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the purposes of this section, and shall apply to the controlling board for the release of the funds.

Sec. 3305.03. (A) The Ohio board of regents shall designate the entities that are eligible to provide investment options under alternative retirement plans maintained by public institutions of higher education. The board shall accept and review applications from entities seeking designation as a vendor. The board shall not designate an entity as a vendor unless the entity meets the requirements described in division (B) of this section.

(B) To be eligible for designation as a vendor, an entity must meet both of the following requirements:

(1) The entity must be authorized to conduct business in this state with regard to the investment options to be offered under an alternative retirement plan maintained by a public institution of higher education.

(2) The entity must ~~offer~~ meet one of the following requirements:

(a) Have provided investment options for not less than ten years under alternative retirement plans maintained by public institutions of higher education in this state;

(b) Offer the same or similar investment options under alternative retirement plans, optional retirement plans, or similar types of plans with respect to which all of the following apply:

~~(a)(i)~~ The plans are defined contribution plans that are qualified plans under Internal Revenue Code 401(a) or 403(b).

~~(b)(ii)~~ The plans are maintained by institutions of higher education in at least ten other states.

~~(c)(iii)~~ The plans are established as primary retirement plans that are alternatives to or a component of the applicable state retirement system.

(C) In determining whether to designate an entity as a vendor, the board of regents shall identify, consider, and evaluate all of the following:

(1) The experience of the entity in providing in this state or other states investment options under alternative retirement plans, optional retirement plans, or similar types of plans that meet the requirements of division (B)(2)(a) or (b) of this section, as applicable;

(2) The potential effectiveness of the entity in recruiting eligible employees to select that entity for purposes of participating in an alternative

retirement plan and in retaining those employees' accounts;

(3) Whether the entity intends to offer a broad range of investment options to the electing employees;

(4) The suitability of the investment options to the needs and interests of the electing employees and their beneficiaries;

(5) The capability of the entity to offer sufficient information to the electing employees and their beneficiaries to make informed decisions with regard to investment options offered by the entity;

(6) The capability of the entity to perform in a manner that is in the best interests of the electing employees and their beneficiaries;

(7) The fees and expenses associated with the entity's investment options and the manner in which the entity intends to disclose those fees and expenses;

(8) The rights and benefits to be provided under the investment options;

(9) The capability of the entity to provide the rights and benefits under the investment options;

(10) Comments submitted by a public institution of higher education under section 3305.031 of the Revised Code;

(11) Any other matters the board of regents considers relevant.

(D) The board of regents shall conduct periodic reviews of each entity designated as a vendor and the investment options being offered to ensure that the requirements and purposes of this chapter are being met. The reviews of a vendor shall occur not less frequently than once every three years.

If it finds that the vendor is not in compliance with the requirements of this chapter or the vendor is not satisfactorily meeting the purposes of this chapter, the board shall rescind the vendor's designation.

(E) Notwithstanding sections 125.01 to 125.11 of the Revised Code, designation of a vendor or the execution of any agreement under this chapter is not subject to competitive bidding under those sections.

Sec. 3307.51. (A) The state teachers retirement board shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the STRS defined benefit plan. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

(1) A summary of the benefit provisions evaluated;

(2) A summary of the census data and financial information used in the valuation;

(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system;

(4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;

(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;

(6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the first day of January following the year for which the valuation was made.

(B) At such times as the state teachers retirement board determines, and at least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, and beneficiaries of the system, and other system retirants as defined in section 3307.35 of the Revised Code to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

(1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;

(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of May following the last fiscal year of the period the report covers.

(C) The board may at any time request the actuary to make any other studies or actuarial valuations to determine the adequacy of the normal and deficiency rates of contribution provided by section 3307.28 of the Revised Code, and those rates may be adjusted by the board, as recommended by the actuary, effective as of the first of any year thereafter.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

- (1) A summary of the statutory changes that are being evaluated;
- (2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;
- (3) A description of the participant group or groups included in the report;
- (4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years;
- (5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under section 3307.39 of the Revised Code. The report shall be made as of June 30, 1997, and the thirtieth day of June of each year thereafter. The report shall include the following:

- (1) A description of the statutory authority for the benefits provided;
- (2) A summary of the benefits;
- (3) A summary of the eligibility requirements for the benefits;
- (4) A statement of the number of participants eligible for the benefits;

(5) A description of the accounting, asset valuation, and funding method used to provide the benefits;

(6) A statement of the net assets available for the provisions of benefits as of the last day of the fiscal year;

(7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;

(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;

(9) A description of any significant changes that affect the comparability of the report required under this division;

(10) A statement of the amount paid under division (B) of section 3307.39 of the Revised Code.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the thirty-first day of December following the year for which the report was made.

Sec. 3309.21. (A) The school employees retirement board shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the school employees retirement system as established pursuant to this chapter. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

(1) A summary of the benefit provisions evaluated;

(2) A summary of the census data and financial information used in the valuation;

(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system;

(4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;

(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;

(6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the first day of May following the year for which the valuation was made.

(B) At such times as the school employees retirement board determines, and at least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, and beneficiaries of the retirement system, and SERS retirants and other system retirants as defined in section 3309.341 of the Revised Code to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

(1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;

(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of May following the last fiscal year of the period the report covers.

(C) The board may at any time request the actuary to make any studies or actuarial valuations to determine the adequacy of the rates of contribution as provided by section 3309.49 of the Revised Code, and those rates may be adjusted by the board, as recommended by the actuary, effective as of the first of any year thereafter.

(D) The board shall have prepared by or under the supervision of an

actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

- (1) A summary of the statutory changes that are being evaluated;
- (2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;
- (3) A description of the participant group or groups included in the report;
- (4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years;
- (5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under sections 3309.375 and 3309.69 of the Revised Code. The report shall be made as of June 30, 1997, and the thirtieth day of June of each year thereafter. The report shall include the following:

- (1) A description of the statutory authority for the benefits provided;
- (2) A summary of the benefits;
- (3) A summary of the eligibility requirements for the benefits;
- (4) A statement of the number of participants eligible for the benefits;
- (5) A description of the accounting, asset valuation, and funding method used to provide the benefits;
- (6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;
- (7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net

investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;

(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;

(9) A description of any significant changes that affect the comparability of the report required under this division;

(10) A statement of the amount paid under division (E) of section 3309.69 of the Revised Code.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the thirty-first day of December following the year for which the report was made.

Sec. 3310.01. As used in sections 3310.01 to 3310.17 of the Revised Code:

(A) "Chartered nonpublic school" means a nonpublic school that holds a valid charter issued by the state board of education under section 3301.16 of the Revised Code and meets the standards established for such schools in rules adopted by the state board.

(B) An "eligible student" is a student who satisfies the conditions specified in section 3310.03 or 3310.032 of the Revised Code.

(C) "Parent" has the same meaning as in section 3313.98 of the Revised Code.

(D) "Resident district" means the school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(E) "School year" has the same meaning as in section 3313.62 of the Revised Code.

Sec. 3310.02. (A) The educational choice scholarship pilot program is hereby established. Under the program, the department of education annually shall pay scholarships to attend chartered nonpublic schools in accordance with section 3310.08 of the Revised Code for up to the following number of eligible students:

(1) Thirty thousand in the 2011-2012 school year;

(2) Sixty thousand in the 2012-2013 school year and thereafter.

(B) If the number of students who apply for a scholarship exceeds the number of scholarships available under division (A) of this section for the

applicable school year, the department shall award scholarships in the following order of priority:

(1) First, to eligible students who received scholarships in the prior school year;

(2) Second, to eligible students with family incomes at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, who qualify under division (A) of section 3310.03 of the Revised Code. If the number of students described in division (B)(2) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under division (B)(1) of this section, the department shall select students described in division (B)(2) of this section by lot to receive any remaining scholarships.

(3) Third, to other eligible students who qualify under division (A) of section 3310.03 of the Revised Code. If the number of students described in division (B)(3) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions (B)(1) and (2) of this section, the department shall select students described in division (B)(3) of this section by lot to receive any remaining scholarships.

(4) Fourth, to eligible students with family incomes at or below two hundred per cent of the federal poverty guidelines who qualify under division ~~(B)(D)~~ of section 3310.03 of the Revised Code. If the number of students described in division (B)(4) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions (B)(1) to (3) of this section, the department shall select students described in division (B)(4) of this section by lot to receive any remaining scholarships.

(5) Fifth, to other eligible students who qualify under division ~~(B)(D)~~ of section 3310.03 of the Revised Code. If the number of students described in division (B)(5) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions (B)(1) to (4) of this section, the department shall select students described in division (B)(5) of this section by lot to receive any remaining scholarships.

(6) Sixth, to eligible students with family incomes at or below two hundred per cent of the federal poverty guidelines who qualify under division (B) of section 3310.03 of the Revised Code. If the number of students described in division (B)(6) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions (B)(1) to (5) of this section, the department shall select students described in division (B)(6) of this section by lot to receive any

remaining scholarships.

(7) Seventh, to other eligible students who qualify under division (B) of section 3310.03 of the Revised Code. If the number of students described in division (B)(7) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions (B)(1) to (6) of this section, the department shall select students described in division (B)(7) of this section by lot to receive any remaining scholarships.

Sec. 3310.03. A student is an "eligible student" for purposes of the educational choice scholarship pilot program if the student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code and the student satisfies one of the conditions in division (A), (B), ~~or (C)~~, or (D) of this section:

(A)(1) The student is enrolled in a school building operated by the student's resident district that, on the report card issued under section 3302.03 of the Revised Code published prior to the first day of July of the school year for which a scholarship is sought, did not receive a rating as described in division ~~(G)~~(H) of this section, and to which any or a combination of any of the following apply for two of the three most recent report cards published prior to the first day of July of the school year for which a scholarship is sought:

(a) The building was declared to be in a state of academic emergency or academic watch under section 3302.03 of the Revised Code as that section existed prior to ~~the effective date of this amendment~~ March 22, 2013.

(b) The building received a grade of "D" or "F" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and for the value-added progress dimension under division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised Code for the 2012-2013 or 2013-2014 school year, or both; or if the building serves only grades ten through twelve, the building received a grade of "D" or "F" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and had a four-year adjusted cohort graduation rate of less than seventy-five per cent.

(c) The building received an overall grade of "D" or "F" under division (C)(3) of section 3302.03 of the Revised Code or a grade of "F" for the value-added progress dimension under division (C)(1)(e) of section 3302.03 of the Revised Code for the 2014-2015 school year or any school year thereafter.

(2) The student is eligible to enroll in kindergarten will be enrolling in any of grades kindergarten through twelve in this state for the first time in

the school year for which a scholarship is sought, will be at least five years of age by the first day of January of the school year for which a scholarship is sought, and otherwise would be assigned under section 3319.01 of the Revised Code in the school year for which a scholarship is sought, to a school building described in division (A)(1) of this section.

(3) The student is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (A)(1) of this section.

(4) The student is enrolled in a school building operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of this section in the school year for which the scholarship is sought.

(5) The student ~~is eligible to enroll in kindergarten in~~ will be both enrolling in any of grades kindergarten through twelve in this state for the first time and at least five years of age by the first day of January of the school year for which a scholarship is sought, or is enrolled in a community school established under Chapter 3314. of the Revised Code, and all of the following apply to the student's resident district:

(a) The district has in force an intradistrict open enrollment policy under which no student in ~~kindergarten or the community school~~ student's grade level, ~~respectively~~, is automatically assigned to a particular school building;

(b) In the most recent rating published prior to the first day of July of the school year for which scholarship is sought, the district did not receive a rating described in division ~~(G)~~(H) of this section, and in at least two of the three most recent report cards published prior to the first day of July of that school year, any or a combination of the following apply to the district:

(i) The district was declared to be in a state of academic emergency under section 3302.03 of the Revised Code as it existed prior to ~~the effective date of this amendment~~ March 22, 2013.

(ii) The district received a grade of "D" or "F" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and for the value-added progress dimension under division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised Code for the 2012-2013 or 2013-2014 school year, or both.

(c) The district received an overall grade of "D" or "F" under division (C)(3) of section 3302.03 of the Revised Code or a grade of "F" for the value-added progress dimension under division (C)(1)(e) of section 3302.03 of the Revised Code for the 2014-2015 school year or any school year

thereafter.

(B)(1) The student is enrolled in a school building operated by the student's resident district and to which both of the following apply:

(a) The building was ranked, for at least two of the three most recent rankings published under section 3302.21 of the Revised Code prior to the first day of July of the school year for which a scholarship is sought, in the lowest ten per cent of all public school buildings according to performance index score under section 3302.21 of the Revised Code.

(b) The building was not declared to be excellent or effective, or the equivalent of such ratings as determined by the department of education, under section 3302.03 of the Revised Code in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(2) The student is eligible to enroll in kindergarten will be enrolling in any of grades kindergarten through twelve in this state for the first time in the school year for which a scholarship is sought, will be at least five years of age, as defined in section 3321.01 of the Revised Code, by the first day of January of the school year for which a scholarship is sought, and otherwise would be assigned under section 3319.01 of the Revised Code in the school year for which a scholarship is sought, to a school building described in division (B)(1) of this section.

(3) The student is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (B)(1) of this section.

(4) The student is enrolled in a school building operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (B)(1) of this section in the school year for which the scholarship is sought.

(C) The student is enrolled in a nonpublic school at the time the school is granted a charter by the state board of education under section 3301.16 of the Revised Code and the student meets the standards of division (B) of section 3310.031 of the Revised Code.

(D) For the 2016-2017 school year and each school year thereafter, the student is in any of grades kindergarten through three, is enrolled in a school building that is operated by the student's resident district or will be enrolling in any of grades kindergarten through twelve in this state for the first time in the school year for which a scholarship is sought, and to which both of the following apply:

(1) The building, in at least two of the three most recent ratings of school buildings published prior to the first day of July of the school year for which a scholarship is sought, received a grade of "D" or "F" for making progress in improving literacy in grades kindergarten through three under division (B)(1)(g) or (C)(1)(g) of section 3302.03 of the Revised Code;

(2) The building did not receive a grade of "A" for making progress in improving literacy in grades kindergarten through three under division (B)(1)(g) or (C)(1)(g) of section 3302.03 of the Revised Code in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(E) A student who receives a scholarship under the educational choice scholarship pilot program remains an eligible student and may continue to receive scholarships in subsequent school years until the student completes grade twelve, so long as all of the following apply:

(1) The student's resident district remains the same, or the student transfers to a new resident district and otherwise would be assigned in the new resident district to a school building described in division (A)(1) ~~or~~, (B)(1), or (D) of this section;

(2) The student takes each assessment prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code while enrolled in a chartered nonpublic school;

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including excused absences.

~~(E)(F)~~(1) The department shall cease awarding first-time scholarships pursuant to divisions (A)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(1) of this section. The department shall cease awarding first-time scholarships pursuant to division (A)(5) of this section with respect to a school district that, in the most recent ratings of school districts published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(5) of this section.

(2) The department shall cease awarding first-time scholarships pursuant to divisions (B)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (B)(1) of this section.

(3) The department shall cease awarding first-time scholarships

pursuant to division (D) of this section with respect to a school building that, in the most recent ratings of school buildings under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (D) of this section.

(4) However, students who have received scholarships in the prior school year remain eligible students pursuant to division ~~(D)~~(E) of this section.

~~(F)~~(G) The state board of education shall adopt rules defining excused absences for purposes of division ~~(D)~~(E)(3) of this section.

~~(G)~~(H)(1) A student who satisfies only the conditions prescribed in divisions (A)(1) to (4) of this section shall not be eligible for a scholarship if the student's resident building meets any of the following in the most recent rating under section 3302.03 of the Revised Code published prior to the first day of July of the school year for which a scholarship is sought:

(a) The building has an overall designation of excellent or effective under section 3302.03 of the Revised Code as it existed prior to ~~the effective date of this amendment~~ March 22, 2013.

(b) For the 2012-2013 or 2013-2014 school year or both, the building has a grade of "A" or "B" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and for the value-added progress dimension under division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised Code; or if the building serves only grades ten through twelve, the building received a grade of "A" or "B" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and had a four-year adjusted cohort graduation rate of greater than or equal to seventy-five per cent.

(c) For the 2014-2015 school year or any school year thereafter, the building has a grade of "A" or "B" under division (C)(3) of section 3302.03 of the Revised Code and a grade of "A" for the value-added progress dimension under division (C)(1)(e) of section 3302.03 of the Revised Code; or if the building serves only grades ten through twelve, the building received a grade of "A" or "B" for the performance index score under division (C)(1)(b) of section 3302.03 of the Revised Code and had a four-year adjusted cohort graduation rate of greater than or equal to seventy-five per cent.

(2) A student who satisfies only the conditions prescribed in division (A)(5) of this section shall not be eligible for a scholarship if the student's resident district meets any of the following in the most recent rating under section 3302.03 of the Revised Code published prior to the first day of July of the school year for which a scholarship is sought:

(a) The district has an overall designation of excellent or effective under section 3302.03 of the Revised Code as it existed prior to ~~the effective date of this amendment~~ March 22, 2013.

(b) The district has a grade of "A" or "B" for the performance index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code and for the value-added progress dimension under division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised Code for the 2012-2013 and 2013-2014 school years.

(c) The district has an overall grade of "A" or "B" under division (C)(3) of section 3302.03 of the Revised Code and a grade of "A" for the value-added progress dimension under division (C)(1)(e) of section 3302.03 of the Revised Code for the 2014-2015 school year or any school year thereafter.

Sec. 3310.032. (A) A student is an "eligible student" for purposes of the expansion of the educational choice scholarship pilot program under this section if the student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code, the student is not eligible for an educational choice scholarship under section 3310.03 of the Revised Code, and the student's family income is at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code.

(B) In each fiscal year for which the general assembly appropriates funds for purposes of this section, the department of education shall pay scholarships to attend chartered nonpublic schools in accordance with section 3310.08 of the Revised Code. The number of scholarships awarded under this section shall not exceed the number that can be funded with appropriations made by the general assembly for this purpose.

(C) Scholarships under this section shall be awarded as follows:

(1) For the 2013-2014 school year, to eligible students who are entering kindergarten in that school year for the first time;

(2) For each subsequent school year, scholarships shall be awarded to eligible students in the next grade level above the highest grade level awarded in the preceding school year, in addition to the grade levels for which students received scholarships in the preceding school year.

(D) If the number of eligible students who apply for a scholarship under this section exceeds the scholarships available based on the appropriation for this section, the department shall award scholarships in the following order of priority:

(1) First, to eligible students who received scholarships under this section in the prior school year;

(2) Second, to eligible students with family incomes at or below one hundred per cent of the federal poverty guidelines. If the number of students described in division (D)(2) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under division (D)(1) of this section, the department shall select students described in division (D)(2) of this section by lot to receive any remaining scholarships.

(3) Third, to other eligible students who qualify under this section. If the number of students described in division (D)(3) of this section exceeds the number of available scholarships after awards are made under divisions (D)(1) and (2) of this section, the department shall select students described in division (D)(3) of this section by lot to receive any remaining scholarships.

(E) Subject to divisions (E)(1) to (3) of this section, a student who receives a scholarship under this section remains an eligible student and may continue to receive scholarships under this section in subsequent school years until the student completes grade twelve, so long as the student satisfies the conditions specified in divisions (E)(2) and (3) of section 3310.03 of the Revised Code.

Once a scholarship is awarded under this section, the student shall remain eligible for that scholarship for the current school year and subsequent school years even if the student's family income rises above the amount specified in division (A) of this section, provided the student remains enrolled in a chartered nonpublic school, however:

(1) If the student's family income is above two hundred per cent but at or below three hundred per cent of the federal poverty guidelines, the student shall receive a scholarship in the amount of seventy-five per cent of the full scholarship amount.

(2) If the student's family income is above three hundred per cent but at or below four hundred per cent of the federal poverty guidelines, the student shall receive a scholarship in the amount of fifty per cent of the full scholarship amount.

(3) If the student's family income is above four hundred per cent of the federal poverty guidelines, the student is no longer eligible to receive an educational choice scholarship.

Sec. 3310.035. (A) A student who is eligible for an educational choice scholarship under both sections 3310.03 and 3310.032 of the Revised Code, and applies for a scholarship for the first time after the effective date of this section shall receive a scholarship under section 3310.03 of the Revised Code.

(B) A student who is eligible under both sections 3310.03 and 3310.032 of the Revised Code and received a scholarship in the previous school year shall continue to receive the scholarship under the section from which the student received the scholarship in the previous school year, so long as:

(1) The number of students who apply for a scholarship does not exceed the number of scholarships available under division (A) of section 3310.02 of the Revised Code.

(2) A student who receives a scholarship under section 3310.03 of the Revised Code satisfies with the conditions specified in divisions (E)(1) to (3) of that section, and a student who receives a scholarship under section 3310.032 satisfies with the conditions specified in divisions (E)(2) and (3) of section 3310.03 of the Revised Code.

Sec. 3310.05. A scholarship under the educational choice scholarship pilot program is not available for any student whose resident district is a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code. The two pilot programs are separate and distinct, with differing eligibility criteria. The pilot project scholarship program operating under sections 3313.974 to 3313.979 of the Revised Code is a district-wide program that may award scholarships to students who do not attend district schools that face academic challenges, whereas the educational choice scholarship pilot program established under sections 3310.01 to 3310.17 of the Revised Code is limited to students of individual district school buildings that face academic challenges and to students from low-income families.

Sec. 3310.06. It is the policy adopted by the general assembly that the educational choice scholarship pilot program shall be construed as one of several educational options available for students enrolled in persistently low-performing school buildings or for students from low-income families. Students may be enrolled in the schools of the student's resident district, in a community school established under Chapter 3314. of the Revised Code, in the schools of another school district pursuant to an open enrollment policy adopted under section 3313.98 of the Revised Code, in a chartered nonpublic school with or without a scholarship under the educational choice scholarship pilot program, or in other schools as the law may provide.

Sec. 3310.08. (A) The amount paid for an eligible student under the educational choice scholarship pilot program shall be the lesser of the tuition of the chartered nonpublic school in which the student is enrolled or the maximum amount prescribed in section 3310.09 of the Revised Code.

(B)(1) The department of education shall pay to the parent of each eligible student for whom a scholarship is awarded under the program, or to

the student if at least eighteen years of age, periodic partial payments of the scholarship.

(2) The department shall proportionately reduce or terminate the payments for any student who withdraws from a chartered nonpublic school prior to the end of the school year.

(C)(1) The department shall deduct from the payments made to each school district under Chapter 3317., and if necessary, sections 321.24 and 323.156 of the Revised Code, the amount paid under division (B) of this section for each eligible student ~~awarded~~ who qualifies for a scholarship under ~~the program~~ section 3310.03 of the Revised Code and who is entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district. In the case of a student entitled to attend school in a school district under division (B)(2)(a) of section 3313.64 or division (C) of section 3313.65 of the Revised Code, the department shall deduct the payments from the school district that includes the student in its average daily membership as reported to the department under section 3317.03 of the Revised Code, as determined by the department.

(2) If the department reduces or terminates payments to a parent or a student, as prescribed in division (B)(2) of this section, and the student enrolls in the schools of the student's resident district or in a community school, established under Chapter 3314. of the Revised Code, before the end of the school year, the department shall proportionally restore to the resident district the amount deducted for that student under division (C)(1) of this section.

~~Sec. 3310.14. Notwithstanding division (K) of section 3301.0711 of the Revised Code, each~~ Each chartered nonpublic school that is not subject to division (K)(1)(a) of section 3301.0711 of the Revised Code and enrolls students awarded scholarships under sections 3310.01 to 3310.17 of the Revised Code annually shall administer the assessments prescribed by section 3301.0710 or 3301.0712 of the Revised Code to each scholarship student enrolled in the school in accordance with section 3301.0711 of the Revised Code. Each chartered nonpublic school that is subject to this section shall report to the department of education the results of each assessment administered to each scholarship student under this section.

Nothing in this section requires a chartered nonpublic school to administer any achievement assessment, except for an Ohio graduation test prescribed by division (B)(1) of section 3301.0710 of the Revised Code, as required by section 3313.612 of the Revised Code, to any student enrolled in the school who is not a scholarship student.

Sec. 3310.52. (A) The Jon Peterson special needs scholarship program

is hereby established. Under the program, beginning with the 2012-2013 school year, subject to division (B) of this section, the department of education annually shall pay a scholarship to an eligible applicant for services provided by an alternative public provider or a registered private provider for a qualified special education child. The scholarship shall be used only to pay all or part of the fees for the child to attend the special education program operated by the alternative public provider or registered private provider to implement the child's individualized education program, in lieu of the child's attending the special education program operated by the school district in which the child is entitled to attend school, and other services agreed to by the provider and eligible applicant that are not included in the individualized education program but are associated with educating the child. Beginning in the 2014-2015 school year, if the child is in category one as that term is defined in division (B)(1) of section 3310.56 of the Revised Code, the scholarship shall be used only to pay for related services that are included in the child's individualized education program. Upon agreement with the eligible applicant, the alternative public provider or registered private provider may modify the services provided to the child.

(B) The number of scholarships awarded under the program in any fiscal year shall not exceed five per cent of the total number of students residing in the state identified as children with disabilities during the previous fiscal year.

(C) No scholarship or renewal of a scholarship shall be awarded to an eligible applicant on behalf of a qualified special education child for the next school year, unless on or before the application deadline the eligible applicant completes the application for the scholarship or renewal, in the manner prescribed by the department, and notifies the school district in which the child is entitled to attend school that the eligible applicant has applied for the scholarship or renewal.

The application deadline for academic terms that begin between the first day of July and the thirty-first day of December shall be the fifteenth day of April that precedes the first day of instruction. The application deadline for academic terms that begin between the first day of January and the thirtieth day of June shall be the fifteenth day of November that precedes the first day of instruction.

Sec. 3310.522. In order to maintain eligibility for a scholarship under the program, a student shall take each assessment prescribed by sections 3301.0710 and 3301.0712 of the Revised Code, unless the student is excused from taking that assessment under federal law or the student's individualized education program.

~~Notwithstanding division (K) of section 3301.0711 of the Revised Code, each~~ Each registered private provider that is not subject to division (K)(1)(a) of section 3301.0711 of the Revised Code and enrolls a student who is awarded a scholarship under this section shall administer each assessment prescribed by sections 3301.0710 and 3301.0712 of the Revised Code to that student, unless the student is excused from taking that assessment, and shall report to the department the results of each assessment so administered.

Nothing in this section requires any chartered nonpublic school that is a registered private provider to administer any achievement assessment, except for an Ohio graduation test prescribed by division (B)(1) of section 3301.0710 of the Revised Code, as required by section 3313.612 of the Revised Code, to any student enrolled in the school who is not a scholarship student.

Sec. 3310.56. (A) The amount of the scholarship awarded and paid to an eligible applicant for services for a qualified special education child under the Jon Peterson special needs scholarship program in each school year shall be the least of the amounts prescribed in divisions (A)(1), (2), ~~or~~ and (3) of this section, as follows:

(1) The amount of fees charged for that school year by the alternative public provider or registered private provider;

(2) The sum of the amounts calculated under divisions (A)(2)(a) and (b) of this section:

(a) ~~The sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code for fiscal year 2009;~~

(b) ~~An amount equal to \$5,732 times the following multiple prescribed for the child's disability as follows:~~

(i) ~~For a student in category one, 0.2892~~ the amount specified in division (A) of section 3317.013 of the Revised Code;

(ii) ~~For a student in category two, 0.3694~~ the amount specified in division (B) of section 3317.013 of the Revised Code;

(iii) ~~For a student in category three, 1.7695~~ the amount specified in division (C) of section 3317.013 of the Revised Code;

(iv) ~~For a student in category four, 2.3646~~ the amount specified in division (D) of section 3317.013 of the Revised Code;

(v) ~~For a student in category five, 3.1129~~ the amount specified in division (E) of section 3317.013 of the Revised Code;

(vi) ~~For a student in category six, 4.7342~~ the amount specified in division (F) of section 3317.013 of the Revised Code.

~~Before applying the multiples specified in divisions (A)(2)(b)(i) to (vi)~~

~~of this section, they first shall be adjusted by multiplying them by 0.90.~~

(3) Twenty thousand dollars.

(B) As used in division (A)(2)(b) of this section, a child with a disability is in:

(1) "Category one" if the ~~child's primary or only identified disability is a speech and language disability, as this term is defined pursuant to Chapter 3323.~~ child is receiving special education services for a disability specified in division (A) of section 3317.013 of the Revised Code;

(2) "Category two" if the child is ~~identified as specific learning disabled or developmentally disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment minor, as defined in section 3317.02~~ receiving special education services for a disability specified in division (B) of section 3317.013 of the Revised Code;

(3) "Category three" if the child is ~~identified as vision impaired, hearing disabled, or severe behavior disabled, as these terms are defined pursuant to Chapter 3323.~~ receiving special education services for a disability specified in division (C) of section 3317.013 of the Revised Code;

(4) "Category four" if the child is ~~identified as orthopedically disabled, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment major, as defined in section 3317.02~~ receiving special education services for a disability specified in division (D) of section 3317.013 of the Revised Code;

(5) "Category five" if the child is ~~identified as having multiple disabilities, as this term is defined pursuant to Chapter 3323.~~ receiving special education services for a disability specified in division (E) of section 3317.013 of the Revised Code;

(6) "Category six" if the child is ~~identified as autistic, having traumatic brain injuries, or both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323.~~ receiving special education services for a disability specified in division (F) of section 3317.013 of the Revised Code.

Sec. 3311.0510. (A) If all of the client school districts of an educational service center have terminated their agreements with the service center under division (D) of section 3313.843 of the Revised Code, upon the latest effective date of the terminations, the governing board of that service center shall be abolished and such service center shall be dissolved by order of the superintendent of public instruction. The superintendent's order shall provide for the equitable division and disposition of the assets, property, debts, and obligations of the service center among the school districts that were client school districts of the service center for the service center's last fiscal year of operation. The superintendent's order shall provide that the tax

duplicate of each of those school districts shall be bound for and assume the district's equitable share of the outstanding indebtedness of the service center. The superintendent's order is final and is not appealable.

Immediately upon the abolishment of the service center governing board pursuant to this section, the superintendent of public instruction shall appoint a qualified individual to administer the dissolution of the service center and to implement the terms of the superintendent's dissolution order.

Prior to distributing assets to any school district under this section, but after paying in full other debts and obligations of the service center under this section, the superintendent of public instruction may assess against the remaining assets of the service center the amount of the costs incurred by the department of education in performing the superintendent's duties under this division, including the fees, if any, owed to the individual appointed to administer the superintendent's dissolution order. Any excess cost incurred by the department under this division shall be divided equitably among the school districts that were client school districts of the service center for the service center's last fiscal year of operation. Each district's share of that excess cost shall be bound against the tax duplicate of that district.

(B) A final audit of the former service center shall be performed in accordance with procedures established by the auditor of state.

(C) The public records of an educational service center that is dissolved under this section shall be transferred in accordance with this division. Public records maintained by the service center in connection with services provided by the service center to local school districts of which the territory of the service center is or previously was made up shall be transferred to each of the respective local school districts. Public records maintained by the service center in connection with services provided to client school districts shall be transferred to each of the respective client school districts. All other public records maintained by the service center at the time the service center ceases operations shall be transferred to the Ohio historical society for analysis and disposition by the society in its capacity as archives administrator for the state and its political subdivisions pursuant to division (C) of section 149.30 and section 149.31 of the Revised Code.

(D) As used in this section, "client school district" ~~has the same meaning as in section 3317.11 of the Revised Code~~ means a city, exempted village, or local school district that has entered into an agreement under section 3313.843 or 3313.845 of the Revised Code to receive any services from an educational service center.

Sec. 3311.19. (A) The management and control of a joint vocational school district shall be vested in the joint vocational school district board of

~~education. Where a joint vocational school district is composed only of two or more local school districts located in one county, or when all the participating districts are in one county and the boards of such participating districts so choose, the educational service center governing board of the county in which the joint vocational school district is located shall serve as the joint vocational school district board of education. Where a joint vocational school district is composed of local school districts of more than one county, or of any combination of city, local, or exempted village school districts or educational service centers, unless administration by the educational service center governing board has been chosen by all the participating districts in one county pursuant to this section, the board of education of the joint vocational school district shall be composed of one or more persons who are members of the boards of education from each of the city or exempted village school districts or members of the educational service centers' governing boards affected to be appointed by the boards of education or governing boards of such school districts and educational service centers. In such joint vocational school districts the number and terms of members of the joint vocational school district board of education and the allocation of a given number of members to each of the city and exempted village districts and educational service centers shall be determined in the plan for such district, provided that each such joint vocational school district board of education shall be composed of an odd number of members.~~

~~(B) Notwithstanding division (A) of this section, a governing board of an educational service center that has members of its governing board serving on a joint vocational school district board of education may make a request to the joint vocational district board that the joint vocational school district plan be revised to provide for one or more members of boards of education of local school districts that are within the territory of the educational service district and within the joint vocational school district to serve in the place of or in addition to its educational service center governing board members. If agreement is obtained among a majority of the boards of education and governing boards that have a member serving on the joint vocational school district board of education and among a majority of the local school district boards of education included in the district and located within the territory of the educational service center whose board requests the substitution or addition, the state board of education may revise the joint vocational school district plan to conform with such agreement.~~

~~(C) If the board of education of any school district or educational service center governing board included within a joint vocational district~~

~~that has had its board or governing board membership revised under division (B) of this section requests the joint vocational school district board to submit to the state board of education a revised plan under which one or more joint vocational board members chosen in accordance with a plan revised under such division would again be chosen in the manner prescribed by division (A) of this section, the joint vocational board shall submit the revised plan to the state board of education, provided the plan is agreed to by a majority of the boards of education represented on the joint vocational board, a majority of the local school district boards included within the joint vocational district, and each educational service center governing board affected by such plan. The state board of education may revise the joint vocational school district plan to conform with the revised plan. which, beginning on the effective date of this amendment, shall be appointed under division (C) of this section.~~

All members of a joint vocational school district board serving unexpired terms on the effective date of this amendment may continue in office until the expiration of their terms. If a member leaves office for any reason prior to the expiration of that member's term, the vacancy shall be filled only in the manner provided in division (C) of this section.

(B) Members of the joint vocational school district board appointed on or after the effective date of this amendment shall serve for three year terms of office. No member shall hold office for a period of longer than two consecutive terms. Terms shall be considered consecutive unless separated by three or more years.

Members of the board shall be selected based on the diversity of the employers from the geographical region of the state in which the territory of the joint vocational school district is located represented by the members. Not less than three-fifths of the members of the board shall reside in or be employed within the territory of the joint vocational school district board upon which the member serves.

(C) The manner of appointment and the total number of members appointed to the joint vocational school district board shall be in accordance with the most recent plan for the joint vocational school district on file with the department of education. An individual shall not be a member of an appointing board, unless the individual meets the criteria in division (C)(2) of this section.

(1) Appointments under this section shall be made as the terms of members of each joint vocational school district board who are serving unexpired terms on the effective date of this amendment expire or as those offices are otherwise vacated prior to the expiration date.

(2) Members of the joint vocational board shall have experience as chief financial officers, chief executive officers, human resources managers, or other business, industry, or career counseling professionals who are qualified to discuss the labor needs of the region with respect to the regional economy. The appointing board shall appoint individuals who represent employers in the region served by the joint vocational school district who are qualified to consider the state's workforce needs with an understanding of the skills, training, and education needed for current and future employment opportunities in the state. The appointing board may give preference to individuals who have served as members on a joint vocational school business advisory committee who meet the qualifications in division (C)(2) of this section.

(D) The vocational schools in ~~such~~ the joint vocational school district shall be available to all youth of school age within the joint vocational school district subject to the rules adopted by the joint vocational school district board of education in regard to the standards requisite to admission. A joint vocational school district board of education shall have the same powers, duties, and authority for the management and operation of such joint vocational school district as is granted by law, except by this chapter and Chapters 124., 3317., 3323., and 3331. of the Revised Code, to a board of education of a city school district, and shall be subject to all the provisions of law that apply to a city school district, except such provisions in this chapter and Chapters 124., 3317., 3323., and 3331. of the Revised Code.

~~(E) Where a governing board of an educational service center has been designated to serve as the joint vocational school district board of education, the educational service center superintendent shall be the executive officer for the joint vocational school district, and the governing board may provide for additional compensation to be paid to the educational service center superintendent by the joint vocational school district, but the educational service center superintendent shall have no continuing tenure other than that of educational service center superintendent. The superintendent of schools of a joint vocational school district shall exercise the duties and authority vested by law in a superintendent of schools pertaining to the operation of a school district and the employment and supervision of its personnel. The joint vocational school district board of education shall appoint a treasurer of the joint vocational school district who shall be the fiscal officer for such district and who shall have all the powers, duties, and authority vested by law in a treasurer of a board of education. Where a governing board of an educational service center has been designated to serve as the joint~~

~~vocational school district board of education, such board may appoint the educational service center superintendent as the treasurer of the joint vocational school district.~~

(F) Each member of a joint vocational school district board of education may be paid such compensation as the board provides by resolution, but it shall not exceed one hundred twenty-five dollars per member for each meeting attended plus mileage, at the rate per mile provided by resolution of the board, to and from meetings of the board.

The board may provide by resolution for the deduction of amounts payable for benefits under section 3313.202 of the Revised Code.

Each member of a joint vocational school district board may be paid such compensation as the board provides by resolution for attendance at an approved training program, provided that such compensation shall not exceed sixty dollars per day for attendance at a training program three hours or fewer in length and one hundred twenty-five dollars a day for attendance at a training program longer than three hours in length. However, no board member shall be compensated for the same training program under this section and section 3313.12 of the Revised Code.

Sec. 3311.22. A governing board of an educational service center may propose, by resolution adopted by majority vote of its full membership, or qualified electors of the area affected equal in number to at least fifty-five per cent of the qualified electors voting at the last general election residing within that portion of a school district, or districts proposed to be transferred may propose, by petition, the transfer of a part or all of one or more local school districts to another local school district or districts within the territory of the educational service center. Such transfers may be made only to local school districts adjoining the school district that is proposed to be transferred, unless the board of education of the district proposed to be transferred has entered into an agreement pursuant to section 3313.42 of the Revised Code, in which case such transfers may be made to any local school district within the territory of the educational service center.

When a governing board of an educational service center adopts a resolution proposing a transfer of school territory it shall forthwith file a copy of such resolution, together with an accurate map of the territory described in the resolution, with the board of education of each school district whose boundaries would be altered by such proposal. A governing board of an educational service center proposing a transfer of territory under the provisions of this section shall at its next regular meeting that occurs not earlier than thirty days after the adoption by the governing board of a resolution proposing such transfer, adopt a resolution making the transfer

effective at any time prior to the next succeeding first day of July, unless, prior to the expiration of such thirty-day period, qualified electors residing in the area proposed to be transferred, equal in number to a majority of the qualified electors voting at the last general election, file a petition of referendum against such transfer.

Any petition of transfer or petition of referendum filed under the provisions of this section shall be filed at the office of the educational service center superintendent. The person presenting the petition shall be given a receipt containing thereon the time of day, the date, and the purpose of the petition.

The educational service center superintendent shall cause the board of elections to check the sufficiency of signatures on any petition of transfer or petition of referendum filed under this section and, if found to be sufficient, the superintendent shall present the petition to the educational service center governing board at a meeting of the board which shall occur not later than thirty days following the filing of the petition.

Upon presentation to the educational service center governing board of a proposal to transfer territory as requested by petition of fifty-five per cent of the qualified electors voting at the last general election or a petition of referendum against a proposal of the county board to transfer territory, the governing board shall promptly certify the proposal to the board of elections for the purpose of having the proposal placed on the ballot at the next general or primary election which occurs not less than ninety days after the date of such certification, or at a special election, the date of which shall be specified in the certification, which date shall not be less than ninety days after the date of such certification. Signatures on a petition of transfer or petition of referendum may be withdrawn up to and including the above mentioned meeting of the educational service center governing board only by order of the board upon testimony of the petitioner concerned under oath before the board that the petitioner's signature was obtained by fraud, duress, or misrepresentation.

If a petition is filed with the educational service center governing board which proposes the transfer of a part or all of the territory included in a resolution of transfer previously adopted by the educational service center governing board, no action shall be taken on such petition if within the thirty-day period after the adoption of the resolution of transfer a referendum petition is filed. After the election, if the proposed transfer fails to receive a majority vote, action on such petition shall then be processed under this section as though originally filed under the provisions hereof. If no referendum petition is filed within the thirty-day period after the adoption

of the resolution of transfer, no action shall be taken on such petition.

If a petition is filed with the educational service center governing board which proposes the transfer of a part or all of the territory included in a petition previously filed by electors no action shall be taken on such new petition.

Upon certification of a proposal to the board or boards of elections pursuant to this section, the board or boards of elections shall make the necessary arrangements for the submission of such question to the electors of the county or counties qualified to vote thereon, and the election shall be conducted and canvassed and the results shall be certified in the same manner as in regular elections for the election of members of a board of education.

The persons qualified to vote upon a proposal are the electors residing in the district or districts containing territory that is proposed to be transferred. If the proposed transfer be approved by at least a majority of the electors voting on the proposal, the educational service center governing board shall make such transfer at any time prior to the next succeeding first day of July. If the proposed transfer is not approved by at least a majority of the electors voting on the proposal, the question of transferring any property included in the territory covered by the proposal shall not be submitted to electors at any election prior to the first general election the date of which is at least two years after the date of the original election, or the first primary election held in an even-numbered year the date of which is at least two years after the date of the original election. A transfer shall be subject to the approval of the receiving board or boards of education, unless the proposal was initiated by the educational service center governing board, in which case, if the transfer is opposed by the board of education offered the territory, the local board may, within thirty days, following the receipt of the notice of transfer, appeal to the state board of education which shall then either approve or disapprove the transfer.

Following an election upon a proposed transfer initiated by a petition the board of education that is offered territory shall, within thirty days following receipt of the proposal, either accept or reject the transfer.

When an entire school district is proposed to be transferred to two or more school districts and the offer is rejected by any one of the receiving boards of education, none of the territory included in the proposal shall be transferred.

Upon the acceptance of territory by the receiving board or boards of education the educational service center governing board offering the territory shall file with the county auditor and with the state board of

education an accurate map showing the boundaries of the territory transferred.

Upon the making of such transfer, the net indebtedness of the former district from which territory was transferred shall be apportioned between the acquiring school district and that portion of the former school district remaining after the transfer in the ratio which the assessed valuation of the territory transferred to the acquiring school district bears to the assessed valuation of the original school district as of the effective date of the transfer. As used in this section "net indebtedness" means the difference between the par value of the outstanding and unpaid bonds and notes of the school district and the amount held in the sinking fund and other indebtedness retirement funds for their redemption.

~~If an entire district is transferred, any indebtedness of the former district incurred as a result of a loan made under section 3317.64 of the Revised Code is hereby canceled and such indebtedness shall not be apportioned among any districts acquiring the territory.~~

Upon the making of any transfer under this section, the funds of the district from which territory was transferred shall be divided equitably by the educational service center governing board between the acquiring district and any part of the original district remaining after the transfer.

If an entire district is transferred the board of education of such district is thereby abolished or if a member of the board of education lives in that part of a school district transferred the member becomes a nonresident of the school district from which the territory was transferred and such member ceases to be a member of the board of education of such district.

The legal title of all property of the board of education in the territory transferred shall become vested in the board of education of the school district to which such territory is transferred.

Subsequent to June 30, 1959, if an entire district is transferred, foundation program moneys accruing to a district accepting school territory under the provisions of this section or former section 3311.22 of the Revised Code, shall not be less, in any year during the next succeeding three years following the transfer, than the sum of the amounts received by the districts separately in the year in which the transfer was consummated.

Sec. 3311.231. A governing board of an educational service center may propose, by resolution adopted by majority vote of its full membership, or qualified electors of the area affected equal in number to not less than fifty-five per cent of the qualified electors voting at the last general election residing within that portion of a school district proposed to be transferred may propose, by petition, the transfer of a part or all of one or more local

school districts within the territory of the center to an adjoining educational service center or to an adjoining city or exempted village school district.

A governing board of an educational service center adopting a resolution proposing a transfer of school territory under this section shall file a copy of such resolution together with an accurate map of the territory described in the resolution, with the board of education of each school district whose boundaries would be altered by such proposal. Where a transfer of territory is proposed by a governing board of an educational service center under this section, the governing board shall, at its next regular meeting that occurs not earlier than the thirtieth day after the adoption by the governing board of the resolution proposing such transfer, adopt a resolution making the transfer as originally proposed, effective at any time prior to the next succeeding first day of July, unless, prior to the expiration of such thirty-day period, qualified electors residing in the area proposed to be transferred, equal in number to a majority of the qualified electors voting at the last general election, file a petition of referendum against such transfer.

Any petition of transfer or petition of referendum under the provisions of this section shall be filed at the office of the educational service center superintendent. The person presenting the petition shall be given a receipt containing thereon the time of day, the date, and the purpose of the petition.

The educational service center superintendent shall cause the board of elections to check the sufficiency of signatures on any such petition, and, if found to be sufficient, the superintendent shall present the petition to the educational service center governing board at a meeting of said governing board which shall occur not later than thirty days following the filing of said petition.

The educational service center governing board shall promptly certify the proposal to the board of elections of such counties in which school districts whose boundaries would be altered by such proposal are located for the purpose of having the proposal placed on the ballot at the next general or primary election which occurs not less than ninety days after the date of such certification or at a special election, the date of which shall be specified in the certification, which date shall not be less than ninety days after the date of such certification.

Signatures on a petition of transfer or petition of referendum may be withdrawn up to and including the above mentioned meeting of the educational service center governing board only by order of the governing board upon testimony of the petitioner concerned under oath before the board that the petitioner's signature was obtained by fraud, duress, or

misrepresentation.

If a petition is filed with the educational service center governing board which proposes the transfer of a part or all of the territory included either in a petition previously filed by electors or in a resolution of transfer previously adopted by the educational service center governing board, no action shall be taken on such new petition as long as the previously initiated proposal is pending before the governing board or is subject to an election.

Upon certification of a proposal to the board or boards of elections pursuant to this section, the board or boards of elections shall make the necessary arrangements for the submission of such question to the electors of the county or counties qualified to vote thereon, and the election shall be conducted and canvassed and the results shall be certified in the same manner as in regular elections for the election of members of a board of education.

The persons qualified to vote upon a proposal are the electors residing in the district or districts containing territory that is proposed to be transferred. If the proposed transfer is approved by at least a majority of the electors voting on the proposal, the educational service center governing board shall make such transfer at any time prior to the next succeeding first day of July, subject to the approval of the receiving board of education in case of a transfer to a city or exempted village school district, and subject to the approval of the educational service center governing board of the receiving center, in case of a transfer to an educational service center. If the proposed transfer is not approved by at least a majority of the electors voting on the proposal, the question of transferring any property included in the territory covered by the proposal shall not be submitted to electors at any election prior to the first general election the date of which is at least two years after the date of the original election, or the first primary election held in an even-numbered year the date of which is at least two years after the date of the original election.

Where a territory is transferred under this section to a city or exempted village school district, the board of education of such district shall, and where territory is transferred to an educational service center the governing board of such educational service center shall, within thirty days following receipt of the proposal, either accept or reject the transfer.

Where a governing board of an educational service center adopts a resolution accepting territory transferred to the educational service center under the provisions of sections 3311.231 and 3311.24 of the Revised Code, the governing board shall, at the time of the adoption of the resolution accepting the territory, designate the school district to which the accepted

territory shall be annexed.

When an entire school district is proposed to be transferred to two or more adjoining school districts and the offer is rejected by any one of the receiving boards of education, none of the territory included in the proposal shall be transferred.

Upon the acceptance of territory by the receiving board or boards of education the educational service center governing board offering the territory shall file with the county auditor of each county affected by the transfer and with the state board of education an accurate map showing the boundaries of the territory transferred.

Upon the making of such transfer, the net indebtedness of the former district from which territory was transferred shall be apportioned between the acquiring school district and the portion of the former school district remaining after the transfer in the ratio which the assessed valuation of the territory transferred to the acquiring school district bears to the assessed valuation of the original school district as of the effective date of the transfer. As used in this section "net indebtedness" means the difference between the par value of the outstanding and unpaid bonds and notes of the school district and the amount held in the sinking fund and other indebtedness retirement funds for their redemption.

~~If an entire district is transferred, any indebtedness of the former district incurred as a result of a loan made under section 3317.64 of the Revised Code is hereby canceled and such indebtedness shall not be apportioned among any districts acquiring the territory.~~

Upon the making of any transfer under this section, the funds of the district from which territory was transferred shall be divided equitably by the educational service center governing board, between the acquiring district and any part of the original district remaining after the transfer.

If an entire district is transferred the board of education of such district is thereby abolished or if a member of the board of education lives in that part of a school district transferred the member becomes a nonresident of the school district from which the territory was transferred and such member ceases to be a member of the board of education of such district.

The legal title of all property of the board of education in the territory transferred shall become vested in the board of education of the school district to which such territory is transferred.

If an entire district is transferred, foundation program moneys accruing to a district receiving school territory under the provisions of this section shall not be less, in any year during the next succeeding three years following the transfer, than the sum of the amounts received by the districts

separately in the year in which the transfer was consummated.

Sec. 3311.38. The state board of education may conduct, or may direct the superintendent of public instruction to conduct, studies where there is evidence of need for transfer of local, exempted village, or city school districts, or parts of any such districts, to contiguous or noncontiguous local, exempted village, or city school districts. Such studies shall include a study of the effect of any proposal upon any portion of a school district remaining after such proposed transfer. The state board, in conducting such studies and in making recommendations as a result thereof, shall consider the possibility of improving school district organization as well as the desires of the residents of the school districts which would be affected.

(A) After the adoption of recommendations growing out of any such study, or upon receipt of a resolution adopted by majority vote of the full membership of the board of any city, local, or exempted village school district requesting that the entire district be transferred to another city, local, or exempted village school district, the state board may propose by resolution the transfer of territory, which may consist of part or all of the territory of a local, exempted village, or city school district to a contiguous local, exempted village, or city school district.

The state board shall thereupon file a copy of such proposal with the board of education of each school district whose boundaries would be altered by the proposal and with the governing board of any educational service center in which such school district is located.

The state board may, not less than thirty days following the adoption of the resolution proposing the transfer of territory, certify the proposal to the board of elections of the county or counties in which any of the territory of the proposed district is located, for the purpose of having the proposal placed on the ballot at the next general election or at a primary election occurring not less than ninety days after the adoption of such resolution.

If any proposal has been previously initiated pursuant to section 3311.22, 3311.231, or 3311.26 of the Revised Code which affects any of the territory affected by the proposal of the state board, the proposal of the state board shall not be placed on the ballot while the previously initiated proposal is subject to an election.

Upon certification of a proposal to the board of elections of any county pursuant to this section, the board of elections of such county shall make the necessary arrangements for the submission of such question to the electors of the county qualified to vote thereon, and the election shall be counted and canvassed and the results shall be certified in the same manner as in regular elections for the election of members of a board of education.

The electors qualified to vote upon a proposal are the electors residing in the local, exempted village, or city school districts, containing territory proposed to be transferred.

If the proposed transfer be approved by a majority of the electors voting on the proposal, the state board, subject to the approval of the board of education of the district to which the territory would be transferred, shall make such transfer prior to the next succeeding July 1.

(B) If a study conducted in accordance with this section involves a school district with less than four thousand dollars of assessed value for each pupil in the total student count determined under section 3317.03 of the Revised Code, the state board of education, with the approval of the educational service center governing board, and upon recommendation by the state superintendent of public instruction, may by resolution transfer all or any part of such a school district to any city, exempted village, or local school district which has more than twenty-five thousand pupils in average daily membership. Such resolution of transfer shall be adopted only after the board of education of the receiving school district has adopted a resolution approving the proposed transfer. For the purposes of this division, the assessed value shall be as certified in accordance with section 3317.021 of the Revised Code.

(C) Upon the making of a transfer of an entire school district pursuant to this section, the indebtedness of the district transferred shall be assumed in full by the acquiring district and the funds of the district transferred shall be paid over in full to the acquiring district, ~~except that any indebtedness of the transferred district incurred as a result of a loan made under section 3317.64 of the Revised Code is hereby canceled and shall not be assumed by the acquiring district.~~

(D) Upon the making of a transfer pursuant to this section, when only part of a district is transferred, the net indebtedness of each original district of which only a part is taken by the acquiring district shall be apportioned between the acquiring district and the original district in the ratio which the assessed valuation of the part taken by the acquiring district bears to the assessed valuation of the original district as of the effective date of the transfer. As used in this section "net indebtedness" means the difference between the par value of the outstanding and unpaid bonds and notes of the school district and the amount held in the sinking fund and other indebtedness retirement funds for their redemption.

(E) Upon the making of a transfer pursuant to this section, when only part of a district is transferred, the funds of the district from which territory was transferred shall be divided equitably by the state board between the

acquiring district and that part of the former district remaining after the transfer.

(F) If an entire school district is transferred, the board of education of such district is thereby abolished. If part of a school district is transferred, any member of the board of education who is a legal resident of that part which is transferred shall thereby cease to be a member of that board.

If an entire school district is transferred, foundation program moneys accruing to a district accepting school territory under the provisions of this section shall not be less, in any year during the next succeeding three years following the transfer, than the sum of the amounts received by the districts separately in the year in which the transfer became effective.

Sec. 3311.78. Notwithstanding any provision of the Revised Code to the contrary, a municipal school district shall be subject to this section instead of sections 3317.13, 3317.14, and 3317.141 of the Revised Code.

(A) As used in this section, "principal" includes an assistant principal.

(B) The board of education of each municipal school district annually shall adopt a differentiated salary schedule for teachers based upon performance as described in division (D) of this section. The board also annually shall adopt a differentiated salary schedule for principals based upon performance as described in division (D) of this section.

For each teacher or principal hired on or after ~~the effective date of this section~~ October 1, 2012, the board shall determine the teacher's or principal's initial placement on the applicable salary schedule based on years of experience and area of licensure and any other factors the board considers appropriate. For each teacher hired prior to ~~the effective date of this section~~ October 1, 2012, the board shall initially place the teacher on the applicable salary schedule so that the teacher's annual salary on the schedule is comparable to the teacher's annual salary for the school year immediately prior to the school year covered by the schedule. For each principal hired prior to ~~the effective date of this section~~ October 1, 2012, the board shall initially place the principal on the applicable salary schedule consistent with the principal's employment contract.

(C) The salary of a teacher shall not be reduced unless such reduction is accomplished as part of a negotiated collective bargaining agreement. The salary of a principal shall not be reduced during the term of the principal's employment contract unless such reduction is by mutual agreement of the board and the principal or is part of a uniform plan affecting the entire district.

(D) For purposes of the schedules, the board shall measure a teacher's or principal's performance by considering all of the following:

(1) The level of license issued under section 3319.22 of the Revised Code that the teacher or principal holds;

(2) Whether the teacher or principal is a highly qualified teacher, as defined in section 3319.074 of the Revised Code;

(3) Ratings received by the teacher or principal on performance evaluations conducted under section 3311.80 or 3311.84 of the Revised Code;

(4) Any specialized training and experience in the assigned position.

(E) The salary schedules adopted under this section may provide for additional compensation for teachers or principals who perform duties, not contracted for under a supplemental contract, that the board determines warrant additional compensation. Those duties may include, but are not limited to, assignment to a school building eligible for funding under Title I of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6301 et seq.; assignment to a building in "school improvement" status under the "No Child Left Behind Act of 2001," as defined in section 3302.01 of the Revised Code; teaching in a grade level or subject area in which the board has determined there is a shortage within the district; assignment to a hard-to-staff school, as determined by the board; or teaching in a school with an extended school day or school year.

(F) The chief executive officer of the district, or the chief executive officer's designee, annually shall review the salary of each teacher and principal and make a recommendation to the board. Based on the recommendation, the board may increase a teacher's or principal's salary based on the teacher's or principal's performance and duties as provided for in divisions (D) and (E) of this section. The performance-based increase for a teacher or principal rated as accomplished shall be greater than the performance-based increase for a teacher or principal rated as ~~proficient~~ skilled. Notwithstanding division (C) of this section, division (C) of section 3319.02, and section 3319.12 of the Revised Code, the board may decrease the teacher's or principal's salary if the teacher or principal will perform fewer or different duties described in division (E) of this section in the school year for which the salary is decreased.

(G) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of this section prevail over any conflicting provisions of a collective bargaining agreement entered into on or after ~~the effective date of this section~~ October 1, 2012. However, the board and the teachers' labor organization shall negotiate the implementation of the differentiated salary schedule for teachers and may negotiate additional factors regarding teacher salaries, provided those factors

are consistent with this section.

Sec. 3311.83. Notwithstanding any provision of the Revised Code to the contrary, and except as otherwise specified in division (E) of this section, a municipal school district shall be subject to this section instead of section 3319.17 of the Revised Code with respect to suspension of teacher contracts, but sections 3311.72, 3319.17, and 3319.171 of the Revised Code shall apply to the district with respect to suspension of contracts of other district employees who may be licensed by the state board of education.

(A) When, for any of the following reasons that apply to a municipal school district, the district board of education decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) Return to duty of regular teachers after leaves of absence, including leaves of absence provided pursuant to section 3319.13 or 3319.14 of the Revised Code;

(2) Decreased enrollment of students in the district;

(3) Academic reasons resulting in consolidation of teaching positions, duties, or functions or resulting in changes in educational programs;

(4) Financial reasons;

(5) Territorial changes affecting the district.

(B) In making any such reduction, the board shall proceed to suspend contracts in accordance with the recommendation of the district's chief executive officer and divisions (B)(1) and (2) and (E) of this section.

(1) Each teacher affected by the reduction, based on area of licensure, shall be placed in one of the following categories:

(a) Category 1A, which shall contain all teachers on limited or extended limited contracts with a composite evaluation rating of ineffective;

(b) Category 1B, which shall contain all teachers on continuing contracts with a composite evaluation rating of ineffective;

(c) Category 2A, which shall contain all teachers on limited or extended limited contracts with a composite evaluation rating of developing;

(d) Category 2B, which shall contain all teachers on continuing contracts with a composite evaluation rating of developing;

(e) Category 3A, which shall contain all teachers on limited or extended limited contracts with a composite evaluation rating of ~~proficient~~ skilled;

(f) Category 3B, which shall contain all teachers on continuing contracts with a composite evaluation rating of ~~proficient~~ skilled;

(g) Category 4A, which shall contain all teachers on limited or extended limited contracts with a composite evaluation rating of accomplished;

(h) Category 4B, which shall contain all teachers on continuing

contracts with a composite evaluation rating of accomplished.

(2) Consistent with division (E) of this section, reductions in the affected area of licensure shall be made starting with teachers in category 1A and shall proceed sequentially through teachers in category 4B, until all necessary reductions have occurred.

(3) The evaluation ratings specified in division (B)(1) of this section refer to composite evaluation ratings assigned to a teacher in accordance with the evaluation procedures adopted under section 3311.80 of the Revised Code.

(C) On a case-by-case basis, in lieu of suspending a contract in whole, the board may suspend a contract in part, so that an individual is required to work a percentage of the time the employee otherwise is required to work under the contract and receives a commensurate percentage of the full compensation the employee otherwise would receive under the contract.

(D) The teachers whose contracts are suspended by the board pursuant to this section shall have the right of restoration by the board if and when teaching positions become vacant or are created, for which the teachers are or become qualified within three years after the date of the suspension of contract. Consistent with division (E) of this section, the board shall rehire teachers in the affected area of licensure starting with teachers in category 4B and shall proceed sequentially through teachers in category 1A, until all vacant positions have been filled. No teacher whose contract has been suspended pursuant to this section shall lose the right of restoration by reason of having declined recall to a position that is less than full-time or, if the teacher was not employed full-time just prior to suspension of the teacher's continuing contract, to a position requiring a lesser percentage of full-time employment than the position the teacher last held while employed in the district.

(E)(1) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of this section prevail over any conflicting provisions of a collective bargaining agreement entered into on or after ~~the effective date of this section~~ October 1, 2012. However, the board and the teachers' labor organization shall negotiate how specialized training and experience will be factored into reduction in force and recall decisions regardless of the categories prescribed by division (B) of this section. In addition, the board and the teachers' labor organization may negotiate additional factors to be considered in determining the order of reductions, which factors shall not be inconsistent with division (B) of this section.

(2) After applying specialized training and experience and any other

negotiated factors, teachers within the same category prescribed by division (B) of this section shall be given preference based on seniority.

Sec. 3311.86. (A) As used in this section:

(1) "Alliance" means a municipal school district transformation alliance established as a nonprofit corporation.

(2) "Alliance municipal school district" means a municipal school district for which an alliance has been created under this section.

(3) "Partnering community school" means a community school established under Chapter 3314. of the Revised Code that is located within the territory of a municipal school district and that either is sponsored by the district or is a party to an agreement with the district whereby the district and the community school endorse each other's programs.

(4) "Transformation alliance education plan" means a plan prepared by the mayor, and confirmed by the alliance, to transform public education in the alliance municipal school district to a system of municipal school district schools and partnering community schools that will be held to the highest standards of school performance and student achievement.

(B) If one or more partnering community schools are located in a municipal school district, the mayor may initiate proceedings to establish a municipal school district transformation alliance as a nonprofit corporation under Chapter 1702. of the Revised Code. The mayor shall have sole authority to appoint the directors of any alliance created under this section. The directors of the alliance shall include representatives of all of the following:

(1) The municipal school district;

(2) Partnering community schools;

(3) Members of the community at large, including parents and educators;

(4) The business community, including business leaders and foundation leaders.

No one group listed in divisions (B)(1) to (4) of this section shall comprise a majority of the directors. The mayor shall be an ex officio director, and serve as the chairperson of the board of directors, of any alliance created under this section. If the proceedings are initiated, the mayor shall identify the directors in the articles of incorporation filed under section 1702.04 of the Revised Code.

(C)(1) A majority of the members of the board of directors of the alliance shall constitute a quorum of the board. Any formal action taken by the board of directors shall take place at a meeting of the board and shall require the concurrence of a majority of the members of the board. Meetings

of the board of directors shall be public meetings open to the public at all times, except that the board and its committees and subcommittees may hold an executive session, as if it were a public body with public employees, for any of the purposes for which an executive session of a public body is permitted under division (G) of section 121.22 of the Revised Code, notwithstanding that the alliance is not a public body as defined in that section, and its employees are not public employees as provided in division (F) of this section. The board of directors shall establish reasonable methods whereby any person may determine the time and place of all of the board's public meetings and by which any person, upon request, may obtain reasonable advance notification of the board's public meetings. Provisions for that advance notification may include, but are not limited to, mailing notices to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person.

(2) All records of the alliance shall be organized and maintained by the alliance and also filed with the department of education. The alliance and the department shall make those records available to the public as though those records were public records for purposes of Chapter 149. of the Revised Code. The department shall promptly notify the alliance upon the department's receipt of any requests for records relating to the alliance pursuant to section 149.43 of the Revised Code.

(3) The board of directors of the alliance shall establish a conflicts of interest policy and shall adopt that policy, and any amendments to the policy, at a meeting of the board held in accordance with this section.

(D) If an alliance is created under this section, the alliance shall do all of the following:

(1) Report annually on the performance of all municipal school district schools and all community schools established under Chapter 3314. of the Revised Code and located in the district, using the criteria adopted under division (B) of section 3311.87 of the Revised Code;

(2) Confirm and monitor implementation of the transformation alliance education plan;

(3) Suggest national education models for and provide input in the development of new municipal school district schools and partnering community schools.

(E) Divisions (E)(1) to (3) of this section apply to each community school sponsor that is subject to approval by the department of education under section 3314.015 of the Revised Code whose approval under that section is granted or renewed on or after ~~the effective date of this section~~ October 1, 2012. Divisions (E)(1) to (3) of this section do not apply to a

sponsor that has been approved by the department prior to that date, until the sponsor's approval is renewed or granted anew on or after that date.

(1) Before a sponsor to which this section applies may sponsor new community schools in an alliance municipal school district, the sponsor shall request recommendation from the alliance to sponsor community schools in the district.

(2) The alliance shall review the sponsor's application and shall make a recommendation based on the standards for sponsors developed under division (A)(2) of section 3311.87 of the Revised Code.

(3) The department shall use the standards developed under division (A)(2) of section 3311.87 of the Revised Code, in addition to any other requirements of the Revised Code, to review a sponsor's request and make a final determination, on recommendation of the alliance, of whether the sponsor may sponsor new community schools in the alliance municipal school district.

No sponsor shall be required to receive authorization to sponsor new community schools under division (E)(3) of this section more than one time.

(F) Directors, officers, and employees of an alliance are not public employees or public officials, are not subject to Chapters 124., 145., and 4117. of the Revised Code, and are not "public officials" or "public servants" as defined in section 2921.01 of the Revised Code. Membership on the board of directors of an alliance does not constitute the holding of an incompatible public office or employment in violation of any statutory or common law prohibition against the simultaneous holding of more than one public office or employment. Members of the board of directors of an alliance are not disqualified from holding any public office by reason of that membership, and do not forfeit by reason of that membership the public office or employment held when appointed to the board, notwithstanding any contrary disqualification or forfeiture requirement under the Revised Code or the common law of this state.

(G) The authority to establish an alliance under this section expires on January 1, 2018. Any alliance established under this section is terminated, and any related authority granted to the alliance under this section expires on that date.

Sec. 3312.08. Each fiscal agent selected by the department of education pursuant to section 3312.07 of the Revised Code shall do all of the following:

(A) Enter into performance contracts with the department in accordance with section 3312.09 of the Revised Code for the implementation of state and regional education initiatives and school improvement efforts;

(B) Receive federal and state funds, including federal funds for the provision of special education and related services, as specified in the performance contracts, and disburse those funds as specified in the performance contracts to educational service centers, information technology centers, and other regional service providers. However, any funds owed to an educational service center in accordance with an agreement entered into under section ~~3317.11~~ 3313.843, 3313.844, or 3313.845 of the Revised Code shall be paid directly to the service center by the department ~~in accordance with that section~~ and any operating funds appropriated for an information technology center shall be paid directly to the information technology center by the department pursuant to section 3301.075 of the Revised Code.

(C) Implement any expenditure of funds recommended by the advisory council for the region pursuant to section 3312.04 of the Revised Code or required by the terms of any performance contract, unless there are insufficient funds available to the region to pay for the expenditure or the expenditure violates a provision of the Revised Code, a rule of the state board of education regarding such expenditure, or the terms of a performance contract;

(D) Exercise fiscal oversight of the implementation of state and regional education initiatives and school improvement efforts.

Sec. 3313.372. (A) As used in this section, "energy conservation measure" means an installation or modification of an installation in, or remodeling of, a building, to reduce energy consumption. It includes:

- (1) Insulation of the building structure and systems within the building;
- (2) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
- (3) Automatic energy control systems;
- (4) Heating, ventilating, or air conditioning system modifications or replacements;
- (5) Caulking and weatherstripping;
- (6) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility, unless such increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;
- (7) Energy recovery systems;
- (8) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of

buildings;

(9) Any other modification, installation, or remodeling approved by the Ohio school facilities commission as an energy conservation measure.

(B) A board of education of a city, exempted village, local, or joint vocational school district may enter into an installment payment contract for the purchase and installation of energy conservation measures. The provisions of such installment payment contracts dealing with interest charges and financing terms shall not be subject to the competitive bidding requirements of section 3313.46 of the Revised Code, and shall be on the following terms:

(1) Not less than one-fifteenth of the costs thereof shall be paid within two years from the date of purchase.

(2) The remaining balance of the costs thereof shall be paid within fifteen years from the date of purchase.

The provisions of any installment payment contract entered into pursuant to this section shall provide that all payments, except payments for repairs and obligations on termination of the contract prior to its expiration, be stated as a percentage of calculated energy, water, or waste water cost savings, avoided operating costs, and avoided capital costs attributable to the one or more measures over a defined period of time. Those payments shall be made only to the extent that the savings described in this division actually occur. The contractor shall warrant and guarantee that the energy conservation measures shall realize guaranteed savings and shall be responsible to pay an amount equal to any savings shortfall.

An installment payment contract entered into by a board of education under this section shall require the board to contract in accordance with division (A) of section 3313.46 of the Revised Code for the installation, modification, or remodeling of energy conservation measures unless division (A) of section 3313.46 of the Revised Code does not apply pursuant to division (B)(3) of that section.

(C) The board may issue the notes of the school district signed by the president and the treasurer of the board and specifying the terms of the purchase and securing the deferred payments provided in this section, payable at the times provided and bearing interest at a rate not exceeding the rate determined as provided in section 9.95 of the Revised Code. The notes may contain an option for prepayment and shall not be subject to Chapter 133. of the Revised Code. In the resolution authorizing the notes, the board may provide, without the vote of the electors of the district, for annually levying and collecting taxes in amounts sufficient to pay the interest on and retire the notes, except that the total net indebtedness of the district without

a vote of the electors incurred under this and all other sections of the Revised Code, except section 3318.052 of the Revised Code, shall not exceed one per cent of the district's tax valuation. Revenues derived from local taxes or otherwise, for the purpose of conserving energy or for defraying the current operating expenses of the district, may be applied to the payment of interest and the retirement of such notes. The notes may be sold at private sale or given to the contractor under the installment payment contract authorized by division (B) of this section.

(D) Debt incurred under this section shall not be included in the calculation of the net indebtedness of a school district under section 133.06 of the Revised Code.

(E) No school district board shall enter into an installment payment contract under division (B) of this section unless it first obtains a report of the costs of the energy conservation measures and the savings thereof as described under division (G) of section 133.06 of the Revised Code as a requirement for issuing energy securities, makes a finding that the amount spent on such measures is not likely to exceed the amount of money it would save in energy costs and resultant operational and maintenance costs as described in that division, except that that finding shall cover the ensuing fifteen years, and the Ohio school facilities commission determines that the district board's findings are reasonable and approves the contract as described in that division.

The district board shall monitor the savings and maintain a report of those savings, which shall be submitted to the commission in the same manner as required by division (G) of section 133.06 of the Revised Code in the case of energy securities.

Sec. 3313.376. As used in this section, "client school district" ~~has the same meaning as in section 3317.11 of the Revised Code~~ means a city, exempted village, or local school district that has entered into an agreement under section 3313.843 or 3313.845 of the Revised Code to receive any services from an educational service center.

For the purpose of obtaining quantity discounts in purchasing textbooks; computer equipment, including computer software; school buses; and natural gas, electricity, and other utility services, the governing boards of two or more educational service centers may enter into agreements, including installment purchase and lease-purchase contracts, to jointly purchase such commodities to be utilized by client school districts of the educational service centers.

Sec. 3313.48. (A) The board of education of each city, exempted village, local, and joint vocational school district shall provide for the free

education of the youth of school age within the district under its jurisdiction, at such places as will be most convenient for the attendance of the largest number thereof. ~~Except as provided in section 3313.481 of the Revised Code, each~~ Each school so provided and each chartered nonpublic school shall be open for instruction with pupils in attendance, including scheduled classes, supervised activities, and approved education options but excluding lunch and breakfast periods and extracurricular activities, for not less than ~~one hundred eighty two days~~ four hundred fifty-five hours in the case of pupils in kindergarten unless such pupils are provided all-day kindergarten, as defined in section 3321.05 of the Revised Code, in which case the pupils shall be in attendance for nine hundred ten hours; nine hundred ten hours in the case of pupils in grades one through six; and one thousand one hours in the case of pupils in grades seven through twelve in each school year, which may include all of the following:

~~(A)(1)~~ (1) Up to ~~four~~ the equivalent of two school days per year ~~in which classes are dismissed one half day early or the equivalent amount of time during a different number of days during which pupils would otherwise be in attendance but are not required to attend~~ for the purpose of individualized parent-teacher conferences and reporting periods;

~~(B)(2)~~ (2) Up to the equivalent of two school days per year during which pupils would otherwise be in attendance but are not required to attend for professional meetings of teachers ~~when such days occur during a regular school week and schools are not in session;~~

~~(C)~~ (3) ~~The number of days the school is closed as a result of public calamity, as provided in section 3317.01 of the Revised Code~~ Morning and afternoon recess periods of not more than fifteen minutes duration per period for pupils in grades kindergarten through six.

~~The state board of education shall adopt standards for defining "school day" as used in sections 3313.48 and 3317.01 of the Revised Code.~~

~~Except as otherwise provided in this section, each day for grades seven through twelve shall consist of not less than five clock hours with pupils in attendance, except in such emergency situations, including lack of classroom space, as are approved by the state board of education. Except as otherwise provided in this section, each day for grades one through six shall consist of not less than five clock hours with pupils in attendance which may include fifteen minute morning and afternoon recess periods, except in such emergency situations, including lack of classroom space, as are approved by the state board of education.~~

(B) Not later than thirty days prior to adopting a school calendar, the board of education of each city, exempted village, and local school district

shall hold a public hearing on the school calendar, addressing topics that include, but are not limited to, the total number of hours in a school year, length of school day, and beginning and end dates of instruction.

(C) No school operated by a city, exempted village, local, or joint vocational school district shall reduce the number of hours in each school year that the school is scheduled to be open for instruction from the number of hours per year the school was open for instruction during the previous school year unless the reduction is approved by a resolution adopted by the district board of education. Any reduction so approved shall not result in fewer hours of instruction per school year than the applicable number of hours required under division (A) of this section.

(D) Prior to making any change in the hours or days in which a high school under its jurisdiction is open for instruction, the board of education of each city, exempted village, and local school district shall consider the compatibility of the proposed change with the scheduling needs of any joint vocational school district in which any of the high school's students are also enrolled. The board shall consider the impact of the proposed change on student access to the instructional programs offered by the joint vocational school district, incentives for students to participate in career-technical education, transportation, and the timing of graduation. The board shall provide the joint vocational school district board with advance notice of the proposed change and the two boards shall enter into a written agreement prescribing reasonable accommodations to meet the scheduling needs of the joint vocational school district prior to implementation of the change.

(E) Prior to making any change in the hours or days in which a school under its jurisdiction is open for instruction, the board of education of each city, exempted village, and local school district shall consider the compatibility of the proposed change with the scheduling needs of any community school established under Chapter 3314. of the Revised Code to which the district is required to transport students under sections 3314.09 and 3327.01 of the Revised Code. The board shall consider the impact of the proposed change on student access to the instructional programs offered by the community school, transportation, and the timing of graduation. The board shall provide the sponsor, governing authority, and operator of the community school with advance notice of the proposed change, and the board and the governing authority, or operator if such authority is delegated to the operator, shall enter into a written agreement prescribing reasonable accommodations to meet the scheduling needs of the community school prior to implementation of the change.

(F) Prior to making any change in the hours or days in which the

schools under its jurisdiction are open for instruction, the board of education of each city, exempted village, and local school district shall consult with the chartered nonpublic schools to which the district is required to transport students under section 3327.01 of the Revised Code and shall consider the effect of the proposed change on the schedule for transportation of those students to their nonpublic schools. The governing authority of a chartered nonpublic school shall consult with each school district board of education that transports students to the chartered nonpublic school under section 3327.01 of the Revised Code prior to making any change in the hours or days in which the nonpublic school is open for instruction.

(G) The state board of education shall not adopt or enforce any rule or standard that imposes on chartered nonpublic schools the procedural requirements imposed on school districts by divisions (B), (C), (D), and (E) of this section.

Sec. 3313.481. Wherever in Title XXXIII of the Revised Code the term "school day" is used, unless otherwise specified, that term shall be construed to mean the time during a calendar day that a school is open for instruction pursuant to the schedule adopted by the board of education of the school district or the governing authority of the chartered nonpublic school in accordance with section 3313.48 of the Revised Code.

Sec. 3313.483. (A) A board of education, upon the adoption of a resolution stating that it may be financially unable to open on the day or to remain open for instruction on all days set forth in its adopted school calendar and pay all obligated expenses, or the superintendent of public instruction upon the issuance of written notification under division (B) of section 3313.489 of the Revised Code, shall request the auditor of state to determine whether such situation exists. The auditor shall deliver a copy of each request from a board of education to the superintendent of public instruction. In the case of a school district not under a fiscal emergency pursuant to Chapter 3316. of the Revised Code the auditor shall not issue a finding under this section until written notification is received from the superintendent pursuant to section 3313.487 of the Revised Code.

(B) If the auditor of state finds that the board of education has attempted to avail itself to the fullest extent authorized by law of all lawful revenue sources available to it except those authorized by section 5705.21 of the Revised Code, the auditor shall certify that finding to the superintendent of public instruction and the state board of education and shall certify the operating deficit the district will have at the end of the fiscal year if it commences or continues operating its instructional program in accordance with its adopted school calendar and pays all obligated expenses.

(C) No board of education may delay the opening of its schools or close its schools for financial reasons. Upon the request of the superintendent of public instruction, the attorney general shall seek injunctive relief and any other relief required to enforce this prohibition in the court of common pleas of Franklin county. The court of common pleas of Franklin county has exclusive original jurisdiction over all such actions.

(D) Upon the receipt of any certification of an operating deficit from the auditor of state, a board of education shall make application to a commercial bank, underwriter, or other prospective lender or purchaser of its obligations for a loan in an amount sufficient to enable the district to open or remain open for instruction on all days set forth in its adopted school calendar but not to exceed the amount of the deficit certified.

(E)(1) Any board of education that has applied for and been denied a loan from a commercial bank, underwriter, or other prospective lender or purchaser of its obligations pursuant to division (D) of this section shall submit to the superintendent of public instruction a plan for implementing reductions in the school district's budget; apply for a loan from a commercial bank, underwriter, or other prospective lender or purchaser of its obligations in an amount not to exceed its certified deficit; and provide the superintendent such information as the superintendent requires concerning its application for such a loan. The board of education of a school district declared to be under a fiscal watch pursuant to division (A) of section 3316.03 of the Revised Code may, upon approval of the superintendent, utilize the financial plan required by section 3316.04 of the Revised Code, or applicable parts thereof, as the plan required under this division. The board of education of a school district declared to be under a fiscal emergency pursuant to division (B) of section 3316.03 of the Revised Code may utilize the financial recovery plan for the district, or applicable parts thereof, as the plan required under this division. Except for the plan of a school district under a fiscal emergency, the superintendent shall evaluate, make recommendations concerning, and approve or disapprove each plan. When a plan is submitted, the superintendent shall immediately notify the members of the general assembly whose legislative districts include any or all of the territory of the school district submitting the plan.

(2) The superintendent shall submit to the controlling board a copy of each plan the superintendent approves, or each plan submitted by a district under a fiscal emergency pursuant to division (B) of section 3316.03 of the Revised Code, and the general terms of each proposed loan, and shall make recommendations regarding the plan and whether a proposed loan to the board of education should be approved for payment as provided in division

(E)(3) of this section. The controlling board shall approve or disapprove the plan and the proposed loan presented to it by the superintendent. In the case of a district not under a fiscal emergency pursuant to division (B) of section 3316.03 of the Revised Code, the controlling board may require a board of education to implement the superintendent's recommendations for expenditure reductions or impose other requirements. Loan repayments shall be in accordance with a schedule approved by the superintendent, except that the principal amount of the loan shall be payable in monthly, semiannual, or annual installments of principal and interest that are substantially equal principal and interest installments. Except as otherwise provided in division (E)(2) of this section, repayment shall be made no later than the fifteenth day of June of the second fiscal year following the approval of the loan. A school district with a certified deficit in excess of either twenty-five million dollars or fifteen per cent of the general fund expenditures of the district during the fiscal year shall repay the loan no later than the fifteenth day of June of the tenth fiscal year following the approval of the loan. In deciding whether to approve or disapprove a proposed loan, the controlling board shall consider the deficit certified by the auditor of state pursuant to this section. A board of education that has an outstanding loan approved pursuant to this section with a repayment date of more than two fiscal years after the date of approval of such loan may not apply for another loan with such a repayment date until the outstanding loan has been repaid.

(3) If a board of education has submitted and received controlling board approval of a plan and proposed loan in accordance with this section, the superintendent of public instruction shall report to the controlling board the actual amounts loaned to the board of education. Such board of education shall request the superintendent to pay any funds the board of education would otherwise receive pursuant to Chapter 3306. of the Revised Code first directly to the holders of the board of education's notes, or an agent thereof, such amounts as are specified under the terms of the loan. Such payments shall be made only from and to the extent of money appropriated by the general assembly for purposes of such sections. No note or other obligation of the board of education under the loan constitutes an obligation nor a debt or a pledge of the faith, credit, or taxing power of the state, and the holder or owner of such note or obligation has no right to have taxes levied by the general assembly for the payment of such note or obligation, and such note or obligation shall contain a statement to that effect.

(4) Pursuant to the terms of such a loan, a board of education may issue its notes in anticipation of the collection of its voted levies for current

expenses or its receipt of such state funds or both. Such notes shall be issued in accordance with division (E) of section 133.10 of the Revised Code and constitute Chapter 133. securities to the extent such division and the otherwise applicable provisions of Chapter 133. of the Revised Code are not inconsistent with this section, provided that in any event sections 133.24 and 5705.21 and divisions (A), (B), (C), and (E)(2) of section 133.10 of the Revised Code do not apply to such notes.

(5) Notwithstanding section 133.36 or 3313.17, any other section of the Revised Code, or any other provision of law, a board of education that has received a loan under this section may not declare bankruptcy, so long as any portion of such loan remains unpaid.

(F) Under this section and ~~sections~~ section 3313.4810 ~~and 3313.4811~~, "board of education" or "district board" includes the financial planning and supervision commission of a school district under a fiscal emergency pursuant to Chapter 3316. of the Revised Code where such commission chooses to exercise the powers and duties otherwise required of the district board of education under this section and ~~sections~~ section 3313.4810 ~~and 3313.4811~~ of the Revised Code.

Sec. 3313.484. No loan shall be approved under sections 3313.483 to ~~3313.4811~~ 3313.4810 of the Revised Code after March 1, 1998.

By the last day of June each year, the department of education shall calculate and pay a subsidy to every school district that during the current fiscal year paid and was obligated to pay interest on a loan under sections 3313.483 to ~~3313.4811~~ 3313.4810 of the Revised Code in excess of two per cent simple interest. The amount of the subsidy shall equal the difference between the amount of interest the district paid and was obligated to pay during the year and the interest that the district would have been obligated to pay if the interest rate on the loan had been two per cent per year.

Sec. 3313.488. (A) Within fifteen days ~~of~~ after the date ~~a board of education requests that its school district be made subject to this section as authorized by section 3317.62 of the Revised Code, or~~ the state board of education ~~has issued~~ issues an order under section 3313.487 of the Revised Code making a school district subject to this section, the district's board of education shall prepare a fiscal statement of expenses and expenditures for the remainder of the current fiscal year. The fiscal statement shall be submitted to the superintendent of public instruction and shall set forth all revenues to be received by the district during the remainder of the fiscal year and their sources, the expenses to be incurred by the district during the remainder of the fiscal year, the outstanding and unpaid expenses at the time the fiscal statement is prepared and the date or dates by which such expenses

must be paid, and such other information as the superintendent requires to enable the superintendent to ensure that during the remainder of the fiscal year, the district will not incur any expenses that will further impair its ability to operate an instructional program that meets or exceeds the minimum standards of the state board of education and requirements of the Revised Code during the current and ensuing fiscal years with the revenue available to it from existing revenue sources. The fiscal statement shall be presented in such detail and form as the superintendent prescribes. Beginning the tenth day after the fiscal statement is submitted and for the remainder of the fiscal year, the board shall not make any expenditure of money, make any employment, purchase, or rental contract, give any order involving the expenditure of money, or increase any wage or salary schedule unless the superintendent of public instruction has approved the fiscal statement in writing and the expenditure, contract, order, or schedule has been approved in writing by the superintendent as being in conformity with the fiscal statement.

Any contract or expenditure made, order given, or schedule adopted or put into effect without the written approval of the superintendent of public instruction is void, and no warrant shall be issued in payment of any amount due thereon.

(B) A board of education subject to division (A) of this section shall prepare a fiscal statement of expenses and expenditures for the ensuing fiscal year. The fiscal statement shall be submitted to the superintendent of public instruction and shall set forth all revenues to be received by the district during such year and their source, the expenses to be incurred by the district during such year, the outstanding and unpaid expenses on the first day of such fiscal year, the date or dates by which such expenses must be paid, and such other information as the superintendent requires to enable the superintendent to ensure that during such year, the district will not incur any expenses that will further impair its ability to operate an instructional program that meets or exceeds the minimum standards of the state board of education and requirements of the Revised Code during such year with the revenue available to it from existing revenue sources. The fiscal statement shall be presented at the time and in such detail and form as the superintendent prescribes. During the fiscal year following the year in which a board of education first becomes subject to division (A) of this section it shall not make any expenditure of money, make any employment, purchase, or rental contract, give any order involving the expenditure of money, or increase any wage or salary schedule unless the superintendent of public instruction has approved the fiscal statement submitted under this division in

writing and has approved the expenditure, contract, order, or schedule in writing as being in conformity with the fiscal statement.

Any contract or expenditure made, order given, or schedule adopted or put into effect without the written approval of the superintendent of public instruction is void, and no warrant shall be issued in payment of any amount due thereon.

(C) The state board of education shall examine any fiscal statement presented to and approved by the superintendent of public instruction under division (B) of this section and shall determine whether the data set forth in the fiscal statement are factual and based upon assumptions that in its judgment are reasonable expectations consistent with acceptable governmental budget and accounting practices. If the state board so determines and finds that the revenues and expenditures in the fiscal statement are in balance for the fiscal year and the fiscal statement will enable the district to operate during such year without interrupting its school calendar, it shall certify its determination and finding to the district at least thirty days prior to the beginning of the fiscal year, and the district shall thereupon cease to be subject to this section. If the state board does not make such a determination and finding, the board of education and school district are subject to this division and division (B) of this section in the ensuing fiscal year and each fiscal year thereafter until the state board makes a determination, finding, and certification under this division.

(D) Any officer, employee, or other person who knowingly expends or authorizes the expenditure of any public funds or knowingly authorizes or executes any contract, order, or schedule contrary to division (A) or (B) of this section or who knowingly expends or authorizes the expenditure of any public funds on any such void contract, order, or schedule is jointly and severally liable in person and upon any official bond that the officer, employee, or other person has given to such school district to the extent of any payments on the void claim, not to exceed twenty thousand dollars. The attorney general at the written request of the superintendent of public instruction shall enforce this liability by civil action brought in any court of appropriate jurisdiction in the name of and on behalf of the school district.

(E) During each month that a board of education is subject to division (A), (B), or (C) of this section, the superintendent of public instruction shall submit a report to the speaker of the house of representatives and the president of the senate on the financial condition of the school district. The report shall contain the date by which the superintendent anticipates the district will cease to be subject to such divisions, the district's plans for becoming exempt from such section, and such other information the

superintendent determines appropriate or the speaker of the house of representatives or president of the senate requests.

In addition to the other reports required under this division, on the thirty-first day of each school district fiscal year following a fiscal year in which a school district first becomes subject to this section, the superintendent shall submit a written report to the speaker of the house of representatives and the president of the senate. The report shall include recommendations to the general assembly for strengthening the financial condition of school districts based upon the experiences of the superintendent and the state board in exercising their powers under this section and sections 3313.483 and 3313.487 of the Revised Code.

(F) This section does not apply to a school district declared to be under a fiscal emergency pursuant to division (B) of section 3316.03 of the Revised Code.

Sec. 3313.4810. Any school district receiving a loan under section 3313.483 ~~or 3317.64~~ of the Revised Code in excess of seven per cent of the general fund expenditures of the district during the fiscal year in which the loan is received and that has received a loan under that section within the last five years is subject to section 3313.488 of the Revised Code for the duration of the fiscal year in which the district receives the loan and during the ensuing two fiscal years. The controlling board may not relieve a school district to which this section applies from any requirements imposed under section 3313.483 ~~or 3317.64~~ of the Revised Code to implement recommendations of the superintendent of public instruction for expenditure reduction and may not modify any other requirements imposed under such section upon such a district as a condition for receiving the loan unless expressly authorized to do so by law. The superintendent of public instruction shall, among any recommendations ~~he~~ the superintendent makes for expenditure reduction under section 3313.483 ~~or 3317.63~~ of the Revised Code affecting the number of employees of a school district to which this section applies, provide wherever possible for the retention of teachers who are actually involved in the daily teaching of students in the classroom.

Sec. 3313.533. (A) The board of education of a city, exempted village, or local school district may adopt a resolution to establish and maintain an alternative school in accordance with this section. The resolution shall specify, but not necessarily be limited to, all of the following:

(1) The purpose of the school, which purpose shall be to serve students who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, who are exhibiting other academic or behavioral problems specified in the

resolution, or who have been discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code;

(2) The grades served by the school, which may include any of grades kindergarten through twelve;

(3) A requirement that the school be operated in accordance with this section. The board of education adopting the resolution under division (A) of this section shall be the governing board of the alternative school. The board shall develop and implement a plan for the school in accordance with the resolution establishing the school and in accordance with this section. Each plan shall include, but not necessarily be limited to, all of the following:

(a) Specification of the reasons for which students will be accepted for assignment to the school and any criteria for admission that are to be used by the board to approve or disapprove the assignment of students to the school;

(b) Specification of the criteria and procedures that will be used for returning students who have been assigned to the school back to the regular education program of the district;

(c) An evaluation plan for assessing the effectiveness of the school and its educational program and reporting the results of the evaluation to the public.

(B) Notwithstanding any provision of Title XXXIII of the Revised Code to the contrary, the alternative school plan may include any of the following:

(1) A requirement that on each school day students must attend school or participate in other programs specified in the plan or by the chief administrative officer of the school for a period equal to the minimum school day set by the ~~state~~ board of education under section 3313.48 of the Revised Code plus any additional time required in the plan or by the chief administrative officer;

(2) Restrictions on student participation in extracurricular or interscholastic activities;

(3) A requirement that students wear uniforms prescribed by the district board of education.

(C) In accordance with the alternative school plan, the district board of education may employ teachers and nonteaching employees necessary to carry out its duties and fulfill its responsibilities or may contract with a nonprofit or for profit entity to operate the alternative school, including the provision of personnel, supplies, equipment, or facilities.

(D) An alternative school may be established in all or part of a school building.

(E) If a district board of education elects under this section, or is required by section 3313.534 of the Revised Code, to establish an alternative school, the district board may join with the board of education of one or more other districts to form a joint alternative school by forming a cooperative education school district under section 3311.52 or 3311.521 of the Revised Code, or a joint educational program under section 3313.842 of the Revised Code. The authority to employ personnel or to contract with a nonprofit or for profit entity under division (C) of this section applies to any alternative school program established under this division.

(F) Any individual employed as a teacher at an alternative school operated by a nonprofit or for profit entity under this section shall be licensed and shall be subject to background checks, as described in section 3319.39 of the Revised Code, in the same manner as an individual employed by a school district.

(G) Division (G) of this section applies only to any alternative school that is operated by a nonprofit or for profit entity under contract with the school district.

(1) In addition to the specifications authorized under division (B) of this section, any plan adopted under that division for an alternative school to which division (G) of this section also applies shall include the following:

(a) A description of the educational program provided at the alternative school, which shall include:

(i) Provisions for the school to be configured in clusters or small learning communities;

(ii) Provisions for the incorporation of education technology into the curriculum;

(iii) Provisions for accelerated learning programs in reading and mathematics.

(b) A method to determine the reading and mathematics level of each student assigned to the alternative school and a method to continuously monitor each student's progress in those areas. The methods employed under this division shall be aligned with the curriculum adopted by the school district board of education under section 3313.60 of the Revised Code.

(c) A plan for social services to be provided at the alternative school, such as, but not limited to, counseling services, psychological support services, and enrichment programs;

(d) A plan for a student's transition from the alternative school back to a school operated by the school district;

(e) A requirement that the alternative school maintain financial records in a manner that is compatible with the form prescribed for school districts

by the auditor of state to enable the district to comply with any rules adopted by the auditor of state.

(2) Notwithstanding division (A)(2) of this section, any alternative school to which division (G) of this section applies shall include only grades six through twelve.

(3) Notwithstanding anything in division (A)(3)(a) of this section to the contrary, the characteristics of students who may be assigned to an alternative school to which division (G) of this section applies shall include only disruptive and low-performing students.

(H) When any district board of education determines to contract with a nonprofit or for profit entity to operate an alternative school under this section, the board shall use the procedure set forth in this division.

(1) The board shall publish notice of a request for proposals in a newspaper of general circulation in the district once each week for a period of two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the date specified by the board for receiving proposals. Notices of requests for proposals shall contain a general description of the subject of the proposed contract and the location where the request for proposals may be obtained. The request for proposals shall include all of the following information:

(a) Instructions and information to respondents concerning the submission of proposals, including the name and address of the office where proposals are to be submitted;

(b) Instructions regarding communications, including at least the names, titles, and telephone numbers of persons to whom questions concerning a proposal may be directed;

(c) A description of the performance criteria that will be used to evaluate whether a respondent to which a contract is awarded is meeting the district's educational standards or the method by which such performance criteria will be determined;

(d) Factors and criteria to be considered in evaluating proposals, the relative importance of each factor or criterion, and a description of the evaluation procedures to be followed;

(e) Any terms or conditions of the proposed contract, including any requirement for a bond and the amount of such bond;

(f) Documents that may be incorporated by reference into the request for proposals, provided that the request for proposals specifies where such documents may be obtained and that such documents are readily available to all interested parties.

(2) After the date specified for receiving proposals, the board shall

evaluate the submitted proposals and may hold discussions with any respondent to ensure a complete understanding of the proposal and the qualifications of such respondent to execute the proposed contract. Such qualifications shall include, but are not limited to, all of the following:

(a) Demonstrated competence in performance of the required services as indicated by effective implementation of educational programs in reading and mathematics and at least three years of experience successfully serving a student population similar to the student population assigned to the alternative school;

(b) Demonstrated performance in the areas of cost containment, the provision of educational services of a high quality, and any other areas determined by the board;

(c) Whether the respondent has the resources to undertake the operation of the alternative school and to provide qualified personnel to staff the school;

(d) Financial responsibility.

(3) The board shall select for further review at least three proposals from respondents the board considers qualified to operate the alternative school in the best interests of the students and the district. If fewer than three proposals are submitted, the board shall select each proposal submitted. The board may cancel a request for proposals or reject all proposals at any time prior to the execution of a contract.

The board may hold discussions with any of the three selected respondents to clarify or revise the provisions of a proposal or the proposed contract to ensure complete understanding between the board and the respondent of the terms under which a contract will be entered. Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion regarding clarifications or revisions. The board may terminate or discontinue any further discussion with a respondent upon written notice.

(4) Upon further review of the three proposals selected by the board, the board shall award a contract to the respondent the board considers to have the most merit, taking into consideration the scope, complexity, and nature of the services to be performed by the respondent under the contract.

(5) Except as provided in division (H)(6) of this section, the request for proposals, submitted proposals, and related documents shall become public records under section 149.43 of the Revised Code after the award of the contract.

(6) Any respondent may request in writing that the board not disclose confidential or proprietary information or trade secrets contained in the proposal submitted by the respondent to the board. Any such request shall

be accompanied by an offer of indemnification from the respondent to the board. The board shall determine whether to agree to the request and shall inform the respondent in writing of its decision. If the board agrees to nondisclosure of specified information in a proposal, such information shall not become a public record under section 149.43 of the Revised Code. If the respondent withdraws its proposal at any time prior to the execution of a contract, the proposal shall not be a public record under section 149.43 of the Revised Code.

(I) Upon a recommendation from the department and in accordance with section 3301.16 of the Revised Code, the state board of education may revoke the charter of any alternative school operated by a school district that violates this section.

Sec. 3313.537. (A) As used in this section, "extracurricular activity" means a pupil activity program that a school or school district operates and is not included in the school district's graded course of study, including an interscholastic extracurricular activity that a school or school district sponsors or participates in and that has participants from more than one school or school district.

(B)(1) A student in grades seven to twelve who is enrolled in a community school established under Chapter 3314. of the Revised Code that is sponsored by the city, local, or exempted village school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code shall be afforded the opportunity to participate in any extracurricular activities offered at the traditional public school that is operated by the school district and to which the student otherwise would be assigned. If more than one such school operated by the school district serves the student's grade level, the student shall be afforded the opportunity to participate in any extracurricular activities offered at the school to which the student would be assigned by the district superintendent pursuant to section 3319.01 of the Revised Code.

(2) A student who is enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code shall not be ~~afforded the opportunity to participate~~ prohibited from participating in any extracurricular activities offered at the traditional public school that is operated by the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code and to which the student otherwise would be assigned. If more than one such school operated by the school district serves the student's grade level, the student shall be afforded the opportunity to participate in any extracurricular activities offered at the school to which the student would be

assigned by the district superintendent pursuant to section 3319.01 of the Revised Code.

(C) In order to participate in any extracurricular activity under this section, the student shall fulfill the same academic, nonacademic, and financial requirements as any other participant, including the rules and policies adopted by the school district under section 3313.535 of the Revised Code. The school district board of education may require a community school student to enroll and participate in no more than one academic course at the school offering the extracurricular activity as a condition to participating in the activity. In that case, the board shall admit students seeking to enroll in an academic course to fulfill the requirement as space allows after first enrolling students assigned to that school.

(D) No school district board of education shall take any action contrary to the provisions of this section.

(E) No school or school district shall impose fees for a student to participate under this section that exceed any fees charged to other students participating in the same extracurricular activity.

~~(E)~~(F) No school district, interscholastic conference, or organization that regulates interscholastic conferences or events shall require a student who is eligible to participate in extracurricular activities under this section to meet eligibility requirements that conflict with this section.

Sec. 3313.539. (A) As used in this section, "~~physician~~":

"Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

"Chiropractor" means a person licensed under Chapter 4734. of the Revised Code to practice chiropractic.

(B) No school district board of education or governing authority of a chartered or nonchartered nonpublic school shall permit a student to practice for or compete in interscholastic athletics until the student has submitted, to a school official designated by the board or governing authority, a form signed by the parent, guardian, or other person having care or charge of the student stating that the student and the parent, guardian, or other person having care or charge of the student have received the concussion and head injury information sheet required by section 3707.52 of the Revised Code. A completed form shall be submitted each school year, as defined in section 3313.62 of the Revised Code, for each sport or other category of interscholastic athletics for or in which the student practices or competes.

(C)(1) No school district board of education or governing authority of a chartered or nonchartered nonpublic school shall permit an individual to

coach interscholastic athletics unless the individual holds a pupil-activity program permit issued under section 3319.303 of the Revised Code for coaching interscholastic athletics.

(2) No school district board of education or governing authority of a chartered or nonchartered nonpublic school shall permit an individual to referee interscholastic athletics unless the individual holds a pupil-activity program permit issued under section 3319.303 of the Revised Code for coaching interscholastic athletics or presents evidence that the individual has successfully completed, within the previous three years, a training program in recognizing the symptoms of concussions and head injuries to which the department of health has provided a link on its internet web site under section 3707.52 of the Revised Code or a training program authorized and required by an organization that regulates interscholastic conferences or events.

(D) If a student practicing for or competing in an interscholastic athletic event exhibits signs, symptoms, or behaviors consistent with having sustained a concussion or head injury while participating in the practice or competition, the student shall be removed from the practice or competition by either of the following:

(1) The individual who is serving as the student's coach during that practice or competition;

(2) An individual who is serving as a referee during that practice or competition.

(E)(1) If a student is removed from practice or competition under division (D) of this section, the coach or referee who removed the student shall not allow the student, on the same day the student is removed, to return to that practice or competition or to participate in any other practice or competition for which the coach or referee is responsible. Thereafter, the coach or referee shall not allow the student to return to that practice or competition or to participate in any other practice or competition for which the coach or referee is responsible until both of the following conditions are satisfied:

(a) The student's condition is assessed by ~~either~~ any of the following:

(i) A physician;

(ii) A chiropractor;

(iii) Any other licensed health care provider the school district board of education or governing authority of the chartered or nonchartered nonpublic school, pursuant to division (E)(2) of this section, authorizes to assess a student who has been removed from practice or competition under division (D) of this section.

(b) The student receives written clearance that it is safe for the student to return to practice or competition from a physician, chiropractor, or ~~from~~ another licensed health care provider authorized pursuant to division (E)(2) of this section to grant the clearance.

(2) A school district board of education or governing authority of a chartered or nonchartered nonpublic school may authorize a licensed health care provider who is not a physician or a chiropractor to make an assessment or grant a clearance for purposes of division (E)(1) of this section only if the provider is acting in accordance with one of the following, as applicable to the provider's authority to practice in this state:

- (a) In consultation with a physician;
- (b) Pursuant to the referral of a physician;
- (c) In collaboration with a physician;
- (d) Under the supervision of a physician.

(3) A physician, chiropractor, or other licensed health care provider who makes an assessment or grants a clearance for purposes of division (E)(1) of this section may be a volunteer.

(F) A school district board of education or governing authority of a chartered or nonchartered nonpublic school that is subject to the rules of an interscholastic conference or an organization that regulates interscholastic conferences or events shall be considered to be in compliance with divisions (B), (D), and (E) of this section, as long as the requirements of those rules are substantially similar to the requirements of divisions (B), (D), and (E) of this section.

(G)(1) A school district, member of a school district board of education, or school district employee or volunteer, including a coach or referee, is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from providing services or performing duties under this section, unless the act or omission constitutes willful or wanton misconduct.

This section does not eliminate, limit, or reduce any other immunity or defense that a school district, member of a school district board of education, or school district employee or volunteer, including a coach or referee, may be entitled to under Chapter 2744. or any other provision of the Revised Code or under the common law of this state.

(2) A chartered or nonchartered nonpublic school or any officer, director, employee, or volunteer of the school, including a coach or referee, is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from providing services or performing duties under this section, unless the act or omission constitutes willful or wanton

misconduct.

Sec. 3313.5311. (A) As used in this section and in section 3313.5312 of the Revised Code, "extracurricular activity" has the same meaning as in section 3313.537 of the Revised Code.

(B) If the nonpublic school in which the student is enrolled does not offer the extracurricular activity, a student enrolled in a chartered or nonchartered nonpublic school shall be afforded, by the superintendent of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the opportunity to participate in that extracurricular activity at the district school to which the student otherwise would be assigned during that school year. If more than one school operated by the school district serves the student's grade level, as determined by the district superintendent based on the student's age and academic performance, the student shall be afforded the opportunity to participate in that extracurricular activity at the school to which the student would be assigned by the superintendent under section 3319.01 of the Revised Code.

(C) The superintendent of any school district may afford any student enrolled in a nonpublic school, and who is not entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code, the opportunity to participate in an extracurricular activity offered by a school of the district, if both of the following apply:

(1) The nonpublic school in which the student is enrolled does not offer the extracurricular activity;

(2) The extracurricular activity is not interscholastic athletics or interscholastic contests or competition in music, drama, or forensics.

(D) In order to participate in an extracurricular activity under this section, the student shall be of the appropriate age and grade level, as determined by the superintendent of the district, for the school that offers the extracurricular activity, and shall fulfill the same academic, nonacademic, and financial requirements as any other participant.

(E) No school district shall impose additional rules on a student to participate under this section that do not apply to other students participating in the same extracurricular activity. No district shall impose additional fees for a student to participate under this section that exceed any fees charged to other students participating in the same extracurricular activity.

(F) No school district, interscholastic conference, or organization that regulates interscholastic conferences or events shall require a student who is eligible to participate in interscholastic extracurricular activities under this section to meet eligibility requirements that conflict with this section.

Sec. 3313.5312. (A) A student who is receiving home instruction in accordance with division (A)(2) of section 3321.04 of the Revised Code shall be afforded, by the superintendent of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the opportunity to participate in any extracurricular activity offered at the district school to which the student otherwise would be assigned during that school year. If more than one school operated by the school district serves the student's grade level, as determined by the district superintendent based on the student's age and academic performance, the student shall be afforded the opportunity to participate in extracurricular activities at the school to which the student would be assigned by the superintendent under section 3319.01 of the Revised Code. If a student who is afforded the opportunity to participate in extracurricular activities under division (A) of this section wishes to participate in an activity that is offered by the district, the student shall not participate in that activity at another school or school district to which the student is not entitled to attend.

(B) The superintendent of any school district may afford any student who receives home instruction under division (A)(2) of section 3321.04 of the Revised Code, and who is not entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code, the opportunity to participate in any extracurricular activity offered by a school of the district, if the district to which the student is entitled to attend does not offer that extracurricular activity.

(C) In order to participate in an extracurricular activity under this section, the student shall be of the appropriate age and grade level, as determined by the superintendent of the district, for the school that offers the extracurricular activity, shall fulfill the same nonacademic and financial requirements as any other participant, and shall fulfill either of the following academic requirements:

(1) If the student received home instruction in the preceding grading period, the student shall meet any academic requirements established by the state board of education for the continuation of home instruction.

(2) If the student did not receive home instruction in the preceding grading period, the student's academic performance during the preceding grading period shall have met any academic standards for eligibility to participate in the program established by the school district.

(D) Eligibility for a student who leaves a school district mid-year for home instruction shall be determined based on an interim academic assessment issued by the district in which the student was enrolled based on the student's work while enrolled in that district.

(E) Any student who commences home instruction after the beginning of a school year and who is, at the time home instruction commences, ineligible to participate in an extracurricular activity due to failure to meet academic standards or any other requirements of the district shall not participate in the extracurricular activity under this section until the student meets the academic requirements established by the state board of education for continuation of home instruction as verified by the superintendent of the district. No student under this section shall be eligible to participate in the same semester in which the student was determined ineligible.

(F) No school district shall impose additional rules on a student to participate under this section that do not apply to other students participating in the same extracurricular activity. No district shall impose fees for a student to participate under this section that exceed any fees charged to other students participating in the same extracurricular activity.

(G) No school district, interscholastic conference, or organization that regulates interscholastic conferences or events shall require a student who is eligible to participate in interscholastic extracurricular activities under this section to meet eligibility requirements that conflict with this section.

Sec. 3313.60. Notwithstanding division (D) of section 3311.52 of the Revised Code, divisions (A) to (E) of this section do not apply to any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(A) The board of education of each city ~~and~~, ~~exempted village,~~ ~~and local school district,~~ ~~the governing board of each educational service center,~~ and the board of each cooperative education school district established, pursuant to section 3311.521 of the Revised Code, shall prescribe a curriculum for all schools under ~~their~~ its control. Except as provided in division (E) of this section, in any such curriculum there shall be included the study of the following subjects:

(1) The language arts, including reading, writing, spelling, oral and written English, and literature;

(2) Geography, the history of the United States and of Ohio, and national, state, and local government in the United States, including a balanced presentation of the relevant contributions to society of men and women of African, Mexican, Puerto Rican, and American Indian descent as well as other ethnic and racial groups in Ohio and the United States;

(3) Mathematics;

(4) Natural science, including instruction in the conservation of natural resources;

(5) Health education, which shall include instruction in:

(a) The nutritive value of foods, including natural and organically produced foods, the relation of nutrition to health, and the use and effects of food additives;

(b) The harmful effects of and legal restrictions against the use of drugs of abuse, alcoholic beverages, and tobacco;

(c) Venereal disease education, except that upon written request of the student's parent or guardian, a student shall be excused from taking instruction in venereal disease education;

(d) In grades kindergarten through six, instruction in personal safety and assault prevention, except that upon written request of the student's parent or guardian, a student shall be excused from taking instruction in personal safety and assault prevention;

(e) In grades seven through twelve, age-appropriate instruction in dating violence prevention education, which shall include instruction in recognizing dating violence warning signs and characteristics of healthy relationships.

In order to assist school districts in developing a dating violence prevention education curriculum, the department of education shall provide on its web site links to free curricula addressing dating violence prevention.

If the parent or legal guardian of a student less than eighteen years of age submits to the principal of the student's school a written request to examine the dating violence prevention instruction materials used at that school, the principal, within a reasonable period of time after the request is made, shall allow the parent or guardian to examine those materials at that school.

(6) Physical education;

(7) The fine arts, including music;

(8) First aid, including a training program in cardiopulmonary resuscitation, safety, and fire prevention, except that upon written request of the student's parent or guardian, a student shall be excused from taking instruction in cardiopulmonary resuscitation.

(B) Except as provided in division (E) of this section, every school or school district shall include in the requirements for promotion from the eighth grade to the ninth grade one year's course of study of American history. A board may waive this requirement for academically accelerated students who, in accordance with procedures adopted by the board, are able to demonstrate mastery of essential concepts and skills of the eighth grade American history course of study.

(C) As specified in divisions (B)(6) and (C)(6) of section 3313.603 of the Revised Code, except as provided in division (E) of this section, every

high school shall include in the requirements for graduation from any curriculum one-half unit each of American history and government.

(D) Except as provided in division (E) of this section, basic instruction or demonstrated mastery in geography, United States history, the government of the United States, the government of the state of Ohio, local government in Ohio, the Declaration of Independence, the United States Constitution, and the Constitution of the state of Ohio shall be required before pupils may participate in courses involving the study of social problems, economics, foreign affairs, United Nations, world government, socialism, and communism.

(E) For each cooperative education school district established pursuant to section 3311.521 of the Revised Code and each city, exempted village, and local school district that has territory within such a cooperative district, the curriculum adopted pursuant to divisions (A) to (D) of this section shall only include the study of the subjects that apply to the grades operated by each such school district. The curriculums for such schools, when combined, shall provide to each student of these districts all of the subjects required under divisions (A) to (D) of this section.

(F) The board of education of any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code shall prescribe a curriculum for the subject areas and grade levels offered in any school under its control.

(G) Upon the request of any parent or legal guardian of a student, the board of education of any school district shall permit the parent or guardian to promptly examine, with respect to the parent's or guardian's own child:

- (1) Any survey or questionnaire, prior to its administration to the child;
- (2) Any textbook, workbook, software, video, or other instructional materials being used by the district in connection with the instruction of the child;
- (3) Any completed and graded test taken or survey or questionnaire filled out by the child;
- (4) Copies of the statewide academic standards and each model curriculum developed pursuant to section 3301.079 of the Revised Code, which copies shall be available at all times during school hours in each district school building.

Sec. 3313.603. (A) As used in this section:

- (1) "One unit" means a minimum of one hundred twenty hours of course instruction, except that for a laboratory course, "one unit" means a minimum of one hundred fifty hours of course instruction.
- (2) "One-half unit" means a minimum of sixty hours of course

instruction, except that for physical education courses, "one-half unit" means a minimum of one hundred twenty hours of course instruction.

(B) Beginning September 15, 2001, except as required in division (C) of this section and division (C) of section 3313.614 of the Revised Code, the requirements for graduation from every high school shall include twenty units earned in grades nine through twelve and shall be distributed as follows:

- (1) English language arts, four units;
- (2) Health, one-half unit;
- (3) Mathematics, three units;
- (4) Physical education, one-half unit;
- (5) Science, two units until September 15, 2003, and three units thereafter, which at all times shall include both of the following:
 - (a) Biological sciences, one unit;
 - (b) Physical sciences, one unit.
- (6) History and government, one unit, which shall comply with division (M) of this section and shall include both of the following:
 - (a) American history, one-half unit;
 - (b) American government, one-half unit.
- (7) Social studies, two units.
- (8) Elective units, seven units until September 15, 2003, and six units thereafter.

Each student's electives shall include at least one unit, or two half units, chosen from among the areas of business/technology, fine arts, and/or foreign language.

(C) Beginning with students who enter ninth grade for the first time on or after July 1, 2010, except as provided in divisions (D) to (F) of this section, the requirements for graduation from every public and chartered nonpublic high school shall include twenty units that are designed to prepare students for the workforce and college. The units shall be distributed as follows:

- (1) English language arts, four units;
- (2) Health, one-half unit, which shall include instruction in nutrition and the benefits of nutritious foods and physical activity for overall health;
- (3) Mathematics, four units, which shall include one unit of algebra II or the equivalent of algebra II;
- (4) Physical education, one-half unit;
- (5) Science, three units with inquiry-based laboratory experience that engages students in asking valid scientific questions and gathering and analyzing information, which shall include the following, or their

equivalent:

- (a) Physical sciences, one unit;
- (b) Life sciences, one unit;
- (c) Advanced study in one or more of the following sciences, one unit:
 - (i) Chemistry, physics, or other physical science;
 - (ii) Advanced biology or other life science;
 - (iii) Astronomy, physical geology, or other earth or space science.
- (6) History and government, one unit, which shall comply with division (M) of this section and shall include both of the following:
 - (a) American history, one-half unit;
 - (b) American government, one-half unit.
- (7) Social studies, two units.

Each school shall integrate the study of economics and financial literacy, as expressed in the social studies academic content standards adopted by the state board of education under division (A)(1) of section 3301.079 of the Revised Code and the academic content standards for financial literacy and entrepreneurship adopted under division (A)(2) of that section, into one or more existing social studies credits required under division (C)(7) of this section, or into the content of another class, so that every high school student receives instruction in those concepts. In developing the curriculum required by this paragraph, schools shall use available public-private partnerships and resources and materials that exist in business, industry, and through the centers for economics education at institutions of higher education in the state.

(8) Five units consisting of one or any combination of foreign language, fine arts, business, career-technical education, family and consumer sciences, technology, agricultural education, a junior reserve officer training corps (JROTC) program approved by the congress of the United States under title 10 of the United States Code, or English language arts, mathematics, science, or social studies courses not otherwise required under division (C) of this section.

Ohioans must be prepared to apply increased knowledge and skills in the workplace and to adapt their knowledge and skills quickly to meet the rapidly changing conditions of the twenty-first century. National studies indicate that all high school graduates need the same academic foundation, regardless of the opportunities they pursue after graduation. The goal of Ohio's system of elementary and secondary education is to prepare all students for and seamlessly connect all students to success in life beyond high school graduation, regardless of whether the next step is entering the workforce, beginning an apprenticeship, engaging in post-secondary

training, serving in the military, or pursuing a college degree.

The Ohio core curriculum is the standard expectation for all students entering ninth grade for the first time at a public or chartered nonpublic high school on or after July 1, 2010. A student may satisfy this expectation through a variety of methods, including, but not limited to, integrated, applied, career-technical, and traditional coursework.

Whereas teacher quality is essential for student success in completing the Ohio core curriculum, the general assembly shall appropriate funds for strategic initiatives designed to strengthen schools' capacities to hire and retain highly qualified teachers in the subject areas required by the curriculum. Such initiatives are expected to require an investment of \$120,000,000 over five years.

Stronger coordination between high schools and institutions of higher education is necessary to prepare students for more challenging academic endeavors and to lessen the need for academic remediation in college, thereby reducing the costs of higher education for Ohio's students, families, and the state. The state board and the chancellor of the Ohio board of regents shall develop policies to ensure that only in rare instances will students who complete the Ohio core curriculum require academic remediation after high school.

School districts, community schools, and chartered nonpublic schools shall integrate technology into learning experiences across the curriculum in order to maximize efficiency, enhance learning, and prepare students for success in the technology-driven twenty-first century. Districts and schools shall use distance and web-based course delivery as a method of providing or augmenting all instruction required under this division, including laboratory experience in science. Districts and schools shall utilize technology access and electronic learning opportunities provided by the ~~eTech Ohio~~ broadcast educational media commission, ~~chancellor~~, the Ohio learning network, education technology centers, public television stations, and other public and private providers.

(D) Except as provided in division (E) of this section, a student who enters ninth grade on or after July 1, 2010, and before July 1, 2014, may qualify for graduation from a public or chartered nonpublic high school even though the student has not completed the Ohio core curriculum prescribed in division (C) of this section if all of the following conditions are satisfied:

(1) After the student has attended high school for two years, as determined by the school, the student and the student's parent, guardian, or custodian sign and file with the school a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating

without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework.

(2) The student and parent, guardian, or custodian fulfill any procedural requirements the school stipulates to ensure the student's and parent's, guardian's, or custodian's informed consent and to facilitate orderly filing of statements under division (D)(1) of this section.

(3) The student and the student's parent, guardian, or custodian and a representative of the student's high school jointly develop an individual career plan for the student that specifies the student matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(4) The student's high school provides counseling and support for the student related to the plan developed under division (D)(3) of this section during the remainder of the student's high school experience.

(5) The student successfully completes, at a minimum, the curriculum prescribed in division (B) of this section.

The department of education, in collaboration with the chancellor, shall analyze student performance data to determine if there are mitigating factors that warrant extending the exception permitted by division (D) of this section to high school classes beyond those entering ninth grade before July 1, 2014. The department shall submit its findings and any recommendations not later than August 1, 2014, to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the chairpersons and ranking minority members of the standing committees of the house of representatives and the senate that consider education legislation, the state board of education, and the superintendent of public instruction.

(E) Each school district and chartered nonpublic school retains the authority to require an even more rigorous minimum curriculum for high school graduation than specified in division (B) or (C) of this section. A school district board of education, through the adoption of a resolution, or the governing authority of a chartered nonpublic school may stipulate any of the following:

(1) A minimum high school curriculum that requires more than twenty units of academic credit to graduate;

(2) An exception to the district's or school's minimum high school curriculum that is comparable to the exception provided in division (D) of this section but with additional requirements, which may include a requirement that the student successfully complete more than the minimum

curriculum prescribed in division (B) of this section;

(3) That no exception comparable to that provided in division (D) of this section is available.

(F) A student enrolled in a dropout prevention and recovery program, which program has received a waiver from the department, may qualify for graduation from high school by successfully completing a competency-based instructional program administered by the dropout prevention and recovery program in lieu of completing the Ohio core curriculum prescribed in division (C) of this section. The department shall grant a waiver to a dropout prevention and recovery program, within sixty days after the program applies for the waiver, if the program meets all of the following conditions:

(1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age.

(2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs.

(3) The program requires students to attain at least the applicable score designated for each of the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code or, to the extent prescribed by rule of the state board under division (D)(6) of section 3301.0712 of the Revised Code, division (B)(2) of that section.

(4) The program develops an individual career plan for the student that specifies the student's matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(5) The program provides counseling and support for the student related to the plan developed under division (F)(4) of this section during the remainder of the student's high school experience.

(6) The program requires the student and the student's parent, guardian, or custodian to sign and file, in accordance with procedural requirements stipulated by the program, a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework.

(7) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board under section 3301.079 of the

Revised Code will be taught and assessed.

If the department does not act either to grant the waiver or to reject the program application for the waiver within sixty days as required under this section, the waiver shall be considered to be granted.

(G) Every high school may permit students below the ninth grade to take advanced work. If a high school so permits, it shall award high school credit for successful completion of the advanced work and shall count such advanced work toward the graduation requirements of division (B) or (C) of this section if the advanced work was both:

(1) Taught by a person who possesses a license or certificate issued under section 3301.071, 3319.22, or 3319.222 of the Revised Code that is valid for teaching high school;

(2) Designated by the board of education of the city, local, or exempted village school district, the board of the cooperative education school district, or the governing authority of the chartered nonpublic school as meeting the high school curriculum requirements.

Each high school shall record on the student's high school transcript all high school credit awarded under division (G) of this section. In addition, if the student completed a seventh- or eighth-grade fine arts course described in division (K) of this section and the course qualified for high school credit under that division, the high school shall record that course on the student's high school transcript.

(H) The department shall make its individual academic career plan available through its Ohio career information system web site for districts and schools to use as a tool for communicating with and providing guidance to students and families in selecting high school courses.

(I) Units earned in English language arts, mathematics, science, and social studies that are delivered through integrated academic and career-technical instruction are eligible to meet the graduation requirements of division (B) or (C) of this section.

(J) The state board, in consultation with the chancellor, shall adopt a statewide plan implementing methods for students to earn units of high school credit based on a demonstration of subject area competency, instead of or in combination with completing hours of classroom instruction. The state board shall adopt the plan not later than March 31, 2009, and commence phasing in the plan during the 2009-2010 school year. The plan shall include a standard method for recording demonstrated proficiency on high school transcripts. Each school district and community school shall comply with the state board's plan adopted under this division and award units of high school credit in accordance with the plan. The state board may

adopt existing methods for earning high school credit based on a demonstration of subject area competency as necessary prior to the 2009-2010 school year.

(K) This division does not apply to students who qualify for graduation from high school under division (D) or (F) of this section, or to students pursuing a career-technical instructional track as determined by the school district board of education or the chartered nonpublic school's governing authority. Nevertheless, the general assembly encourages such students to consider enrolling in a fine arts course as an elective.

Beginning with students who enter ninth grade for the first time on or after July 1, 2010, each student enrolled in a public or chartered nonpublic high school shall complete two semesters or the equivalent of fine arts to graduate from high school. The coursework may be completed in any of grades seven to twelve. Each student who completes a fine arts course in grade seven or eight may elect to count that course toward the five units of electives required for graduation under division (C)(8) of this section, if the course satisfied the requirements of division (G) of this section. In that case, the high school shall award the student high school credit for the course and count the course toward the five units required under division (C)(8) of this section. If the course in grade seven or eight did not satisfy the requirements of division (G) of this section, the high school shall not award the student high school credit for the course but shall count the course toward the two semesters or the equivalent of fine arts required by this division.

(L) Notwithstanding anything to the contrary in this section, the board of education of each school district and the governing authority of each chartered nonpublic school may adopt a policy to excuse from the high school physical education requirement each student who, during high school, has participated in interscholastic athletics, marching band, or cheerleading for at least two full seasons or in the junior reserve officer training corps for at least two full school years. If the board or authority adopts such a policy, the board or authority shall not require the student to complete any physical education course as a condition to graduate. However, the student shall be required to complete one-half unit, consisting of at least sixty hours of instruction, in another course of study. In the case of a student who has participated in the junior reserve officer training corps for at least two full school years, credit received for that participation may be used to satisfy the requirement to complete one-half unit in another course of study.

(M) It is important that high school students learn and understand United States history and the governments of both the United States and the

state of Ohio. Therefore, beginning with students who enter ninth grade for the first time on or after July 1, 2012, the study of American history and American government required by divisions (B)(6) and (C)(6) of this section shall include the study of all of the following documents:

- (1) The Declaration of Independence;
- (2) The Northwest Ordinance;
- (3) The Constitution of the United States with emphasis on the Bill of Rights;
- (4) The Ohio Constitution.

The study of each of the documents prescribed in divisions (M)(1) to (4) of this section shall include study of that document in its original context.

The study of American history and government required by divisions (B)(6) and (C)(6) of this section shall include the historical evidence of the role of documents such as the Federalist Papers and the Anti-Federalist Papers to firmly establish the historical background leading to the establishment of the provisions of the Constitution and Bill of Rights.

Sec. 3313.6013. (A) As used in this section, "dual enrollment program" means a program that enables a student to earn credit toward a degree from an institution of higher education while enrolled in high school or that enables a student to complete coursework while enrolled in high school that may earn credit toward a degree from an institution of higher education upon the student's attainment of a specified score on an examination covering the coursework. Dual enrollment programs may include any of the following:

- (1) The post-secondary enrollment options program established under Chapter 3365. of the Revised Code;
- (2) Advanced placement courses;
- (3) Any similar program established pursuant to an agreement between a school district or chartered nonpublic high school and an institution of higher education;
- (4) Early college high schools.

(B) Each city, local, exempted village, and joint vocational school district and each chartered nonpublic high school shall provide students enrolled in grades nine through twelve with the opportunity to participate in a dual enrollment program. For this purpose, each school district and chartered nonpublic high school shall offer at least one dual enrollment program in accordance with division (B)(1) or (2) of this section, as applicable.

(1) A city, local, or exempted village school district meets the requirements of this division through its mandatory participation in the

post-secondary enrollment options program established under Chapter 3365. of the Revised Code. However, a city, local, or exempted village school district may offer any other dual enrollment program, in addition to the post-secondary enrollment options program, and each joint vocational school district shall offer at least one other dual enrollment program, to students in good standing, as defined by the partnership for continued learning under section 3301.42 of the Revised Code as it existed prior to October 16, 2009, or as subsequently defined by the department of education.

(2) A chartered nonpublic high school that elects to participate in the post-secondary enrollment options program established under Chapter 3365. of the Revised Code meets the requirements of this division. Each chartered nonpublic high school that elects not to participate in the post-secondary enrollment options program instead shall offer at least one other dual enrollment program to students in good standing, as defined by the partnership for continued learning under section 3301.42 of the Revised Code as it existed prior to October 16, 2009, or as subsequently defined by the department of education.

(C) Each school district and each chartered nonpublic high school shall provide information about the dual enrollment programs offered by the district or school to all students enrolled in grades eight through eleven.

(D) No city, local, exempted village, and joint vocational school district shall charge an enrolled student an additional fee or tuition for participation in any dual enrollment program offered by the district. Students may be required to pay the costs associated with taking an advanced placement or international baccalaureate examination.

Sec. 3313.6016. (A) Beginning in the 2011-2012 school year, the department of education shall administer a pilot program requiring daily physical activity for students. Any school district; community school established under Chapter 3314. of the Revised Code; science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code; or chartered nonpublic school annually may elect to participate in the pilot program by notifying the department of its interest by a date established by the department. If a school district elects to participate in the pilot program, ~~each school building operated by the district shall be required~~ the district shall select one or more school buildings to participate in the program. To the maximum extent possible, the department shall seek to include in the pilot program districts and schools that are located in urban, suburban, and rural areas distributed geographically throughout the state. The department shall administer the pilot program in accordance with this

section.

(B) Except as provided in division (C) of this section, each district or school participating in the pilot program shall require all students in ~~each of grades kindergarten through twelve~~ the school building selected under division (A) of this section to engage in at least thirty minutes of moderate to rigorous physical activity each school day or at least one hundred fifty minutes of moderate to rigorous physical activity each week, exclusive of recess. Physical activity engaged in during the following may count toward the daily requirement:

(1) A physical education course;

(2) A program or activity occurring before or after the regular school day, as defined in section 3313.814 of the Revised Code, that is sponsored or approved by the school of attendance, provided school officials are able to monitor students' participation to ensure compliance with the requirement.

(C) None of the following shall be subject to the requirement of division (B) of this section:

(1) Any student enrolled in the post-secondary enrollment options program established under Chapter 3365. of the Revised Code;

(2) Any student enrolled in a career-technical education program operated by the district or school;

(3) Any student enrolled in a dropout prevention and recovery program operated by the district or school.

(D) For any period in which a student is participating in interscholastic athletics, marching band, cheerleading, or a junior reserve officer training corps program, the district or school may excuse the student from the requirement of division (B) of this section.

(E) The district or school may excuse any kindergarten student who is not enrolled in all-day kindergarten, as defined in section 3321.05 of the Revised Code, from the requirement of division (B) of this section.

(F) Each district or school annually shall report to the department, in the manner prescribed by the department, how the district or school implemented the thirty minutes of daily physical activity and the financial costs of implementation. The department shall issue an annual report of the data collected under this division.

Sec. 3313.6018. (A) As used in this section and section 3313.6019 of the Revised Code, "extended programming" means extended programming as described in section 3301.0725 of the Revised Code.

(B) Except as provided in division (C) of section 3313.6019 of the Revised Code, extended programming shall be used for activities that

involve direct contact with students or are directly related to student programs and activities.

(C) A licensed educator shall not provide more than eight hours of extended programming in a twenty-four-hour day.

Sec. 3313.6019. (A) Not later than December 31, 2013, the department of education shall issue a report with recommendations for quality agricultural education programs. These recommendations shall be developed using both of the following:

(1) The standards for exemplary agricultural education that are described in the national quality program standards for secondary (grades 9-12) agricultural education developed by the national council for agricultural education or a successor document developed by the national council for agricultural education or its successor;

(2) The quality program standards for Ohio's agricultural and environmental systems career field programs or a successor document developed by the department, the Ohio association of agricultural educators, the Ohio state university, and wilmington college of Ohio.

The report shall include the appropriate use of extended programming in agricultural education programs and the recommended number of hours outside the normal school day that licensed educators may be permitted to provide extended programming instruction. Following the initial issuance of the report, the department may periodically review and update the report as it considers necessary.

(B) All agricultural education instructors shall utilize a three-part model of agricultural education instruction of classroom instruction, FFA activities, and extended programming projects.

(C) Professional development associated with agricultural education shall be considered an acceptable use of extended student programming funds.

(D) All agricultural education instructors shall submit a monthly time log to the principal of the school at which the extended programming is offered, or the principal's designee, for review.

Sec. 3313.612. (A) No nonpublic school chartered by the state board of education shall grant a high school diploma to any person unless, subject to section 3313.614 of the Revised Code, the person has met the assessment requirements of division (A)(1) or (2) of this section, as applicable.

(1) If the person entered the ninth grade prior to the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the person has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code

on all the assessments required by that division, or has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(2) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the person has met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code.

(B) This section does not apply to ~~either~~ any of the following:

(1) Any person with regard to any assessment from which the person was excused pursuant to division (C)(1)(c) of section 3301.0711 of the Revised Code;

(2) Any person that attends a nonpublic school accredited through the independent school association of the central states with regard to any end-of-course examination required under divisions (B)(2) and (3) of section 3301.0712 of the Revised Code;

(3) Any person with regard to the social studies assessment under division (B)(1) of section 3301.0710 of the Revised Code, any American history end-of-course examination and any American government end-of-course examination required under division (B)(2) of that section if such an exemption is prescribed by rule of the state board of education under division (D)(4) of section 3301.0712 of the Revised Code, or the citizenship test under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, if all of the following apply:

(a) The person is not a citizen of the United States;

(b) The person is not a permanent resident of the United States;

(c) The person indicates no intention to reside in the United States after completion of high school.

(C) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or met the requirements of the assessments under division (B)(2) of that section, shall be awarded a diploma under this section.

Sec. 3313.615. This section shall apply to diplomas awarded after September 15, 2006, to students who are required to take the five Ohio graduation tests prescribed by division (B)(1) of section 3301.0710 of the

Revised Code.

(A) As an alternative to the requirement that a person attain the scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required under that division in order to be eligible for a high school diploma or an honors diploma under sections 3313.61, 3313.612, or 3325.08 of the Revised Code or for a diploma of adult education under section 3313.611 of the Revised Code, a person who has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all but one of the assessments required by that division and from which the person was not excused or exempted, pursuant to division (L) of section 3313.61, division (B)(1) of section 3313.612, or section 3313.532 of the Revised Code, may be awarded a diploma or honors diploma if the person has satisfied all of the following conditions:

(1) On the one assessment required under division (B)(1) of section 3301.0710 of the Revised Code for which the person failed to attain the designated score, the person missed that score by ten points or less;

(2) Has a ninety-seven per cent school attendance rate in each of the last four school years, excluding any excused absences;

(3) Has not been expelled from school under section 3313.66 of the Revised Code in any of the last four school years;

(4) Has a grade point average of at least 2.5 out of 4.0, or its equivalent as designated in rules adopted by the state board of education, in the subject area of the assessment required under division (B)(1) of section 3301.0710 of the Revised Code for which the person failed to attain the designated score;

(5) Has completed the high school curriculum requirements prescribed in section 3313.603 of the Revised Code or has qualified under division (D) or (F) of that section;

(6) Has taken advantage of any intervention programs provided by the school district or school in the subject area described in division (A)(4) of this section and has a ninety-seven per cent attendance rate, excluding any excused absences, in any of those programs that are provided at times beyond the normal school day, school week, or school year or has received comparable intervention services from a source other than the school district or school;

(7) Holds a letter recommending graduation from each of the person's high school teachers in the subject area described in division (A)(4) of this section and from the person's high school principal.

(B) The state board of education shall establish rules designating grade

point averages equivalent to the average specified in division (A)(4) of this section for use by school districts and schools with different grading systems.

(C) Any student who is exempt from attaining the applicable score designated under division (B)(1) of section 3301.0710 of the Revised Code on the Ohio graduation test in social studies pursuant to division (H) of section 3313.61 or division (B)(2)(3) of section 3313.612 of the Revised Code shall not qualify for a high school diploma under this section, unless, notwithstanding the exemption, the student attains the applicable score on that assessment. If the student attains the applicable score on that assessment, the student may qualify for a diploma under this section in the same manner as any other student who is required to take the five Ohio graduation tests prescribed by division (B)(1) of section 3301.0710 of the Revised Code.

Sec. 3313.62. The school year shall begin on the first day of July of each calendar year and close on the thirtieth day of June of the succeeding calendar year. A school week shall consist of five days, ~~and a school month of four school weeks.~~ A chartered nonpublic school may be open for instruction with pupils in attendance on any day of the week, including Saturday or Sunday.

Sec. 3313.64. (A) As used in this section and in section 3313.65 of the Revised Code:

(1)(a) Except as provided in division (A)(1)(b) of this section, "parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. When a child is in the legal custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent with residual parental rights, privileges, and responsibilities. When a child is in the permanent custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent who was divested of parental rights and responsibilities for the care of the child and the right to have the child live with the parent and be the legal custodian of the child and all residual parental rights, privileges, and responsibilities.

(b) When a child is the subject of a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code, "parent" means the grandparent designated as attorney in fact under the power of attorney. When a child is the subject of a caretaker authorization affidavit executed under sections 3109.64 to 3109.73 of the Revised Code, "parent" means the grandparent that executed the affidavit.

(2) "Legal custody," "permanent custody," and "residual parental rights, privileges, and responsibilities" have the same meanings as in section 2151.011 of the Revised Code.

(3) "School district" or "district" means a city, local, or exempted village school district and excludes any school operated in an institution maintained by the department of youth services.

(4) Except as used in division (C)(2) of this section, "home" means a home, institution, foster home, group home, or other residential facility in this state that receives and cares for children, to which any of the following applies:

(a) The home is licensed, certified, or approved for such purpose by the state or is maintained by the department of youth services.

(b) The home is operated by a person who is licensed, certified, or approved by the state to operate the home for such purpose.

(c) The home accepted the child through a placement by a person licensed, certified, or approved to place a child in such a home by the state.

(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code.

(5) "Agency" means all of the following:

(a) A public children services agency;

(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;

(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39 of the Revised Code or as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code.

(6) A child is placed for adoption if either of the following occurs:

(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.

(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.

(7) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code.

(8) "Child," unless otherwise indicated, includes preschool children with disabilities.

(9) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(B) Except as otherwise provided in section 3321.01 of the Revised Code for admittance to kindergarten and first grade, a child who is at least five but under twenty-two years of age and any preschool child with a disability shall be admitted to school as provided in this division.

(1) A child shall be admitted to the schools of the school district in which the child's parent resides.

(2) ~~A~~ Except as provided in division (B) of section 2151.362 and section 3317.30 of the Revised Code, a child who does not reside in the district where the child's parent resides shall be admitted to the schools of the district in which the child resides if any of the following applies:

(a) The child is in the legal or permanent custody of a government agency or a person other than the child's natural or adoptive parent.

(b) The child resides in a home.

(c) The child requires special education.

(3) A child who is not entitled under division (B)(2) of this section to be admitted to the schools of the district where the child resides and who is residing with a resident of this state with whom the child has been placed for adoption shall be admitted to the schools of the district where the child resides unless either of the following applies:

(a) The placement for adoption has been terminated.

(b) Another school district is required to admit the child under division (B)(1) of this section.

Division (B) of this section does not prohibit the board of education of a school district from placing a child with a disability who resides in the district in a special education program outside of the district or its schools in compliance with Chapter 3323. of the Revised Code.

(C) A district shall not charge tuition for children admitted under division (B)(1) or (3) of this section. If the district admits a child under division (B)(2) of this section, tuition shall be paid to the district that admits the child as provided in divisions (C)(1) to (3) of this section, unless division (C)(4) of this section applies to the child:

(1) If the child receives special education in accordance with Chapter 3323. of the Revised Code, the school district of residence, as defined in section 3323.01 of the Revised Code, shall pay tuition for the child in accordance with section 3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code regardless of who has custody of the child or whether the child resides in a home.

(2) For a child that does not receive special education in accordance with Chapter 3323. of the Revised Code, except as otherwise provided in division (C)(2)(d) of this section, if the child is in the permanent or legal custody of a government agency or person other than the child's parent, tuition shall be paid by:

(a) The district in which the child's parent resided at the time the court removed the child from home or at the time the court vested legal or permanent custody of the child in the person or government agency, whichever occurred first;

(b) If the parent's residence at the time the court removed the child from home or placed the child in the legal or permanent custody of the person or government agency is unknown, tuition shall be paid by the district in which the child resided at the time the child was removed from home or placed in legal or permanent custody, whichever occurred first;

(c) If a school district cannot be established under division (C)(2)(a) or (b) of this section, tuition shall be paid by the district determined as required by section 2151.362 of the Revised Code by the court at the time it vests custody of the child in the person or government agency;

(d) If at the time the court removed the child from home or vested legal or permanent custody of the child in the person or government agency, whichever occurred first, one parent was in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, was not known to reside in this state, tuition shall be paid by the district determined under division (D) of section 3313.65 of the Revised Code as the district required to pay any tuition while the parent was in such facility or placement;

(e) If the department of education has determined, pursuant to division (A)(2) of section 2151.362 of the Revised Code, that a school district other than the one named in the court's initial order, or in a prior determination of the department, is responsible to bear the cost of educating the child, the district so determined shall be responsible for that cost.

(3) If the child is not in the permanent or legal custody of a government agency or person other than the child's parent and the child resides in a home, tuition shall be paid by one of the following:

(a) The school district in which the child's parent resides;

(b) If the child's parent is not a resident of this state, the home in which the child resides.

(4) Division (C)(4) of this section applies to any child who is admitted to a school district under division (B)(2) of this section, resides in a home that is not a foster home ~~or~~, a home maintained by the department of youth

services, a detention facility established under section 2152.41 of the Revised Code, or a juvenile facility established under section 2151.65 of the Revised Code, receives educational services at the home or facility in which the child resides pursuant to a contract between the home or facility and the school district providing those services, and does not receive special education.

In the case of a child to which division (C)(4) of this section applies, the total educational cost to be paid for the child shall be determined by a formula approved by the department of education, which formula shall be designed to calculate a per diem cost for the educational services provided to the child for each day the child is served and shall reflect the total actual cost incurred in providing those services. The department shall certify the total educational cost to be paid for the child to both the school district providing the educational services and, if different, the school district that is responsible to pay tuition for the child. The department shall deduct the certified amount from the state basic aid funds payable under Chapter 3317. of the Revised Code to the district responsible to pay tuition and shall pay that amount to the district providing the educational services to the child.

(D) Tuition required to be paid under divisions (C)(2) and (3)(a) of this section shall be computed in accordance with section 3317.08 of the Revised Code. Tuition required to be paid under division (C)(3)(b) of this section shall be computed in accordance with section 3317.081 of the Revised Code. If a home fails to pay the tuition required by division (C)(3)(b) of this section, the board of education providing the education may recover in a civil action the tuition and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. If the prosecuting attorney or city director of law represents the board in such action, costs and reasonable attorney's fees awarded by the court, based upon the prosecuting attorney's, director's, or one of their designee's time spent preparing and presenting the case, shall be deposited in the county or city general fund.

(E) A board of education may enroll a child free of any tuition obligation for a period not to exceed sixty days, on the sworn statement of an adult resident of the district that the resident has initiated legal proceedings for custody of the child.

(F) In the case of any individual entitled to attend school under this division, no tuition shall be charged by the school district of attendance and no other school district shall be required to pay tuition for the individual's attendance. Notwithstanding division (B), (C), or (E) of this section:

(1) All persons at least eighteen but under twenty-two years of age who

live apart from their parents, support themselves by their own labor, and have not successfully completed the high school curriculum or the individualized education program developed for the person by the high school pursuant to section 3323.08 of the Revised Code, are entitled to attend school in the district in which they reside.

(2) Any child under eighteen years of age who is married is entitled to attend school in the child's district of residence.

(3) A child is entitled to attend school in the district in which either of the child's parents is employed if the child has a medical condition that may require emergency medical attention. The parent of a child entitled to attend school under division (F)(3) of this section shall submit to the board of education of the district in which the parent is employed a statement from the child's physician certifying that the child's medical condition may require emergency medical attention. The statement shall be supported by such other evidence as the board may require.

(4) Any child residing with a person other than the child's parent is entitled, for a period not to exceed twelve months, to attend school in the district in which that person resides if the child's parent files an affidavit with the superintendent of the district in which the person with whom the child is living resides stating all of the following:

(a) That the parent is serving outside of the state in the armed services of the United States;

(b) That the parent intends to reside in the district upon returning to this state;

(c) The name and address of the person with whom the child is living while the parent is outside the state.

(5) Any child under the age of twenty-two years who, after the death of a parent, resides in a school district other than the district in which the child attended school at the time of the parent's death is entitled to continue to attend school in the district in which the child attended school at the time of the parent's death for the remainder of the school year, subject to approval of that district board.

(6) A child under the age of twenty-two years who resides with a parent who is having a new house built in a school district outside the district where the parent is residing is entitled to attend school for a period of time in the district where the new house is being built. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being built, and stating the parent's intention to reside there upon

its completion;

(b) A statement from the builder confirming that a new house is being built for the parent and that the house is at the location indicated in the parent's statement.

(7) A child under the age of twenty-two years residing with a parent who has a contract to purchase a house in a school district outside the district where the parent is residing and who is waiting upon the date of closing of the mortgage loan for the purchase of such house is entitled to attend school for a period of time in the district where the house is being purchased. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being purchased, and stating the parent's intent to reside there;

(b) A statement from a real estate broker or bank officer confirming that the parent has a contract to purchase the house, that the parent is waiting upon the date of closing of the mortgage loan, and that the house is at the location indicated in the parent's statement.

The district superintendent shall establish a period of time not to exceed ninety days during which the child entitled to attend school under division (F)(6) or (7) of this section may attend without tuition obligation. A student attending a school under division (F)(6) or (7) of this section shall be eligible to participate in interscholastic athletics under the auspices of that school, provided the board of education of the school district where the student's parent resides, by a formal action, releases the student to participate in interscholastic athletics at the school where the student is attending, and provided the student receives any authorization required by a public agency or private organization of which the school district is a member exercising authority over interscholastic sports.

(8) A child whose parent is a full-time employee of a city, local, or exempted village school district, or of an educational service center, may be admitted to the schools of the district where the child's parent is employed, or in the case of a child whose parent is employed by an educational service center, in the district that serves the location where the parent's job is primarily located, provided the district board of education establishes such an admission policy by resolution adopted by a majority of its members. Any such policy shall take effect on the first day of the school year and the effective date of any amendment or repeal may not be prior to the first day of the subsequent school year. The policy shall be uniformly applied to all such children and shall provide for the admission of any such child upon request of the parent. No child may be admitted under this policy after the

first day of classes of any school year.

(9) A child who is with the child's parent under the care of a shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code, is entitled to attend school free in the district in which the child is with the child's parent, and no other school district shall be required to pay tuition for the child's attendance in that school district.

The enrollment of a child in a school district under this division shall not be denied due to a delay in the school district's receipt of any records required under section 3313.672 of the Revised Code or any other records required for enrollment. Any days of attendance and any credits earned by a child while enrolled in a school district under this division shall be transferred to and accepted by any school district in which the child subsequently enrolls. The state board of education shall adopt rules to ensure compliance with this division.

(10) Any child under the age of twenty-two years whose parent has moved out of the school district after the commencement of classes in the child's senior year of high school is entitled, subject to the approval of that district board, to attend school in the district in which the child attended school at the time of the parental move for the remainder of the school year and for one additional semester or equivalent term. A district board may also adopt a policy specifying extenuating circumstances under which a student may continue to attend school under division (F)(10) of this section for an additional period of time in order to successfully complete the high school curriculum for the individualized education program developed for the student by the high school pursuant to section 3323.08 of the Revised Code.

(11) As used in this division, "grandparent" means a parent of a parent of a child. A child under the age of twenty-two years who is in the custody of the child's parent, resides with a grandparent, and does not require special education is entitled to attend the schools of the district in which the child's grandparent resides, provided that, prior to such attendance in any school year, the board of education of the school district in which the child's grandparent resides and the board of education of the school district in which the child's parent resides enter into a written agreement specifying that good cause exists for such attendance, describing the nature of this good cause, and consenting to such attendance.

In lieu of a consent form signed by a parent, a board of education may request the grandparent of a child attending school in the district in which the grandparent resides pursuant to division (F)(11) of this section to complete any consent form required by the district, including any authorization required by sections 3313.712, 3313.713, 3313.716, and

3313.718 of the Revised Code. Upon request, the grandparent shall complete any consent form required by the district. A school district shall not incur any liability solely because of its receipt of a consent form from a grandparent in lieu of a parent.

Division (F)(11) of this section does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a school district, a member of a board of education, or an employee of a school district. This section does not affect, and shall not be construed as affecting, any immunities from defenses to tort liability created or recognized by Chapter 2744. of the Revised Code for a school district, member, or employee.

(12) A child under the age of twenty-two years is entitled to attend school in a school district other than the district in which the child is entitled to attend school under division (B), (C), or (E) of this section provided that, prior to such attendance in any school year, both of the following occur:

(a) The superintendent of the district in which the child is entitled to attend school under division (B), (C), or (E) of this section contacts the superintendent of another district for purposes of this division;

(b) The superintendents of both districts enter into a written agreement that consents to the attendance and specifies that the purpose of such attendance is to protect the student's physical or mental well-being or to deal with other extenuating circumstances deemed appropriate by the superintendents.

While an agreement is in effect under this division for a student who is not receiving special education under Chapter 3323. of the Revised Code and notwithstanding Chapter 3327. of the Revised Code, the board of education of neither school district involved in the agreement is required to provide transportation for the student to and from the school where the student attends.

A student attending a school of a district pursuant to this division shall be allowed to participate in all student activities, including interscholastic athletics, at the school where the student is attending on the same basis as any student who has always attended the schools of that district while of compulsory school age.

(13) All school districts shall comply with the "McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et seq., for the education of homeless children. Each city, local, and exempted village school district shall comply with the requirements of that act governing the provision of a free, appropriate public education, including public preschool, to each homeless child.

When a child loses permanent housing and becomes a homeless person, as defined in 42 U.S.C.A. 11481(5), or when a child who is such a homeless person changes temporary living arrangements, the child's parent or guardian shall have the option of enrolling the child in either of the following:

(a) The child's school of origin, as defined in 42 U.S.C.A. 11432(g)(3)(C);

(b) The school that is operated by the school district in which the shelter where the child currently resides is located and that serves the geographic area in which the shelter is located.

(14) A child under the age of twenty-two years who resides with a person other than the child's parent is entitled to attend school in the school district in which that person resides if both of the following apply:

(a) That person has been appointed, through a military power of attorney executed under section 574(a) of the "National Defense Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 U.S.C. 1044b, or through a comparable document necessary to complete a family care plan, as the parent's agent for the care, custody, and control of the child while the parent is on active duty as a member of the national guard or a reserve unit of the armed forces of the United States or because the parent is a member of the armed forces of the United States and is on a duty assignment away from the parent's residence.

(b) The military power of attorney or comparable document includes at least the authority to enroll the child in school.

The entitlement to attend school in the district in which the parent's agent under the military power of attorney or comparable document resides applies until the end of the school year in which the military power of attorney or comparable document expires.

(G) A board of education, after approving admission, may waive tuition for students who will temporarily reside in the district and who are either of the following:

(1) Residents or domiciliaries of a foreign nation who request admission as foreign exchange students;

(2) Residents or domiciliaries of the United States but not of Ohio who request admission as participants in an exchange program operated by a student exchange organization.

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 3327.04, and 3327.06 of the Revised Code, a child may attend school or participate in a special education program in a school district other than in the district where the child is entitled to attend school under division (B) of this section.

(I)(1) Notwithstanding anything to the contrary in this section or section 3313.65 of the Revised Code, a child under twenty-two years of age may attend school in the school district in which the child, at the end of the first full week of October of the school year, was entitled to attend school as otherwise provided under this section or section 3313.65 of the Revised Code, if at that time the child was enrolled in the schools of the district but since that time the child or the child's parent has relocated to a new address located outside of that school district and within the same county as the child's or parent's address immediately prior to the relocation. The child may continue to attend school in the district, and at the school to which the child was assigned at the end of the first full week of October of the current school year, for the balance of the school year. Division (I)(1) of this section applies only if both of the following conditions are satisfied:

(a) The board of education of the school district in which the child was entitled to attend school at the end of the first full week in October and of the district to which the child or child's parent has relocated each has adopted a policy to enroll children described in division (I)(1) of this section.

(b) The child's parent provides written notification of the relocation outside of the school district to the superintendent of each of the two school districts.

(2) At the beginning of the school year following the school year in which the child or the child's parent relocated outside of the school district as described in division (I)(1) of this section, the child is not entitled to attend school in the school district under that division.

(3) Any person or entity owing tuition to the school district on behalf of the child at the end of the first full week in October, as provided in division (C) of this section, shall continue to owe such tuition to the district for the child's attendance under division (I)(1) of this section for the lesser of the balance of the school year or the balance of the time that the child attends school in the district under division (I)(1) of this section.

(4) A pupil who may attend school in the district under division (I)(1) of this section shall be entitled to transportation services pursuant to an agreement between the district and the district in which the child or child's parent has relocated unless the districts have not entered into such agreement, in which case the child shall be entitled to transportation services in the same manner as a pupil attending school in the district under interdistrict open enrollment as described in division (H) of section 3313.981 of the Revised Code, regardless of whether the district has adopted an open enrollment policy as described in division (B)(1)(b) or (c) of section

3313.98 of the Revised Code.

(J) This division does not apply to a child receiving special education.

A school district required to pay tuition pursuant to division (C)(2) or (3) of this section or section 3313.65 of the Revised Code shall have an amount deducted under division (C) of section 3317.023 of the Revised Code equal to its own tuition rate for the same period of attendance. A school district entitled to receive tuition pursuant to division (C)(2) or (3) of this section or section 3313.65 of the Revised Code shall have an amount credited under division (C) of section 3317.023 of the Revised Code equal to its own tuition rate for the same period of attendance. If the tuition rate credited to the district of attendance exceeds the rate deducted from the district required to pay tuition, the department of education shall pay the district of attendance the difference from amounts deducted from all districts' payments under division (C) of section 3317.023 of the Revised Code but not credited to other school districts under such division and from appropriations made for such purpose. The treasurer of each school district shall, by the fifteenth day of January and July, furnish the superintendent of public instruction a report of the names of each child who attended the district's schools under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code during the preceding six calendar months, the duration of the attendance of those children, the school district responsible for tuition on behalf of the child, and any other information that the superintendent requires.

Upon receipt of the report the superintendent, pursuant to division (C) of section 3317.023 of the Revised Code, shall deduct each district's tuition obligations under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code and pay to the district of attendance that amount plus any amount required to be paid by the state.

(K) In the event of a disagreement, the superintendent of public instruction shall determine the school district in which the parent resides.

(L) Nothing in this section requires or authorizes, or shall be construed to require or authorize, the admission to a public school in this state of a pupil who has been permanently excluded from public school attendance by the superintendent of public instruction pursuant to sections 3301.121 and 3313.662 of the Revised Code.

(M) In accordance with division (B)(1) of this section, a child whose parent is a member of the national guard or a reserve unit of the armed forces of the United States and is called to active duty, or a child whose parent is a member of the armed forces of the United States and is ordered to a temporary duty assignment outside of the district, may continue to attend

school in the district in which the child's parent lived before being called to active duty or ordered to a temporary duty assignment outside of the district, as long as the child's parent continues to be a resident of that district, and regardless of where the child lives as a result of the parent's active duty status or temporary duty assignment. However, the district is not responsible for providing transportation for the child if the child lives outside of the district as a result of the parent's active duty status or temporary duty assignment.

Sec. 3313.646. (A) The board of education of a school district, except a cooperative education district established pursuant to section 3311.521 of the Revised Code, may establish and operate a ~~preschool~~ program to provide services to preschool-age children, provided the board has demonstrated a need for the program. A board may use school funds in support of preschool programs. The board shall maintain, operate, and admit children to any such program pursuant to rules adopted by such board and the rules of the state board of education adopted under sections 3301.52 to 3301.57 of the Revised Code.

A board of education may establish fees or tuition, which may be graduated in proportion to family income, for participation in a preschool program. In cases where payment of fees or tuition would create a hardship for the child's parent or guardian, the board may waive any such fees or tuition.

(B) No board of education that is not receiving funds under the "Head Start Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, on March 17, 1989, shall compete for funds under the "Head Start Act" with any grantee receiving funds under that act.

(C) A board of education may contract with any of the following preschool providers to provide ~~preschool programs~~ services to preschool-age children, other than ~~programs for units described by divisions (B) and (C) of those services for which the district is eligible to receive funding under section 3317.05 3317.0213 of the Revised Code, for children of the school district:~~

- (1) Any organization receiving funds under the "Head Start Act";
- (2) Any nonsectarian eligible nonpublic school as defined in division (H) of section 3301.52 of the Revised Code;
- (3) Any child care provider licensed under Chapter 5104. of the Revised Code.

Boards may contract to provide ~~preschool programs~~ services to preschool-age children only with such organizations whose staff meet the requirements of rules adopted under section 3301.53 of the Revised Code or

those of the child development associate credential established by the national association for the education of young children.

(D) A contract entered into under division (C) of this section may provide for the board of education to lease school facilities to the preschool provider or to furnish transportation, utilities, or staff for the preschool program.

(E) The treasurer of any board of education operating a preschool program pursuant to this section shall keep an account of all funds used to operate the program in the same manner as the treasurer would any other funds of the district pursuant to this chapter.

Sec. 3313.65. (A) As used in this section and section 3313.64 of the Revised Code:

(1) A person is "in a residential facility" if the person is a resident or a resident patient of an institution, home, or other residential facility that is:

(a) Licensed as a nursing home, residential care facility, or home for the aging by the director of health under section 3721.02 of the Revised Code;

(b) Maintained as a county home or district home by the board of county commissioners or a joint board of county commissioners under Chapter 5155. of the Revised Code;

(c) Operated or administered by a board of alcohol, drug addiction, and mental health services under section 340.03 ~~or 340.06~~ of the Revised Code, or provides residential care pursuant to contracts made under section 340.03 ~~or 340.033~~ of the Revised Code;

(d) Maintained as a state institution for the mentally ill under Chapter 5119. of the Revised Code;

(e) Licensed by the department of ~~mental health~~ mental health and addiction services under section ~~5119.20~~ 5119.33 or ~~5119.22~~ 5119.34 of the Revised Code;

(f) Licensed as a residential facility by the department of developmental disabilities under section 5123.19 of the Revised Code;

(g) Operated by the veteran's administration or another agency of the United States government;

(h) Operated by the Ohio veterans' home.

(2) A person is "in a correctional facility" if any of the following apply:

(a) The person is an Ohio resident and is:

(i) Imprisoned, as defined in section 1.05 of the Revised Code;

(ii) Serving a term in a community-based correctional facility or a district community-based correctional facility;

(iii) Required, as a condition of parole, a post-release control sanction, a community control sanction, transitional control, or early release from

imprisonment, as a condition of shock parole or shock probation granted under the law in effect prior to July 1, 1996, or as a condition of a furlough granted under the version of section 2967.26 of the Revised Code in effect prior to March 17, 1998, to reside in a halfway house or other community residential center licensed under section 2967.14 of the Revised Code or a similar facility designated by the court of common pleas that established the condition or by the adult parole authority.

(b) The person is imprisoned in a state correctional institution of another state or a federal correctional institution but was an Ohio resident at the time the sentence was imposed for the crime for which the person is imprisoned.

(3) A person is "in a juvenile residential placement" if the person is an Ohio resident who is under twenty-one years of age and has been removed, by the order of a juvenile court, from the place the person resided at the time the person became subject to the court's jurisdiction in the matter that resulted in the person's removal.

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

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

(B) If the circumstances described in division (C) of this section apply, the determination of what school district must admit a child to its schools and what district, if any, is liable for tuition shall be made in accordance with this section, rather than section 3313.64 of the Revised Code.

(C) A child who does not reside in the school district in which the child's parent resides and for whom a tuition obligation previously has not been established under division (C)(2) of section 3313.64 of the Revised Code shall be admitted to the schools of the district in which the child resides if at least one of the child's parents is in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, is not known to reside in this state.

(D) Regardless of who has custody or care of the child, whether the child resides in a home, or whether the child receives special education, if a district admits a child under division (C) of this section, tuition shall be paid to that district as follows:

(1) If the child's parent is in a juvenile residential placement, by the district in which the child's parent resided at the time the parent became subject to the jurisdiction of the juvenile court;

(2) If the child's parent is in a correctional facility, by the district in which the child's parent resided at the time the sentence was imposed;

(3) If the child's parent is in a residential facility, by the district in which

the parent resided at the time the parent was admitted to the residential facility, except that if the parent was transferred from another residential facility, tuition shall be paid by the district in which the parent resided at the time the parent was admitted to the facility from which the parent first was transferred;

(4) In the event of a disagreement as to which school district is liable for tuition under division (C)(1), (2), or (3) of this section, the superintendent of public instruction shall determine which district shall pay tuition.

(E) If a child covered by division (D) of this section receives special education in accordance with Chapter 3323. of the Revised Code, the tuition shall be paid in accordance with section 3323.13 or 3323.14 of the Revised Code. Tuition for children who do not receive special education shall be paid in accordance with division (J) of section 3313.64 of the Revised Code.

Sec. 3313.714. (A) As used in this section:

(1) "Board of education" means the board of education of a city, local, exempted village, or joint vocational school district.

(2) "Healthcheck" means the early and periodic screening, diagnosis, and treatment program, a component of the ~~medical assistance~~ medicaid program established under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 302, as amended, and Chapter 5111. of the Revised Code.

(3) "Pupil" means a person under age twenty-two enrolled in the schools of a city, local, exempted village, or joint vocational school district.

(4) "Parent" means either parent with the following exceptions:

(a) If one parent has custody by court order, "parent" means the parent with custody.

(b) If neither parent has legal custody, "parent" means the person or government entity with legal custody.

(c) The child's legal guardian or a person who has accepted responsibility for the health, safety, and welfare of the child.

(B) At the request of the department of ~~job and family services~~ medicaid, a board of education shall establish and conduct a healthcheck program for pupils enrolled in the schools of the district who are medicaid recipients of ~~medical assistance under Chapter 5111. of the Revised Code~~. At the request of a board of education, the department may authorize the board to establish a healthcheck program. A board that establishes a healthcheck program shall enter into a ~~medical assistance~~ medicaid provider agreement with the department.

A healthcheck program established by a board of education shall be conducted in accordance with rules adopted by the medicaid director ~~of job~~

~~and family services~~ under division (F) of this section. The healthcheck program shall include all of the following components:

- (1) A comprehensive health and development history;
- (2) A comprehensive physical examination;
- (3) A developmental assessment;
- (4) A nutritional assessment;
- (5) A vision assessment;
- (6) A hearing assessment;
- (7) An immunization assessment;
- (8) Lead screening and laboratory tests ordered by a doctor of medicine or osteopathic medicine as part of one of the other components;
- (9) Such other assessment as may be required by the department of ~~job and family services~~ medicaid in accordance with the requirements of the healthcheck program.

All services included in a board of education's healthcheck program that the board provided under sections 3313.67, 3313.673, 3313.68, 3313.69, and 3313.71 of the Revised Code during the 1990-1991 school year shall continue to be provided to ~~medical assistance~~ medicaid recipients by the board pursuant to those sections. The services shall be considered part of the healthcheck program for medicaid recipients of ~~medical assistance~~, and the board shall be eligible for ~~reimbursement~~ payment from the state department in accordance with this division for providing the services.

The department shall ~~reimburse~~ pay boards of education for healthcheck program services provided under this division at the rates paid under the ~~medical assistance~~ medicaid program to physicians, dentists, nurses, and other providers of healthcheck services.

(C) Each board of education that conducts a healthcheck program shall determine for each pupil enrolled in the schools of the district whether the pupil is a ~~medical assistance~~ medicaid recipient. The department of ~~job and family services~~ medicaid and county departments of ~~human services~~ job and family services shall assist the board in making these determinations. Except as necessary to carry out the purposes of this section, all information received by a board under this division shall be confidential.

Before the first day of October of each year, each board that conducts a healthcheck program shall send the parent of each pupil who is under age eighteen and a medicaid recipient of ~~medical assistance~~ notice that the pupil will be examined under the district's healthcheck program unless the parent notifies the board that the parent denies consent for the examination. The notice shall include a form to be used by the parent to indicate that the parent denies consent. The denial shall be effective only if the form is

signed by the parent and returned to the board or the school in which the pupil is enrolled. If the parent does not return a signed form indicating denial of consent within two weeks after the date the notice is sent, the school district and the department of ~~job and family services~~ medicaid shall deem the parent to have consented to examination of the parent's child under the healthcheck program. In the case of a pupil age eighteen or older, the notice shall be given to the pupil, and the school district and the department of ~~job and family services~~ medicaid shall deem the pupil to have consented to examination unless the pupil returns the signed form indicating the pupil's denial of consent.

(D)(1) As used in this division:

(a) "Nonfederal share" means the portion of expenditures for services that is required under the ~~medical assistance~~ medicaid program to be paid for with state or local government funds.

(b) "Federal financial participation" means the portion of expenditures for services that is ~~reimbursed~~ payable under the ~~medical assistance~~ medicaid program with federal funds.

(2) At the request of a board of education, the state department may enter into an agreement with the board under which the board provides medical services to a medicaid recipient ~~of medical assistance~~ that are ~~reimbursable~~ payable under the ~~medical assistance~~ medicaid program but not under the healthcheck program. The agreement may be for a term specified in the agreement and renewable by mutual consent of the board and the department, or may continue in force as long as agreeable to the board and the department.

The board shall use state or local funds of the district to pay the nonfederal share of expenditures for services provided under this division. Prior to entering into or renewing an agreement and at any other time requested by the department while the agreement is in force, the board shall certify to the department in accordance with the rules adopted under division (F) of this section that it will have sufficient state or local funds to pay the nonfederal share of expenditures under this division. If the board fails to make the certification, the department shall not enter into or renew the agreement. If an agreement has been entered into, it shall be void unless the board makes the certification not later than fifteen days after receiving notice from the department that the certification is due. The board shall report to the department, in accordance with the rules, the amount of state or local funds it spends to provide services under this division.

The department shall ~~reimburse~~ pay the board the federal financial participation allowed for the board's expenditures for services under this

division. The total of the nonfederal share spent by the board and the federal financial participation ~~reimbursed~~ paid by the department for a service rendered under this division shall be an amount agreed to by the board and the department, but shall not exceed the maximum ~~reimbursable~~ payable amount for that service under rules adopted ~~by the director of job and family services~~ under ~~Chapter 5111.~~ section 5164.02 of the Revised Code. The rules adopted under division (F) of this section shall include procedures under which the department will recover from a board overpayments and subsequent federal audit disallowances of federal financial participation ~~reimbursed~~ paid by the department.

(E) A board of education shall provide services under division (D) of this section and under its healthcheck program as provided in division (E)(1), (2), or (3) of this section:

(1) By having the services performed by physicians, dentists, and nurses employed by the board;

(2) By contracting with physicians, dentists, nurses, and other providers of services who have ~~medical assistance~~ medicaid provider agreements with the department of ~~job and family services~~ medicaid;

(3) By having some of the services performed by persons described in division (E)(1) of this section and others performed by persons described in division (E)(2) of this section.

(F) The medicaid ~~director of job and family services~~ shall adopt rules in accordance with Chapter 119. of the Revised Code governing healthcheck programs conducted under this section and services provided under division (D) of this section.

Sec. 3313.715. The board of education of a school district may request from the director of developmental disabilities the appropriate identification numbers for all students residing in the district who are ~~medical assistance~~ medicaid recipients ~~under Chapter 5111. of the Revised Code~~. The director shall furnish such numbers upon receipt of lists of student names furnished by the district board, in such form as the director may require.

The medicaid ~~director of job and family services~~ shall provide the director of developmental disabilities with the data necessary for compliance with this section.

Section 3319.321 of the Revised Code does not apply to the release of student names or other data to the director of developmental disabilities for the purposes of this section. Chapter 1347. of the Revised Code does not apply to information required to be kept by a school board or the departments of ~~job and family services~~ medicaid or developmental disabilities to the extent necessary to comply with this section and section

3313.714 of the Revised Code. However, any such information or data shall be used only for the specific legal purposes of such boards and departments and shall not be released to any unauthorized person.

Sec. 3313.82. The board of education of each ~~city and exempted village~~ school district and the governing board of each educational service center shall appoint a business advisory council, except that a school district that has entered into an agreement under section 3313.843 or 3313.845 of the Revised Code to receive any services from an educational service center is not required to appoint a council if the school district and educational service center agree that the educational service center's council will represent the business of the district. The council shall advise and provide recommendations to the board on matters specified by the board including, but not necessarily limited to, the delineation of employment skills and the development of curriculum to instill these skills; changes in the economy and in the job market, and the types of employment in which future jobs are most likely to be available; and suggestions for developing a working relationship among businesses, labor organizations, and educational personnel ~~in the district or in the territory of the educational service center.~~ Each board shall determine the membership and organization of its council. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section shall not apply to the board of education of any joint vocational school district or any cooperative education school district created pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

Sec. 3313.83. (A)(1) For the purpose of pooling resources, operating more cost effectively, minimizing administrative overhead, encouraging the sharing of resource development, and diminishing duplication, the boards of education of two or more city, local, or exempted village school districts each having a majority of its territory in a county with a population greater than one million two hundred thousand, by adopting identical resolutions, may enter into an agreement providing for the creation of a regional student education district for the purpose of funding the following for students enrolled in those school districts, including students diagnosed as autistic and students with special needs, and their immediate family members:

- (a) Special education services;
- (b) Behavioral health services for persons with special needs.

If more than eight boards of education adopt resolutions to form a regional student education district, the boards may meet at facilities of the educational service center of the county to discuss membership in the district.

(2) The territory of a regional student education district at any time shall be composed of the combined territories of the school districts that are parties to the agreement at that time. Services funded by a regional student education district shall be available to all individuals enrolled in a school district that is a part of the regional student education district and members of their immediate family.

(3) The agreement may be amended pursuant to terms and procedures mutually agreed to by the boards of education that are parties to the agreement.

(B) Each regional student education district shall be governed by a board of directors. The superintendent of each board of education that is a party to the agreement shall serve on the board of directors. The agreement shall provide for the terms of office of directors. Directors shall receive no compensation, but shall be reimbursed, from the special fund of the regional student education district, for the reasonable and necessary expenses they incur in the performance of their duties for the district. The agreement shall provide for the conduct of the board's initial organizational meeting and for the frequency of subsequent meetings and quorum requirements. At its first meeting, the board shall designate from among its members a president and secretary in the manner provided in the agreement.

The board of directors of a regional student education district is a body corporate and politic, is capable of suing and being sued, is capable of contracting within the limits of this section and the agreement governing the district, and is capable of accepting gifts, donations, bequests, or other grants of money for use in paying its expenses. The district is a public office and its directors are public officials within the meaning of section 117.01 of the Revised Code, the board of directors is a public body within the meaning of section 121.22 of the Revised Code, and records of the board and of the district are public records within the meaning of section 149.43 of the Revised Code.

The agreement shall require the board to designate a permanent location for its offices and meeting place, and may provide for the use of such facilities and property for the provision of services by the agencies with which the board contracts under division (C) of this section.

(C)(1) To provide the services identified in division (A)(1) of this section, the board of directors of a regional student education district shall provide for the hiring of employees or shall contract with one or more entities. Except as provided in division (C)(2) of this section, any entity with which the board of directors contracts to provide the services identified in division (A)(1)(b) of this section shall be a qualified nonprofit, nationally

accredited agency to which both of the following apply:

(a) The agency is licensed or certified by the departments of ~~mental health,~~ mental health and addiction services and job and family services, ~~and alcohol and drug addiction services.~~

(b) The agency provides school-based behavioral health services.

(2) The board of directors may contract with an entity that does not meet the conditions stated in division (C)(1) of this section if the services to be provided by the entity are only incidental to the services identified in division (A)(1)(b) of this section.

(3) The board of directors may levy a tax throughout the district as provided in section 5705.2111 of the Revised Code. The board of directors shall provide for the creation of a special fund to hold the proceeds of any tax levied under section 5705.2111 of the Revised Code and any gifts, donations, bequests, or other grants of money coming into the possession of the district. A regional student education district is a subdivision, and the board of directors is a governing body, within the meaning of section 135.01 of the Revised Code. The board of directors may not issue securities or otherwise incur indebtedness.

(4) The adoption or rejection by electors of a tax levy to fund a regional student education district pursuant to section 5705.2111 of the Revised Code does not alter the duty of each school district member of the regional student education district to provide special education and related services as required under Chapter 3323. of the Revised Code. On the expiration of a regional student education district levy, the state, member school districts of the regional student education district, and any other governmental entity shall not be obligated to provide replacement funding for the revenues under the expired levy. The tax levy, in whole or in part, shall not be considered a levy for current operating expenses pursuant to division (A) of section 3317.01 of the Revised Code for any of the school districts that are members of the regional student education district.

(D)(1) The agreement shall provide for the manner of appointing an individual or entity to perform the duties of fiscal officer of the regional student education district. The agreement shall specify the length of time the individual or entity shall perform those duties and whether the individual or entity may be reappointed upon the completion of a term. The fiscal officer may receive compensation for performing the duties of the position and be reimbursed for reasonable expenses of performing those duties from the regional student education district's special fund.

(2) The legal advisor of the board of directors of a regional student education district shall be the prosecuting attorney of the most populous

county containing a school district that is a member of the regional student education district. The prosecuting attorney shall prosecute all actions against a member of the board of directors for malfeasance or misfeasance in office and shall be the legal counsel for the board and its members in all other actions brought by or against them and shall conduct those actions in the prosecuting attorney's official capacity. No compensation in addition to the prosecuting attorney's regular salary shall be allowed.

(E) The board of directors of a regional student education district shall procure a policy or policies of insurance insuring the board, the fiscal officer, and the legal representative against liability on account of damage or injury to persons and property. Before procuring such insurance the board shall adopt a resolution setting forth the amount of insurance to be purchased, the necessity of the insurance, and a statement of its estimated premium cost. Insurance procured pursuant to this section shall be from one or more recognized insurance companies authorized to do business in this state. The cost of the insurance shall be paid from the district's special fund.

A regional student education district is a political subdivision within the meaning of section 2744.01 of the Revised Code.

(F)(1) The board of education of a school district having a majority of its territory in the county may join an existing regional student education district by adopting a resolution requesting to join as a party to the agreement and upon approval by the boards of education that currently are parties to the agreement. If a tax is levied in the regional student education district under section 5705.2111 of the Revised Code, a board of education may join the district only after a majority of qualified electors in the school district voting on the question vote in favor of levying the tax throughout the school district. A board of education joining an existing district shall have the same powers, rights, and obligations under the agreement as other boards of education that are parties to the agreement.

(2) A board of education that is a party to an agreement under this section may withdraw the school district from a regional student education district by adopting a resolution. The withdrawal shall take effect on the date provided in the resolution. If a tax is levied in the regional student education district under section 5705.2111 of the Revised Code, the resolution shall take effect not later than the first day of January following adoption of the resolution. Beginning with the first day of January following adoption of the resolution, any tax levied under section 5705.2111 of the Revised Code shall not be levied within the territory of the withdrawing school district. Any collection of tax levied in the territory of the withdrawing school district under that section that has not been settled and distributed when the

resolution takes effect shall be credited to the district's special fund.

(G) An agreement entered into under this section shall provide for the manner of the regional student education district's dissolution. The district shall cease to exist when not more than one school district remains in the district, and the levy of any tax under section 5705.2111 of the Revised Code shall not be extended on the tax lists in any tax year beginning after the dissolution of the district. The agreement shall provide that, upon dissolution of the district, any unexpended balance in the district's special fund shall be divided among the school districts that are parties to the agreement immediately before dissolution in proportion to the taxable valuation of taxable property in the districts, and credited to their respective general funds.

Sec. 3313.841. The boards of education and governing boards of two or more city, local, joint vocational, or exempted village school districts or educational service centers may contract in accordance with the terms of this section for the sharing on a cooperative basis of the services of supervisory teachers, special instruction teachers, special education teachers, and other licensed personnel necessary to conduct approved cooperative classes for special education and related services and gifted education.

The boards of two or more districts or service centers desiring to enroll students in such classes shall each adopt resolutions indicating such desire and designating one of the participating districts or service centers as the funding agent for purposes of this section. The district or service center designated as the funding agent shall enter into an employment contract with each licensed teacher whose services are to be shared among the participating districts and service centers. In turn, the funding agent shall enter into contracts with each of the districts and service centers which have adopted resolutions agreeing to participate in the cooperative program upon terms agreed to by all parties to such contract. Such contracts between districts and service centers shall set forth the services to be provided by the licensed teacher employed by the funding agent whose services are to be shared by the participating districts and service centers and the basis for computing the amounts to be paid for such services to the funding agent by the participating districts and service centers.

For purposes of ~~division (B)~~ of section ~~3317.05~~ 3317.0213 of the Revised Code, the funding agent shall count all pupils enrolled in cooperative programs for pupils with disabilities as pupils enrolled in such programs in the funding agent district. Upon receipt of payment for such programs, the funding agent district shall credit the account of districts participating in the cooperative program for the amounts due under contracts

entered into under the terms of this section in proportion to the number of resident students enrolled in the cooperative program from each participating district and service center.

In determining the terms of the contract entered into by the funding agent district or service center and the participating districts and service centers, the superintendent of schools of each participating board of education and governing board shall serve as a committee which shall recommend such terms to such boards.

Sec. 3313.843. (A) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to any cooperative education school district.

(B)(1) The board of education of each city, exempted village, or local school district with an average daily student enrollment of sixteen thousand or less, reported for the district on the most recent report card issued under section 3302.03 of the Revised Code, shall enter into an agreement with the governing board of an educational service center, under which the educational service center governing board will provide services to the district.

(2) The board of education of a city, exempted village, or local school district with an average daily student enrollment of more than sixteen thousand may enter into an agreement with the governing board of an educational service center, under which the educational service center governing board will provide services to the district.

(3) Services provided under an agreement entered into under division (B)(1) or (2) of this section shall be specified in the agreement, and may include any of the following: supervisory teachers; in-service and continuing education programs for district personnel; curriculum services; research and development programs; academic instruction for which the governing board employs teachers pursuant to section 3319.02 of the Revised Code; assistance in the provision of special accommodations and classes for students with disabilities; or any other services the district board and service center governing board agree can be better provided by the service center and are not provided under an agreement entered into under section 3313.845 of the Revised Code. Services included in the agreement shall be provided to the district in the manner specified in the agreement. The district board of education shall reimburse the educational service center governing board pursuant to ~~section 3317.11 of the Revised Code~~ division (H) of this section.

~~Beginning with the 2012-2013 school year, the board of any district described in division (B)(2) of this section may elect not to receive the~~

~~supervisory services for which supervisory units are paid under division (B) of section 3317.11 of the Revised Code, provided that election is specified in the agreement.~~

(C) Any agreement entered into pursuant to this section shall be filed with the department of education by the first day of July of the school year for which the agreement is in effect.

(D)(1) An agreement for services from an educational service center entered into under this section may be terminated by the school district board of education, at its option, by notifying the governing board of the service center by March 1, 2012, or by the first day of January of any odd-numbered year thereafter, that the district board intends to terminate the agreement in that year, and that termination shall be effective on the thirtieth day of June of that year. The failure of a district board to notify an educational service center of its intent to terminate an agreement by March 1, 2012, shall result in renewal of the existing agreement for the following school year. Thereafter, the failure of a district board to notify an educational service center of its intent to terminate an agreement by the first day of January of an odd-numbered year shall result in renewal of the existing agreement for the following two school years.

(2) If the school district that terminates an agreement for services under division (D)(1) of this section is also subject to the requirement of division (B)(1) of this section, the district board shall enter into a new agreement with any educational service center so that the new agreement is effective on the first day of July of that same year.

(3) If all moneys owed by a school district to an educational service center under an agreement for services terminated under division (D)(1) of this section have been paid in full by the effective date of the termination, the governing board of the service center shall submit an affidavit to the department certifying that fact not later than fifteen days after the termination's effective date. Notwithstanding anything in the Revised Code to the contrary, until the department receives such an affidavit, it shall not make any payments to any other educational service center with which the district enters into an agreement under this section for services that the educational service center provides to the district.

(E) An educational service center may apply to any state or federal agency for competitive grants. It may also apply to any private entity for additional funds.

(F) Not later than January 1, 2014, each educational service center shall post on its web site a list of all of the services that it provides and the corresponding cost for each of those services.

(G)(1) For purposes of calculating any state subsidy to be paid to an educational service center for services provided to a school district, the service center's student count shall be the sum of the total student counts of all the school districts with which the educational service center has entered into an agreement under this section.

(2) When a district enters into a new agreement with a new educational service center, the department of education shall ensure that the state subsidy for services provided to the district is paid to the new educational service center and that the educational service center with which the district previously had an agreement is no longer paid a state subsidy for providing services to that district.

(H) Pursuant to division (B) of section 3317.023 of the Revised Code, the department annually shall deduct from each school district that enters into an agreement with an educational service center under this section, and pay to the service center, an amount equal to six dollars and fifty cents times the school district's total student count. The district board of education, or the district superintendent acting on behalf of the district board, may agree to pay an amount in excess of six dollars and fifty cents per student in total student count. If a majority of the boards of education, or superintendents acting on behalf of the boards, of the districts that entered into an agreement under this section approve an amount in excess of six dollars and fifty cents per student in total student count, each district shall pay the excess amount to the service center.

(I) For purposes of this section, a school district's "total student count" means the average daily student enrollment reported on the most recent report card issued for the district pursuant to section 3302.03 of the Revised Code.

Sec. 3313.844. The governing authority of a community school established under Chapter 3314. of the Revised Code and the governing board of an educational service center may enter into an agreement, through adoption of identical resolutions, under which the service center board will provide services to the community school. Services provided under the agreement and the amount and manner in which the community school ~~board~~ will pay for such services shall be mutually agreed to by the school's governing ~~board~~ authority and the service center board, and shall be specified in the service agreement. If specified in the agreement as the manner of payment, the department of education shall pay the service center the amount due to it under the agreement and shall deduct that amount from the payments made to the community school under Chapter 3314. of the Revised Code. Any agreement entered into under this section shall be valid

only if a copy is filed with the department.

Sec. 3313.845. The board of education of a city, exempted village, ~~or~~ local, or joint vocational school district and the governing board of an educational service center may enter into an agreement under which the educational service center will provide services to the school district. Services provided under the agreement and the amount to be paid for such services shall be mutually agreed to by the district board of education and the service center governing board, and shall be specified in the agreement. Payment for services specified in the agreement shall be made pursuant to ~~division (D) of section 3317.11 of the Revised Code and shall not include any deduction under division (B), (C), or (F) of that section~~ the terms of that agreement. If specified in the agreement as the manner of payment, the department of education shall pay the service center the amount due to it under the agreement and shall deduct that amount from the payments made to the city, exempted village, local, or joint vocational school district under Chapter 3317. of the Revised Code. Any agreement entered into pursuant to this section shall be valid only if a copy is filed with the department ~~of~~ education.

The authority granted under this section to the boards of education of city, exempted village, and local school districts is in addition to the authority granted to such boards under section 3313.843 of the Revised Code.

Sec. 3313.848. (A) As used in this section:

(1) "Client" means a city, local, or exempted village school district, community school established under Chapter 3314. of the Revised Code, STEM school established under Chapter 3326. of the Revised Code, or political subdivision.

(2) "Governing body" means the board of education of a school district, governing authority of a community school, governing body of a STEM school, or governing body of a political subdivision.

(3) "Political subdivision" has the same meaning as used in section 3313.846 of the Revised Code.

(4) "Service agreement" means an agreement that a client has entered into with an educational service center under section 3313.843, 3313.844, 3313.845, 3313.846, or 3326.45 of the Revised Code and any subsequent amendment to that agreement.

(B) If at the end of a fiscal year for which a service agreement is in effect any of the funds paid directly by a client to the educational service center under the agreement are unexpended and unobligated, a client's governing body may elect to have the service center retain the unexpended

and unobligated funds for the purpose of applying them toward any payment the client will owe to the service center under a service agreement for the next fiscal year. The treasurer or fiscal officer of the client shall indicate on the client's end-of-year financial report that unexpended funds have been retained by the service center and the amount of those funds.

(C) A client shall expend its funds retained under division (B) of this section only for services specifically set forth under a service agreement. The treasurer of the educational service center shall keep a record of the client's expenditure and the service or services for which the expenditure was made. On at least an annual basis, or upon the request of the client's governing body or its treasurer or fiscal officer, the treasurer of the service center shall notify the client's treasurer or fiscal officer of the expenditures recorded under this division. The client's treasurer or fiscal officer shall include that information in the financial report made by the treasurer or fiscal officer at the next meeting of the client's governing body that occurs following receipt of the information.

Sec. 3313.849. The governing bodies of two or more city, exempted village, local, or joint vocational school districts, community schools established under Chapter 3314. of the Revised Code, or STEM schools established under Chapter 3326. of the Revised Code, may mutually agree to share supervisory, curriculum, teaching, special education, professional development, or any other services offered by an educational service center and may pool their funding to pay the cost of receiving those services. Each of the governing bodies of the districts or schools participating in shared services pursuant to this section shall specify in its service agreement with the service center under section 3313.843, 3313.844, 3313.845, or 3326.45 of the Revised Code which services that the participants have agreed to share, any other districts or schools participating in the shared services, and the amount of funds that the governing body will contribute toward the total cost of the shared services. Each governing body's funding contribution shall be paid to the service center in accordance with section 3313.843, 3313.844, 3313.845, or 3326.45 of the Revised Code, as applicable.

The authority granted under this section is in addition to the authority granted to school district boards of education under section 3313.841 of the Revised Code.

Sec. 3313.88. (A)(1) Prior to the first day of August of each school year, the board of education of any school district or the governing authority of any chartered nonpublic school may submit to the department of education a plan to require students to access and complete classroom lessons posted on the district's or nonpublic school's web portal or web site in order to make

up days in that school year on which it is necessary to close schools for any of the reasons specified in division (B) of section 3317.01 of the Revised Code in excess of the number of days permitted under sections 3313.48, 3313.481, and 3317.01 of the Revised Code.

Prior to the first day of August of each school year, the governing authority of any community school established under Chapter 3314. that is not an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, may submit to the department a plan to require students to access and complete classroom lessons posted on the school's web portal or web site in order to make up days or hours in that school year on which it is necessary to close the school for any of the reasons specified in division ~~(L)~~(H)(4) of section 3314.08 of the Revised Code so that the school is in compliance with the minimum number of hours required under Chapter 3314. of the Revised Code.

A plan submitted by a school district board or chartered nonpublic school governing authority shall provide for making up any number of days, up to a maximum of three days. A plan submitted by a community school governing authority shall provide for making up any number of hours, up to a maximum of the equivalent of three days. Provided the plan meets all requirements of this section, the department shall permit the board or governing authority to implement the plan for the applicable school year.

(2) Each plan submitted under this section by a school district board of education shall include the written consent of the teachers' employee representative designated under division (B) of section 4117.04 of the Revised Code.

(3) Each plan submitted under this section shall provide for the following:

(a) Not later than the first day of November of the school year, each classroom teacher shall develop a sufficient number of lessons for each course taught by the teacher that school year to cover the number of make-up days or hours specified in the plan. The teacher shall designate the order in which the lessons are to be posted on the district's, community school's, or nonpublic school's web portal or web site in the event of a school closure. Teachers may be granted up to one professional development day to create lesson plans for those lessons.

(b) To the extent possible and necessary, a classroom teacher shall update or replace, based on current instructional progress, one or more of the lesson plans developed under division (A)(3)(a) of this section before they are posted on the web portal or web site under division (A)(3)(c) of this section or distributed under division (B) of this section.

(c) As soon as practicable after a school closure, a district or school employee responsible for web portal or web site operations shall make the designated lessons available to students on the district's, community school's, or nonpublic school's portal or site. A lesson shall be posted for each course that was scheduled to meet on the day or hours of the closure.

(d) Each student enrolled in a course for which a lesson is posted on the portal or site shall be granted a two-week period from the date of posting to complete the lesson. The student's classroom teacher shall grade the lesson in the same manner as other lessons. The student may receive an incomplete or failing grade if the lesson is not completed on time.

(e) If a student does not have access to a computer at the student's residence and the plan does not include blizzard bags under division (B) of this section, the student shall be permitted to work on the posted lessons at school after the student's school reopens. If the lessons were posted prior to the reopening, the student shall be granted a two-week period from the date of the reopening, rather than from the date of posting as otherwise required under division (A)(3)(d) of this section, to complete the lessons. The district board or community school or nonpublic school governing authority may provide the student access to a computer before, during, or after the regularly scheduled school day or may provide a substantially similar paper lesson in order to complete the lessons.

(B)(1) In addition to posting classroom lessons online under division (A) of this section, the board of education of any school district or governing authority of any community or chartered nonpublic school may include in the plan distribution of "blizzard bags," which are paper copies of the lessons posted online.

(2) If a school opts to use blizzard bags, teachers shall prepare paper copies in conjunction with the lessons to be posted online and update the paper copies whenever the teacher updates the online lesson plans.

(3) The board of education of any school district or governing authority of any community or chartered nonpublic school that opts to use blizzard bags shall specify in the plan the method of distribution of blizzard bag lessons, which may include, but not be limited to, requiring distribution by a specific deadline or requiring distribution prior to anticipated school closure as directed by the superintendent of a school district or the principal, director, chief administrative officer, or the equivalent, of a school.

(4) Students shall turn in completed lessons in accordance with division (A)(3)(d) of this section.

(C)(1) No school district that implements a plan in accordance with this section shall be considered to have failed to comply with division (B) of

section 3317.01 of the Revised Code with respect to the number of make-up days specified in the plan.

(2) No community school that implements a plan in accordance with this section shall be considered to have failed to comply with the minimum number of hours required under Chapter 3314. of the Revised Code with respect to the number of make-up hours specified in the plan.

Sec. 3313.911. The state board of education may adopt a resolution assigning a city, exempted village, or local school district that is not a part of a joint vocational school district to membership in a joint vocational school district. A copy of the resolution shall be certified to the board of education of the joint vocational school district and the board of education of the district proposed to be assigned. The board of education of the joint vocational school district shall advertise a copy of the resolution in a newspaper of general circulation in the district proposed to be assigned once each week for two weeks, or as provided in section 7.16 of the Revised Code, immediately following the certification of the resolution to the board. The assignment shall take effect on the ninety-first day after the state board adopts the resolution, unless prior to that date qualified electors residing in the school district proposed for assignment, equal in number to ten per cent of the qualified electors of that district voting at the last general election, file a petition against the assignment.

The petition of referendum shall be filed with the treasurer of the board of education of the district proposed to be assigned to the joint vocational school district. The treasurer shall give the person presenting the petition a receipt showing the time of day, date, and purpose of the petition. The treasurer shall cause the board of elections to determine the sufficiency of signatures on the petition and if the signatures are found to be sufficient, shall present the petition to the board of education of the district. The board of education shall promptly certify the question to the board of elections for the purpose of having the question placed on the ballot at the next general, primary, or special election not earlier than sixty days after the date of the certification.

Only those qualified electors residing in the district proposed for assignment to the joint vocational school district are qualified to vote on the question. If a majority of the electors voting on the question vote against the assignment, it shall not take place, and the state board of education shall require the district to contract with the joint vocational school district or another school district as authorized by section 3313.91 of the Revised Code.

If a majority of the electors voting on the question do not vote against

the assignment, the assignment shall take immediate effect, and the board of education of the joint vocational school district shall notify the county auditor of the county in which the school district becoming a part of the joint vocational school district is located to have any outstanding levy of the joint vocational school district spread over the territory of the school district that has become a part of the joint vocational school district.

The assignment of a school district to a joint vocational school district pursuant to this section is subject to any agreements made between the board of education of the assigned school district and the board of education of the joint vocational school district. Such an agreement may include provisions for a payment by the assigned school district to the joint vocational school district of an amount to be contributed toward the cost of the existing facilities of the joint vocational school district.

~~On the assignment of a school district to a joint vocational school district pursuant to this section, the joint vocational school district's board of education shall submit a proposal to the state board of education to enlarge or reorganize the membership of the joint vocational school district's board of education if expansion or reorganization of the board is necessary in order to comply with section 3311.19 of the Revised Code.~~

Sec. 3313.976. (A) No private school may receive scholarship payments from parents pursuant to section 3313.979 of the Revised Code until the chief administrator of the private school registers the school with the superintendent of public instruction. The state superintendent shall register any school that meets the following requirements:

(1) The school is located within the boundaries of the pilot project school district;

(2) The school indicates in writing its commitment to follow all requirements for a state-sponsored scholarship program specified under sections 3313.974 to 3313.979 of the Revised Code, including, but not limited to, the requirements for admitting students pursuant to section 3313.977 of the Revised Code;

(3) The school meets all state minimum standards for chartered nonpublic schools in effect on July 1, 1992, except that the state superintendent at the superintendent's discretion may register nonchartered nonpublic schools meeting the other requirements of this division;

(4) The school does not discriminate on the basis of race, religion, or ethnic background;

(5) The school enrolls a minimum of ten students per class or a sum of at least twenty-five students in all the classes offered;

(6) The school does not advocate or foster unlawful behavior or teach

hatred of any person or group on the basis of race, ethnicity, national origin, or religion;

(7) The school does not provide false or misleading information about the school to parents, students, or the general public;

(8) For students in grades kindergarten through eight with family incomes at or below two hundred per cent of the federal poverty guidelines, as defined in section 5104.46 of the Revised Code, the school agrees not to charge any tuition in excess of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section.

(9) For students in grades kindergarten through eight with family incomes above two hundred per cent of the federal poverty guidelines, whose scholarship amounts are less than the actual tuition charge of the school, the school agrees not to charge any tuition in excess of the difference between the actual tuition charge of the school and the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. The school shall permit such tuition, at the discretion of the parent, to be satisfied by the family's provision of in-kind contributions or services.

(10) The school agrees not to charge any tuition to families of students in grades nine through twelve receiving a scholarship in excess of the actual tuition charge of the school less the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section.

(11) ~~Notwithstanding~~ If the school is not subject to division (K)(1)(a) of section 3301.0711 of the Revised Code, the school ~~it~~ annually administers the assessments prescribed by section 3301.0710 of the Revised Code to each scholarship student enrolled in the school in accordance with section 3301.0711 of the Revised Code and reports to the department of education the results of each such assessment administered to each scholarship student.

(B) The state superintendent shall revoke the registration of any school if, after a hearing, the superintendent determines that the school is in violation of any of the provisions of division (A) of this section.

(C) Any public school located in a school district adjacent to the pilot project district may receive scholarship payments on behalf of parents pursuant to section 3313.979 of the Revised Code if the superintendent of the district in which such public school is located notifies the state superintendent prior to the first day of March that the district intends to admit students from the pilot project district for the ensuing school year

pursuant to section 3327.06 of the Revised Code.

(D) Any parent wishing to purchase tutorial assistance from any person or governmental entity pursuant to the pilot project program under sections 3313.974 to 3313.979 of the Revised Code shall apply to the state superintendent. The state superintendent shall approve providers who appear to possess the capability of furnishing the instructional services they are offering to provide.

Sec. 3313.978. (A) Annually by the first day of November, the superintendent of public instruction shall notify the pilot project school district of the number of initial scholarships that the state superintendent will be awarding in each of grades kindergarten through twelve.

The state superintendent shall provide information about the scholarship program to all students residing in the district, shall accept applications from any such students until such date as shall be established by the state superintendent as a deadline for applications, and shall establish criteria for the selection of students to receive scholarships from among all those applying prior to the deadline, which criteria shall give preference to students from low-income families. The state superintendent shall notify students of their selection prior to the fifteenth day of January.

(1) A student receiving a pilot project scholarship may utilize it at an alternative public school by notifying the district superintendent, at any time before the beginning of the school year, of the name of the public school in an adjacent school district to which the student has been accepted pursuant to section 3327.06 of the Revised Code.

(2) A student may decide to utilize a pilot project scholarship at a registered private school in the district if all of the following conditions are met:

(a) By the fifteenth day of February of the preceding school year, or at any time prior to the start of the school year, the parent makes an application on behalf of the student to a registered private school.

(b) The registered private school notifies the parent and the state superintendent as follows that the student has been admitted:

(i) By the fifteenth day of March of the preceding school year if the student filed an application by the fifteenth day of February and was admitted by the school pursuant to division (A) of section 3313.977 of the Revised Code;

(ii) Within one week of the decision to admit the student if the student is admitted pursuant to division (C) of section 3313.977 of the Revised Code.

(c) The student actually enrolls in the registered private school to which the student was first admitted or in another registered private school in the

district or in a public school in an adjacent school district.

(B) The state superintendent shall also award in any school year tutorial assistance grants to a number of students equal to the number of students who receive scholarships under division (A) of this section. Tutorial assistance grants shall be awarded solely to students who are enrolled in the public schools of the district in a grade level covered by the pilot project. Tutorial assistance grants may be used solely to obtain tutorial assistance from a provider approved pursuant to division (D) of section 3313.976 of the Revised Code.

All students wishing to obtain tutorial assistance grants shall make application to the state superintendent by the first day of the school year in which the assistance will be used. The state superintendent shall award assistance grants in accordance with criteria the superintendent shall establish.

(C)(1) In the case of basic scholarships for students in grades kindergarten through eight, the scholarship amount shall not exceed the lesser of the net tuition charges of the alternative school the scholarship recipient attends or ~~three thousand dollars before fiscal year 2007, three thousand four hundred fifty dollars in fiscal year 2007 through fiscal year 2011, and~~ four thousand two hundred fifty dollars in fiscal year 2012 and thereafter.

In the case of basic scholarships for students in grades nine through twelve, the scholarship amount shall not exceed the lesser of the net tuition charges of the alternative school the scholarship recipient attends or ~~two thousand seven hundred dollars before fiscal year 2007, three thousand four hundred fifty dollars in fiscal year 2007 through fiscal year 2011, and~~ five thousand dollars in fiscal year 2012 and ~~thereafter~~ fiscal year 2013, and five thousand seven hundred dollars in fiscal year 2014 and thereafter.

The net tuition and fees charged to a student shall be the tuition amount specified by the alternative school minus all other financial aid, discounts, and adjustments received for the student. In cases where discounts are offered for multiple students from the same family, and not all students in the same family are scholarship recipients, the net tuition amount attributable to the scholarship recipient shall be the lowest net tuition to which the family is entitled.

(2) The state superintendent shall provide for an increase in the basic scholarship amount in the case of any student who is a mainstreamed student with a disability and shall further increase such amount in the case of any separately educated student with a disability. Such increases shall take into account the instruction, related services, and transportation costs of

educating such students.

(3) In the case of tutorial assistance grants, the grant amount shall not exceed the lesser of the provider's actual charges for such assistance or:

(a) Before fiscal year 2007, a percentage established by the state superintendent, not to exceed twenty per cent, of the amount of the pilot project school district's average basic scholarship amount;

(b) In fiscal year 2007 and thereafter, four hundred dollars.

(D)(1) Annually by the first day of November, the state superintendent shall estimate the maximum per-pupil scholarship amounts for the ensuing school year. The state superintendent shall make this estimate available to the general public at the offices of the district board of education together with the forms required by division (D)(2) of this section.

(2) Annually by the fifteenth day of January, the chief administrator of each registered private school located in the pilot project district and the principal of each public school in such district shall complete a parental information form and forward it to the president of the board of education. The parental information form shall be prescribed by the department of education and shall provide information about the grade levels offered, the numbers of students, tuition amounts, achievement test results, and any sectarian or other organizational affiliations.

(E)(1) Only for the purpose of administering the pilot project scholarship program, the department may request from any of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any student who is seeking a scholarship under the program:

(a) The school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code;

(b) If applicable, the community school in which the student is enrolled;

(c) The independent contractor engaged to create and maintain data verification codes.

(2) Upon a request by the department under division (E)(1) of this section for the data verification code of a student seeking a scholarship or a request by the student's parent for that code, the school district or community school shall submit that code to the department or parent in the manner specified by the department. If the student has not been assigned a code, because the student will be entering kindergarten during the school year for which the scholarship is sought, the district shall assign a code to that student and submit the code to the department or parent by a date specified by the department. If the district does not assign a code to the student by the specified date, the department shall assign a code to the

student.

The department annually shall submit to each school district the name and data verification code of each student residing in the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division (E) of this section to any person except as provided by law.

(F) Any document relative to the pilot project scholarship program that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

(G)(1) The department annually shall compile the scores attained by scholarship students enrolled in registered private schools on the assessments administered to the students pursuant to division (A)(11) of section 3313.976 of the Revised Code. The scores shall be aggregated as follows:

(a) By school district, which shall include all scholarship students residing in the pilot project school district who are enrolled in a registered private school and were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code;

(b) By registered private school, which shall include all scholarship students enrolled in that school who were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code.

(2) The department shall disaggregate the student performance data described in division (G)(1) of this section according to the following categories:

(a) Grade level;

(b) Race and ethnicity;

(c) Gender;

(d) Students who have participated in the scholarship program for three or more years;

(e) Students who have participated in the scholarship program for more than one year and less than three years;

(f) Students who have participated in the scholarship program for one year or less;

(g) Economically disadvantaged students.

(3) The department shall post the student performance data required under divisions (G)(1) and (2) of this section on its web site and shall

include that data in the information about the scholarship program provided to students under division (A) of this section. In reporting student performance data under this division, the department shall not include any data that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report performance data for any group that contains less than ten students.

(4) The department shall provide the parent of each scholarship student enrolled in a registered private school with information comparing the student's performance on the assessments administered pursuant to division (A)(11) of section 3313.976 of the Revised Code with the average performance of similar students enrolled in the building operated by the pilot project school district that the scholarship student would otherwise attend. In calculating the performance of similar students, the department shall consider age, grade, race and ethnicity, gender, and socioeconomic status.

Sec. 3313.98. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, the provisions of this section and sections 3313.981 to 3313.983 of the Revised Code that apply to a city school district do not apply to a joint vocational or cooperative education school district unless expressly specified.

(A) As used in this section and sections 3313.981 to 3313.983 of the Revised Code:

(1) "Parent" means either of the natural or adoptive parents of a student, except under the following conditions:

(a) When the marriage of the natural or adoptive parents of the student has been terminated by a divorce, dissolution of marriage, or annulment or the natural or adoptive parents of the student are living separate and apart under a legal separation decree and the court has issued an order allocating the parental rights and responsibilities with respect to the student, "parent" means the residential parent as designated by the court except that "parent" means either parent when the court issues a shared parenting decree.

(b) When a court has granted temporary or permanent custody of the student to an individual or agency other than either of the natural or adoptive parents of the student, "parent" means the legal custodian of the child.

(c) When a court has appointed a guardian for the student, "parent" means the guardian of the student.

(2) "Native student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in a district adopting a resolution under this section.

(3) "Adjacent district" means a city, exempted village, or local school

district having territory that abuts the territory of a district adopting a resolution under this section.

(4) "Adjacent district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an adjacent district.

(5) "Adjacent district joint vocational student" means an adjacent district student who enrolls in a city, exempted village, or local school district pursuant to this section and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student and does contain the territory of the city, exempted village, or local district in which the student enrolls.

(6) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code.

~~(7) "Adjusted formula amount" means the sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code for fiscal year 2009.~~

~~(8) "Poverty line" means the poverty line established by the director of the United States office of management and budget as revised by the director secretary of the office of community health and human services in accordance with section 673(2) of the "Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902, as amended.~~

~~(9)~~(8) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

~~(10)~~(9) "Other district" means a city, exempted village, or local school district having territory outside of the territory of a district adopting a resolution under this section.

~~(11)~~(10) "Other district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an other district.

~~(12)~~(11) "Other district joint vocational student" means a student who is enrolled in any city, exempted village, or local school district and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student in accordance with a policy adopted under section 3313.983 of the Revised Code.

(B)(1) The board of education of each city, local, and exempted village school district shall adopt a resolution establishing for the school district one of the following policies:

(a) A policy that entirely prohibits the enrollment of students from adjacent districts or other districts, other than students for whom tuition is paid in accordance with section 3317.08 of the Revised Code;

(b) A policy that permits enrollment of students from all adjacent districts in accordance with policy statements contained in the resolution;

(c) A policy that permits enrollment of students from all other districts in accordance with policy statements contained in the resolution.

(2) A policy permitting enrollment of students from adjacent or from other districts, as applicable, shall provide for all of the following:

(a) Application procedures, including deadlines for application and for notification of students and the superintendent of the applicable district whenever an adjacent or other district student's application is approved.

(b) Procedures for admitting adjacent or other district applicants free of any tuition obligation to the district's schools, including, but not limited to:

(i) The establishment of district capacity limits by grade level, school building, and education program;

(ii) A requirement that all native students wishing to be enrolled in the district will be enrolled and that any adjacent or other district students previously enrolled in the district shall receive preference over first-time applicants;

(iii) Procedures to ensure that an appropriate racial balance is maintained in the district schools.

(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting adjacent or other district students, as applicable, shall not include:

(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills;

(2) Limitations on admitting applicants because of disability, except that a board may refuse to admit a student receiving services under Chapter 3323. of the Revised Code, if the services described in the student's IEP are not available in the district's schools;

(3) A requirement that the student be proficient in the English language;

(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled by the student's district for ten consecutive days or more in the term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant.

(D)(1) Each school board permitting only enrollment of adjacent district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, to the superintendent and the board of education of each adjacent district and, upon request, to the parent of any adjacent district student.

(2) Each school board permitting enrollment of other district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, upon request, to the board of education of any other school district or to the parent of any student anywhere in the state.

(E) Any school board shall accept all credits toward graduation earned in adjacent or other district schools by an adjacent or other district student or a native student.

(F)(1) No board of education may adopt a policy discouraging or prohibiting its native students from applying to enroll in the schools of an adjacent or any other district that has adopted a policy permitting such enrollment, except that:

(a) A district may object to the enrollment of a native student in an adjacent or other district in order to maintain an appropriate racial balance.

(b) The board of education of a district receiving funds under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, may adopt a resolution objecting to the enrollment of its native students in adjacent or other districts if at least ten per cent of its students are included in the determination of the United States secretary of education made under section 20 U.S.C.A. 238(a).

(2) If a board objects to enrollment of native students under this division, any adjacent or other district shall refuse to enroll such native students unless tuition is paid for the students in accordance with section 3317.08 of the Revised Code. An adjacent or other district enrolling such students may not receive funding for those students in accordance with section 3313.981 of the Revised Code.

(G) The state board of education shall monitor school districts to ensure compliance with this section and the districts' policies. The board may adopt rules requiring uniform application procedures, deadlines for application, notification procedures, and record-keeping requirements for all school boards that adopt policies permitting the enrollment of adjacent or other district students, as applicable. If the state board adopts such rules, no school board shall adopt a policy that conflicts with those rules.

(H) A resolution adopted by a board of education under this section that entirely prohibits the enrollment of students from adjacent and from other school districts does not abrogate any agreement entered into under section 3313.841 or 3313.92 of the Revised Code or any contract entered into under section 3313.90 of the Revised Code between the board of education adopting the resolution and the board of education of any adjacent or other district or prohibit these boards of education from entering into any such agreement or contract.

(I) Nothing in this section shall be construed to permit or require the board of education of a city, exempted village, or local school district to exclude any native student of the district from enrolling in the district.

Sec. 3313.981. (A) The state board of education shall adopt rules requiring all of the following:

(1) The board of education of each city, exempted village, and local school district to annually report to the department of education all of the following:

(a) The number of adjacent district or other district students, as applicable, and adjacent district or other district joint vocational students, as applicable, enrolled in the district and the number of native students enrolled in adjacent or other districts, in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code;

(b) Each adjacent district or other district student's or adjacent district or other district joint vocational student's date of enrollment in the district;

(c) The full-time equivalent number of adjacent district or other district students enrolled in ~~vocational~~ each of the categories of career-technical education programs or classes described in ~~division (A) of~~ section 3317.014 of the Revised Code ~~and the full-time equivalent number of such students enrolled in vocational education programs or classes described in division (B) of that section;~~

(d) Each native student's date of enrollment in an adjacent or other district.

(2) The board of education of each joint vocational school district to annually report to the department all of the following:

(a) The number of adjacent district or other district joint vocational students, as applicable, enrolled in the district;

(b) The full-time equivalent number of adjacent district or other district joint vocational students enrolled in ~~vocational~~ each category of career-technical education programs or classes described in ~~division (A) of~~ section 3317.014 of the Revised Code ~~and the full-time equivalent number of such students enrolled in vocational education programs or classes described in division (B) of that section;~~

(c) For each adjacent district or other district joint vocational student, the city, exempted village, or local school district in which the student is also enrolled.

(3) Prior to the first full school week in October each year, the superintendent of each city, local, or exempted village school district that admits adjacent district or other district students or adjacent district or other district joint vocational students in accordance with a policy adopted under

division (B) of section 3313.98 of the Revised Code to notify each adjacent or other district where those students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code of the number of the adjacent or other district's native students who are enrolled in the superintendent's district under the policy.

The rules shall provide for the method of counting students who are enrolled for part of a school year in an adjacent or other district or as an adjacent district or other district joint vocational student.

(B) From the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code and, if necessary, from the payments made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract both of the following:

(1) An amount equal to the number of the district's native students reported under division (A)(1) of this section who are enrolled in adjacent or other school districts pursuant to policies adopted by such districts under division (B) of section 3313.98 of the Revised Code multiplied by the ~~adjusted~~ formula amount;

(2) The excess costs computed in accordance with division (E) of this section for any such native students receiving special education and related services in adjacent or other school districts or as an adjacent district or other district joint vocational student;

(3) For the ~~full-time equivalent number~~ each of the district's native students reported under division (A)(1)(c) or (2)(b) of this section as enrolled in ~~vocational~~ career-technical education programs or classes described in section 3317.014 of the Revised Code, ~~at the per pupil amount equal to \$5,732 times the applicable multiple~~ on the per pupil amount equal to \$5,732 times the applicable multiple prescribed by that section for the student's respective career-technical category, on a full-time equivalency basis.

(C) To the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code, the department of education shall annually add all of the following:

(1) An amount equal to the ~~adjusted~~ formula amount multiplied by the remainder obtained by subtracting the number of adjacent district or other district joint vocational students from the number of adjacent district or other district students enrolled in the district, as reported under division (A)(1) of this section;

(2) The excess costs computed in accordance with division (E) of this section for any adjacent district or other district students, except for any adjacent or other district joint vocational students, receiving special

education and related services in the district;

(3) For the ~~full-time equivalent number~~ each of the adjacent or other district students who are not adjacent district or other district joint vocational students and are reported under division (A)(1)(c) of this section as enrolled in ~~vocational~~ career-technical education programs or classes described in section 3317.014 of the Revised Code, ~~an~~ the per pupil amount ~~equal to \$5,732 times the applicable multiple~~ prescribed by that section for the student's respective career-technical category, on a full-time equivalency basis;

(4) An amount equal to the number of adjacent district or other district joint vocational students reported under division (A)(1) of this section multiplied by an amount equal to twenty per cent of the ~~adjusted~~ formula amount.

(D) To the payments made to a joint vocational school district under Chapter 3317. of the Revised Code, the department of education shall add, for each adjacent district or other district joint vocational student reported under division (A)(2) of this section, both of the following:

(1) The ~~adjusted~~ formula amount;

(2) ~~An~~ The per pupil amount ~~equal to the full-time equivalent number for each of the~~ students reported pursuant to division (A)(2)(b) of this section ~~times \$5,732 times the applicable multiple~~ prescribed by section 3317.014 of the Revised Code for the student's respective career-technical category, on a full-time equivalency basis.

(E)(1) A city, exempted village, or local school board providing special education and related services to an adjacent or other district student in accordance with an IEP shall, pursuant to rules of the state board, compute the excess costs to educate such student as follows:

(a) Subtract the ~~adjusted~~ formula amount from the actual costs to educate the student;

(b) From the amount computed under division (E)(1)(a) of this section subtract the amount of any funds received by the district under Chapter 3317. of the Revised Code to provide special education and related services to the student.

(2) The board shall report the excess costs computed under this division to the department of education.

(3) If any student for whom excess costs are computed under division (E)(1) of this section is an adjacent or other district joint vocational student, the department of education shall add the amount of such excess costs to the payments made under Chapter 3317. of the Revised Code to the joint vocational school district enrolling the student.

(F) As provided in division (D)(1)(b) of section 3317.03 of the Revised Code, no joint vocational school district shall count any adjacent or other district joint vocational student enrolled in the district in its formula ADM certified under section 3317.03 of the Revised Code.

(G) No city, exempted village, or local school district shall receive a payment under division (C) of this section for a student, and no joint vocational school district shall receive a payment under division (D) of this section for a student, if for the same school year that student is counted in the district's formula ADM certified under section 3317.03 of the Revised Code.

(H) Upon request of a parent, and provided the board offers transportation to native students of the same grade level and distance from school under section 3327.01 of the Revised Code, a city, exempted village, or local school board enrolling an adjacent or other district student shall provide transportation for the student within the boundaries of the board's district, except that the board shall be required to pick up and drop off a nonhandicapped student only at a regular school bus stop designated in accordance with the board's transportation policy. Pursuant to rules of the state board of education, such board may reimburse the parent from funds received for pupil transportation under section 3317.0212 of the Revised Code, or other provisions of law, for the reasonable cost of transportation from the student's home to the designated school bus stop if the student's family has an income below the federal poverty line.

Sec. 3314.015. (A) The department of education shall be responsible for the oversight of any and all sponsors of the community schools established under this chapter and shall provide technical assistance to schools and sponsors in their compliance with applicable laws and the terms of the contracts entered into under section 3314.03 of the Revised Code and in the development and start-up activities of those schools. In carrying out its duties under this section, the department shall do all of the following:

(1) In providing technical assistance to proposing parties, governing authorities, and sponsors, conduct training sessions and distribute informational materials;

(2) Approve entities to be sponsors of community schools;

(3) Monitor and evaluate, as required under section 3314.016 of the Revised Code, the effectiveness of any and all sponsors in their oversight of the schools with which they have contracted;

(4) By December thirty-first of each year, issue a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate committees principally responsible

for education matters regarding the effectiveness of academic programs, operations, and legal compliance and of the financial condition of all community schools established under this chapter and on the performance of community school sponsors;

(5) From time to time, make legislative recommendations to the general assembly designed to enhance the operation and performance of community schools.

(B)(1) Except as provided in sections 3314.021 and 3314.027 of the Revised Code, no entity listed in division (C)(1) of section 3314.02 of the Revised Code shall enter into a preliminary agreement under division (C)(2) of section 3314.02 of the Revised Code until it has received approval from the department of education to sponsor community schools under this chapter and has entered into a written agreement with the department regarding the manner in which the entity will conduct such sponsorship. ~~The~~

The initial term of a sponsor's agreement with the department shall be for up to seven years. For every year that the sponsor satisfies the conditions of division (B)(1)(a) or (b) of this section, as applicable, the department shall add one year to the agreement term, subject to divisions (C) and (F) of this section, unless the sponsor notifies the department that it does not wish to have the term of the agreement so extended.

To qualify for the extension of the term of the sponsor's agreement, the sponsor shall satisfy one of the following, as applicable:

(a) Prior to January 1, 2015, the sponsor is not in the lowest twenty per cent of sponsors statewide according to the composite performance index score as ranked under section 3314.016 of the Revised Code, as that section exists prior to that date, and the sponsor continues to meet all the requirements of this chapter pertaining to community school sponsors.

(b) On or after January 1, 2015, the sponsor is rated as "exemplary" or "effective" under section 3314.016 of the Revised Code, as that section exists on and after that date, and the sponsor continues to meet all the requirements of this chapter pertaining to community school sponsors.

The department shall adopt in accordance with Chapter 119. of the Revised Code rules containing criteria, procedures, and deadlines for processing applications for ~~such~~ approval of sponsors, for oversight of sponsors, for notifying a sponsor of noncompliance with applicable laws and administrative rules under division (F) of this section, for revocation of the approval of sponsors under division (C) of this section, and for entering into written agreements with sponsors. The rules shall require an entity to submit evidence of the entity's ability and willingness to comply with the provisions of division (D) of section 3314.03 of the Revised Code. The rules also shall

require entities approved as sponsors on and after June 30, 2005, to demonstrate a record of financial responsibility and successful implementation of educational programs. If an entity seeking approval on or after June 30, 2005, to sponsor community schools in this state sponsors or operates schools in another state, at least one of the schools sponsored or operated by the entity must be comparable to or better than the performance of Ohio schools in need of continuous improvement under section 3302.03 of the Revised Code, as determined by the department.

Subject to section 3314.016 of the Revised Code, an entity that sponsors community schools may enter into preliminary agreements and sponsor up to one hundred schools, provided each school and the contract for sponsorship meets the requirements of this chapter.

(2) The state board of education shall determine, pursuant to criteria specified in rules adopted in accordance with Chapter 119. of the Revised Code, whether the mission proposed to be specified in the contract of a community school to be sponsored by a state university board of trustees or the board's designee under division (C)(1)(e) of section 3314.02 of the Revised Code complies with the requirements of that division. Such determination of the state board is final.

(3) The state board of education shall determine, pursuant to criteria specified in rules adopted in accordance with Chapter 119. of the Revised Code, if any tax-exempt entity under section 501(c)(3) of the Internal Revenue Code that is proposed to be a sponsor of a community school is an education-oriented entity for purpose of satisfying the condition prescribed in division (C)(1)(f)(iii) of section 3314.02 of the Revised Code. Such determination of the state board is final.

(C) If at any time the state board of education finds that a sponsor is not in compliance or is no longer willing to comply with its contract with any community school or with the department's rules for sponsorship, the state board or designee shall conduct a hearing in accordance with Chapter 119. of the Revised Code on that matter. If after the hearing, the state board or designee has confirmed the original finding, the department of education may revoke the sponsor's approval to sponsor community schools. In that case, the department's office of Ohio school sponsorship, established under section 3314.029 of the Revised Code, may assume the sponsorship of any schools with which the sponsor has contracted until the earlier of the expiration of two school years or until a new sponsor as described in division (C)(1) of section 3314.02 of the Revised Code is secured by the school's governing authority. The office of Ohio school sponsorship may extend the term of the contract in the case of a school for which it has

assumed sponsorship under this division as necessary to accommodate the term of the department's authorization to sponsor the school specified in this division. Community schools sponsored under this division shall not apply to the limit on directly authorized community schools under division (A)(3) of section 3314.029 of the Revised Code. However, nothing in this division shall preclude a community school affected by this division from applying for sponsorship under that section.

(D) The decision of the department to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship under division (C) of this section, may be appealed by the entity in accordance with section 119.12 of the Revised Code.

(E) The department shall adopt procedures for use by a community school governing authority and sponsor when the school permanently closes and ceases operation, which shall include at least procedures for data reporting to the department, handling of student records, distribution of assets in accordance with section 3314.074 of the Revised Code, and other matters related to ceasing operation of the school.

(F)(1) In lieu of revoking a sponsor's authority to sponsor community schools under division (C) of this section, if the department finds that a sponsor is not in compliance with applicable laws and administrative rules, the department shall declare in a written notice to the sponsor the specific laws or rules, or both, for which the sponsor is noncompliant. A sponsor notified under division (F)(1) of this section shall respond to the department not later than fourteen days after the notification with a proposed plan to remedy the conditions for which the sponsor was found to be noncompliant. The department shall approve or disapprove the plan not later than fourteen days after receiving it. If the plan is disapproved, the sponsor may submit a revised plan to the department not later than fourteen days after receiving notification of disapproval from the department or not later than sixty days after the date the sponsor received notification of noncompliance from the department, whichever is earlier. The department shall approve or disapprove the revised plan not later than fourteen days after receiving it or not later than sixty days after the date the sponsor received notification of noncompliance from the department, whichever is earlier. A sponsor may continue to make revisions by the deadlines prescribed in division (F)(1) of this section to any revised plan that is disapproved by the department until the sixtieth day after the date the sponsor received notification of noncompliance from the department.

If a plan or a revised plan is approved, the sponsor shall implement it not later than sixty days after the date the sponsor received notification of

noncompliance from the department or not later than thirty days after the plan is approved, whichever is later. If a sponsor does not respond to the department or implement an approved compliance plan by the deadlines prescribed by division (F)(1) of this section, or if a sponsor does not receive approval of a compliance plan on or before the sixtieth day after the date the sponsor received notification of noncompliance from the department, the department shall declare in written notice to the sponsor that the sponsor is in probationary status, and may limit the sponsor's ability to sponsor additional schools.

(2) A sponsor that has been placed on probationary status under division (F)(1) of this section may apply to the department for its probationary status to be lifted. The application for a sponsor's probationary status to be lifted shall include evidence, occurring after the initial notification of noncompliance, of the sponsor's compliance with applicable laws and administrative rules. Not later than fourteen days after receiving an application from the sponsor, the department shall decide whether or not to remove the sponsor's probationary status.

(G) In carrying out its duties under this chapter, the department shall not impose requirements on community schools or their sponsors that are not permitted by law or duly adopted rules.

(H) This section applies to entities that sponsor conversion community schools and new start-up schools.

Sec. 3314.017. (A) The state board of education shall prescribe by rules, adopted in accordance with Chapter 119. of the Revised Code, an academic performance rating and report card system that satisfies the requirements of this section for community schools that primarily serve students enrolled in dropout prevention and recovery programs as described in division (A)(4)(a) of section 3314.35 of the Revised Code, to be used in lieu of the system prescribed under sections 3302.03 and 3314.012 of the Revised Code beginning with the 2012-2013 school year. Each such school shall comply with the testing and reporting requirements of the system as prescribed by the state board.

(B) Nothing in this section shall at any time relieve a school from its obligations under the "No Child Left Behind Act of 2001" to make "adequate yearly progress," as both that act and that term are defined in section 3302.01 of the Revised Code, or a school's amenability to the provisions of section 3302.04 or 3302.041 of the Revised Code. The department shall continue to report each school's performance as required by the act and to enforce applicable sanctions under section 3302.04 or 3302.041 of the Revised Code.

(C) The rules adopted by the state board shall prescribe the following performance indicators for the rating and report card system required by this section:

(1) Graduation rate for each of the following student cohorts:

(a) The number of students who graduate in four years or less with a regular high school diploma divided by the number of students who form the adjusted cohort for the graduating class;

(b) The number of students who graduate in five years with a regular high school diploma divided by the number of students who form the adjusted cohort for the four-year graduation rate;

(c) The number of students who graduate in six years with a regular high school diploma divided by the number of students who form the adjusted cohort for the four-year graduation rate;

(d) The number of students who graduate in seven years with a regular high school diploma divided by the number of students who form the adjusted cohort for the four-year graduation rate;

(e) The number of students who graduate in eight years with a regular high school diploma divided by the number of students who form the adjusted cohort for the four-year graduation rate.

(2) The percentage of twelfth-grade students currently enrolled in the school who have attained the designated passing score on all of the applicable state high school achievement assessments required under division (B)(1) or (2) of section 3301.0710 of the Revised Code and other students enrolled in the school, regardless of grade level, who are within three months of their twenty-second birthday and have attained the designated passing score on all of the applicable state high school achievement assessments by their twenty-second birthday;

(3) Annual measurable objectives as defined in section 3302.01 of the Revised Code;

(4) Growth in student achievement in reading, or mathematics, or both as measured by separate nationally norm-referenced assessments that have developed appropriate standards for students enrolled in dropout prevention and recovery programs, adopted or approved by the state board.

(D)(1) The state board's rules shall prescribe the expected performance levels and benchmarks for each of the indicators prescribed by division (C) of this section based on the data gathered by the department under division (F) of this section. Based on a school's level of attainment or nonattainment of the expected performance levels and benchmarks for each of the indicators, the department shall rate each school in one of the following categories:

- (a) Exceeds standards;
 - (b) Meets standards;
 - (c) Does not meet standards.
- (2) The state board's rules shall establish all of the following:
- (a) Not later than June 30, 2013, performance levels and benchmarks for the indicators described in divisions (C)(1) to (3) of this section;
 - (b) Not later than December 31, 2014, both of the following:
 - (i) Performance levels and benchmarks for the indicator described in division (C)(4) of this section;
 - (ii) Standards for awarding a community school described in division (A)(4)(a) of section 3314.35 of the Revised Code an overall designation, which shall be calculated as follows:
 - (I) Thirty per cent of the score shall be based on the indicators described in division (C)(1) of this section that are applicable to the school year for which the overall designation is granted.
 - (II) Thirty per cent of the score shall be based on the indicators described in division (C)(4) of this section.
 - (III) Twenty per cent of the score shall be based on the indicators described in division (C)(2) of this section.
 - (IV) Twenty per cent of the score shall be based on the indicators described in division (C)(3) of this section.
 - (3) If both of the indicators described in divisions (C)(1) and (2) of this section improve by ten per cent for two consecutive years, a school shall be rated as not less than "meets standards."
- The rating and the relevant performance data for each school shall be posted on the department's web site, and a copy of the rating and data shall be provided to the governing authority of the community school.
- (E)(1) For the 2012-2013 school year, the department shall issue a report card including the following performance measures, but without a performance rating as described in divisions (D)(1)(a) to (c) of this section, for each community school described in division (A)(4)(a) of section 3314.35 of the Revised Code:
- (a) The graduation rates as described in divisions (C)(1)(a) to (c) of this section;
 - (b) The percentage of twelfth-grade students and other students who have attained a designated passing score on high school achievement assessments as described in division (C)(2) of this section;
 - (c) The statewide average for the graduation rates and assessment passage rates described in divisions (C)(1)(a) to (c) and (C)(2) of this section;

(d) Annual measurable objectives described in division (C)(3) of this section.

(2) For the 2013-2014 school year, the department shall issue a report card including the following performance measures for each community school described in division (A)(4) of section 3314.35 of the Revised Code:

(a) The graduation rates described in divisions (C)(1)(a) to (d) of this section, including a performance rating as described in divisions (D)(1)(a) to (c) of this section;

(b) The percentage of twelfth-grade students and other students who have attained a designated passing score on high school achievement assessments as described in division (C)(2) of this section, including a performance rating as described in divisions (D)(1)(a) to (c) of this section;

(c) Annual measurable objectives described in division (C)(3) of this section, including a performance rating as described in divisions (D)(1)(a) to (c) of this section;

(d) Both of the following without an assigned rating:

(i) Growth in annual student achievement in reading and mathematics described in division (C)(4) of this section, if available;

(ii) Student outcome data, including postsecondary credit earned, nationally recognized career or technical certification, military enlistment, job placement, and attendance rate.

(3) Beginning with the 2014-2015 school year, and annually thereafter, the department shall issue a report card for each community school described in division (A)(4)(a) of section 3314.35 of the Revised Code that includes all of the following performance measures, including a performance rating for each measure as described in divisions (D)(1)(a) to (c) of this section:

(a) The graduation rates as described in division (C)(1) of this section;

(b) The percentage of twelfth-grade students and other students who have attained a designated passing score on high school achievement assessments as described in division (C)(2) of this section;

(c) Annual measurable objectives described in division (C)(3) of this section, including a performance rating as described in divisions (D)(1)(a) to (c) of this section;

(d) Growth in annual student achievement in reading and mathematics as described in division (C)(4) of this section;

(e) An overall performance designation for the school calculated under rules adopted under division (D)(2) of this section.

The department shall also include student outcome data, including postsecondary credit earned, nationally recognized career or technical

certification, military enlistment, job placement, attendance rate, and progress on closing achievement gaps for each school. This information shall not be included in the calculation of a school's performance rating.

(F) In developing the rating and report card system required by this section, during the 2012-2013 and 2013-2014 school years, the department shall gather and analyze data as determined necessary from each community school described in division (A)(4)(a) of section 3314.35 of the Revised Code. Each such school shall cooperate with the department by supplying requested data and administering required assessments, including sample assessments for purposes of measuring student achievement growth as described in division (C)(4) of this section. The department shall consult with stakeholder groups in performing its duties under this division.

The department shall also identify one or more states that have established or are in the process of establishing similar academic performance rating systems for dropout prevention and recovery programs and consult with the departments of education of those states in developing the system required by this section.

(G) Not later than December 31, 2014, the state board shall review the performance levels and benchmarks for performance indicators in the report card issued under this section and may revise them based on the data collected under division (F) of this section.

Sec. 3314.027. Notwithstanding the requirement for initial approval of sponsorship by the department of education prescribed in divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code and any geographical restriction or mission requirement prescribed in division (C)(1) of section 3314.02 of the Revised Code, an entity that has entered into a contract to sponsor a community school on April 8, 2003, may continue to sponsor the school in conformance with the terms of that contract ~~as long as the entity complies with all other sponsorship provisions of this chapter. Such an entity and also may enter into new contracts to sponsor community schools after April 8, 2003, and need not be approved by the department for such sponsorship, as otherwise required under divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code,~~ as long as the contracts conform to and the entity complies with all other provisions of this chapter.

Regardless of the entity's authority to sponsor community schools without the initial approval of the department, each entity described in this section is under the continuing oversight of the department in accordance with rules adopted under section 3314.015 of the Revised Code.

Sec. 3314.029. This section establishes the Ohio school sponsorship program. The department of education shall establish an office of Ohio

school sponsorship to perform the department's duties prescribed by this section.

(A)(1) Notwithstanding anything to the contrary in this chapter, ~~but subject to section 3314.20 of the Revised Code~~, any person, group of individuals, or entity may apply to the department for direct authorization to establish a community school and, upon approval of the application, may establish the school. Notwithstanding anything to the contrary in this chapter, the governing authority of an existing community school, upon the expiration or termination of its contract with the school's sponsor entered into under section 3314.03 of the Revised Code, may apply to the department for direct authorization to continue operating the school and, upon approval of the application, may continue to operate the school.

Each application submitted to the department shall include the following:

(a) Evidence that the applicant will be able to comply with division (C) of this section;

(b) A statement indicating that the applicant agrees to comply with all applicable provisions of this chapter, including the requirement to be established as a nonprofit corporation or public benefit corporation in accordance with division (A)(1) of section 3314.03 of the Revised Code;

(c) A statement attesting that no unresolved finding of recovery has been issued by the auditor of state against any person, group of individuals, or entity that is a party to the application and that no person who is party to the application has been a member of the governing authority of any community school that has permanently closed and against which an unresolved finding of recovery has been issued by the auditor of state. In the case of an application submitted by the governing authority of an existing community school, a person who is party to the application shall include each individual member of that governing authority.

(d) A statement that the school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution;

(e) A statement of whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school. If it is a converted public school or service center building, the statement shall include a specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees, provided the delegation is not

prohibited by a collective bargaining agreement applicable to such employees.

(f) A statement that the school's teachers will be licensed in the manner prescribed by division (A)(10) of section 3314.03 of the Revised Code;

(g) A statement that the school will comply with all of the provisions of law enumerated in divisions (A)(11)(d) and (e) of section 3314.03 of the Revised Code and of division (A)(11)(h) of that section, if applicable;

(h) A statement that the school's graduation and curriculum requirements will comply with division (A)(11)(f) of section 3314.03 of the Revised Code;

(i) A description of each of the following:

(i) The school's mission and educational program, the characteristics of the students the school is expected to attract, the ages and grade levels of students, and the focus of the curriculum;

(ii) The school's governing authority, which shall be in compliance with division (E) of section 3314.02 of the Revised Code;

(iii) The school's admission and dismissal policies, which shall be in compliance with divisions (A)(5) and (6) of section 3314.03 of the Revised Code;

(iv) The school's business plan, including a five-year financial forecast;

(v) In the case of an application to establish a community school, the applicant's resources and capacity to establish and operate the school;

(vi) The school's academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;

(vii) The facilities to be used by the school and their locations;

(viii) A description of the learning opportunities that will be offered to students including both classroom-based and nonclassroom-based learning opportunities that are in compliance with criteria for student participation established by the department under division ~~(L)~~(H)(2) of section 3314.08 of the Revised Code.

(2) Subject to division (A)(3) of this section, the department shall approve each application, unless, within thirty days after receipt of the application, the department determines that the application does not satisfy the requirements of division (A)(1) of this section and provides the applicant a written explanation of the reasons for the determination. In that case, the department shall grant the applicant thirty days to correct the insufficiencies in the application. If the department determines that the insufficiencies have been corrected, it shall approve the application. If the department determines that the insufficiencies have not been corrected, it shall deny the application

and provide the applicant with a written explanation of the reasons for the denial. The denial of an application may be appealed in accordance with section 119.12 of the Revised Code.

(3) For each of five school years, beginning with the school year that begins in the calendar year in which this section takes effect, the department may approve up to twenty applications for community schools to be established or to continue operation under division (A) of this section; however, of the twenty applications that may be approved each school year, only up to five may be for the establishment of new schools.

(4) Notwithstanding division (A)(2) of this section, the department may deny an application submitted by the governing authority of an existing community school, if a previous sponsor of that school did not renew its contract or terminated its contract with the school entered into under section 3314.03 of the Revised Code.

(B) The department and the governing authority of each community school authorized under this section shall enter into a contract under section 3314.03 of the Revised Code. Notwithstanding division (A)(13) of that section, the contract with an existing community school may begin at any time during the academic year. The length of the initial contract of any community school under this section may be for any term up to five years. The contract may be renewed in accordance with division (E) of that section. The contract may provide for the school's governing authority to pay a fee for oversight and monitoring of the school that does not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(C) The department may require a community school authorized under this section to post and file with the superintendent of public instruction a bond payable to the state or to file with the state superintendent a guarantee, which shall be used to pay the state any moneys owed by the community school in the event the school closes.

(D) Except as otherwise provided in this section, a community school authorized under this section shall comply with all applicable provisions of this chapter. The department may take any action that a sponsor may take under this chapter to enforce the school's compliance with this division and the terms of the contract entered into under division (B) of this section.

(E) Not later than December 31, 2012, and annually thereafter, the department shall issue a report on the program, including information about the number of community schools participating in the program and their compliance with the provisions of this chapter. In its fifth report, the department shall include a complete evaluation of the program and

recommendations regarding the program's continuation. Each report shall be provided to the general assembly, in accordance with section 101.68 of the Revised Code, and to the governor.

Sec. 3314.03. A copy of every contract entered into under this section shall be filed with the superintendent of public instruction. The department of education shall make available on its web site a copy of every approved, executed contract filed with the superintendent under this section.

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

(1) That the school shall be established as either of the following:

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003.

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;

(4) Performance standards by which the success of the school will be evaluated by the sponsor;

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) The facilities to be used and their locations;

(10) Qualifications of teachers, including ~~the following:~~

~~(a) A~~ a requirement that the school's classroom teachers be licensed in

accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

~~(b) A requirement that each classroom teacher initially hired by the school on or after July 1, 2013, and employed to provide instruction in physical education hold a valid license issued pursuant to section 3319.22 of the Revised Code for teaching physical education.~~

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year.

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution.

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.539, 3313.608, 3313.609, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.814, 3313.816, 3313.817, 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code.

(e) The school shall comply with Chapter 102. and section 2921.42 of the Revised Code.

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that for students who enter ninth grade for the first time before July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education. Beginning with students who enter ninth grade for the first time

on or after July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum of a high school prior to receiving a high school diploma shall be met by completing the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code, unless the person qualifies under division (D) or (F) of that section. Each school shall comply with the plan for awarding high school credit based on demonstration of subject area competency, adopted by the state board of education under division (J) of section 3313.603 of the Revised Code.

(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor and the parents of all students enrolled in the school.

(h) The school, unless it is an internet- or computer-based community school, will comply with section 3313.801 of the Revised Code as if it were a school district.

(i) If the school is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the school will pay teachers based upon performance in accordance with section 3317.141 and will comply with section 3319.111 of the Revised Code as if it were a school district.

(12) Arrangements for providing health and other benefits to employees;

(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.

(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;

(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. ~~The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of the subsidy calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code.~~

(16) Requirements and procedures regarding the disposition of

employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code and, at the sole discretion of the authority, shall do one of the following:

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;

(c) Permit the enrollment of students who reside in any other district in the state.

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;

(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;

(22) A provision recognizing both of the following:

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;

(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health

and safety of the school's students and employees and the sponsor refuses to take such action.

(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division ~~(L)~~(H)(2) of section 3314.08 of the Revised Code;

(24) The school will comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of section 3302.04 of the Revised Code.

(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02 of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.

(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:

(1) The process by which the governing authority of the school will be selected in the future;

(2) The management and administration of the school;

(3) If the community school is a currently existing public school or educational service center building, alternative arrangements for current public school students who choose not to attend the converted school and for teachers who choose not to teach in the school or building after conversion;

(4) The instructional program and educational philosophy of the school;

(5) Internal financial controls.

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;

(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;

(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;

(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.

(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of sections 3314.07, 3314.072, and 3314.073 of the Revised Code.

(F) If a community school fails to open for operation within one year after the contract entered into under this section is adopted pursuant to division (D) of section 3314.02 of the Revised Code or permanently closes prior to the expiration of the contract, the contract shall be void and the school shall not enter into a contract with any other sponsor. A school shall not be considered permanently closed because the operations of the school have been suspended pursuant to section 3314.072 of the Revised Code.

Sec. 3314.042. The governing authority of each community school shall

comply with the standards for financial reporting adopted under division (B)(2) of section 3301.07 of the Revised Code.

Sec. 3314.05. (A) The contract between the community school and the sponsor shall specify the facilities to be used for the community school and the method of acquisition. Except as provided in divisions (B)(3) and (4) of this section, no community school shall be established in more than one school district under the same contract.

(B) Division (B) of this section shall not apply to internet- or computer-based community schools.

(1) A community school may be located in multiple facilities under the same contract only if the limitations on availability of space prohibit serving all the grade levels specified in the contract in a single facility or division (B)(2), (3), or (4) of this section applies to the school. The school shall not offer the same grade level classrooms in more than one facility.

(2) A community school may be located in multiple facilities under the same contract and, notwithstanding division (B)(1) of this section, may assign students in the same grade level to multiple facilities, as long as all of the following apply:

~~(a) The governing authority of the community school filed a copy of its contract with the school's sponsor under section 3314.03 of the Revised Code with the superintendent of public instruction on or before May 15, 2008.~~

~~(b) The school was not open for operation prior to July 1, 2008.~~

~~(c)~~ (e) The governing authority has entered into and maintains a contract with an operator of the type described in division (A)(8)(b) of section 3314.02 of the Revised Code.

~~(d)~~ (b) The contract with that operator qualified the school to be established pursuant to division (A) of former section 3314.016 of the Revised Code.

~~(e)~~ (c) The school's rating under section 3302.03 of the Revised Code does not fall below a combination of any of the following for two or more consecutive years:

(i) A rating of "in need of continuous improvement" under section 3302.03 of the Revised Code, as that section existed prior to ~~the effective date of this section~~ March 22, 2013;

(ii) For the 2012-2013 and 2013-2014 school years, a rating of "C" for both the performance index score under division (A)(1)(b) or (B)(1)(b) and the value-added dimension under division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised Code; or if the building serves only grades ten through twelve, the building received a grade of "C" for the performance

index score under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the Revised Code;

(iii) For the 2014-2015 school year and for any school year thereafter, an overall grade of "C" under division (C)(3) of section 3302.03 of the Revised Code or an overall performance designation of "meets standards" under division (E)(3)(e) of section 3314.017 of the Revised Code.

(3) A new start-up community school may be established in two school districts under the same contract if all of the following apply:

(a) At least one of the school districts in which the school is established is a challenged school district;

(b) The school operates not more than one facility in each school district and, in accordance with division (B)(1) of this section, the school does not offer the same grade level classrooms in both facilities; and

(c) Transportation between the two facilities does not require more than thirty minutes of direct travel time as measured by school bus.

In the case of a community school to which division (B)(3) of this section applies, if only one of the school districts in which the school is established is a challenged school district, that district shall be considered the school's primary location and the district in which the school is located for the purposes of division (A)(19) of section 3314.03 and divisions (C) and (H) of section 3314.06 of the Revised Code and for all other purposes of this chapter. If both of the school districts in which the school is established are challenged school districts, the school's governing authority shall designate one of those districts to be considered the school's primary location and the district in which the school is located for the purposes of those divisions and all other purposes of this chapter and shall notify the department of education of that designation.

(4) A community school may be located in multiple facilities under the same contract and, notwithstanding division (B)(1) of this section, may assign students in the same grade level to multiple facilities, as long as both of the following apply:

(a) The facilities are all located in the same county.

(b) Either of the following conditions are satisfied:

(i) The community school is sponsored by a board of education of a city, local, or exempted village school district having territory in the same county where the facilities of the community school are located;

(ii) The community school is managed by an operator.

In the case of a community school to which division (B)(4) of this section applies and that maintains facilities in more than one school district, the school's governing authority shall designate one of those districts to be

considered the school's primary location and the district in which the school is located for the purposes of division (A)(19) of section 3314.03 and divisions (C) and (H) of section 3314.06 of the Revised Code and for all other purposes of this chapter and shall notify the department of that designation.

(5) Any facility used for a community school shall meet all health and safety standards established by law for school buildings.

(C) In the case where a community school is proposed to be located in a facility owned by a school district or educational service center, the facility may not be used for such community school unless the district or service center board owning the facility enters into an agreement for the community school to utilize the facility. Use of the facility may be under any terms and conditions agreed to by the district or service center board and the school.

(D) Two or more separate community schools may be located in the same facility.

(E) In the case of a community school that is located in multiple facilities, beginning July 1, 2012, the department shall assign a unique identification number to the school and to each facility maintained by the school. Each number shall be used for identification purposes only. Nothing in this division shall be construed to require the department to calculate the amount of funds paid under this chapter, or to compute any data required for the report cards issued under section 3314.012 of the Revised Code, for each facility separately. The department shall make all such calculations or computations for the school as a whole.

Sec. 3314.06. The governing authority of each community school established under this chapter shall adopt admission procedures that specify the following:

(A) That, except as otherwise provided in this section, admission to the school shall be open to any individual age five to twenty-two entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code in a school district in the state.

Additionally, except as otherwise provided in this section, admission to the school may be open on a tuition basis to any individual age five to twenty-two who is not a resident of this state. The school shall not receive state funds under section 3314.08 of the Revised Code for any student who is not a resident of this state.

An individual younger than five years of age may be admitted to the school in accordance with division (A)(2) of section 3321.01 of the Revised Code. The school shall receive funds for an individual admitted under that division in the manner provided under section 3314.08 of the Revised Code.

(B)(1) That admission to the school may be limited to students who have attained a specific grade level or are within a specific age group; to students that meet a definition of "at-risk," as defined in the contract; to residents of a specific geographic area within the district, as defined in the contract; or to separate groups of autistic students and nondisabled students, as authorized in section 3314.061 of the Revised Code and as defined in the contract.

(2) For purposes of division (B)(1) of this section, "at-risk" students may include those students identified as gifted students under section 3324.03 of the Revised Code.

(C) Whether enrollment is limited to students who reside in the district in which the school is located or is open to residents of other districts, as provided in the policy adopted pursuant to the contract.

(D)(1) That there will be no discrimination in the admission of students to the school on the basis of race, creed, color, disability, or sex except that:

(a) The governing authority may do either of the following for the purpose described in division (G) of this section:

(i) Establish a single-gender school for either sex;

(ii) Establish single-gender schools for each sex under the same contract, provided substantially equal facilities and learning opportunities are offered for both boys and girls. Such facilities and opportunities may be offered for each sex at separate locations.

(b) The governing authority may establish a school that simultaneously serves a group of students identified as autistic and a group of students who are not disabled, as authorized in section 3314.061 of the Revised Code. However, unless the total capacity established for the school has been filled, no student with any disability shall be denied admission on the basis of that disability.

(2) That upon admission of any student with a disability, the community school will comply with all federal and state laws regarding the education of students with disabilities.

(E) That the school may not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability, except that a school may limit its enrollment to students as described in division (B) of this section.

(F) That the community school will admit the number of students that does not exceed the capacity of the school's programs, classes, grade levels, or facilities.

(G) That the purpose of single-gender schools that are established shall be to take advantage of the academic benefits some students realize from

single-gender instruction and facilities and to offer students and parents residing in the district the option of a single-gender education.

(H) That, except as otherwise provided under division (B) of this section or section 3314.061 of the Revised Code, if the number of applicants exceeds the capacity restrictions of division (F) of this section, students shall be admitted by lot from all those submitting applications, except preference shall be given to students attending the school the previous year and to students who reside in the district in which the school is located. Preference may be given to siblings of students attending the school the previous year.

Notwithstanding divisions (A) to (H) of this section, in the event the racial composition of the enrollment of the community school is violative of a federal desegregation order, the community school shall take any and all corrective measures to comply with the desegregation order.

Sec. 3314.072. The provisions of this section are enacted to promote the public health, safety, and welfare by establishing procedures under which the governing authorities of community schools established under this chapter will be held accountable for their compliance with the terms of the contracts they enter into with their school's sponsors and the law relating to the school's operation. Suspension of the operation of a school imposed under this section is intended to encourage the governing authority's compliance with the terms of the school's contract and the law and is not intended to be an alteration of the terms of that contract.

(A) If a sponsor of a community school established under this chapter suspends the operation of that school pursuant to procedures set forth in this section, the governing authority shall not operate that school while the suspension is in effect. Any such suspension shall remain in effect until the sponsor notifies the governing authority that it is no longer in effect. The contract of a school of which operation is suspended under this section also may be subject to termination or nonrenewal under section 3314.07 of the Revised Code.

(B) If at any time conditions at the school do not comply with a health and safety standard established by law for school buildings, the sponsor shall immediately suspend the operation of the school pursuant to procedures set forth in division (D) of this section. If the sponsor fails to take action to suspend the operation of a school to which this division applies, the department of education may take such action.

(C)(1) For any of the reasons prescribed in division (B)(1)(a) to (d) of section 3314.07 of the Revised Code, the sponsor of a community school established under this chapter may suspend the operation of the school only if it first issues to the governing authority notice of the sponsor's intent to

suspend the operation of the contract. Such notice shall explain the reasons for the sponsor's intent to suspend operation of the contract and shall provide the school's governing authority with five business days to submit to the sponsor a proposal to remedy the conditions cited as reasons for the suspension.

(2) The sponsor shall promptly review any proposed remedy timely submitted by the governing authority and either approve or disapprove the remedy. If the sponsor disapproves the remedy proposed by the governing authority, if the governing authority fails to submit a proposed remedy in the manner prescribed by the sponsor, or if the governing authority fails to implement the remedy as approved by the sponsor, the sponsor may suspend operation of the school pursuant to procedures set forth in division (D) of this section.

(D)(1) If division (B) of this section applies or if the sponsor of a community school established under this chapter decides to suspend the operation of a school as permitted in division (C)(2) of this section, the sponsor shall promptly send written notice to the governing authority stating that the operation of the school is immediately suspended, and explaining the specific reasons for the suspension. The notice shall state that the governing authority has five business days to submit a proposed remedy to the conditions cited as reasons for the suspension or face potential contract termination.

(2) Upon receipt of the notice of suspension prescribed under division (D)(1) of this section, the governing authority shall immediately notify the employees of the school and the parents of the students enrolled in the school of the suspension and the reasons therefore, and shall cease all school operations on the next business day.

(E)(1) Beginning with the 2013-2014 school year, if the sponsor of a community school suspends the operation of that school pursuant to procedures set forth in this section, the school's contract with the sponsor under section 3314.03 of the Revised Code shall become void, if the governing authority of the school fails to provide a proposal to remedy the conditions cited by the sponsor as reasons for the suspension, to the satisfaction of the sponsor, by the thirtieth day of September of the school year immediately following the school year in which the operation of school was suspended.

(2) If, prior to the effective date of this amendment, the sponsor of a community school has suspended the operation of the school, the contract with the sponsor under section 3314.03 of the Revised Code shall become void if the governing authority of the school fails to provide by September

30, 2014, a proposal to remedy the conditions cited by the sponsor as reasons for the suspension, to the satisfaction of the sponsor.

Sec. 3314.074. Divisions (A) and (B) of this section apply only to the extent permitted under Chapter 1702. of the Revised Code.

(A) If any community school established under this chapter permanently closes and ceases its operation as a community school, the assets of that school shall be distributed first to the retirement funds of employees of the school, employees of the school, and private creditors who are owed compensation, and then any remaining funds shall be paid to the department of education for redistribution to the school districts in which the students who were enrolled in the school at the time it ceased operation were entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. The amount distributed to each school district shall be proportional to the district's share of the total enrollment in the community school.

(B) If a community school closes and ceases to operate as a community school and the school has received computer hardware or software from the former Ohio SchoolNet commission or the former eTech Ohio commission, such hardware or software shall be ~~returned~~ turned over to the ~~eTech Ohio commission~~ department of education, and the ~~eTech Ohio commission~~ which shall redistribute the hardware and software, to the extent such redistribution is possible, to school districts in conformance with the provisions of the programs as they were operated and administered by the former eTech Ohio commission.

(C) If the assets of the school are insufficient to pay all persons or entities to whom compensation is owed, the prioritization of the distribution of the assets to individual persons or entities within each class of payees may be determined by decree of a court in accordance with this section and Chapter 1702. of the Revised Code.

~~Sec. 3314.08. The deductions under division (C) and the payments under division (D) of this section for fiscal years 2012 and 2013 shall be made in accordance with section 3314.088 of the Revised Code.~~

~~(A) As used in this section:~~

~~(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.~~

~~(2) "IEP" has the same meaning as in section 3323.01 of the Revised Code.~~

~~(3) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section.~~

~~(4) "Applicable vocational education weight" means:~~

~~(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;~~

~~(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.~~

~~(5) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.~~

~~(6) A community school student is "included in the poverty student count" of a school district if the student is entitled to attend school in the district and the student's family receives assistance under the Ohio works first program.~~

~~(7) "Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of poverty-based assistance a community school is entitled to receive pursuant to divisions (D)(5) to (9) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.~~

~~(8) "All-day kindergarten" has the same meaning as in section 3321.05 of the Revised Code.~~

(9)(a) "Category one career-technical education student" means a student who is receiving the career-technical education services described in division (A) of section 3317.014 of the Revised Code.

(b) "Category two career-technical student" means a student who is receiving the career-technical education services described in division (B) of section 3317.014 of the Revised Code.

(c) "Category three career-technical student" means a student who is receiving the career-technical education services described in division (C) of section 3317.014 of the Revised Code.

(d) "Category four career-technical student" means a student who is receiving the career-technical education services described in division (D) of section 3317.014 of the Revised Code.

(e) "Category five career-technical education student" means a student who is receiving the career-technical education services described in division (E) of section 3317.014 of the Revised Code.

(2)(a) "Category one limited English proficient student" means a limited English proficient student described in division (A) of section 3317.016 of the Revised Code.

(b) "Category two limited English proficient student" means a limited English proficient student described in division (B) of section 3317.016 of

the Revised Code.

(c) "Category three limited English proficient student" means a limited English proficient student described in division (C) of section 3317.016 of the Revised Code.

(3)(a) "Category one special education student" means a student who is receiving special education services for a disability specified in division (A) of section 3317.013 of the Revised Code.

(b) "Category two special education student" means a student who is receiving special education services for a disability specified in division (B) of section 3317.013 of the Revised Code.

(c) "Category three special education student" means a student who is receiving special education services for a disability specified in division (C) of section 3317.013 of the Revised Code.

(d) "Category four special education student" means a student who is receiving special education services for a disability specified in division (D) of section 3317.013 of the Revised Code.

(e) "Category five special education student" means a student who is receiving special education services for a disability specified in division (E) of section 3317.013 of the Revised Code.

(f) "Category six special education student" means a student who is receiving special education services for a disability specified in division (F) of section 3317.013 of the Revised Code.

(4) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code.

(5) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(6) "Resident district" means the school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(7) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in ~~grades one~~ each grade kindergarten through twelve in a community school established under this chapter, ~~the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school,~~ and for

each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the full-time equivalent number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the full-time equivalent number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;

(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a disability described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;

(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in ~~vocational~~ career-technical education programs or classes described in each of divisions (A) ~~and (B)~~ to (E) of section 3317.014 of the Revised Code that are provided by the community school;

(e) Twenty per cent of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in ~~vocational~~ career-technical education programs or classes described in each of divisions (A) ~~and (B)~~ to (E) of section 3317.014 of the Revised Code at a joint vocational school district ~~under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational school district~~ or another district in the career-technical planning district to which the school is assigned;

~~(f) The number of enrolled preschool children with disabilities receiving special education services in a state-funded unit;~~

~~(g) The community school's base formula amount;~~

~~(h) The number of students reported under divisions (B)(2)(a) and (b) of this section who are category one to three limited English proficient students described in each of divisions (A) to (C) of section 3317.016 of the Revised Code;~~

(g) The number of students reported under divisions (B)(2)(a) and (b) who are economically disadvantaged, as defined by the department. A student shall not be categorically excluded from the number reported under division (B)(2)(g) of this section based on anything other than family

income.

~~(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;~~

~~(i) Any poverty-based assistance reduction factor that applies to a school year under section 3313.64 or 3313.65 of the Revised Code.~~

A school district board and a community school governing authority shall include in their respective reports under division (B) of this section any child admitted in accordance with division (A)(2) of section 3321.01 of the Revised Code.

A governing authority of a community school shall not include in its report under division (B)(2) of this section any student for whom tuition is charged under division (F) of this section.

~~(C) From the state education aid calculated for a city, exempted village, or local school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract the sum of the amounts described in divisions (C)(1) to (9) of this section. However, when deducting payments on behalf of students enrolled in internet or computer-based community schools, the department shall deduct only those amounts described in divisions (C)(1) and (2) of this section. Furthermore, the aggregate amount deducted under this division shall not exceed the sum of the district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code.~~

~~(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a), (b), and (e) of this section who are enrolled in grades one through twelve, and one half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the sum of the base formula amount of that community school plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.~~

~~(2) The sum of the amounts calculated under divisions (C)(2)(a) and (b) of this section:~~

~~(a) For each of the district's students reported under division (B)(2)(e) of this section as enrolled in a community school in grades one through twelve and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, the product of the applicable special education weight times the community school's base formula amount;~~

~~(b) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in kindergarten in a community school and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, one-half of the amount calculated as prescribed in division (C)(2)(a) of this section:~~

~~(3) For each of the district's students reported under division (B)(2)(d) of this section for whom payment is made under division (D)(4) of this section, the amount of that payment;~~

~~(4) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty based assistance the school district receives that year pursuant to division (C) of section 3317.029 of the Revised Code, as adjusted by any poverty based assistance reduction factor of that community school. The per pupil amount of that aid for the district shall be calculated by the department.~~

~~(5) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty based assistance reduction factor of the community school, is multiplied by the sum of the following:~~

~~(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;~~

~~(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;~~

~~(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.~~

~~The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.~~

~~(6) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty based assistance reduction factor of that~~

~~community school, is multiplied by the number of the district's students enrolled in the community school who are identified as limited English proficient.~~

~~(7) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:~~

~~(a) The number of the district's students enrolled in grades one through twelve in that community school;~~

~~(b) One half of the number of the district's students enrolled in kindergarten in that community school.~~

~~The district's per pupil amount under division (G) of section 3317.029 of the Revised Code is the district's amount per teacher calculated under division (G)(1) or (2) of that section divided by 17.~~

~~(8) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:~~

~~(a) The number of the district's students enrolled in grades one through twelve in that community school;~~

~~(b) One half of the number of the district's students enrolled in kindergarten in that community school.~~

~~The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code is the amount calculated under each division divided by the district's formula ADM, as defined in section 3317.02 of the Revised Code.~~

~~(9) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section.~~

~~(D) The department shall annually pay to a community school established under this chapter the sum of the amounts described in divisions (D)(1) to (10) of this section. However, the department shall calculate and pay to each internet- or computer-based community school only the amounts described in divisions (D)(1) to (3) of this section. Furthermore, the sum of~~

~~the payments to all community schools under divisions (D)(1), (2), and (4) to (10) of this section for the students entitled to attend school in any particular school district shall not exceed the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code. If the sum of the payments calculated under those divisions for the students entitled to attend school in a particular school district exceeds the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under those divisions for the students entitled to attend school in that district.~~

~~(1) An amount equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus one half of the kindergarten students in the school, reported under divisions (B)(2)(a), (b), and (c) of this section who are not receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code is multiplied by the sum of the community school's base formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.~~

~~(2) The sum of the following amounts:~~

~~(a) For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, the following amount:~~

~~(the school's base formula amount plus
the per pupil amount of the base funding supplements specified in
divisions (C)(1) to (4) of section 3317.012 of the Revised Code)
+ (the applicable special education weight X the
community school's base formula amount);~~

~~(b) For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, one half of the amount calculated under the formula prescribed in division (D)(2)(a) of this section.~~

~~(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by the superintendent of public instruction.~~

~~(4) For each student reported under division (B)(2)(d) of this section as enrolled in vocational education programs or classes that are described in~~

~~section 3317.014 of the Revised Code, are provided by the community school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, an amount equal to the applicable vocational education weight times the community school's base formula amount times the percentage of time the student spends in the vocational education programs or classes.~~

~~(5) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty based assistance that school district receives that year pursuant to division (C) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(4) of this section.~~

~~(6) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:~~

~~(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;~~

~~(b) One half of the district's students who are enrolled in all day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;~~

~~(c) One half of the district's students who are enrolled in all day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.~~

~~The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code shall be determined as described in division (C)(5) of this section.~~

~~(7) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are identified as limited-English proficient is multiplied by the district's per pupil amount received under division (F) of section 3317.029~~

~~of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school.~~

~~(8) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:~~

~~(a) The number of the district's students enrolled in grades one through twelve in that community school;~~

~~(b) One-half of the number of the district's students enrolled in kindergarten in that community school.~~

~~The district's per pupil amount under division (G) of section 3317.029 of the Revised Code shall be determined as described in division (C)(7) of this section.~~

~~(9) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:~~

~~(a) The number of the district's students enrolled in grades one through twelve in that community school;~~

~~(b) One-half of the number of the district's students enrolled in kindergarten in that community school.~~

~~The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.~~

~~(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under divisions (B)(2)(a) and (b) of this section.~~

~~(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a disability described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student~~

~~as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.~~

~~(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.~~

~~(F) A community school may apply to the department of education for preschool children with disabilities unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received such unit funding as a school district operated school before it became a community school shall retain any units awarded to it as a school district operated school provided the school continues to meet eligibility standards for the unit.~~

~~A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.~~

(G)(1) Except as provided in division (C)(2) of this section, and subject to divisions (C)(3), (4), (5), (6), and (7) of this section, on a full-time equivalency basis, for each student enrolled in a community school established under this chapter, the department of education annually shall deduct from the state education aid of a student's resident district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code and pay to the community school the sum of the following:

(a) An opportunity grant in an amount equal to the formula amount;

(b) The per pupil amount of targeted assistance funds calculated under division (A) of section 3317.0217 of the Revised Code for the student's resident district, as determined by the department, X 0.25;

(c) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code as follows:

(i) If the student is a category one special education student, the amount specified in division (A) of section 3317.013 of the Revised Code;

(ii) If the student is a category two special education student, the amount specified in division (B) of section 3317.013 of the Revised Code;

(iii) If the student is a category three special education student, the amount specified in division (C) of section 3317.013 of the Revised Code;

(iv) If the student is a category four special education student, the amount specified in division (D) of section 3317.013 of the Revised Code;

(v) If the student is a category five special education student, the amount specified in division (E) of section 3317.013 of the Revised Code;

(vi) If the student is a category six special education student, the amount specified in division (F) of section 3317.013 of the Revised Code.

(d) If the student is in kindergarten through third grade, an additional amount of \$211, in fiscal year 2014, and \$290, in fiscal year 2015;

(e) If the student is economically disadvantaged, an additional amount equal to the following:

(\$269, in fiscal year 2014, or \$272, in fiscal year 2015) X (the resident district's economically disadvantaged index)

(f) Limited English proficiency funds as follows:

(i) If the student is a category one limited English proficient student, the amount specified in division (A) of section 3317.016 of the Revised Code;

(ii) If the student is a category two limited English proficient student, the amount specified in division (B) of section 3317.016 of the Revised Code;

(iii) If the student is a category three limited English proficient student, the amount specified in division (C) of section 3317.016 of the Revised Code.

(g) Career-technical education funds as follows:

(i) If the student is a category one career-technical education student, the amount specified in division (A) of section 3317.014 of the Revised Code;

(ii) If the student is a category two career-technical education student, the amount specified in division (B) of section 3317.014 of the Revised Code;

(iii) If the student is a category three career-technical education student, the amount specified in division (C) of section 3317.014 of the Revised Code;

(iv) If the student is a category four career-technical education student, the amount specified in division (D) of section 3317.014 of the Revised Code;

(v) If the student is a category five career-technical education student, the amount specified in division (E) of section 3317.014 of the Revised Code.

Deduction and payment of funds under division (C)(1)(g) of this section is subject to approval by the lead district of a career-technical planning district or the department of education under section 3317.161 of the Revised Code.

(2) When deducting from the state education aid of a student's resident district for students enrolled in an internet- or computer-based community school and making payments to such school under this section, the department shall make the deductions and payments described in only divisions (C)(1)(a), (c), and (g) of this section.

No deductions or payments shall be made for a student enrolled in such school under division (C)(1)(b), (d), (e), or (f) of this section.

(3)(a) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a disability described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (B) of section 3317.0214 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(b) The community school shall report under division (C)(3)(a) of this section, and the department shall pay for, only the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(4) In any fiscal year, a community school receiving funds under division (C)(1)(g) of this section shall spend those funds only for the purposes that the department designates as approved for career-technical education expenses. Career-technical educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school to report data annually so that the department may monitor the school's compliance with the requirements regarding the manner in which funding received under division (C)(1)(g) of this section may be

spent.

(5) All funds received under division (C)(1)(g) of this section shall be spent in the following manner:

(a) At least seventy-five per cent of the funds shall be spent on curriculum development, purchase, and implementation; instructional resources and supplies; industry-based program certification; student assessment, credentialing, and placement; curriculum specific equipment purchases and leases; career-technical student organization fees and expenses; home and agency linkages; work-based learning experiences; professional development; and other costs directly associated with career-technical education programs including development of new programs.

(b) Not more than twenty-five per cent of the funds shall be used for personnel expenditures.

(6) A community school shall spend the funds it receives under division (C)(1)(e) of this section in accordance with section 3317.25 of the Revised Code.

(7) If the sum of the payments computed under division (C)(1) of this section for the students entitled to attend school in a particular school district under sections 3313.64 and 3313.65 of the Revised Code exceeds the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under that division for the students entitled to attend school in that district.

(D) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

~~(H)~~(E) A community school may not levy taxes or issue bonds secured by tax revenues.

~~(H)~~(F) No community school shall charge tuition for the enrollment of any student who is a resident of this state. A community school may charge tuition for the enrollment of any student who is not a resident of this state.

~~(J)~~(G)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division ~~(D)~~(C) of this section. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

(b) A school may also borrow money for a term not to exceed fifteen

years for the purpose of acquiring facilities.

(2) Except for any amount guaranteed under section 3318.50 of the Revised Code, the state is not liable for debt incurred by the governing authority of a community school.

~~(K) For purposes of determining the number of students for which divisions (D)(5) and (6) of this section applies in any school year, a community school may submit to the department of job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of job and family services shall determine, for each school district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in each school district who were included in the department's report under section 3317.10 of the Revised Code. In complying with this division, the department of job and family services shall not report to the state department of education any personally identifiable information on any student.~~

~~(L)(H)~~ The department of education shall adjust the amounts subtracted and paid under ~~divisions (C) and (D)~~ division (C) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year. The state board of education within ninety days after April 8, 2003, shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section ~~and section 3314.13 of the Revised Code~~ including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from school district accounts as provided under ~~divisions (C) and (D)~~ division (C) of this section ~~and section 3314.13 of the Revised Code~~. For purposes of this section ~~and section 3314.13 of the Revised Code~~:

(1) A student shall be considered enrolled in the community school for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(2) A student shall be considered to be enrolled in a community school

for the period of time beginning on the later of the date on which the school both has received documentation of the student's enrollment from a parent and the student has commenced participation in learning opportunities as defined in the contract with the sponsor, or thirty days prior to the date on which the student is entered into the education management information system established under section 3301.0714 of the Revised Code. For purposes of applying this division and divisions ~~(L)~~(H)(3) and (4) of this section to a community school student, "learning opportunities" shall be defined in the contract, which shall describe both classroom-based and non-classroom-based learning opportunities and shall be in compliance with criteria and documentation requirements for student participation which shall be established by the department. Any student's instruction time in non-classroom-based learning opportunities shall be certified by an employee of the community school. A student's enrollment shall be considered to cease on the date on which any of the following occur:

(a) The community school receives documentation from a parent terminating enrollment of the student.

(b) The community school is provided documentation of a student's enrollment in another public or private school.

(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter.

Except as otherwise specified in this paragraph, beginning in the 2011-2012 school year, any student who completed the prior school year in an internet- or computer-based community school shall be considered to be enrolled in the same school in the subsequent school year until the student's enrollment has ceased as specified in division ~~(L)~~(H)(2) of this section. The department shall continue subtracting and paying amounts for the student under ~~divisions~~ division (C) and ~~(D)~~ of this section without interruption at the start of the subsequent school year. However, if the student without a legitimate excuse fails to participate in the first one hundred five consecutive hours of learning opportunities offered to the student in that subsequent school year, the student shall be considered not to have re-enrolled in the school for that school year and the department shall recalculate the payments to the school for that school year to account for the fact that the student is not enrolled.

(3) The department shall determine each community school student's percentage of full-time equivalency based on the percentage of learning opportunities offered by the community school to that student, reported either as number of hours or number of days, is of the total learning

opportunities offered by the community school to a student who attends for the school's entire school year. However, no internet- or computer-based community school shall be credited for any time a student spends participating in learning opportunities beyond ten hours within any period of twenty-four consecutive hours. Whether it reports hours or days of learning opportunities, each community school shall offer not less than nine hundred twenty hours of learning opportunities during the school year.

(4) With respect to the calculation of full-time equivalency under division ~~(H)~~(H)(3) of this section, the department shall waive the number of hours or days of learning opportunities not offered to a student because the community school was closed during the school year due to disease epidemic, hazardous weather conditions, law enforcement emergencies, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, so long as the school was actually open for instruction with students in attendance during that school year for not less than the minimum number of hours required by this chapter. The department shall treat the school as if it were open for instruction with students in attendance during the hours or days waived under this division.

~~(M)~~(I) The department of education shall reduce the amounts paid under division ~~(D)~~ of this section to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code.

~~(N)~~(J)(1) No student shall be considered enrolled in any internet- or computer-based community school or, if applicable to the student, in any community school that is required to provide the student with a computer pursuant to division (C) of section 3314.22 of the Revised Code, unless both of the following conditions are satisfied:

(a) The student possesses or has been provided with all required hardware and software materials and all such materials are operational so that the student is capable of fully participating in the learning opportunities specified in the contract between the school and the school's sponsor as required by division (A)(23) of section 3314.03 of the Revised Code;

(b) The school is in compliance with division (A) of section 3314.22 of the Revised Code, relative to such student.

(2) In accordance with policies adopted jointly by the superintendent of public instruction and the auditor of state, the department shall reduce the amounts otherwise payable under division ~~(D)~~(C) of this section to any

community school that includes in its program the provision of computer hardware and software materials to any student, if such hardware and software materials have not been delivered, installed, and activated for each such student in a timely manner or other educational materials or services have not been provided according to the contract between the individual community school and its sponsor.

The superintendent of public instruction and the auditor of state shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section.

The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such schools.

~~(O)~~(K)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons:

(a) The department and the community school mutually agree to the extension.

(b) Delays in data submission caused by either a community school or its sponsor.

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public

instruction.

~~(P)(L)~~ The department shall not subtract from a school district's state aid account ~~under division (C) of this section~~ and shall not pay to a community school under division ~~(D)(C)~~ of this section any amount for any of the following:

(1) Any student who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any student who is not a resident of the state;

(3) Any student who was enrolled in the community school during the previous school year when assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the assessments required by that section and was not excused pursuant to division (C)(1) or (3) of that section, unless the superintendent of public instruction grants the student a waiver from the requirement to take the assessment and a parent is not paying tuition for the student pursuant to section 3314.26 of the Revised Code. The superintendent may grant a waiver only for good cause in accordance with rules adopted by the state board of education.

(4) Any student who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for enrollment in a community school not later than four years after termination of war or their honorable discharge. If, however, any such veteran elects to enroll in special courses organized for veterans for whom tuition is paid under federal law, or otherwise, the department shall not subtract from a school district's state aid account ~~under division (C) of this section~~ and shall not pay to a community school under division ~~(D)(C)~~ of this section any amount for that veteran.

Sec. 3314.082. A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.

Sec. 3314.083. If the department of education pays a joint vocational school district under division ~~(G)(4)(C)(3)~~ of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a student with a disability who is enrolled in a community school, as calculated under division ~~(G)(2)(C)(1)~~ of that section, the department shall

deduct the amount of that payment from the amount calculated for payment to the community school under section 3314.08 of the Revised Code.

Sec. 3314.084. (A) As used in this section:

(1) "Formula ADM" has the same meaning as in section 3317.03 of the Revised Code.

(2) "Home" has the same meaning as in section 3313.64 of the Revised Code.

(3) "School district of residence" has the same meaning as in section 3323.01 of the Revised Code; however, a community school established under this chapter is not a "school district of residence" for purposes of this section.

(B) Notwithstanding anything to the contrary in section 3314.08 or 3317.03 of the Revised Code, all of the following apply in the case of a child who is enrolled in a community school and is also living in a home:

(1) For purposes of the report required under division (B)(1) of section 3314.08 of the Revised Code, the child's school district of residence, and not the school district in which the home that the child is living in is located, shall be considered to be the school district in which the child is entitled to attend school. That school district of residence, therefore, shall make the report required under division (B)(1) of section 3314.08 of the Revised Code with respect to the child.

(2) For purposes of the report required under division (B)(2) of section 3314.08 of the Revised Code, the community school shall report the name of the child's school district of residence.

(3) The child's school district of residence shall count the child in that district's formula ADM.

(4) The school district in which the home that the child is living in is located shall not count the child in that district's formula ADM.

(5) The ~~Department~~ department of ~~Education~~ education shall deduct the applicable amounts prescribed under division (C) of section 3314.08 ~~and division (D) of section 3314.13~~ of the Revised Code from the child's school district of residence and shall not deduct those amounts from the school district in which the home that the child is living in is located.

(6) The ~~Department~~ department shall make the payments prescribed in ~~divisions (D) and (E)~~ division (C) of section 3314.08 ~~and section 3314.13~~ of the Revised Code, as applicable, to the community school.

Sec. 3314.086. A community school established under this chapter, including an internet- or computer-based community school, may provide career-technical education in the manner prescribed by section 3313.90 of the Revised Code. The community school may contract with any public

agency, board, or bureau or with any private individual or firm for the purchase of any career-technical education or vocational rehabilitation service for any student enrolled in the community school and may pay for such services with funds received under section 3314.08 of the Revised Code.

Sec. 3314.087. (A) As used in this section:

(1) "Career-technical program" means ~~vocational~~ career-technical programs or classes described in division (A) ~~or, (B), (C), (D), or (E)~~ of section 3317.014 of the Revised Code in which a student is enrolled.

(2) "Formula ADM," "category one ~~or two~~ vocational through five career-technical education ADM," and "FTE basis" have the same meanings as in section 3317.02 of the Revised Code.

(3) "Resident school district" means the city, exempted village, or local school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(B) Notwithstanding anything to the contrary in this chapter or Chapter 3317. of the Revised Code, a student enrolled in a community school may simultaneously enroll in the career-technical program operated by the ~~student's resident school district~~ career-technical planning district to which the student's resident district belongs. On an FTE basis, the student's resident school district shall count the student in the category one ~~or two~~ vocational through five career-technical education ADM for the proportion of the time the student is enrolled in ~~the district's~~ a career-technical program of the career-technical planning district to which the student's resident district belongs and, accordingly, the department of education shall calculate funds under Chapter 3317. for the resident district attributable to the student for the proportion of time the student attends the career-technical program. The community school shall count the student in its enrollment report under section 3314.08 of the Revised Code and shall report to the department the proportion of time that the student attends classes at the community school. The department shall pay the community school and deduct from the student's resident school district the amount computed for the student under section 3314.08 of the Revised Code in proportion to the fraction of the time on an FTE basis that the student attends classes at the community school. "Full-time equivalency" for a community school student, as defined in division ~~(L)~~(H) of section 3314.08 of the Revised Code, does not apply to the student.

Sec. 3314.091. (A) A school district is not required to provide transportation for any native student enrolled in a community school if the district board of education has entered into an agreement with the

community school's governing authority that designates the community school as responsible for providing or arranging for the transportation of the district's native students to and from the community school. For any such agreement to be effective, it must be certified by the superintendent of public instruction as having met all of the following requirements:

(1) It is submitted to the department of education by a deadline which shall be established by the department.

(2) In accordance with divisions (C)(1) and (2) of this section, it specifies qualifications, such as residing a minimum distance from the school, for students to have their transportation provided or arranged.

(3) The transportation provided by the community school is subject to all provisions of the Revised Code and all rules adopted under the Revised Code pertaining to pupil transportation.

(4) The sponsor of the community school also has signed the agreement.

(B)(1) For the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school, if the community school during the previous school year transported the students enrolled in the school or arranged for the students' transportation, even if that arrangement consisted of having parents transport their children to and from the school, but did not enter into an agreement to transport or arrange for transportation for those students under division (A) of this section, and if the governing authority of the community school by July 15, 2007, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school.

(2) ~~For~~ Except as provided in division (B)(4) of this section, for any school year subsequent to the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school if the governing authority of the community school, by the thirty-first day of January of the previous school year, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school. If the governing authority of the community school has previously accepted responsibility for providing or arranging for the transportation of a district's native students to and from the community school, under division (B)(1) or (2) of this section, and has since relinquished that responsibility under division (B)(3) of this section, the governing authority shall not accept that responsibility again unless the district board consents to the governing

authority's acceptance of that responsibility.

(3) A governing authority's acceptance of responsibility under division (B)(1) or (2) of this section shall cover an entire school year, and shall remain in effect for subsequent school years unless the governing authority submits written notification to the district board that the governing authority is relinquishing the responsibility. However, a governing authority shall not relinquish responsibility for transportation before the end of a school year, and shall submit the notice relinquishing responsibility by the thirty-first day of January, in order to allow the school district reasonable time to prepare transportation for its native students enrolled in the school.

(4)(a) For any school year that begins on or after July 1, 2014, a school district is not required to provide transportation for any native student enrolled in a community school scheduled to open for operation in the current school year, if the governing authority of the community school, by the fifteenth day of April of the previous school year, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school.

(b) The governing authority of a community school that accepts responsibility for transporting its students under division (4)(a) of this section shall comply with divisions (B)(2) and (3) of this section to renew or relinquish that authority for subsequent school years.

(C)(1) A community school governing authority that enters into an agreement under division (A) of this section, or that accepts responsibility under division (B) of this section, shall provide or arrange transportation free of any charge for each of its enrolled students who is required to be transported under section 3327.01 of the Revised Code or who would otherwise be transported by the school district under the district's transportation policy. The governing authority shall report to the department of education the number of students transported or for whom transportation is arranged under this section in accordance with rules adopted by the state board of education.

(2) The governing authority may provide or arrange transportation for any other enrolled student who is not eligible for transportation in accordance with division (C)(1) of this section and may charge a fee for such service up to the actual cost of the service.

(3) Notwithstanding anything to the contrary in division (C)(1) or (2) of this section, a community school governing authority shall provide or arrange transportation free of any charge for any disabled student enrolled in

the school for whom the student's individualized education program developed under Chapter 3323. of the Revised Code specifies transportation.

(D)(1) If a school district board and a community school governing authority elect to enter into an agreement under division (A) of this section, the department of education shall make payments to the community school according to the terms of the agreement for each student actually transported under division (C)(1) of this section.

If a community school governing authority accepts transportation responsibility under division (B) of this section, the department shall make payments to the community school for each student actually transported or for whom transportation is arranged by the community school under division (C)(1) of this section, calculated as follows:

(a) For any fiscal year which the general assembly has specified that transportation payments to school districts be based on an across-the-board percentage of the district's payment for the previous school year, the per pupil payment to the community school shall be the following quotient:

(i) The total amount calculated for the school district in which the child is entitled to attend school for student transportation other than transportation of children with disabilities; divided by

(ii) The number of students included in the district's transportation ADM for the current fiscal year, as reported under division (B)~~(13)~~(19) of section 3317.03 of the Revised Code, plus the number of students enrolled in the community school not counted in the district's transportation ADM who are transported under division (B)(1) or (2) of this section.

(b) For any fiscal year which the general assembly has specified that the transportation payments to school districts be calculated in accordance with section 3317.0212 of the Revised Code and any rules of the state board of education implementing that section, the payment to the community school shall be the amount so calculated that otherwise would be paid to the school district in which the student is entitled to attend school by the method of transportation the district would have used. The community school, however, is not required to use the same method to transport that student.

(c) Divisions (D)(1)(a) and (b) of this section do not apply to fiscal years 2012 and 2013. Rather, for each of those fiscal years, the per pupil payment to a community school for transporting a student shall be the total amount paid under former section 3306.12 of the Revised Code for fiscal year 2011 to the school district in which the child is entitled to attend school divided by that district's "qualifying ridership," as defined in that section for fiscal year 2011.

As used in this division "entitled to attend school" means entitled to

attend school under section 3313.64 or 3313.65 of the Revised Code.

(2) The department shall deduct the payment under division (D)(1) of this section from the state education aid, as defined in section 3314.08 of the Revised Code, and, if necessary, the payment under sections 321.14 and 323.156 of the Revised Code, that is otherwise paid to the school district in which the student enrolled in the community school is entitled to attend school. The department shall include the number of the district's native students for whom payment is made to a community school under division (D)(1) of this section in the calculation of the district's transportation payment under section 3317.0212 of the Revised Code and the operating appropriations act.

(3) A community school shall be paid under division (D)(1) of this section only for students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, and whose transportation to and from school is actually provided, who actually utilized transportation arranged, or for whom a payment in lieu of transportation is made by the community school's governing authority. To qualify for the payments, the community school shall report to the department, in the form and manner required by the department, data on the number of students transported or whose transportation is arranged, the number of miles traveled, cost to transport, and any other information requested by the department.

(4) A community school shall use payments received under this section solely to pay the costs of providing or arranging for the transportation of students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, which may include payments to a parent, guardian, or other person in charge of a child in lieu of transportation.

(E) Except when arranged through payment to a parent, guardian, or person in charge of a child, transportation provided or arranged for by a community school pursuant to an agreement under this section is subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to the construction, design, equipment, and operation of school buses and other vehicles transporting students to and from school. The drivers and mechanics of the vehicles are subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to drivers and mechanics of such vehicles. The community school also shall comply with sections 3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) of section 3327.16 of the Revised Code and, subject to division (C)(1) of this section, sections 3327.01 and 3327.02 of the Revised Code, as

if it were a school district.

Sec. 3314.092. The governing authority or operator of a community school established under this chapter shall consult with each school district board of education that transports students to the community school under sections 3314.09 and 3327.01 of the Revised Code prior to making any change in the hours or days in which the community school is open for instruction.

Sec. 3314.11. (A) The board of education of each city, exempted village, and local school district monthly shall review enrollment for students enrolled in community schools established under this chapter and entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code. For each student, the district shall verify to the department of education both of the following:

(1) The community school in which the student is enrolled;

(2) That the student is entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code.

(B) For purposes of its initial reporting of the school districts its students are entitled to attend, the governing authority of a community school may adopt a policy that prescribes the number of documents listed in division (E) of this section required to verify a student's residency. This policy, if adopted, shall supersede any policy concerning the number of documents for initial residency verification adopted by the district the student is entitled to attend. If a community school does not adopt a policy under this division, the policy of the school district in which the student is entitled to attend shall prevail.

(C) In making the determinations under this section, the school district in which a parent or child resides is the location the parent or student has established as the primary residence and where substantial family activity takes place.

(D) If a district's determination under division (A) of this section of the school district a student is entitled to attend under section 3313.64 or 3313.65 of the Revised Code differs from a community school's determination under division (B) of this section, the community school shall provide the school district that made the determination under division (A) of this section with documentation of the student's residency and shall make a good faith effort to accurately identify the correct residence of the student.

(E) For purposes of this section, the following documents may serve as evidence of primary residence:

(1) A deed, mortgage, lease, current home owner's or renter's insurance declaration page, or current real property tax bill;

(2) A utility bill or receipt of utility installation issued within ninety days of enrollment;

(3) A paycheck or paystub issued to the parent or student within ninety days of the date of enrollment that includes the address of the parent's or student's primary residence;

(4) The most current available bank statement issued to the parent or student that includes the address of the parent's or student's primary residence;

(5) Any other official document issued to the parent or student that includes the address of the parent's or student's primary residence. The superintendent of public instruction shall develop guidelines for determining what qualifies as an "official document" under this division.

(F) When a student loses permanent housing and becomes a homeless child or youth, as defined in 42 U.S.C. 11434a, or when a child who is such a homeless child or youth changes temporary living arrangements, the district in which the student is entitled to attend school shall be determined in accordance with division (F)(13) of section 3313.64 of the Revised Code and the "McKinney-Vento Homeless Assistance Act," 42 U.S.C. 11431 et seq.

(G) In the event of a disagreement as to which school district a student is entitled to attend, the community school, after complying with division (D) of this section, but not more than sixty days after the monthly deadline established by the department of education for reporting of community school enrollment, may present the matter to the superintendent of public instruction. Not later than thirty days after the community school presents the matter, the state superintendent, or the state superintendent's designee, shall determine which district the student is entitled to attend and shall direct any necessary adjustments to payments and deductions under ~~sections~~ section 3314.08 and 3314.13 of the Revised Code based on that determination.

Sec. 3314.20. (A) As used in this section:

(1) "Base enrollment" for an internet- or computer-based community school means either of the following:

(a) If the school was open for instruction on the effective date of this section, the number of students enrolled in the school at the end of the 2012-2013 school year;

(b) If the school opens for instruction after the effective date of this section, one thousand students.

(2) "Enrollment limit" for an internet- or computer-based community school means the following:

(a) For the 2014-2015 school year, the base enrollment increased by the prescribed annual rate of growth, as calculated by the department of education.

(b) For the 2015-2016 school year and each school year thereafter, the previous school year's enrollment limit increased by the prescribed annual rate of growth, as calculated by the department.

(3) "Prescribed annual rate of growth" for an internet- or computer-based community school means either of the following:

(a) For a school with an enrollment limit equal to or greater than three thousand students, fifteen per cent.

(b) For a school with an enrollment limit of less than three thousand students, twenty-five per cent.

(B) Beginning in the 2014-2015 school year, no internet- or computer-based community school shall enroll more students than the number permitted by its enrollment limit.

(C) If, in any school year, an internet- or computer-based community school enrolls more students than permitted under the enrollment limit, the department shall deduct from the community school the amount of state funds credited to the community school attributable to each student enrolled in excess of the enrollment limit, as determined by the department. The department shall distribute the deducted amounts to the school districts to which the students enrolled in the community school are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. Such amounts shall be distributed on a pro rata basis according to each district's share of the total enrollment in the community school.

Sec. 3314.26. (A) Each internet- or computer-based community school shall withdraw from the school any student who, for two consecutive school years, has failed to participate in the spring administration of any assessment prescribed under section 3301.0710 or 3301.0712 of the Revised Code for the student's grade level and was not excused from the assessment pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code, regardless of whether a waiver was granted for the student under division ~~(P)~~(L)(3) of section 3314.08 of the Revised Code. The school shall report any such student's data verification code, as assigned pursuant to section 3301.0714 of the Revised Code, to the department of education. The department shall maintain a list of all data verification codes reported under this division and section 3313.6410 of the Revised Code and provide that list to each internet- or computer-based community school and to each school to which section 3313.6410 of the Revised Code applies.

(B) No internet- or computer-based community school shall receive any

state funds under this chapter for any enrolled student whose data verification code appears on the list maintained by the department under division (A) of this section.

Notwithstanding any provision of the Revised Code to the contrary, the parent of any such student shall pay tuition to the internet- or computer-based community school in an amount equal to the state funds the school otherwise would receive for that student, as determined by the department. An internet- or computer-based community school may withdraw any student for whom the parent does not pay tuition as required by this division.

Sec. 3314.35. (A)(1) Except as provided in division (A)(4) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2009, but before July 1, 2011:

(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years.

(b) The school satisfies all of the following conditions:

(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.

(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.

(iii) In at least two of the three most recent school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department of education in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.

(c) The school offers any of grade levels ten to twelve and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years.

(2) Except as provided in division (A)(4) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2011, but before July 1, 2013:

(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.

(b) The school satisfies all of the following conditions:

(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.

(ii) The school has been declared to be in a state of academic emergency

under section 3302.03 of the Revised Code for two of the three most recent school years.

(iii) In at least two of the three most recent school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.

(c) The school offers any of grade levels ten to twelve and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.

(3) Except as provided in division (A)(4) of this section, this section applies to any community school that meets one of the following criteria on or after July 1, 2013:

(a) The school does not offer a grade level higher than three and, for two of the three most recent school years, satisfies any of the following criteria:

(i) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code, as it existed prior to ~~the effective date of this amendment~~ March 22, 2013;

(ii) The school has received a grade of "F" in improving literacy in grades kindergarten through three under division (B)(1)(j) or (C)(1)(k) of section 3302.03 of the Revised Code;

(iii) The school has received an overall grade of "F" under division (C) of section 3302.03 of the Revised Code.

(b) The school offers any of grade levels four to eight but does not offer a grade level higher than nine and, for two of the three most recent school years, satisfies any of the following criteria:

(i) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code, as it existed prior to ~~the effective date of this amendment~~ March 22, 2013, and the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code;

(ii) The school has received a grade of "F" for the performance index score under division (A)(1)(b), (B)(1)(b), or (C)(1)(b) and a grade of "F" for the value-added progress dimension under division (A)(1)(e), (B)(1)(e), or (C)(1)(e) of section 3302.03 of the Revised Code;

(iii) The school has received an overall grade of "F" under division (C) and a grade of "F" for the value-added progress dimension under division (C)(1)(e) of section 3302.03 of the Revised Code.

(c) The school offers any of grade levels ten to twelve and, for two of the three most recent school years, satisfies any of the following criteria:

(i) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code, as it existed prior to ~~the effective date of this amendment~~ March 22, 2013;

(ii) The school has received a grade of "F" for the performance index score under division (A)(1)(b), (B)(1)(b), or (C)(1)(b) and has not met annual measurable objectives under division (A)(1)(a), (B)(1)(a), or (C)(1)(a) of section 3302.03 of the Revised Code;

(iii) The school has received an overall grade of "F" under division (C) and a grade of "F" for the value-added progress dimension under division (C)(1)(e) of section 3302.03 of the Revised Code.

For purposes of division (A)(3) of this section only, the value-added progress dimension for a community school shall be calculated using assessment scores for only those students to whom the school has administered the achievement assessments prescribed by section 3301.0710 of the Revised Code for at least the two most recent school years.

(4) This section does not apply to either of the following:

(a) Any community school in which a majority of the students are enrolled in a dropout prevention and recovery program that is operated by the school. Rather, such schools shall be subject to closure only as provided in section 3314.351 of the Revised Code. However, prior to July 1, 2014, a community school in which a majority of the students are enrolled in a dropout prevention and recovery program shall be exempt from this section only if it has been granted a waiver under section 3314.36 of the Revised Code.

(b) Any community school in which a majority of the enrolled students are children with disabilities receiving special education and related services in accordance with Chapter 3323. of the Revised Code.

(B) Any community school to which this section applies shall permanently close at the conclusion of the school year in which the school first becomes subject to this section. The sponsor and governing authority of the school shall comply with all procedures for closing a community school adopted by the department under division (E) of section 3314.015 of the Revised Code. The governing authority of the school shall not enter into a contract with any other sponsor under section 3314.03 of the Revised Code after the school closes.

(C) In accordance with division (B) of section 3314.012 of the Revised Code, the department shall not consider the performance ratings assigned to a community school for its first two years of operation when determining whether the school meets the criteria prescribed by division (A)(1) or (2) of this section.

Sec. 3315.07. (A) The board of education of each ~~city and exempted village~~ school district may provide an instructional program for the employees of the district. The board may provide the necessary bulletins and instructional material in connection with the program and pay the cost of meetings held for the purpose of carrying out the program.

(B) The board of any district or educational service center may provide bulletins or other materials necessary for the effective administration of the schools of ~~such the district or programs of the educational service center~~ and may compile, make available, or publish any of the following materials not inconsistent with division (C) of this section: student handbooks, dress codes, curriculum guides, school policy bulletins, newsletters, board meeting summaries or minutes, financial reports, annual reports, and other reports concerning the operation of the schools of the district or programs of the service center. Such materials shall be published for the purpose of furthering public awareness of all aspects of the board's educational program and operation including:

(1) Board policies and actions, procedures, administration and finance, and state and federal requirements;

(2) The board's programs, activities, and plans;

(3) Student achievements and information concerning employees;

(4) Any other information the board considers helpful in keeping students, parents, employees, and residents aware of the operation of the school district. The board may assign to employees the duty of producing the information authorized by this division as a part or all of their jobs.

(C)(1) Except as otherwise provided in division (C)(2) of this section, no board of education shall use public funds to support or oppose the passage of a school levy or bond issue or to compensate any school district employee for time spent on any activity intended to influence the outcome of a school levy or bond issue election.

(2) A board of education may permit any of its employees to attend a public meeting during ~~his~~ the employee's regular working hours for the purpose of presenting information about school finances and activities and board actions, even if the purpose of the meeting is to discuss or debate the passage of a school levy or bond issue.

(D) ~~Boards~~ The board of education of ~~local a school districts and, subject to approval by the educational service center governing board, boards of city and exempted village school districts located in whole or in part in the territory of~~ district that has entered into an agreement under section 3313.843 or 3313.845 of the Revised Code to receive any services from an educational service center may authorize ~~educational~~ the service

center ~~governing boards~~ to purchase or to accept upon donation supplies and equipment for such school ~~districts~~ district and to pay the transportation, handling, and storage charges involved in securing such supplies and equipment. Upon such authorization, the governing board may make such purchases or accept such donations and pay from the service center fund the cost of such supplies and equipment and the transportation, handling, and storage charges involved. ~~Boards~~ The district board shall reimburse in full the service center governing board for all such expenditures on ~~their~~ its behalf.

Sec. 3315.33. There is hereby established a fund to be known as the Ohio scholarship fund for teacher trainees for the public purpose of relieving the existing teacher shortage in public schools, to be administered and expended as prescribed in sections 3315.33 to 3315.35 of the Revised Code. Appropriations by the general assembly for the purpose of scholarships for teacher trainees shall be paid into this fund.

Each scholarship for a teacher trainee shall have a maximum value of five hundred dollars annually and shall be awarded as follows:

(A) The state board of education shall prescribe standards and requirements which shall be met by persons who are eligible for such scholarships. Scholarships shall be allocated among the counties of the state on an equitable basis by the state board of education, provided that not less than three such scholarships shall be available annually to residents of each county of the state. If, on the first day of September in each year, the state board of education finds that the number of eligible persons recommended from any county is less than the number of scholarships allocated to that county, it may reallocate the remaining scholarships among the counties in which the number of eligible persons exceeds the number of scholarships allocated. Such reallocation as may affect a county in one year shall not prejudice in any way the allocation to it in succeeding years.

(B) In accordance with the requirements of sections 3315.33, 3315.34, and 3315.35 of the Revised Code, the educational service center superintendent in each educational service center as committee chairperson shall appoint a committee consisting of one ~~city or exempted village~~ high school principal, one elementary school principal, and one ~~city or exempted village~~ classroom teacher. This committee shall select and recommend, on the basis of merit, a number of high school graduates, not to exceed the number allocated to each county by the state board of education, who are interested in teaching and whose work and qualifications are such as to indicate that they possess the qualities which should be possessed by a successful teacher. Such persons shall not have previously been enrolled in

any college of education or have majored in education in any college or university. Such other college training shall be considered in determining such person's qualifications to become a successful teacher.

(C) The scholarship fund for teacher trainees shall be disbursed to scholarship holders upon their application as approved by the state board of education upon vouchers for that purpose. Such scholarships shall be paid in equal installments at the beginning of each quarter or semester while college is in session to each person who has been awarded such a scholarship when the following requirements are met:

(1) Such person shall be a bona fide student in the college of education or department of teacher training in an Ohio institution of higher learning.

(2) Such person shall pursue a course of study in elementary education in said college of education or department of teacher training approved by the state board of education.

Sec. 3315.40. The board of education of a city, local, exempted village, or joint vocational school district or the governing board of any educational service center may establish an education foundation fund. Moneys in the fund shall consist of proceeds paid into the fund under division (B) of section 3313.36 of the Revised Code. In addition, by resolution adopted by a majority of its members, a city, local, exempted village, or joint vocational board may annually direct the school district treasurer to pay into the education foundation fund an amount from the school district general fund not to exceed one-half of one per cent of the total appropriations of the school district as estimated by the board at the time the resolution is adopted or as set forth in the annual appropriation measure as most recently amended or supplemented; and any governing board, by resolution adopted by a majority of its members, may annually direct the service center treasurer to pay into the education foundation fund an amount not to exceed one-half of one per cent of the funds received by the governing board pursuant to an agreement entered into under section ~~3317.14~~ 3313.843 or 3313.845 of the Revised Code.

Income from the investment of moneys in the fund shall be paid into the fund. A board, by resolution adopted by a majority of its members, may accept a trust created under section 3315.41 of the Revised Code for the investment of money in the educational foundation fund and direct the school district or service center treasurer to pay to the trustee, the initial trust principal contemplated by the instrument creating the trust. A board that has accepted a trust created under section 3315.41 of the Revised Code may do any of the following by resolution adopted by a majority of its members: direct the school district or service center treasurer to pay additional

amounts to the trust principal, amend the trust, revoke the trust, or provide for payment of compensation to the trustee.

Moneys in the fund shall be expended only by resolution adopted by a majority of the members of the board for operating or capital costs of any existing or new and innovative program designed to enhance or promote education within the district or service center, such as scholarships for students or teachers.

A board of education or governing board may appoint a committee of administrators to administer the education foundation fund and to make recommendations for the use of the fund. Members of the committee shall serve at the discretion of the appointing board. Members shall receive no compensation, but may be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

Sec. 3315.42. Sections 3315.40 and 3315.41 of the Revised Code do not apply to either of the following:

(A) A school district that has received funds for a project under Chapter 3318. of the Revised Code, so long as the purchase price to be paid by the board for the state's interest in the project has not been paid;

(B) A school district that has an outstanding loan under section 3313.483 ~~or sections 3317.62 to 3317.64~~ of the Revised Code.

Sec. 3316.041. (A) Notwithstanding any provision of Chapter 133. or sections 3313.483 to ~~3313.4811~~ 3313.4810 of the Revised Code, and subject to the approval of the superintendent of public instruction, a school district that is in a state of fiscal watch declared under section 3316.03 of the Revised Code may restructure or refinance loans obtained or in the process of being obtained under section 3313.483 of the Revised Code if all of the following requirements are met:

(1) The operating deficit certified for the school district for the current or preceding fiscal year under section 3313.483 of the Revised Code exceeds fifteen per cent of the district's general revenue fund for the fiscal year preceding the year for which the certification of the operating deficit is made.

(2) The school district voters have, during the period of the fiscal watch, approved the levy of a tax under section 718.09, 718.10, 5705.194, 5705.21, 5748.02, or 5748.09 of the Revised Code that is not a renewal or replacement levy, or a levy under section 5705.199 of the Revised Code, and that will provide new operating revenue.

(3) The board of education of the school district has adopted or amended the financial plan required by section 3316.04 of the Revised Code to reflect the restructured or refinanced loans, and sets forth the means by

which the district will bring projected operating revenues and expenditures, and projected debt service obligations, into balance for the life of any such loan.

(B) Subject to the approval of the superintendent of public instruction, the school district may issue securities to evidence the restructuring or refinancing authorized by this section. Such securities may extend the original period for repayment not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms or agreements under which the loans were originally contracted, provided the loans received under sections 3313.483 of the Revised Code are repaid from funds the district would otherwise receive under Chapter 3317. of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. Securities issued for the purpose of restructuring or refinancing under this section shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal to restructure or refinance.

(C) Unless the district is declared to be in a state of fiscal emergency under division (D) of section 3316.04 of the Revised Code, a school district shall remain in a state of fiscal watch for the duration of the repayment period of any loan restructured or refinanced under this section.

Sec. 3316.06. (A) Within one hundred twenty days after the first meeting of a school district financial planning and supervision commission, the commission shall adopt a financial recovery plan regarding the school district for which the commission was created. During the formulation of the plan, the commission shall seek appropriate input from the school district board and from the community. This plan shall contain the following:

(1) Actions to be taken to:

(a) Eliminate all fiscal emergency conditions declared to exist pursuant to division (B) of section 3316.03 of the Revised Code;

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

(c) Eliminate the deficits in all deficit funds, except that any prior year deficits in the capital and maintenance fund established pursuant to section 3315.18 of the Revised Code shall be forgiven;

(d) Restore to special funds any moneys from such funds that were used for purposes not within the purposes of such funds, or borrowed from such funds by the purchase of debt obligations of the school district with the moneys of such funds, or missing from the special funds and not accounted for, if any;

(e) Balance the budget, avoid future deficits in any funds, and maintain

on a current basis payments of payroll, fringe benefits, and all accounts;

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

(g) Restore the ability of the school district to market long-term general obligation bonds under provisions of law applicable to school districts generally.

(2) The management structure that will enable the school district to take the actions enumerated in division (A)(1) of this section. The plan shall specify the level of fiscal and management control that the commission will exercise within the school district during the period of fiscal emergency, and shall enumerate respectively, the powers and duties of the commission and the powers and duties of the school board during that period. The commission may elect to assume any of the powers and duties of the school board it considers necessary, including all powers related to personnel, curriculum, and legal issues in order to successfully implement the actions described in division (A)(1) of this section.

(3) The target dates for the commencement, progress upon, and completion of the actions enumerated in division (A)(1) of this section and a reasonable period of time expected to be required to implement the plan. The commission shall prepare a reasonable time schedule for progress toward and achievement of the requirements for the plan, and the plan shall be consistent with that time schedule.

(4) The amount and purpose of any issue of debt obligations that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the school district and the county auditor. Debt obligations issued pursuant to section 133.301 of the Revised Code shall include assurances that such debt shall be in an amount not to exceed the amount certified under division (B) of such section. If the commission considers it necessary in order to maintain or improve educational opportunities of pupils in the school district, the plan may include a proposal to restructure or refinance outstanding debt obligations incurred by the board under section 3313.483 of the Revised Code contingent upon the approval, during the period of the fiscal emergency, by district voters of a tax levied under section 718.09, 718.10, 5705.194, 5705.21, 5748.02, 5748.08, or 5748.09 of the Revised Code that is not a renewal or replacement levy, or a levy under section 5705.199 of the Revised Code, and that will provide new operating revenue. Notwithstanding any provision of Chapter 133. or sections 3313.483 to ~~3313.4811~~ 3313.4810 of the Revised Code, following the required approval of the district voters and with the approval of the commission, the school district may issue securities

to evidence the restructuring or refinancing. Those securities may extend the original period for repayment, not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms of agreements under which the debt originally was contracted, at the discretion of the commission, provided that any loans received pursuant to section 3313.483 of the Revised Code shall be paid from funds the district would otherwise receive under Chapter 3317. of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. The securities issued for the purpose of restructuring or refinancing the debt shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal for the purpose of restructuring or refinancing debt under this section.

(5) An evaluation of the feasibility of entering into shared services agreements with other political subdivisions for the joint exercise of any power, performance of any function, or rendering of any service, if so authorized by statute.

(B) Any financial recovery plan may be amended subsequent to its adoption. Each financial recovery plan shall be updated annually.

(C) Each school district financial planning and supervision commission shall submit the financial recovery plan it adopts or updates under this section to the state superintendent of public instruction for approval immediately following its adoption or updating. The state superintendent shall evaluate the plan and either approve or disapprove it within thirty calendar days from the date of its submission. If the plan is disapproved, the state superintendent shall recommend modifications that will render it acceptable. No financial planning and supervision commission shall implement a financial recovery plan that is adopted or updated on or after April 10, 2001, unless the state superintendent has approved it.

Sec. 3317.01. As used in this section, "school district," unless otherwise specified, means any city, local, exempted village, joint vocational, or cooperative education school district and any educational service center.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. As soon as possible after such amounts are calculated, the superintendent shall certify to the treasurer of each school district the district's adjusted charge-off increase, as defined in section 5705.211 of the Revised Code. Certification of moneys pursuant to this section shall include the amounts payable to each

school building, at a frequency determined by the superintendent, for each subgroup of students, as defined in section 3317.40 of the Revised Code, receiving services, provided for by state funding, from the district or school. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. The moneys appropriated for each fiscal year shall be distributed periodically to each school district unless otherwise provided for. The state board, in June of each year, shall submit to the controlling board the state board's year-end distributions pursuant to this chapter.

Except as otherwise provided, payments under this chapter shall be made only to those school districts in which:

(A) The school district, except for any educational service center and any joint vocational or cooperative education school district, levies for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing districts, limited to or to the extent apportioned to current expenses, shall be included in this qualification requirement. School district income tax levies under Chapter 5748. of the Revised Code, limited to or to the extent apportioned to current operating expenses, shall be included in this qualification requirement to the extent determined by the tax commissioner under division (D) of section 3317.021 of the Revised Code.

(B) The school year next preceding the fiscal year for which such payments are authorized meets the requirement of section 3313.48 or 3313.481 of the Revised Code, with regard to the minimum number of days or hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers. This requirement shall be waived by the superintendent of public instruction if it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, law enforcement emergencies, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, provided that for those school districts operating pursuant to section 3313.48 of the Revised Code the number of days the school was actually open for instruction with pupils in attendance and for

individualized parent-teacher conference and reporting periods is not less than one hundred seventy-five, or for those school districts operating on a trimester plan the number of days the school was actually open for instruction with pupils in attendance not less than seventy-nine days in any trimester, for those school districts operating on a quarterly plan the number of days the school was actually open for instruction with pupils in attendance not less than fifty-nine days in any quarter, or for those school districts operating on a pentamester plan the number of days the school was actually open for instruction with pupils in attendance not less than forty-four days in any pentamester.

A school district shall not be considered to have failed to comply with this division or section 3313.481 of the Revised Code because schools were open for instruction but either twelfth grade students were excused from attendance for up to three days or only a portion of the kindergarten students were in attendance for up to three days in order to allow for the gradual orientation to school of such students.

The superintendent of public instruction shall waive the requirements of this section with reference to the minimum number of days or hours school must be in session with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to such a district beginning with the school year commencing the second July succeeding the initiation of one such plan, and for each school year thereafter.

A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled school day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by this chapter, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only.

~~Sec. 3317.013. Except for a preschool child with a disability for whom a scholarship has been awarded under section 3310.41 of the Revised Code, this section does not apply to preschool children with disabilities.~~

~~Analysis of special education cost data has resulted in a finding that the average special education additional cost per pupil, including the costs of related services, can be expressed as a multiple of the formula amount. The multiples amounts for the following categories of special education programs, as these programs are defined for purposes of Chapter 3323. of the Revised Code, and adjusted as provided in this section, are as follows:~~

~~(A) A multiple of 0.2906~~ An amount of \$1,503, in fiscal year 2014, or \$1,517, in fiscal year 2015, for students each student whose primary or only identified disability is a speech and language disability, as this term is defined pursuant to Chapter 3323. of the Revised Code;

~~(B) A multiple of 0.7374~~ An amount of \$3,813, in fiscal year 2014, or \$3,849, in fiscal year 2015, for students each student identified as specific learning disabled or developmentally disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or identified as having an other health impairment-minor, or identified as a preschool child who is developmentally delayed;

~~(C) A multiple of 1.7716~~ An amount of \$9,160, in fiscal year 2014, or \$9,248, in fiscal year 2015, for students each student identified as hearing disabled or severe behavior disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

~~(D) A multiple of 2.3643~~ An amount of \$12,225, in fiscal year 2014, or \$12,342, in fiscal year 2015, for students each student identified as vision impaired, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-major;

~~(E) A multiple of 3.2022~~ An amount of \$16,557, in fiscal year 2014, or \$16,715, in fiscal year 2015, for students each student identified as orthopedically disabled or as having multiple disabilities, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

~~(F) A multiple of 4.7205~~ An amount of \$24,407, in fiscal year 2014, or \$24,641, in fiscal year 2015, for students each student identified as autistic, having traumatic brain injuries, or as both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. of the Revised Code.

~~In fiscal years 2008, 2009, 2010, 2011, 2012, and 2013, the multiples specified in divisions (A) to (F) of this section shall be adjusted by multiplying them by 0.90.~~

Sec. 3317.014. The career-technical education additional amount per pupil for each student enrolled in career-technical education programs approved by the department of education under section 3317.161 of the Revised Code shall be as follows:

(A) An amount of \$4,750, in fiscal year 2014, or \$4,800, in fiscal year

2015, for each student enrolled in career-technical education workforce development programs in agricultural and environmental systems, construction technologies, engineering and science technologies, finance, health science, information technology, and manufacturing technologies, each of which shall be defined by the department in consultation with the governor's office of workforce transformation;

(B) An amount of \$4,500, in fiscal year 2014, or \$4,550, in fiscal year 2015, for each student enrolled in workforce development programs in business and administration, hospitality and tourism, human services, law and public safety, transportation systems, and arts and communications, each of which shall be defined by the department in consultation with the governor's office of workforce transformation;

(C) An amount of \$1,650, in fiscal year 2014, or \$1,660, in fiscal year 2015, for students enrolled in career-based intervention programs, which shall be defined by the department in consultation with the governor's office of workforce transformation;

(D) An amount of \$1,400, in fiscal year 2014, or \$1,410, in fiscal year 2015, for students enrolled in workforce development programs in education and training, marketing, workforce development academics, public administration, and career development, each of which shall be defined by the department of education in consultation with the governor's office of workforce transformation;

(E) An amount of \$1,200, in fiscal year 2014, or \$1,210, in fiscal year 2015, for students enrolled in family and consumer science programs, which shall be defined by the department of education in consultation with the governor's office of workforce transformation.

The amount for career-technical education associated services, as defined by the department, shall be \$225, in fiscal year 2014, or \$227, in fiscal year 2015.

Sec. 3317.016. The amounts for limited English proficient students shall be as follows:

(A) An amount of \$1,500, in fiscal year 2014, and \$1,515, in fiscal year 2015, for each student who has been enrolled in schools in the United States for 180 school days or less and was not previously exempted from taking the spring administration of either of the state's English language arts assessments prescribed by section 3301.0710 of the Revised Code (reading or writing).

(B) An amount of \$1,125, in fiscal year 2014, and \$1,136, in fiscal year 2015, for each student who has been enrolled in schools in the United States for more than 180 school days or was previously exempted from taking the

spring administration of either of the state's English language arts assessments prescribed by section 3301.0710 of the Revised Code (reading or writing).

(C) An amount of \$750, in fiscal year 2014, and \$758, in fiscal year 2015, for each student who does not qualify for inclusion under division (A) or (B) of this section and is in a trial-mainstream period, as defined by the department.

Sec. 3317.017. The department of education shall compute a school district's state share index as follows:

(A) Calculate the district's valuation index, which equals the following quotient:

(The district's three-year average valuation / the district's total ADM) / (the statewide three-year average valuation for school districts with a total ADM greater than zero / the statewide total ADM)

(B) Calculate the district's median income index, which equals the following quotient:

(The district's median Ohio adjusted gross income / the median of the median Ohio adjusted gross income of all districts statewide)

(C) Determine the district's wealth index as follows:

(1) If the district's median income index is less than the district's valuation index, then the district's wealth index shall be equal to $[(1/3 \times \text{the district's median income index}) + (2/3 \times \text{the district's valuation index})]$.

(2) If the district's median income index is greater than or equal to the district's valuation index, then the district's wealth index shall be equal to the district's valuation index.

(D) Determine the district's state share index as follows:

(1) If the district's wealth index is less than or equal to 0.35, then the district's state share index shall be equal to 0.90.

(2) If the district's wealth index is greater than 0.35 but less than or equal to 0.90, then the district's state share index shall be equal to $\{0.40 \times [(0.90 - \text{the district's wealth index}) / 0.55]\} + 0.50$.

(3) If the district's wealth index is greater than 0.90 but less than 1.8, then the district's state share index shall be equal to $\{0.45 \times [(1.8 - \text{the district's wealth index}) / 0.9]\} + 0.05$.

(4) If the district's wealth index is greater than or equal to 1.8, then the district's state share index shall be equal to 0.05.

(E)(1) For each school district for which the tax-exempt value of the district, as certified under division (A)(4) of section 3317.021 of the Revised Code, equals or exceeds thirty per cent of the potential value of the district, the department shall calculate the difference between the district's

tax-exempt value and thirty per cent of the district's potential value. For this purpose, the "potential value" of a school district is the three-year average valuation of the district plus the tax-exempt value of the district.

(2) For each school district to which division (E)(1) of this section applies, the department shall adjust the three-year average valuation used in the calculation under division (A) of this section by subtracting from it the amount calculated under division (E)(1) of this section.

(F) When performing the calculations required under this section, the department shall not round to fewer than four decimal places.

For purposes of these calculations for fiscal years 2014 and 2015, "three-year average valuation" means the average of total taxable value for fiscal years 2012, 2013, and 2014; "total ADM" means the total ADM for fiscal year 2014; "median Ohio adjusted gross income" means the median Ohio adjusted gross income for tax year 2011; and "tax-exempt value" means the tax-exempt value for fiscal year 2014.

Sec. 3317.02. As used in this chapter:

(A)(1) "Category one career-technical education ADM" means the average daily membership of students receiving career-technical education services described in division (A) of section 3317.014 of the Revised Code and reported under division (B)(11) or (D)(2)(h) of section 3317.03 of the Revised Code.

(2) "Category two career-technical education ADM" means the average daily membership of students receiving career-technical education services described in division (B) of section 3317.014 of the Revised Code and reported under division (B)(12) or (D)(2)(i) of section 3317.03 of the Revised Code.

(3) "Category three career-technical education ADM" means the average daily membership of students receiving career-technical education services described in division (C) of section 3317.014 of the Revised Code and reported under division (B)(13) or (D)(2)(j) of section 3317.03 of the Revised Code.

(4) "Category four career-technical education ADM" means the average daily membership of students receiving career-technical education services described in division (D) of section 3317.014 of the Revised Code and reported under division (B)(14) or (D)(2)(k) of section 3317.03 of the Revised Code.

(5) "Category five career-technical education ADM" means the average daily membership of students receiving career-technical education services described in division (E) of section 3317.014 of the Revised Code and reported under division (B)(15) or (D)(2)(l) of section 3317.03 of the

Revised Code.

(B)(1) "Category one limited English proficient ADM" means the average daily membership of limited English proficient students described in division (A) of section 3317.016 of the Revised Code and reported under division (B)(16) or (D)(2)(m) of section 3317.03 of the Revised Code.

(2) "Category two limited English proficient ADM" means the average daily membership of limited English proficient students described in division (B) of section 3317.016 of the Revised Code and reported under division (B)(17) or (D)(2)(n) of section 3317.03 of the Revised Code.

(3) "Category three limited English proficient ADM" means the average daily membership of limited English proficient students described in division (C) of section 3317.016 of the Revised Code and reported under division (B)(18) or (D)(2)(o) of section 3317.03 of the Revised Code.

(C)(1) "Category one special education ADM" means the average daily membership of children with disabilities receiving special education services for the disability specified in division (A) of section 3317.013 of the Revised Code and reported under division (B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code.

(2) "Category two special education ADM" means the average daily membership of children with disabilities receiving special education services for those disabilities specified in division (B) of section 3317.013 of the Revised Code and reported under division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised Code.

(3) "Category three special education ADM" means the average daily membership of students receiving special education services for those disabilities specified in division (C) of section 3317.013 of the Revised Code, and reported under division (B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code.

(4) "Category four special education ADM" means the average daily membership of students receiving special education services for those disabilities specified in division (D) of section 3317.013 of the Revised Code and reported under division (B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code.

(5) "Category five special education ADM" means the average daily membership of students receiving special education services for the disabilities specified in division (E) of section 3317.013 of the Revised Code and reported under division (B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code.

(6) "Category six special education ADM" means the average daily membership of students receiving special education services for the

disabilities specified in division (F) of section 3317.013 of the Revised Code and reported under division (B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code.

(D) "County DD board" means a county board of developmental disabilities.

(E) "Economically disadvantaged index for a school district" means the square of the quotient of that district's percentage of students in its total ADM who are identified as economically disadvantaged as defined by the department of education, divided by the statewide percentage of students identified as economically disadvantaged.

(F)(1) "Formula ADM" means, for a city, local, or exempted village school district, the average daily membership described in division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section, and as further adjusted by counting only twenty per cent of the number of joint vocational school district students counted under division (A)(3) of section 3317.03 of the Revised Code.

(2) "Formula ADM" means, for a joint vocational school district, the final number verified by the superintendent of public instruction, based on the number reported pursuant to division (D) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section.

(G) "Formula amount" means \$5,745, for fiscal year 2014, and \$5,800, for fiscal year 2015.

(H) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one, two, three, four, or five career technical education ADM in the same proportion the student is counted in formula ADM.

(I) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

(J) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for individuals with intellectual

disabilities.

(K)(1) A child may be identified as having an "other health impairment-major" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education and if either of the following apply:

(a) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child."

(b) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

(2) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education but the child's condition does not meet either of the conditions specified in division (K)(1)(a) or (b) of this section.

(L) "Preschool child with a disability" means a child with a disability, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

(M) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code.

(N) "Related services" includes:

(1) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for children with disabilities whose disabilities are described in division (B) of section 3317.013 or division (B)(3) of this section, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;

(2) Speech and language services provided to any student with a disability, including any student whose primary or only disability is a speech and language disability;

(3) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;

(4) Any service included in units funded under former division (O)(1) of

section 3317.024 of the Revised Code:

(5) Any other related service needed by children with disabilities in accordance with their individualized education programs.

(O) "School district," unless otherwise specified, means city, local, and exempted village school districts.

(P) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

(Q) "State share index" means the state share index calculated for a district under section 3317.017 of the Revised Code.

(R) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property.

(S) "Total ADM" means, for a city, local, or exempted village school district, the average daily membership described in division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section.

(T) "Total special education ADM" means the sum of categories one through six special education ADM.

(U) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

Sec. 3317.021. (A) On or before the first day of June of each year, the tax commissioner shall certify to the department of education and the office of budget and management the information described in divisions (A)(1) to ~~(7)~~(5) of this section for each city, exempted village, and local school district, and the information required by divisions (A)(1) and (2) of this section for each joint vocational school district, and it shall be used, along with the information certified under division (B) of this section, in making the computations for the district under this chapter.

(1) The taxable value of real and public utility real property in the school district subject to taxation in the preceding tax year, by class and by county of location.

(2) The taxable value of tangible personal property, including public utility personal property, subject to taxation by the district for the preceding tax year.

(3)(a) The total property tax rate and total taxes charged and payable for the current expenses for the preceding tax year and the total property tax rate and the total taxes charged and payable to a joint vocational district for the preceding tax year that are limited to or to the extent apportioned to current

expenses.

(b) The portion of the amount of taxes charged and payable reported for each city, local, and exempted village school district under division (A)(3)(a) of this section attributable to a joint vocational school district.

(4) The value of all real and public utility real property in the school district exempted from taxation minus both of the following:

(a) The value of real and public utility real property in the district owned by the United States government and used exclusively for a public purpose;

(b) The value of real and public utility real property in the district exempted from taxation under Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code.

(5) The total federal adjusted gross income of the residents of the school district, based on tax returns filed by the residents of the district, for the most recent year for which this information is available, and the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

~~(6) The sum of the school district compensation value as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code as if such property had been assessed for taxation that year and the other compensation value for the school district, minus the amounts described in divisions (A)(6)(e) to (i) of this section. The portion of school district compensation value or other compensation value attributable to an incentive district exemption may be subtracted only once even if that incentive district satisfies more than one of the criteria in divisions (A)(6)(e) to (i) of this section.~~

~~(a) "School district compensation value" means the aggregate value of real property in the school district exempted from taxation pursuant to an ordinance or resolution adopted under division (C) of section 5709.40, division (C) of section 5709.73, or division (B) of section 5709.78 of the Revised Code to the extent that the exempted value results in the charging of payments in lieu of taxes required to be paid to the school district under division (D)(1) or (2) of section 5709.40, division (D) of section 5709.73, or division (C) of section 5709.78 of the Revised Code.~~

~~(b) "Other compensation value" means the quotient that results from dividing (i) the dollar value of compensation received by the school district during the preceding tax year pursuant to division (B), (C), or (D) of section 5709.82 of the Revised Code and the amounts received pursuant to an agreement as specified in division (D)(2) of section 5709.40, division (D) of~~

~~section 5709.73, or division (C) of section 5709.78 of the Revised Code to the extent those amounts were not previously reported or included in division (A)(6)(a) of this section, and so that any such amount is reported only once under division (A)(6)(b) of this section, in relation to exemptions from taxation granted pursuant to an ordinance or resolution adopted under division (C) of section 5709.40, division (C) of section 5709.73, or division (B) of section 5709.78 of the Revised Code, by (ii) the real property tax rate in effect for the preceding tax year for nonresidential/agricultural real property after making the reductions required by section 319.301 of the Revised Code.~~

~~(c) The portion of school district compensation value or other compensation value that was exempted from taxation pursuant to such an ordinance or resolution for the preceding tax year, if the ordinance or resolution is adopted prior to January 1, 2006, and the legislative authority or board of township trustees or county commissioners, prior to January 1, 2006, executes a contract or agreement with a developer, whether for profit or not for profit, with respect to the development of a project undertaken or to be undertaken and identified in the ordinance or resolution, and upon which parcels such project is being, or will be, undertaken;~~

~~(d) The portion of school district compensation value that was exempted from taxation for the preceding tax year and for which payments in lieu of taxes for the preceding tax year were provided to the school district under division (D)(1) of section 5709.40 of the Revised Code.~~

~~(e) The portion of school district compensation value that was exempted from taxation for the preceding tax year pursuant to such an ordinance or resolution, if and to the extent that, on or before April 1, 2006, the fiscal officer of the municipal corporation that adopted the ordinance, or of the township or county that adopted the resolution, certifies and provides appropriate supporting documentation to the tax commissioner and the director of development that, based on hold-harmless provisions in any agreement between the school district and the legislative authority of the municipal corporation, board of township trustees, or board of county commissioners that was entered into on or before June 1, 2005, the ability or obligation of the municipal corporation, township, or county to repay bonds, notes, or other financial obligations issued or entered into prior to January 1, 2006, will be impaired, including obligations to or of any other body corporate and politic with whom the legislative authority of the municipal corporation or board of township trustees or county commissioners has entered into an agreement pertaining to the use of service payments derived from the improvements exempted;~~

~~(f) The portion of school district compensation value that was exempted from taxation for the preceding tax year pursuant to such an ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, in a municipal corporation with a population that exceeds one hundred thousand, as shown by the most recent federal decennial census, that includes a major employment center and that is adjacent to historically distressed neighborhoods, if the legislative authority of the municipal corporation that exempted the property prepares an economic analysis that demonstrates that all taxes generated within the incentive district accruing to the state by reason of improvements constructed within the district during its existence exceed the amount the state pays the school district under section 3317.022 of the Revised Code attributable to such property exemption from the school district's recognized valuation. The analysis shall be submitted to and approved by the department of development prior to January 1, 2006, and the department shall not unreasonably withhold approval.~~

~~(g) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, and if service payments have been pledged to be used for mixed-use riverfront entertainment development in any county with a population that exceeds six hundred thousand, as shown by the most recent federal decennial census;~~

~~(h) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution, if, prior to January 1, 2006, the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners has pledged service payments for a designated transportation capacity project approved by the transportation review advisory council under Chapter 5512. of the Revised Code;~~

~~(i) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution if the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners have, by January 1, 2006, pledged proceeds for designated transportation improvement projects that involve federal funds for which the proceeds are used to meet a local share match requirement for such funding.~~

~~As used in division (A)(6) of this section, "project" has the same meaning as in section 5709.40 of the Revised Code.~~

~~(7) The aggregate value of real property in the school district for which an exemption from taxation is granted by an ordinance or resolution adopted~~

~~on or after January 1, 2006, under Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code, as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code and as if such property had been assessed for taxation that year, minus the product determined by multiplying (a) the aggregate value of the real property in the school district exempted from taxation for the preceding tax year under any of the chapters or sections specified in this division, by (b) a fraction, the numerator of which is the difference between (i) the amount of anticipated revenue such school district would have received for the preceding tax year if the real property exempted from taxation had not been exempted from taxation and (ii) the aggregate amount of payments in lieu of taxes on the exempt real property for the preceding tax year and other compensation received for the preceding tax year by the school district pursuant to any agreements entered into on or after January 1, 2006, under section 5709.82 of the Revised Code between the school district and the legislative authority of a political subdivision that acted under the authority of a chapter or statute specified in this division, that were entered into in relation to such exemption, and the denominator of which is the amount of anticipated revenue such school district would have received in the preceding fiscal year if the real property exempted from taxation had not been exempted.~~

(B) On or before the first day of May each year, the tax commissioner shall certify to the department of education and the office of budget and management the total taxable real property value of railroads and, separately, the total taxable tangible personal property value of all public utilities for the preceding tax year, by school district and by county of location.

(C) If a public utility has properly and timely filed a petition for reassessment under section 5727.47 of the Revised Code with respect to an assessment issued under section 5727.23 of the Revised Code affecting taxable property apportioned by the tax commissioner to a school district, the taxable value of public utility tangible personal property included in the certification under divisions (A)(2) and (B) of this section for the school district shall include only the amount of taxable value on the basis of which the public utility paid tax for the preceding year as provided in division (B)(1) or (2) of section 5727.47 of the Revised Code.

(D) If on the basis of the information certified under division (A) of this section, the department determines that any district fails in any year to meet the qualification requirement specified in division (A) of section 3317.01 of the Revised Code, the department shall immediately request the tax

commissioner to determine the extent to which any school district income tax levied by the district under Chapter 5748. of the Revised Code shall be included in meeting that requirement. Within five days of receiving such a request from the department, the tax commissioner shall make the determination required by this division and report the quotient obtained under division (D)(3) of this section to the department and the office of budget and management. This quotient represents the number of mills that the department shall include in determining whether the district meets the qualification requirement of division (A) of section 3317.01 of the Revised Code.

The tax commissioner shall make the determination required by this division as follows:

(1) Multiply one mill times the total taxable value of the district as determined in divisions (A)(1) and (2) of this section;

(2) Estimate the total amount of tax liability for the current tax year under taxes levied by Chapter 5748. of the Revised Code that are apportioned to current operating expenses of the district, excluding any income tax receipts allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code;

(3) Divide the amount estimated under division (D)(2) of this section by the product obtained under division (D)(1) of this section.

~~(E)(1) On or before June 1, 2006, and the first day of April of each year thereafter, the director of development shall report to the department of education, the tax commissioner, and the director of budget and management the total amounts of payments received by each city, local, exempted village, or joint vocational school district for the preceding tax year pursuant to division (D) of section 5709.40, division (D) of section 5709.73, division (C) of section 5709.78, or division (B)(1), (B)(2), (C), or (D) of section 5709.82 of the Revised Code in relation to exemptions from taxation granted pursuant to an ordinance adopted by the legislative authority of a municipal corporation under division (C) of section 5709.40 of the Revised Code, or a resolution adopted by a board of township trustees or board of county commissioners under division (C) of section 5709.73 or division (B) of section 5709.78 of the Revised Code, respectively. On or before April 1, 2006, and the first day of March of each year thereafter, the treasurer of each city, local, exempted village, or joint vocational school district that has entered into such an agreement shall report to the director of development the total amounts of such payments the district received for the preceding tax year as provided in this section. The state board of education,~~

~~in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported erroneous, inaccurate, or incomplete data under this division.~~

~~(2) On or before April 1, 2007, and the first day of April of each year thereafter, the director of development shall report to the department of education, the tax commissioner, and the director of budget and management the total amounts of payments received by each city, local, exempted village, or joint vocational school district for the preceding tax year pursuant to divisions (B), (C), and (D) of section 5709.82 of the Revised Code in relation to exemptions from taxation granted pursuant to ordinances or resolutions adopted on or after January 1, 2006, under Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code. On or before March 1, 2007, and the first day of March of each year thereafter, the treasurer of each city, local, exempted village, or joint vocational school district that has entered into such an agreement shall report to the director of development the total amounts of such payments the district received for the preceding tax year as provided by this section. The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported erroneous, inaccurate, or incomplete data under this division.~~

Sec. 3317.022. (A) The department of education shall compute and distribute state core foundation funding to each eligible school district for the fiscal year, using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins, as prescribed in the following divisions:

(1) An opportunity grant calculated according to the following formula:

The formula amount X (formula ADM + preschool scholarship ADM) X the district's state share index

(2) Targeted assistance funds calculated under divisions (A) and (B) of section 3317.0217 of the Revised Code;

(3) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code calculated as the sum of the following:

(a) The district's category one special education ADM X the amount specified in division (A) of section 3317.013 of the Revised Code X the district's state share index;

(b) The district's category two special education ADM X the amount specified in division (B) of section 3317.013 of the Revised Code X the district's state share index;

(c) The district's category three special education ADM X the amount specified in division (C) of section 3317.013 of the Revised Code X the district's state share index;

(d) The district's category four special education ADM X the amount specified in division (D) of section 3317.013 of the Revised Code X the district's state share index;

(e) The district's category five special education ADM X the amount specified in division (E) of section 3317.013 of the Revised Code X the district's state share index;

(f) The district's category six special education ADM X the amount specified in division (F) of section 3317.013 of the Revised Code X the district's state share index.

(4) Kindergarten through third grade literacy funds calculated according to the following formula:

[((\$125, in fiscal year 2014, or \$175, in fiscal year 2015) X formula ADM for grades kindergarten through three X the district's state share index] + [(\$86, in fiscal year 2014, or \$115, in fiscal year 2015) X formula ADM for grades kindergarten through three]

For purposes of this calculation, the department shall subtract from a district's formula ADM for grades kindergarten through three the number of students reported under division (B)(3)(e) of section 3317.03 of the Revised Code as enrolled in an internet- or computer-based community school who are in grades kindergarten through three.

(5) Economically disadvantaged funds calculated according to the following formula:

(\$269, in fiscal year 2014, or \$272, in fiscal year 2015) X (the district's economically disadvantaged index) X the number of students who are economically disadvantaged as reported under division (B)(21) of section 3317.03 of the Revised Code

(6) Limited English proficiency funds calculated as the sum of the following:

(a) The district's category one limited English proficient ADM X the amount specified in division (A) of section 3317.016 of the Revised Code X the district's state share index;

(b) The district's category two limited English proficient ADM X the amount specified in division (B) of section 3317.016 of the Revised Code X the district's state share index;

(c) The district's category three limited English proficient ADM X the amount specified in division (C) of section 3317.016 of the Revised Code X the district's state share index.

(7)(a) Gifted identification funds calculated according to the following formula:

(\$5, in fiscal year 2014, or \$5.05, in fiscal year 2015) X the district's formula ADM

(b) Gifted unit funding calculated under section 3317.051 of the Revised Code.

(8) Career-technical education funds calculated as the sum of the following:

(a) The district's category one career-technical education ADM X the amount specified in division (A) of section 3317.014 of the Revised Code X the district's state share index;

(b) The district's category two career-technical education ADM X the amount specified in division (B) of section 3317.014 of the Revised Code X the district's state share index;

(c) The district's category three career-technical education ADM X the amount specified in division (C) of section 3317.014 of the Revised Code X the district's state share index;

(d) The district's category four career-technical education ADM X the amount specified in division (D) of section 3317.014 of the Revised Code X the district's state share index;

(e) The district's category five career-technical education ADM X the amount specified in division (E) of section 3317.014 of the Revised Code X the district's state share index.

Payment of funds under division (A)(8) of this section is subject to approval under section 3317.161 of the Revised Code.

(9) Career-technical education associated services funds calculated according to the following formula:

The district's state share index X the amount for career-technical education associated services specified in section 3317.014 of the Revised Code X the sum of categories one through five career-technical education ADM

(B) In any fiscal year, a school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

(The formula amount X the total special education ADM) + (the district's category one special education ADM X the amount specified in division (A) of section 3317.013 of the Revised Code) + (the district's category two special education ADM X the amount specified in division (B) of section 3317.013 of the Revised Code) + (the district's category three special education ADM X the amount specified in division (C) of section 3317.013 of the Revised Code) + (the district's category four special education ADM

X the amount specified in division (D) of section 3317.013 of the Revised Code) + (the district's category five special education ADM X the amount specified in division (E) of section 3317.013 of the Revised Code) + (the district's category six special education ADM X the amount specified in division (F) of section 3317.013 of the Revised Code)

The purposes approved by the department for special education expenses shall include, but shall not be limited to, identification of children with disabilities, compliance with state rules governing the education of children with disabilities and prescribing the continuum of program options for children with disabilities, provision of speech language pathology services, and the portion of the school district's overall administrative and overhead costs that are attributable to the district's special education student population.

The scholarships deducted from the school district's account under sections 3310.41 and 3310.55 of the Revised Code shall be considered to be an approved special education and related services expense for the purpose of the school district's compliance with this division.

(C) In any fiscal year, a school district receiving funds under division (A)(8) of this section shall spend those funds only for the purposes that the department designates as approved for career-technical education expenses. Career-technical educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (A)(8) of this section may be spent.

(D) In any fiscal year, a school district receiving funds under division (A)(9) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for career-technical education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other career-technical education services, career-technical evaluation, and other purposes designated by the department. The department may deny payment under division (A)(9) of this section to any district that the department determines is not operating those services or is using funds paid under division (A)(9) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, for other purposes.

(E) All funds received under division (A)(8) of this section shall be spent in the following manner:

(1) At least seventy-five per cent of the funds shall be spent on curriculum development, purchase, and implementation; instructional resources and supplies; industry-based program certification; student assessment, credentialing, and placement; curriculum specific equipment purchases and leases; career-technical student organization fees and expenses; home and agency linkages; work-based learning experiences; professional development; and other costs directly associated with career-technical education programs including development of new programs.

(2) Not more than twenty-five per cent of the funds shall be used for personnel expenditures.

(F) A school district shall spend the funds it receives under division (A)(5) of this section in accordance with section 3317.25 of the Revised Code.

Sec. 3317.023. (A) The amounts required to be paid to a district under this chapter shall be adjusted by the amount of the computations made under divisions (B) to (K) of this section.

As used in this section:

(1) "~~VEPD~~ CTPD" means a school district or group of school districts designated by the department of education as being responsible for the planning for and provision of ~~vocational~~ career-technical education services to students within the district or group. A community school established under Chapter 3314. of the Revised Code or a STEM school established under Chapter 3326. of the Revised Code that is serving students in any of grades seven through twelve shall be assigned to a career-technical planning district by the department.

(2) "Lead district" means a school district, including a joint vocational school district, designated by the department as a ~~VEPD~~ CTPD, or designated to provide primary ~~vocational~~ career-technical education leadership within a ~~VEPD~~ CTPD composed of a group of districts, community schools assigned to the CTPD, and STEM schools assigned to the CTPD.

(B) If a local ~~school district, or a~~ city, or exempted village school district to which a governing board of an educational service center provides services pursuant to an agreement entered into under section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under that section ~~3317.11 of the Revised Code.~~

(C)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64

or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (J) of section 3313.64 or section 3317.08 of the Revised Code.

(2) For each child for whom the district is responsible for tuition or payment under division (A)(1) of section 3317.082 or section 3323.091 of the Revised Code, deduct the amount of tuition or payment for which the district is responsible.

(D) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under this chapter.

(E) If the district has received a loan from a commercial lending institution for which payments are made by the superintendent of public instruction pursuant to division (E)(3) of section 3313.483 of the Revised Code, deduct an amount equal to such payments.

(F)(1) If the district is a party to an agreement entered into under division (D), (E), or (F) of section 3311.06 or division (B) of section 3311.24 of the Revised Code and is obligated to make payments to another district under such an agreement, deduct an amount equal to such payments if the district school board notifies the department in writing that it wishes to have such payments deducted.

(2) If the district is entitled to receive payments from another district that has notified the department to deduct such payments under division (F)(1) of this section, add the amount of such payments.

(G) If the district is required to pay an amount of funds to a cooperative education district pursuant to a provision described by division (B)(4) of section 3311.52 or division (B)(8) of section 3311.521 of the Revised Code, deduct such amounts as provided under that provision and credit those amounts to the cooperative education district for payment to the district under division (B)(1) of section 3317.19 of the Revised Code.

(H)(1) If a district is educating a student entitled to attend school in another district pursuant to a shared education contract, compact, or cooperative education agreement other than an agreement entered into pursuant to section 3313.842 of the Revised Code, credit to that educating district on an FTE basis both of the following:

(a) An amount equal to the formula amount.

(b) ~~An Any amount equal to \$5,732 times the state share percentage times any multiple applicable to the student for fiscal year 2009~~ pursuant to

section 3317.013 or 3317.014 of the Revised Code, ~~as those sections existed for that fiscal year.~~

(2) Deduct any amount credited pursuant to division (H)(1) of this section from amounts paid to the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11 of the Revised Code.

(I)(1) If a district, including a joint vocational school district, is a lead district of a ~~VEPD~~ CTPD, credit to that district the ~~following amounts amount~~ calculated for ~~all the each~~ school districts district within that ~~VEPD~~:

~~(a) In any fiscal year except fiscal year 2012 or 2013, the amount computed under division (D)(2) of section 3317.022 of the Revised Code;~~

~~(b) In fiscal years 2012 and 2013, an amount equal to the following:~~

~~state share percentage X .05 X \$5,732 X~~

~~the sum of categories one~~

~~and two vocational education ADM~~ CTPD under division (A)(9) of section 3317.022 of the Revised Code or division (A)(6) of section 3317.16 of the Revised Code, as applicable.

(2) Deduct from each appropriate district that is not a lead district, the amount attributable to that district that is credited to a lead district under division (I)(1) of this section.

(J) If the department pays a joint vocational school district under division ~~(G)(4)(C)(3)~~ of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a student with a disability, as calculated under division ~~(G)(2)(C)(1)~~ of that section, the department shall deduct the amount of that payment from the city, local, or exempted village school district that is responsible as specified in that section for the excess costs.

(K)(1) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall pay that amount to the district.

(2) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall deduct that amount from the district of residence of that child.

Sec. 3317.0212. ~~The department of education shall make no payments~~

~~under this section for fiscal year 2012 or 2013.~~

(A) As used in this section:

~~(1) "Assigned bus" means a school bus used to transport qualifying riders.~~

~~(2) "Nontraditional ridership" means the average number of qualifying riders who are enrolled in a community school established under Chapter 3314. of the Revised Code, in a STEM school established under Chapter 3326. of the Revised Code, or in a nonpublic school and are provided school bus service by a school district during the first full week of October.~~

~~(3) "Qualifying riders" means resident students enrolled in regular education in grades kindergarten to twelve who are provided school bus service by a school district and who live more than one mile from the school they attend, including students with dual enrollment in a joint vocational school district or a cooperative education school district, and students enrolled in a community school, STEM school, or nonpublic school.~~

~~(4)(2) "Qualifying ridership" means the average number of qualifying riders who are provided school bus service by a school district during the first full week of October.~~

~~(5)(3) "Rider density" means the number of qualifying riders total ADM per square mile of a school district.~~

~~(6)(4) "School bus service" means a school district's transportation of qualifying riders in any of the following types of vehicles:~~

~~(a) School buses owned or leased by the district;~~

~~(b) School buses operated by a private contractor hired by the district;~~

~~(c) School buses operated by another school district or entity with which the district has contracted, either as part of a consortium for the provision of transportation or otherwise.~~

(B) Not later than the fifteenth day of October each year, each city, local, and exempted village school district shall report to the department of education its qualifying ridership, ~~nontraditional ridership, number of qualifying riders per assigned bus,~~ and any other information requested by the department. Subsequent adjustments to the reported numbers shall be made only in accordance with rules adopted by the department.

(C) The department shall calculate the statewide transportation cost per student as follows:

(1) Determine each city, local, and exempted village school district's transportation cost per student by dividing the district's total costs for school bus service in the previous fiscal year by its qualifying ridership in the previous fiscal year.

(2) After excluding districts that do not provide school bus service and

the ten districts with the highest transportation costs per student and the ten districts with the lowest transportation costs per student, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate qualifying ridership of those districts in the previous fiscal year.

(D) The department shall calculate the statewide transportation cost per mile as follows:

(1) Determine each city, local, and exempted village school district's transportation cost per mile by dividing the district's total costs for school bus service in the previous fiscal year by its total number of miles driven for school bus service in the previous fiscal year.

(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per mile and the ten districts with the lowest transportation costs per mile, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate miles driven for school bus service in those districts in the previous fiscal year.

(E) The department shall calculate each city, local, and exempted village school district's transportation base payment as follows:

(1) Multiply the statewide transportation cost per student by the district's qualifying ridership for the current fiscal year.

(2) Multiply the statewide transportation cost per mile by the district's total number of miles driven for school bus service in the current fiscal year.

(3) Multiply the greater of the amounts calculated under divisions (E)(1) and (2) of this section by the greater of sixty per cent or the district's state share ~~percentage index~~, as defined in section 3317.02 of the Revised Code.

~~(F) The department shall calculate each city, local, and exempted village school district's nontraditional ridership adjustment according to the following formula:~~

$$\frac{\text{(nontraditional ridership for the current fiscal year / qualifying ridership for the current fiscal year)} \times 0.1 \times \text{transportation base payment}}{\text{transportation base payment}}$$

~~(G) If a city, local, or exempted village school district offers school bus service to all resident students who are enrolled in regular education in district schools in grades nine to twelve and who live more than one mile from the school they attend, the department shall calculate the district's high school ridership adjustment according to the following formula:~~

$$0.025 \times \text{transportation base payment}$$

~~(H) If a city, local, or exempted village school district offers school bus service to students enrolled in grades kindergarten to eight who live more~~

~~than one mile, but two miles or less, from the school they attend, the department shall calculate an additional adjustment according to the following formula:~~

~~0.025 X transportation base payment~~

~~(I)(1) The department annually shall establish a target number of qualifying riders per assigned bus for each city, local, and exempted village school district. The department shall use the most recently available data in establishing the target number. The target number shall be based on the statewide median number of qualifying riders per assigned bus as adjusted to reflect the district's rider density in comparison to the rider density of all other districts. The department shall post on the department's web site each district's target number of qualifying riders per assigned bus and a description of how the target number was determined.~~

~~(2) The department shall determine each school district's efficiency index by dividing the district's median number of qualifying riders per assigned bus by its target number of qualifying riders per assigned bus.~~

~~(3) The department shall determine each city, local, and exempted village school district's efficiency adjustment as follows:~~

~~(a) If the district's efficiency index is equal to or greater than 1.5, the efficiency adjustment shall be calculated according to the following formula:~~

~~0.1 X transportation base payment~~

~~(b) If the district's efficiency index is less than 1.5 but equal to or greater than 1.0, the efficiency adjustment shall be calculated according to the following formula:~~

~~{(efficiency index - 1) / 5} X transportation base payment~~

~~(c) If the district's efficiency index is less than 1.0, the efficiency adjustment shall be zero.~~

~~(J) The department shall pay each city, local, and exempted village school district the lesser of the following:~~

~~(1) The sum of the amounts calculated under divisions (E) to (H) and (I)(3) of this section;~~

~~(2) The district's total costs for school bus service for the prior fiscal year.~~

~~(K) In addition to funds paid under division (J)(E) of this section, each city, local, and exempted village district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than school bus service and whose transportation is not funded under division (C) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such~~

students.

(G)(1) In fiscal years 2014 and 2015, the department shall pay each district a pro rata portion of the amounts calculated under division (E) of this section and described in division (F) of this section, based on state appropriations.

(2) In addition to the prorated payment under division (G)(1) of this section, in fiscal years 2014 and 2015, the department shall pay each school district that meets the conditions prescribed in division (G)(3) of this section an additional amount equal to the difference of (a) the amounts calculated under division (E) of this section and prescribed in division (F) of this section minus (b) that prorated payment.

(3) Division (G)(2) of this section applies to each school district that meets all of the following conditions:

(a) The district qualifies for the calculation of a payment under division (E) of this section because it transports students on board-owned or contractor-owned school buses.

(b) The district's state share index is greater than or equal to 0.50.

(c) The district's rider density is at or below the median rider density of all districts that qualify for calculation of a payment under division (E) of this section.

(H) Each city, local, and exempted village school district shall report all data used to calculate funding for transportation under this section through the education management information system pursuant to section 3301.0714 of the Revised Code.

Sec. 3317.0213. (A) The department of education shall compute and pay in accordance with this section additional state aid for preschool special education children to each city, local, and exempted village school district and to each institution, as defined in section 3323.091 of the Revised Code. Funding shall be provided for children who are not enrolled in kindergarten and who are under age six on the thirtieth day of September of the academic year, or on the first day of August of the academic year if the school district in which the child is enrolled has adopted a resolution under division (A)(3) of section 3321.01 of the Revised Code, but not less than age three on the first day of December of the academic year.

The additional state aid shall be calculated under the following formula:

(\$4,000 X the number of preschool special education children) + the sum of the following:

(1) The district's or institution's category one special education preschool students X the amount specified in division (A) of section 3317.013 of the Revised Code X the district's state share index X 0.50;

(2) The district's or institution's category two special education preschool students X the amount specified in division (B) of section 3317.013 of the Revised Code X the district's state share index X 0.50;

(3) The district's or institution's category three special education preschool students X the amount specified in division (C) of section 3317.013 of the Revised Code X the district's state share index X 0.50;

(4) The district's or institution's category four special education preschool students X the amount specified in division (D) of section 3317.013 of the Revised Code X the district's state share index X 0.50;

(5) The district's or institution's category five special education preschool students X the amount specified in division (E) of section 3317.013 of the Revised Code X the district's state share index X 0.50;

(6) The district's or institution's category six special education preschool students X the amount specified in division (F) of section 3317.013 of the Revised Code X the district's state share index X 0.50.

The special education disability categories for preschool children used in this section are the same categories prescribed in section 3317.013 of the Revised Code.

As used in division (A) of this section, the state share index of a student enrolled in an institution is the state share index of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(B) If an educational service center is providing services to preschool special education students under agreement with the city, local, or exempted village school district in which the students are entitled to attend school, that district may authorize the department to transfer funds computed under this section to the service center providing those services.

(C) If a county DD board is providing services to preschool special education students under agreement with the city, local, or exempted village school district in which the students are entitled to attend school, the department shall deduct from the district's payment computed under division (A) of this section the total amount of those funds that are attributable to the students served by the county DD board and pay that amount to that board.

Sec. 3317.0214. (A) The department shall compute and pay in accordance with this section additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that

student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(1) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(2) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share index.

(B) For purposes of division (A) of this section, the threshold catastrophic cost for serving a student equals:

(1) For a student in the school district's category two, three, four, or five special education ADM, twenty-seven thousand three hundred seventy-five dollars;

(2) For a student in the district's category six special education ADM, thirty-two thousand eight hundred fifty dollars.

(C) The district shall report under division (A) of this section, and the department shall pay for, only the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

Sec. 3317.0217. Payment of the amount calculated for a school district under this section shall be made under division (A) of section 3317.022 of the Revised Code.

(A) The department of education shall annually compute targeted assistance funds to school districts, as follows:

(1) Calculate the local wealth per pupil of each school district, which equals the following sum:

(a) One-half times the quotient of (i) the district's three-year average valuation divided by (ii) its formula ADM; plus

(b) One-half times the quotient of (i) the average of the total federal adjusted gross income of the school district's residents for the three years most recently reported under section 3317.021 of the Revised Code divided by (ii) its formula ADM.

(2) Rank all school districts in order of local wealth per pupil, from the district with the lowest local wealth per pupil to the district with the highest local wealth per pupil.

(3) Compute the statewide wealth per pupil, which equals the following sum:

(a) One-half times the quotient of (i) the sum of the three-year average

valuations for all school districts divided by (ii) the sum of formula ADM counts for all schools districts; plus

(b) One-half times the quotient of (i) the sum of the three-year average total federal adjusted gross incomes for all school districts divided by (ii) the sum of formula ADM counts for all school districts.

(4) Compute each district's wealth index by dividing the statewide wealth per pupil by the district's local wealth per pupil.

(5) Compute the per pupil targeted assistance for each eligible school district in accordance with the following formula:

(Threshold local wealth per pupil - the district's local wealth per pupil)
X target millage X the district's wealth index

Where:

(a) An "eligible school district" means a school district with a local wealth per pupil less than that of the school district with the 490th lowest local wealth per pupil.

(b) "Threshold local wealth per pupil" means the local wealth per pupil of the school district with the 490th lowest local wealth per pupil.

(c) "Target millage" means 0.006.

If the result of the calculation for a school district under division (A)(5) of this section is less than zero, the district's targeted assistance shall be zero.

(6) Calculate the aggregate amount to be paid as targeted assistance funds to each school district under division (A) of section 3317.022 of the Revised Code by multiplying the per pupil targeted assistance computed under division (A)(5) of this section by the district's net formula ADM.

As used in this division, a district's "net formula ADM" means its formula ADM minus the number of community school students reported under division (B)(3)(d) of section 3317.03 of the Revised Code X 0.75, the number of internet- and computer-based community school students reported under division (B)(3)(e) of that section, and the number of scholarship students reported under divisions (B)(3)(f), (g), and (l) of that section.

(B) The department shall annually compute supplemental targeted assistance funds to school districts, as follows:

(1) Compute each district's agricultural percentage as the quotient of (a) the three-year average tax valuation of real property in the district that is classified as agricultural property divided by (b) the three-year average tax valuation of all of the real property in the district. For purposes of this computation, a district's "three-year average tax valuation" means the average of a district's tax valuation for fiscal years 2012, 2013, and 2014.

(2) Determine each district's agricultural targeted percentage as follows:

(a) If a district's agricultural percentage is greater than or equal to 0.10, then the district's agricultural targeted percentage shall be equal to 0.40.

(b) If a district's agricultural percentage is less than 0.10, then the district's agricultural targeted percentage shall be equal to 4 X the district's agricultural percentage.

(3) Calculate the aggregate amount to be paid as supplemental targeted assistance funds to each school district under division (A) of section 3317.022 of the Revised Code by multiplying the district's agricultural targeted percentage by the amount calculated for the district under division (A)(6) of this section.

Sec. 3317.03. (A) The superintendent of each city, local, and exempted village school district ~~and of each educational service center~~ shall, ~~for the schools under the superintendent's supervision,~~ certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the average daily membership of students receiving services from schools under the superintendent's supervision, and the numbers of other students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code the superintendent is required to report under this section, so that the department of education can calculate the district's formula ADM. If a school under the superintendent's supervision is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the average daily membership for that school for that week and specify an alternate week for certifying the average daily membership of that school.

The average daily membership during such week shall consist of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to

attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code;

(e) Students receiving services in the district through a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education district;

(f) Another school district under a cooperative education agreement, compact, or contract;

(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code, if the students qualified for the scholarship under section 3310.03 of the Revised Code;

(h) An alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.

As used in this section, "alternative public provider" and "registered private provider" have the same meanings as in section 3310.41 or 3310.51 of the Revised Code, as applicable.

(i) A science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(j) A college-preparatory boarding school established under Chapter

3328. of the Revised Code.

(3) The number of students enrolled in a joint vocational school district or under a ~~vocational~~ career-technical education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a ~~vocational~~ career-technical education compact;

~~(4) The number of children with disabilities, other than preschool children with disabilities, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed by the district with a county DD board, minus the number of such children placed with a county DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.~~

(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the average daily membership, each superintendent shall report separately the following student counts for the same week for which average daily membership is certified:

(1) The total average daily membership in regular learning day classes included in the report under division (A)(1) or (2) of this section for each of the individual grades kindergarten through twelve in schools under the superintendent's supervision;

(2) The number of all preschool children with disabilities enrolled as of the first day of December in classes in the district ~~that are~~ for whom the district is eligible for approval to receive funding under division (B) of section 3317.05 3317.0213 of the Revised Code and the number of those classes, which shall be reported not later than the fifteenth day of December, in accordance with ~~rules adopted under that~~ the disability categories prescribed in section 3317.013 of the Revised Code;

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are:

(a) Participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the

Revised Code;

(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code;

(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code and who qualified for the scholarship under section 3310.03 of the Revised Code;

(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;

(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;

(i) Participating in a program operated by a county DD board or a state institution;

(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(k) Enrolled in a college-preparatory boarding school established under Chapter 3328. of the Revised Code;

(l) Enrolled in an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code.

(4) The number of pupils enrolled in joint vocational schools;

(5) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(6) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities described in division (B) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(7) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(8) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(9) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(10) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) and under division (B)(3)(h) of this section receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code;

(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one ~~vocational~~ career-technical education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by

another district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, ~~excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet or computer-based community school,~~ notwithstanding division ~~(C)(H)~~ of section 3317.02 of the Revised Code and division (C)(3) of this section;

(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two ~~vocational career-technical~~ education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, ~~excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet or computer-based community school,~~ notwithstanding division ~~(C)(H)~~ of section 3317.02 of the Revised Code and division (C)(3) of this section;

~~Beginning with fiscal year 2010, vocational education ADM shall not be used to calculate a district's funding but shall be reported under divisions (B)(11) and (12) of this section for statistical purposes.~~

(13) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category three career-technical education programs or services, described in division (C) of section 3317.014 of the Revised Code, operated by the school district or another school district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division (H) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(14) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category four career-technical education programs or services, described in division (D) of section 3317.014 of the Revised Code, operated by the school district or another school district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division (H) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(15) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category five career-technical education programs or services, described in division (E) of section 3317.014 of the Revised Code, operated by the school district or another school district that is a member of the district's career-technical planning

district, other than a joint vocational school district, or by an educational service center, notwithstanding division (H) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(16) The average daily membership of pupils reported under division (A)(1) or (2) of this section who are limited English proficient students described in division (A) of section 3317.016 of the Revised Code, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school;

(17) The average daily membership of pupils reported under division (A)(1) or (2) of this section who are limited English proficient students described in division (B) of section 3317.016 of the Revised Code, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school;

(18) The average daily membership of pupils reported under division (A)(1) or (2) of this section who are limited English proficient students described in division (C) of section 3317.016 of the Revised Code, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school;

(19) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

~~(14)(20)(a)~~ The number of children, other than preschool children with disabilities, the district placed with a county DD board in fiscal year 1998; Division (B)(20)(a) of this section does not apply after fiscal year 2013.

(b) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code;

(c) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category two disabilities described in division (B) of section 3317.013 of the Revised Code;

(d) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code;

(e) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current

fiscal year to receive special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code;

(f) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code;

(g) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code.

(21) The number of students who are economically disadvantaged, as defined by the department, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school. A student shall not be categorically excluded from the number reported under division (B)(21) of this section based on anything other than family income.

(C)(1) The average daily membership in divisions (B)(1) to (12) of this section shall be based upon the number of full-time equivalent students. The state board of education shall adopt rules defining full-time equivalent students and for determining the average daily membership therefrom for the purposes of divisions (A), (B), and (D) of this section. ~~Each student enrolled in kindergarten shall be counted as one full-time equivalent student regardless of whether the student is enrolled in a part-day or all-day kindergarten class.~~

(2) A student enrolled in a community school established under Chapter 3314., a science, technology, engineering, and mathematics school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code shall be counted in the formula ADM and, if applicable, the category one, two, three, four, five, or six special education ADM of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code for the same proportion of the school year that the student is counted in the enrollment of the community school, the science, technology, engineering, and mathematics school, or the college-preparatory boarding school for purposes of section 3314.08, 3326.33, or 3328.24 of the Revised Code. Notwithstanding the number of students reported pursuant to division (B)(3)(d), (e), (j), or (k) of this section, the department may adjust the formula ADM of a school district to account for students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code

who are enrolled in a community school, a science, technology, engineering, and mathematics school, or a college-preparatory boarding school for only a portion of the school year.

(3) No child shall be counted as more than a total of one child in the sum of the average daily memberships of a school district under division (A), divisions (B)(1) to ~~(12)~~(22), or division (D) of this section, except as follows:

(a) A child with a disability described in section 3317.013 of the Revised Code may be counted both in formula ADM and in category one, two, three, four, five, or six special education ADM and, if applicable, in category one ~~or two vocational, three, four, or five career-technical~~ education ADM. As provided in division ~~(C)~~(H) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM.

(b) A child enrolled in ~~vocational~~ career-technical education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one ~~or two vocational, three, four, or five career-technical~~ education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one ~~or two vocational, three, four, or five career-technical~~ education ADM in the same proportion as the percentage of time that the child spends in the ~~vocational~~ career-technical education programs or classes.

(4) Based on the information reported under this section, the department of education shall determine the total student count, as defined in section 3301.011 of the Revised Code, for each school district.

(D)(1) The superintendent of each joint vocational school district shall certify to the superintendent of public instruction on or before the fifteenth day of October in each year for the first full school week in October ~~the formula ADM, for purposes of section 3318.42 of the Revised Code and for any other purpose prescribed by law for which "formula ADM" of the joint vocational district is a factor~~ the average daily membership. If a school operated by the joint vocational school district is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the ~~formula ADM~~ average daily membership for that school

for that week and specify an alternate week for certifying the ~~formula ADM~~ average daily membership of that school.

The ~~formula ADM~~ average daily membership, except as otherwise provided in this division, shall consist of the average daily membership during such week, on an FTE basis, of the number of students receiving any educational services from the district, including students enrolled in a community school established under Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code who are attending the joint vocational district ~~under an agreement between the district board of education and the governing authority of the community school or the governing body of the science, technology, engineering, and mathematics school~~ and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district.

The following categories of students shall not be included in the determination made under division (D)(1) of this section:

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the ~~formula~~ ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students for the same week for which ~~formula~~ ADM is certified:

- (a) Students enrolled in each individual grade included in the joint vocational district schools;
- (b) Children with disabilities receiving special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code;
- (c) Children with disabilities receiving special education services for the category two disabilities described in division (B) of section 3317.013 of the Revised Code;

(d) Children with disabilities receiving special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code;

(e) Children with disabilities receiving special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code;

(f) Children with disabilities receiving special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code;

(g) Children with disabilities receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code;

(h) Students receiving category one ~~vocational~~ career-technical education services, described in division (A) of section 3317.014 of the Revised Code;

(i) Students receiving category two ~~vocational~~ career-technical education services, described in division (B) of section 3317.014 of the Revised Code;

(j) Students receiving category three career-technical education services, described in division (C) of section 3317.014 of the Revised Code;

(k) Students receiving category four career-technical education services, described in division (D) of section 3317.014 of the Revised Code;

(l) Students receiving category five career-technical education services, described in division (E) of section 3317.014 of the Revised Code;

(m) Limited English proficient students described in division (A) of section 3317.016 of the Revised Code;

(n) Limited English proficient students described in division (B) of section 3317.016 of the Revised Code;

(o) Limited English proficient students described in division (C) of section 3317.016 of the Revised Code;

(p) Students who are economically disadvantaged, as defined by the department. A student shall not be categorically excluded from the number reported under division (D)(2)(p) of this section based on anything other than family income.

The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record

of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district during the previous school year when assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the assessments required by that section and was not excused pursuant to division (C)(1) or (3) of that section;

(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge.

If, however, any veteran described by division (E)(4) of this section elects to enroll in special courses organized for veterans for whom tuition is paid under the provisions of federal laws, or otherwise, that veteran shall not be included in average daily membership.

Notwithstanding division (E)(3) of this section, the membership of any school may include a pupil who did not take an assessment required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the assessment to the specific pupil and a parent is not paying tuition for the pupil pursuant to section 3313.6410 of the Revised Code. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.

Except as provided in divisions (B)(2) and (F) of this section, the average daily membership figure of any local, city, exempted village, or joint vocational school district shall be determined by dividing the figure

representing the sum of the number of pupils enrolled during each day the school of attendance is actually open for instruction during the week for which the average daily membership is being certified by the total number of days the school was actually open for instruction during that week. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized reasons, and those children with disabilities currently receiving home instruction.

The average daily membership figure of any cooperative education school district shall be determined in accordance with rules adopted by the state board of education.

~~(F)(1) If the formula ADM for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city, exempted village, or joint vocational school district or educational service center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased formula ADM in calculating or recalculating the amounts to be allocated in accordance with section 3317.022 or 3317.16 of the Revised Code. In no event shall the superintendent use an increased membership certified to the superintendent after the fifteenth day of February. Division (F)(1) of this section does not apply after fiscal year 2006.~~

~~(2) If on the first school day of April the total number of classes or units for preschool children with disabilities that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the certifications required by this section for that day. If the department determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such units, the department shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.~~

~~(3) If a student attending a community school under Chapter 3314., a science, technology, engineering, and mathematics school established under Chapter 3326., or a college-preparatory boarding school established under~~

Chapter 3328. of the Revised Code is not included in the formula ADM certified for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school, the science, technology, engineering, and mathematics school, or the college-preparatory boarding school during the week for which the formula ADM is being certified.

~~(4)~~(2) If a student awarded an educational choice scholarship is not included in the formula ADM of the school district from which the department deducts funds for the scholarship under section 3310.08 of the Revised Code, the department shall adjust the formula ADM of that school district to include the student to the extent necessary to account for the deduction, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the chartered nonpublic school, the school district, or a community school during the week for which the formula ADM is being certified.

~~(5)~~(3) If a student awarded a scholarship under the Jon Peterson special needs scholarship program is not included in the formula ADM of the school district from which the department deducts funds for the scholarship under section 3310.55 of the Revised Code, the department shall adjust the formula ADM of that school district to include the student to the extent necessary to account for the deduction, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in an alternative public provider, a registered private provider, or the school district during the week for which the formula ADM is being certified.

(G)(1)(a) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education, in the manner prescribed by the superintendent of public instruction, both of the following:

(i) The average daily membership of all children with disabilities other

than preschool children with disabilities receiving services at the institution for each category of disability described in divisions (A) to (F) of section 3317.013 of the Revised Code;

(ii) The average daily membership of all preschool children with disabilities in classes or programs ~~approved annually by the department of education for unit for whom the district is eligible to receive funding under section 3317.05~~ 3317.0213 of the Revised Code, reported according to the categories prescribed in section 3317.013 of the Revised Code.

(b) The superintendent of an institution with ~~vocational~~ career-technical education units approved under ~~division (A) of~~ section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county DD board that maintains special education classes under section 3317.20 of the Revised Code or ~~units approved~~ provides services to preschool children with disabilities pursuant to ~~section 3317.05 of the Revised Code~~ an agreement between the DD board and the appropriate school district shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the state board, in the manner prescribed by the board, the number of all preschool children with disabilities enrolled as of the first day of December in classes for which the DD board is eligible for approval to receive funding under division (B) of section 3317.05 3317.0213 of the Revised Code, reported according to the categories prescribed in section 3317.013 of the Revised Code, and the number of those classes.

~~(3)(a) If on the first school day of April the number of classes or units maintained for preschool children with disabilities by the county DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that division, the superintendent shall make the certification required by this section for that day.~~

~~(b) If the department determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of the classes and units described in division (G)(3)(a) of this section, the department shall approve and fund additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in sections 3317.052 and 3317.053 of~~

~~the Revised Code.~~

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership shall not be included in that district's membership figure used in the calculation of that district's formula ADM or included in the determination of any ~~unit~~ funding approved for the district under section ~~3317.05~~ 3317.0213 of the Revised Code. The reporting official shall report separately the average daily membership of all pupils whose attendance in the district is unauthorized attendance, and the membership of each such pupil shall be credited to the school district in which the pupil is entitled to attend school under division (B) of section 3313.64 or section 3313.65 of the Revised Code as determined by the department of education.

(I)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership.

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership:

(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend an alternative school.

(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(K) If the superintendent of public instruction determines that a component of the average daily membership certified or reported by a district superintendent, or other reporting entity, is not correct, the superintendent of public instruction may order that the formula ADM used for the purposes of payments under any section of Title XXXIII of the Revised Code be adjusted in the amount of the error.

Sec. 3317.032. ~~(A) Each city, local, exempted village, and cooperative education school district, each educational service center, each county DD board, and each institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, in accordance with procedures adopted by the state board of education, maintain a record of district membership of both of the following:~~

~~(1) All preschool children with disabilities in units approved under division (B) of section 3317.05 of the Revised Code;~~

~~(2) All all preschool children with disabilities who are not in units approved under division (B) of section 3317.05 of the Revised Code but who are otherwise served by a special education program.~~

~~(B) The superintendent of each district, board, or institution subject to division (A) of this section shall certify to the state board of education, in accordance with procedures adopted by that board, membership figures of all preschool children with disabilities whose membership is maintained under division (A)(2) of this section. The figures certified under this division shall be used in the determination of the ADM used to compute funds for educational service center governing boards under section 3317.11 of the Revised Code.~~

Sec. 3317.05. (A) ~~For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the~~ The department of education shall determine for each institution, by the last day of January of each year and based on information certified under section 3317.03 of the Revised Code, the number of ~~vocational~~ career-technical education units or fractions of units approved by the department on the basis of standards and rules adopted by the state board of education. As used in this ~~division~~ section, "institution" means an institution operated by a department specified in section 3323.091 of the Revised Code and that provides ~~vocational~~ career-technical education programs under the supervision of the division of ~~vocational~~ career-technical education of the department that meet the standards and rules for these programs, including licensure of professional staff involved in the programs, as established by the state board.

~~(B) For the purpose of calculating payments under sections 3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each educational service center, for each school district, including each cooperative education school district, for each institution eligible for payment under section 3323.091 of the Revised Code, and for each county~~

~~DD board: the number of classes operated by the school district, service center, institution, or county DD board for preschool children with disabilities, or fraction thereof, including in the case of a district or service center that is a funding agent, classes taught by a licensed teacher employed by that district or service center under section 3313.841 of the Revised Code, approved annually by the department on the basis of standards and rules adopted by the state board.~~

~~(C) For the purpose of calculating payments under sections 3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each school district, including each cooperative education school district, for each institution eligible for payment under section 3323.091 of the Revised Code, and for each county DD board: the number of units for related services, as defined in section 3323.01 of the Revised Code, for preschool children with disabilities approved annually by the department on the basis of standards and rules adopted by the state board.~~

~~(D) All of the arithmetical calculations made under this section shall be carried to the second decimal place. The total number of units for school districts, service centers, and institutions approved annually under this section shall not exceed the number of units included in the estimate of cost for these units and appropriations made for them by the general assembly.~~

~~In the case of units for preschool children with disabilities described in division (B) of this section, the department shall approve only preschool units for children who are under age six on the thirtieth day of September of the academic year, or on the first day of August of the academic year if the school district in which the child is enrolled has adopted a resolution under division (A)(3) of section 3321.01 of the Revised Code, but not less than age three on the first day of December of the academic year, except that such a unit may include one or more children who are under age three or are age six or over on the applicable date, as reported under division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised Code, if such children have been admitted to the unit pursuant to rules of the state board. The number of units for county DD boards and institutions eligible for payment under section 3323.091 of the Revised Code approved under this section shall not exceed the number that can be funded with appropriations made for such purposes by the general assembly.~~

~~No unit shall be approved under divisions (B) and (C) of this section unless a plan has been submitted and approved under Chapter 3323. of the Revised Code.~~

(C) The department shall pay each institution approved for career-technical education units under division (A) of this section an amount for the total of all the units approved under that division. The amount for each unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001, plus fifteen per cent of that minimum salary amount, and nine thousand five hundred ten dollars. Each institution that receives unit funds under this division annually shall report to the department on the delivery of services and the performance of students and any other information required by the department to evaluate the institution's career-technical education program.

(D) For each unit allocated to an institution pursuant to division (A) of this section, the department, in addition to the amount specified in division (B) of this section, shall pay a supplemental unit allowance of \$7,227.

Sec. 3317.051. (A) As used in this section, "gifted unit ADM" means a school district's formula ADM minus the number of students reported by a district under divisions (A)(2)(a) and (i) of section 3317.03 of the Revised Code.

(B) The department of education shall compute and pay to a school district funds based on units for services to students identified as gifted under Chapter 3324. of the Revised Code as prescribed by this section.

(C) The department shall allocate gifted units for a school district as follows:

(1) One gifted coordinator unit shall be allocated for every 3,300 students in a district's gifted unit ADM, with a minimum of 0.5 units and a maximum of 8 units allocated for the district.

(2) One gifted intervention specialist unit shall be allocated for every 1,100 students in a district's gifted unit ADM, with a minimum of 0.3 units allocated for the district.

(D) The department shall pay the following amount to a school district for gifted units:

(1) In fiscal year 2014, \$37,000 multiplied by the number of units allocated to a school district under division (C) of this section;

(2) In fiscal year 2015, \$37,370 multiplied by the number of units allocated to a school district under division (C) of this section.

A school district shall use the funds it receives for units allocated under division (C)(1) of this section only for gifted coordinator services as prescribed by the department. Qualified personnel shall be employed by the district for this purpose on a full-time equivalency basis that corresponds to

the number of units allocated to the district under division (C)(1) of this section.

A school district shall use the funds it receives for units allocated under division (C)(2) of this section only for gifted intervention specialist services as prescribed by the department. Qualified personnel shall be employed by the district for this purpose on a full-time equivalency basis that corresponds to the number of units allocated to the district under division (C)(2) of this section.

(E) A school district may assign gifted unit funding that it receives under division (D) of this section to another school district, an educational service center, a community school, or a STEM school as part of an arrangement to provide services to the district as follows:

(1) Funds received for units allocated under division (C)(1) of this section may be assigned to a district, service center, or school that employs qualified gifted coordinators:

(2) Funds received for units allocated under division (C)(2) of this section may be assigned to a district, service center, or school that employs qualified gifted intervention specialists.

Sec. 3317.06. Moneys paid to school districts under division (E) of section 3317.024 of the Revised Code shall be used for the following independent and fully severable purposes:

(A) To purchase such secular textbooks or ~~electronic textbooks~~ digital texts as have been approved by the superintendent of public instruction for use in public schools in the state and to loan such textbooks or ~~electronic textbooks~~ digital texts to pupils attending nonpublic schools within the district or to their parents and to hire clerical personnel to administer such lending program. Such loans shall be based upon individual requests submitted by such nonpublic school pupils or parents. Such requests shall be submitted to the school district in which the nonpublic school is located. Such individual requests for the loan of textbooks or ~~electronic textbooks~~ digital texts shall, for administrative convenience, be submitted by the nonpublic school pupil or the pupil's parent to the nonpublic school, which shall prepare and submit collective summaries of the individual requests to the school district. As used in this section:

(1) "Textbook" means any book or book substitute that a pupil uses as a consumable or nonconsumable text, text substitute, or text supplement in a particular class or program in the school the pupil regularly attends.

(2) "~~Electronic textbook~~" "Digital text" means ~~any~~ a consumable book or book substitute that a student accesses through the use of a computer or other electronic medium or that is available through an internet-based

provider of course content, or any other material that contributes to the learning process through electronic means.

(B) To provide speech and hearing diagnostic services to pupils attending nonpublic schools within the district. Such service shall be provided in the nonpublic school attended by the pupil receiving the service.

(C) To provide physician, nursing, dental, and optometric services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the nonpublic school pupil receiving the service.

(D) To provide diagnostic psychological services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the pupil receiving the service.

(E) To provide therapeutic psychological and speech and hearing services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(F) To provide guidance, counseling, and social work services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(G) To provide remedial services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(H) To supply for use by pupils attending nonpublic schools within the district such standardized tests and scoring services as are in use in the public schools of the state;

(I) To provide programs for children who attend nonpublic schools within the district and are children with disabilities as defined in section 3323.01 of the Revised Code or gifted children. Such programs shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such programs

are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(J) To hire clerical personnel to assist in the administration of programs pursuant to divisions (B), (C), (D), (E), (F), (G), and (I) of this section and to hire supervisory personnel to supervise the providing of services and textbooks pursuant to this section.

(K) To purchase or lease any secular, neutral, and nonideological computer application software designed to assist students in performing a single task or multiple related tasks, device management software, learning management software, site-licensing, digital video on demand (DVD), wide area connectivity and related technology as it relates to internet access, mathematics or science equipment and materials, instructional materials, and school library materials that are in general use in the public schools of the state and loan such items to pupils attending nonpublic schools within the district or to their parents, and to hire clerical personnel to administer the lending program. Only such items that are incapable of diversion to religious use and that are susceptible of loan to individual pupils and are furnished for the use of individual pupils shall be purchased and loaned under this division. As used in this section, "instructional materials" means prepared learning materials that are secular, neutral, and nonideological in character and are of benefit to the instruction of school children, ~~and may include educational resources and services developed by the eTech Ohio commission.~~

Mobile applications that are secular, neutral, and nonideological in character and that are purchased for less than ten dollars for instructional use shall be considered to be consumable and shall be distributed to students without the expectation that the applications must be returned.

(L) To purchase or lease instructional equipment, including computer hardware and related equipment in general use in the public schools of the state, for use by pupils attending nonpublic schools within the district and to loan such items to pupils attending nonpublic schools within the district or to their parents, and to hire clerical personnel to administer the lending program. "Computer hardware and related equipment" includes desktop computers and workstations; laptop computers, computer tablets, and other mobile handheld devices; and their operating systems and accessories.

(M) To purchase mobile units to be used for the provision of services pursuant to divisions (E), (F), (G), and (I) of this section and to pay for necessary repairs and operating costs associated with these units.

(N) To reimburse costs the district incurred to store the records of a

chartered nonpublic school that closes. Reimbursements under this division shall be made one time only for each chartered nonpublic school that closes.

(O) To purchase life-saving medical or other emergency equipment for placement in nonpublic schools within the district or to maintain such equipment.

Clerical and supervisory personnel hired pursuant to division (J) of this section shall perform their services in the public schools, in nonpublic schools, public centers, or mobile units where the services are provided to the nonpublic school pupil, except that such personnel may accompany pupils to and from the service sites when necessary to ensure the safety of the children receiving the services.

All services provided pursuant to this section may be provided under contract with educational service centers, the department of health, city or general health districts, or private agencies whose personnel are properly licensed by an appropriate state board or agency.

Transportation of pupils provided pursuant to divisions (E), (F), (G), and (I) of this section shall be provided by the school district from its general funds and not from moneys paid to it under division (E) of section 3317.024 of the Revised Code unless a special transportation request is submitted by the parent of the child receiving service pursuant to such divisions. If such an application is presented to the school district, it may pay for the transportation from moneys paid to it under division (E) of section 3317.024 of the Revised Code.

No school district shall provide health or remedial services to nonpublic school pupils as authorized by this section unless such services are available to pupils attending the public schools within the district.

Materials, equipment, computer hardware or software, textbooks, ~~electronic textbooks~~ digital texts, and health and remedial services provided for the benefit of nonpublic school pupils pursuant to this section and the admission of pupils to such nonpublic schools shall be provided without distinction as to race, creed, color, or national origin of such pupils or of their teachers.

No school district shall provide services, materials, or equipment that contain religious content for use in religious courses, devotional exercises, religious training, or any other religious activity.

As used in this section, "parent" includes a person standing in loco parentis to a child.

Notwithstanding section 3317.01 of the Revised Code, payments shall be made under this section to any city, local, or exempted village school district within which is located one or more nonpublic elementary or high

schools and any payments made to school districts under division (E) of section 3317.024 of the Revised Code for purposes of this section may be disbursed without submission to and approval of the controlling board.

The allocation of payments for materials, equipment, textbooks, ~~electronic textbooks~~ digital texts, health services, and remedial services to city, local, and exempted village school districts shall be on the basis of the state board of education's estimated annual average daily membership in nonpublic elementary and high schools located in the district.

Payments made to city, local, and exempted village school districts under this section shall be equal to specific appropriations made for the purpose. All interest earned by a school district on such payments shall be used by the district for the same purposes and in the same manner as the payments may be used.

The department of education shall adopt guidelines and procedures under which such programs and services shall be provided, under which districts shall be reimbursed for administrative costs incurred in providing such programs and services, and under which any unexpended balance of the amounts appropriated by the general assembly to implement this section may be transferred to the auxiliary services personnel unemployment compensation fund established pursuant to section 4141.47 of the Revised Code. The department shall also adopt guidelines and procedures limiting the purchase and loan of the items described in division (K) of this section to items that are in general use in the public schools of the state, that are incapable of diversion to religious use, and that are susceptible to individual use rather than classroom use. Within thirty days after the end of each biennium, each board of education shall remit to the department all moneys paid to it under division (E) of section 3317.024 of the Revised Code and any interest earned on those moneys that are not required to pay expenses incurred under this section during the biennium for which the money was appropriated and during which the interest was earned. If a board of education subsequently determines that the remittal of moneys leaves the board with insufficient money to pay all valid expenses incurred under this section during the biennium for which the remitted money was appropriated, the board may apply to the department of education for a refund of money, not to exceed the amount of the insufficiency. If the department determines the expenses were lawfully incurred and would have been lawful expenditures of the refunded money, it shall certify its determination and the amount of the refund to be made to the director of job and family services who shall make a refund as provided in section 4141.47 of the Revised Code.

Each school district shall label materials, equipment, computer hardware or software, textbooks, and ~~electronic textbooks~~ digital texts purchased or leased for loan to a nonpublic school under this section, acknowledging that they were purchased or leased with state funds under this section. However, a district need not label materials, equipment, computer hardware or software, textbooks, or ~~electronic textbooks~~ digital texts that the district determines are consumable in nature or have a value of less than two hundred dollars.

Sec. 3317.063. The superintendent of public instruction, in accordance with rules adopted by the department of education, shall annually reimburse each chartered nonpublic school for the actual mandated service administrative and clerical costs incurred by such school during the preceding school year in preparing, maintaining, and filing reports, forms, and records, and in providing such other administrative and clerical services that are not an integral part of the teaching process as may be required by state law or rule or by requirements duly promulgated by city, exempted village, or local school districts. The mandated service costs reimbursed pursuant to this section shall include, but are not limited to, the preparation, filing and maintenance of forms, reports, or records and other clerical and administrative services relating to state chartering or approval of the nonpublic school, pupil attendance, pupil health and health testing, transportation of pupils, federally funded education programs, pupil appraisal, pupil progress, educator licensure, unemployment and workers' compensation, transfer of pupils, and such other education related data which are now or hereafter shall be required of such nonpublic school by state law or rule, or by requirements of the state department of education, other state agencies, or city, exempted village, or local school districts.

The reimbursement required by this section shall be for school years beginning on or after July 1, 1981.

Each nonpublic school which seeks reimbursement pursuant to this section shall submit to the superintendent of public instruction an application together with such additional reports and documents as the department of education may require. Such application, reports, and documents shall contain such information as the department of education may prescribe in order to carry out the purposes of this section. No payment shall be made until the superintendent of public instruction has approved such application.

Each nonpublic school which applies for reimbursement pursuant to this section shall maintain a separate account or system of accounts for the expenses incurred in rendering the required services for which

reimbursement is sought. Such accounts shall contain such information as is required by the department of education and shall be maintained in accordance with rules adopted by the department of education.

Reimbursement payments to a nonpublic school pursuant to this section shall not exceed an amount for each school year equal to three hundred ~~twenty-five~~ sixty dollars per pupil enrolled in that nonpublic school.

The superintendent of public instruction may, from time to time, examine any and all accounts and records of a nonpublic school which have been maintained pursuant to this section in support of an application for reimbursement, for the purpose of determining the costs to such school of rendering the services for which reimbursement is sought. If after such audit it is determined that any school has received funds in excess of the actual cost of providing such services, said school shall immediately reimburse the state in such excess amount.

Any payments made to chartered nonpublic schools under this section may be disbursed without submission to and approval of the controlling board.

Sec. 3317.08. A board of education may admit to its schools a child it is not required by section 3313.64 or 3313.65 of the Revised Code to admit, if tuition is paid for the child.

Unless otherwise provided by law, tuition shall be computed in accordance with this section. A district's tuition charge for a school year shall be one of the following:

(A) For any child, except a preschool child with a disability described in division (B) of this section, the quotient obtained by dividing the sum of the amounts described in divisions (A)(1) and (2) of this section by the district's formula ADM.

(1) The district's total taxes charged and payable for current expenses for the tax year preceding the tax year in which the school year begins as certified under division (A)(3) of section 3317.021 of the Revised Code.

(2) The district's total taxes collected for current expenses under a school district income tax adopted pursuant to section 5748.03, 5748.08, or 5748.09 of the Revised Code that are disbursed to the district during the fiscal year, excluding any income tax receipts allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code. On or before the first day of June of each year, the tax commissioner shall certify the amount to be used in the calculation under this division for the next fiscal year to the department of education and the office of budget and management for each city, local, and exempted village school district

that levies a school district income tax.

(B) For any preschool child with a disability ~~not included in a unit approved under division (B) of section 3317.05 of the Revised Code~~, an amount computed for the school year as follows:

(1) For each type of special education service provided to the child for whom tuition is being calculated, determine the amount of the district's operating expenses in providing that type of service to all preschool children with disabilities ~~not included in units approved under division (B) of section 3317.05 of the Revised Code~~;

(2) For each type of special education service for which operating expenses are determined under division (B)(1) of this section, determine the amount of such operating expenses that was paid from any state funds received under this chapter;

(3) For each type of special education service for which operating expenses are determined under division (B)(1) of this section, divide the difference between the amount determined under division (B)(1) of this section and the amount determined under division (B)(2) of this section by the total number of preschool children with disabilities ~~not included in units approved under division (B) of section 3317.05 of the Revised Code~~ who received that type of service;

(4) Determine the sum of the quotients obtained under division (B)(3) of this section for all types of special education services provided to the child for whom tuition is being calculated.

The state board of education shall adopt rules defining the types of special education services and specifying the operating expenses to be used in the computation under this section.

If any child for whom a tuition charge is computed under this section for any school year is enrolled in a district for only part of that school year, the amount of the district's tuition charge for the child for the school year shall be computed in proportion to the number of school days the child is enrolled in the district during the school year.

Except as otherwise provided in division (J) of section 3313.64 of the Revised Code, whenever a district admits a child to its schools for whom tuition computed in accordance with this section is an obligation of another school district, the amount of the tuition shall be certified by the treasurer of the board of education of the district of attendance, to the board of education of the district required to pay tuition for its approval and payment. If agreement as to the amount payable or the district required to pay the tuition cannot be reached, or the board of education of the district required to pay the tuition refuses to pay that amount, the board of education of the district

of attendance shall notify the superintendent of public instruction. The superintendent shall determine the correct amount and the district required to pay the tuition and shall deduct that amount, if any, under division (D) of section 3317.023 of the Revised Code, from the district required to pay the tuition and add that amount to the amount allocated to the district attended under such division. The superintendent of public instruction shall send to the district required to pay the tuition an itemized statement showing such deductions at the time of such deduction.

When a political subdivision owns and operates an airport, welfare, or correctional institution or other project or facility outside its corporate limits, the territory within which the facility is located is exempt from taxation by the school district within which such territory is located, and there are school age children residing within such territory, the political subdivision owning such tax exempt territory shall pay tuition to the district in which such children attend school. The tuition for these children shall be computed as provided for in this section.

Sec. 3317.10. (A) On or before the first day of March of each year, the department of job and family services shall certify to the state board of education the unduplicated number of children ages five through seventeen residing in each school district and living in a family that, during the preceding October, participated in Ohio works first.

The department of job and family services shall certify this information according to the school district of residence for each child. ~~Except as provided under division (B) of this section, the number of children so certified in any year shall be used by the department of education in calculating the distribution of moneys for the ensuing fiscal year as provided in section 3317.029 of the Revised Code.~~

(B) Upon the transfer of part of the territory of one school district to the territory of one or more other school districts, the department of education may adjust the number of children certified under division (A) of this section for any district gaining or losing territory in such a transfer in order to take into account the effect of the transfer on the number of such children who reside in the district. Within sixty days of receipt of a request for information from the department of education, the department of job and family services shall provide any information the department of education determines is necessary to make such adjustments. ~~The department of education may use the adjusted number for any district for the applicable fiscal year, in lieu of the number certified for the district for that fiscal year under division (A) of this section, in the calculation of the distribution of moneys provided in section 3317.029 of the Revised Code.~~

Sec. 3317.14. Any school district board of education or educational service center governing board participating in funds distributed under Chapter 3317. of the Revised Code shall annually adopt a teachers' salary schedule with provision for increments based upon training and years of service. Notwithstanding sections 3317.13 and 3319.088 of the Revised Code, the board may establish its own service requirements and may grant service credit for such activities as teaching in public or nonpublic schools in this state or in another state, for service as an educational assistant other than as a classroom aide employed in accordance with section 5107.541 of the Revised Code, and for service in the military or in an appropriate state or federal governmental agency, provided no teacher receives less than the amount required to be paid pursuant to section 3317.13 of the Revised Code and provided full credit for a minimum of five years of actual teaching and military experience as defined in division (A) of section 3317.13 of the Revised Code is given to each teacher.

~~On the fifteenth day of October of each year, a copy of the salary schedule in effect on that date shall be filed by the board of education of each local school district with the educational service center superintendent, who thereupon shall certify to the treasurer of such local district the correct salary to be paid to each teacher in accordance with the adopted schedule.~~

Each teacher who has completed training which would qualify such teacher for a higher salary bracket pursuant to this section shall file by the fifteenth day of September with the treasurer of the board of education or educational service center satisfactory evidence of the completion of such additional training. The treasurer shall then immediately place the teacher, pursuant to this section and section 3317.13 of the Revised Code, in the proper salary bracket in accordance with training and years of service before certifying such salary, training, and years of service to the superintendent of public instruction. No teacher shall be paid less than the salary to which such teacher is entitled pursuant to section 3317.13 of the Revised Code.

Sec. 3317.141. The board of education of any city, exempted village, local, or joint vocational school district that is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, shall comply with this section in accordance with the timeline contained in the board's scope of work, as approved by the superintendent of public instruction, and shall not be subject to sections 3317.13 and 3317.14 of the Revised Code. The board of education of any other school district, and the governing board of each educational service center, shall comply with either this section or

sections 3317.13 and 3317.14 of the Revised Code.

(A) The board annually shall adopt a salary schedule for teachers based upon performance as described in division (B) of this section.

(B) For purposes of the schedule, a board shall measure a teacher's performance by considering all of the following:

(1) The level of license issued under section 3319.22 of the Revised Code that the teacher holds;

(2) Whether the teacher is a highly qualified teacher, as defined in section 3319.074 of the Revised Code;

(3) Ratings received by the teacher on performance evaluations conducted under section 3319.111 of the Revised Code.

(C) The schedule shall provide for annual adjustments based on performance on the evaluations conducted under section 3319.111 of the Revised Code. The annual performance-based adjustment for a teacher rated as accomplished shall be greater than the annual performance-based adjustment for a teacher rated as ~~proficient~~ skilled.

(D) The salary schedule adopted under this section may provide for additional compensation for teachers who agree to perform duties, not contracted for under a supplemental contract, that the employing board determines warrant additional compensation. Those duties may include, but are not limited to, assignment to a school building eligible for funding under Title I of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6301 et seq.; assignment to a building in "school improvement" status under the "No Child Left Behind Act of 2001," as defined in section 3302.01 of the Revised Code; teaching in a grade level or subject area in which the board has determined there is a shortage within the district or service center; or assignment to a hard-to-staff school, as determined by the board.

Sec. 3317.16. (A) The department of education shall compute and distribute state core foundation funding to each joint vocational school district for the fiscal year as prescribed in the following divisions:

(1) An opportunity grant calculated according to the following formula:

(The formula amount X formula ADM) - (0.0005 X the district's three-year average valuation)

If the result of the calculation for a joint vocational school district under division (A)(1) of this section is less than zero, the joint vocational school district's opportunity grant shall be zero.

(2) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code calculated as the sum of the following:

(a) The district's category one special education ADM X the amount

specified in division (A) of section 3317.013 of the Revised Code X the district's state share percentage;

(b) The district's category two special education ADM X the amount specified in division (B) of section 3317.013 of the Revised Code X the district's state share percentage;

(c) The district's category three special education ADM X the amount specified in division (C) of section 3317.013 of the Revised Code X the district's state share percentage;

(d) The district's category four special education ADM X the amount specified in division (D) of section 3317.013 of the Revised Code X the district's state share percentage;

(e) The district's category five special education ADM X the amount specified in division (E) of section 3317.013 of the Revised Code X the district's state share percentage;

(f) The district's category six special education ADM X the amount specified in division (F) of section 3317.013 of the Revised Code X the district's state share percentage.

(3) Economically disadvantaged funds calculated according to the following formula:

(\$269, in fiscal year 2014, or \$272, in fiscal year 2015) X

(the district's economically disadvantaged index) X the number of students who are economically disadvantaged as reported under division (D)(2)(p) of section 3317.03 of the Revised Code

(4) Limited English proficiency funds calculated as the sum of the following:

(a) The district's category one limited English proficient ADM X the amount specified in division (A) of section 3317.016 of the Revised Code X the district's state share percentage;

(b) The district's category two limited English proficient ADM X the amount specified in division (B) of section 3317.016 of the Revised Code X the district's state share percentage;

(c) The district's category three limited English proficient ADM X the amount specified in division (C) of section 3317.016 of the Revised Code X the district's state share percentage.

(5) Career-technical education funds calculated as the sum of the following:

(a) The district's category one career-technical education ADM X the amount specified in division (A) of section 3317.014 of the Revised Code X the district's state share percentage;

(b) The district's category two career-technical education ADM X the

amount specified in division (B) of section 3317.014 of the Revised Code X the district's state share percentage;

(c) The district's category three career-technical education ADM X the amount specified in division (C) of section 3317.014 of the Revised Code X the district's state share percentage;

(d) The district's category four career-technical education ADM X the amount specified in division (D) of section 3317.014 of the Revised Code X the district's state share percentage;

(e) The district's category five career-technical education ADM X the amount specified in division (E) of section 3317.014 of the Revised Code X the district's state share percentage.

Payment of funds under division (A)(5) of this section is subject to approval under section 3317.161 of the Revised Code.

(6) Career-technical education associated services funds calculated under the following formula:

The district's state share percentage X the
amount for career-technical education associated services specified in
section 3317.014 of the Revised Code X the sum of categories one through
five career-technical
education ADM

(B)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (B) of section 3317.0214 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(a) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(b) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(2) The district shall report under division (B)(1) of this section, and the department shall pay for, only the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(C)(1) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under division (A) of this section.

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:

(a) The formula amount;

(b) The amount specified in section 3317.013 of the Revised Code that is applicable to the student;

(c) Any funds paid under section 3317.0214 for the student.

(2) The board of education of the joint vocational school district may report the excess costs calculated under division (C)(1) of this section to the department of education.

(3) If the board of education of the joint vocational school district reports excess costs under division (C)(2) of this section, the department shall pay the amount of excess cost calculated under division (C)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (C)(3)(a) or (b) of this section, as applicable:

(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division (J) of section 3317.023 of the Revised Code.

(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.

(D)(1) In any fiscal year, a school district receiving funds under division (A)(5) of this section shall spend those funds only for the purposes that the department designates as approved for career-technical education expenses. Career-technical educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (A)(5) of this section may be spent.

(2) All funds received under division (A)(5) of this section shall be spent in the following manner:

(a) At least seventy-five per cent of the funds shall be spent on curriculum development, purchase, and implementation; instructional resources and supplies; industry-based program certification; student assessment, credentialing, and placement; curriculum specific equipment purchases and leases; career-technical student organization fees and expenses; home and agency linkages; work-based learning experiences; professional development; and other costs directly associated with career-technical education programs including development of new programs.

(b) Not more than twenty-five per cent of the funds shall be used for personnel expenditures.

(E) In any fiscal year, a school district receiving funds under division (A)(6) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for career-technical education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other career-technical education services, career-technical evaluation, and other purposes designated by the department. The department may deny payment under division (A)(6) of this section to any district that the department determines is not operating those services or is using funds paid under division (A)(6) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, for other purposes.

(F) A joint vocational school district shall spend the funds it receives under division (A)(3) of this section in accordance with section 3317.25 of the Revised Code.

(G) As used in this section:

(1) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(2) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" is equal to the following:

The amount computed under division (A)(1) of this section /
(the formula amount X formula ADM)

Sec. 3317.161. (A) As used in this section, "lead district" has the same meaning as in section 3317.023 of the Revised Code.

(B)(1) A career-technical education program of a city, local, or exempted village school district, community school, or STEM school shall be subject to approval under this section in order for the district or school to

qualify for state funding for the program. Approval granted under this section shall be valid for the five fiscal years following the fiscal year in which the program is approved and may be renewed. Approval shall be subject to annual review under division (E) of this section.

(2) If a district or school becomes a new member of a career-technical planning district, its career-technical education programs shall be approved or disapproved by the lead district of the career-technical planning district during the fiscal year in which the district or school becomes a member of the career-technical planning district. Any program of the district or school that was approved by the department of education for an approval period that includes the fiscal year in which the district or school becomes a new member of the career-technical planning district shall retain its approved status during that fiscal year.

(3) If an existing member of a career-technical planning district develops a new career-technical education program, that program shall be approved or disapproved by the lead district of the career-technical planning district prior to the first fiscal year for which the district or school is seeking funding for the program.

(4) Except as provided in division (B)(2) of this section, if a career-technical education program was approved by the department prior to the effective date of this section, that approval remains valid for the unexpired remainder of the approval period specified by the department. Approval of that program may then be renewed in accordance with this section on a date prior to the expiration of the approval period.

(C)(1) The lead district of a career-technical planning district shall approve or disapprove for a five-year period each career-technical education program of the city, local, and exempted village school districts, community schools, and STEM schools that are assigned by the department to the career-technical planning district. The lead district's decision to approve or disapprove a program shall be based on requirements for career-technical education programs that are specified in rules adopted by the department. These requirements shall include, but are not limited to, all of the following:

(a) Demand for the career-technical education program by industries in the state;

(b) Quality of the program;

(c) Potential for a student enrolled in the program to receive the training that will qualify the student for industry credentials or post-secondary education;

(d) Admission requirements of the lead district;

(e) Past performance of the district or school that is offering the

program:

(f) Traveling distance;

(g) Sustainability;

(h) Capacity;

(i) Availability of the program within the career-technical planning district;

(j) In the case of a new program, the cost to begin the program.

(2) The lead district shall approve or disapprove each program not later than the first day of March prior to the first fiscal year for which the district or school is seeking funding for the program. If a program is approved, the lead district shall notify the department of its decision. If a program is disapproved, the lead district shall notify the district or school of its decision.

If the lead district disapproves the program or does not take any action to approve or disapprove the program by the first day of March, the district or school may appeal the lead district's decision or failure to take action to the department by the fifteenth day of March.

(D)(1) Upon receiving notification of a lead district's approval of a district's or school's career-technical education program, the department shall review the lead district's decision and determine whether to approve or disapprove the program not later than the fifteenth day of May prior to the first fiscal year for which the district or school is seeking funding for the program. The department shall notify the district or school and the lead district of the district's or school's career-technical planning district of its determination.

(2) Upon receiving an appeal from a district or school of a lead district's disapproval of a career-technical education program or failure to take action to approve or disapprove the program, the department shall review the lead district's disapproval or failure to take action. The department shall decide whether to approve or disapprove the program as a result of this review not later than the fifteenth day of May prior to the first fiscal year for which the district or school is seeking funding for the program. The department shall notify the lead district and the appealing district or school of its determination.

(3) In conducting a review under division (D)(1) or (2) of this section, the department shall consider the criteria prescribed under division (C)(1) of this section.

(4) If the department approves a program under division (D)(1) or (2) of this section, it shall authorize the payment to the district, or the deduction from the state education aid of a district and payment to a community school

or STEM school, of the funds attributed to the career-technical students enrolled in that program in the next fiscal year according to a payment schedule prescribed by the department.

(5) The department's decisions under divisions (D)(1) and (2) of this section shall be final and not appealable.

(E) The department and the lead district of each career-technical planning district shall conduct an annual review of each career-technical education program in the lead district's career-technical planning district that receives approval under this section. Continued funding of the program during the five-year approval period shall be subject to the school's compliance with any directives for performance improvement that are issued by the department or the lead district as a result of any review conducted under this section.

Sec. 3317.18. (A) As used in this section, the terms "Chapter 133. securities," "credit enhancement facilities," "debt charges," "general obligation," "legislation," "public obligations," and "securities" have the same meanings as in section 133.01 of the Revised Code.

(B) The board of education of any school district authorizing the issuance of securities under section 133.10, ~~133.301~~, or 3313.372 of the Revised Code or general obligation Chapter 133. securities may adopt legislation requesting the state department of education to approve, and enter into an agreement with the school district and the primary paying agent or fiscal agent for such securities providing for, the withholding and deposit of funds, otherwise due the district under Chapter 3317. of the Revised Code, for the payment of debt service charges on such securities.

The board of education shall deliver to the state department a copy of such resolution and any additional pertinent information the state department may require.

The department of education and the office of budget and management shall evaluate each request received from a school district under this section and the department, with the advice and consent of the director of budget and management, shall approve or deny each request based on all of the following:

(1) Whether approval of the request will enhance the marketability of the securities for which the request is made;

(2) Any other pertinent factors or limitations established in rules made under division (I) of this section, including:

(a) Current and projected obligations of funds due to the requesting school district under Chapter 3317. of the Revised Code including obligations of those funds to public obligations or relevant credit

enhancement facilities under this section, Chapter 133. and section 3313.483 of the Revised Code, and under any other similar provisions of law;

(b) Whether the department of education or the office of budget and management has any reason to believe the requesting school district will be unable to pay when due the debt charges on the securities for which the request is made.

The department may require a school district to establish schedules for the payment of all debt charges that take into account the amount and timing of anticipated distributions of funds to the district under Chapter 3317. of the Revised Code.

(C) If the department approves the request of a school district to withhold and deposit funds pursuant to this section, the department shall enter into a written agreement with the district and the primary paying agent or fiscal agent for the securities which shall provide for the withholding of funds pursuant to this section for the payment of debt charges on those securities, and may include both of the following:

(1) Provisions for certification by the district to the department, at a time prior to any date for the payment of applicable debt charges, whether the district is able to pay those debt charges when due;

(2) Requirements that the district deposit amounts for the payment of debt charges on the securities with the primary paying agent or fiscal agent for the securities prior to the date on which those debt charge payments are due to the owners or holders of the securities.

(D) Whenever a district notifies the department of education that it will be unable to pay debt charges when they are due, subject to the withholding provisions of this section, or whenever the applicable paying agent or fiscal agent notifies the department that it has not timely received from a school district the full amount needed for the payment when due of those debt charges to the holders or owners of such securities, the department shall immediately contact the school district and the paying agent or fiscal agent to confirm or determine whether the district is unable to make the required payment by the date on which it is due.

Upon demand of the treasurer of state while holding a school district obligation purchased under division (G)(1) of section 135.143 of the Revised Code, the state department of education, without a request of the school district, shall withhold and deposit funds pursuant to this section for payment of debt service charges on that obligation.

If the department confirms or determines that the district will be unable to make such payment and payment will not be made pursuant to a credit enhancement facility, the department shall promptly pay to the applicable

primary paying agent or fiscal agent the lesser of the amount due for debt charges or the amount due the district for the remainder of the fiscal year under Chapter 3317. of the Revised Code. If this amount is insufficient to pay the total amount then due the agent for the payment of debt charges, the department shall pay to the agent each fiscal year thereafter, and until the full amount due the agent for unpaid debt charges is paid in full, the lesser of the remaining amount due the agent for debt charges or the amount due the district for the fiscal year under Chapter 3317. of the Revised Code.

(E) The state department may make any payments under this division by direct deposit of funds by electronic transfer.

Any amount received by a paying agent or fiscal agent under this section shall be applied only to the payment of debt charges on the securities of the school district subject to this section or to the reimbursement to the provider of a credit enhancement facility that has paid such debt charges.

(F) To the extent a school district whose securities are subject to this section is unable to pay applicable debt charges because of the failure to collect property taxes levied for the payment of those debt charges, the district may transfer to or deposit into any fund that would have received payments under Chapter 3317. of the Revised Code that were withheld under this section any such delinquent property taxes when later collected, provided that transfer or deposit shall be limited to the amounts withheld from that fund under this section.

(G) The department may make payments under this section to paying agents or fiscal agents only from and to the extent that money is appropriated by the general assembly for Chapter 3317. of the Revised Code or for the purposes of this section. No securities of a school district to which this section is made applicable constitute an obligation or a debt or a pledge of the faith, credit, or taxing power of the state, and the holders or owners of such securities have no right to have taxes levied or appropriations made by the general assembly for the payment of debt charges on those securities, and those securities, if the department requires, shall contain a statement to that effect. The agreement for or the actual withholding and payment of moneys under this section does not constitute the assumption by the state of any debt of a school district.

(H) In the case of securities subject to the withholding provisions of this section, the issuing board of education shall appoint a paying agent or fiscal agent who is not an officer or employee of the school district.

(I) The department of education, with the advice of the office of budget and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section and division (B) of section

133.25 of the Revised Code as it relates to the withholding and depositing of payments under Chapter 3317. of the Revised Code to secure payment of debt charges on school district securities. Those rules shall include criteria for the evaluation and approval or denial of school district requests for withholding under this section and limits on the obligation for the purpose of paying debt charges or reimbursing credit enhancement facilities of funds otherwise to be paid to school districts under Chapter 3317. of the Revised Code.

(J) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

Sec. 3317.19. ~~(A) As used in this section, "total unit allowance" means an amount equal to the sum of the following:~~

~~(1) The total of the salary allowances for the teachers employed in the cooperative education school district for all units approved under division (B) or (C) of section 3317.05 of the Revised Code. The salary allowance for each unit shall equal the minimum salary for the teacher of the unit calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001.~~

~~(2) Fifteen per cent of the total computed under division (A)(1) of this section;~~

~~(3) The total of the unit operating allowances for all approved units. The amount of each allowance shall equal one of the following:~~

~~(a) Eight thousand twenty three dollars times the number of units for preschool children with disabilities or fraction thereof approved for the year under division (B) of section 3317.05 of the Revised Code;~~

~~(b) Two thousand one hundred thirty two dollars times the number of units or fraction thereof approved for the year under division (C) of section 3317.05 of the Revised Code.~~

~~(B) The state board of education shall compute and distribute to each cooperative education school district for each fiscal year an amount equal to the sum of the following:~~

~~(1)(A) An amount equal to the total of the amounts credited to the cooperative education school district pursuant to division (H) of section 3317.023 of the Revised Code;~~

~~(2) The total unit allowance;~~

~~(3)(B) An amount for assisting in providing free lunches to needy children pursuant to division (D) of section 3317.024 of the Revised Code.~~

~~(C) If a cooperative education school district has had additional special~~

~~education units approved for the year under division (F)(2) of section 3317.03 of the Revised Code, the district shall receive an additional amount during the last half of the fiscal year. For each unit, the additional amount shall equal fifty per cent of the amount computed under division (A) of this section for a unit approved under division (B) of section 3317.05 of the Revised Code.~~

Sec. 3317.20. This section does not apply to preschool children with disabilities.

(A) As used in this section:

(1) "Applicable ~~weight~~ special education amount" means the ~~multiple amount~~ specified in section 3317.013 of the Revised Code for a disability described in that section.

(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) "State share ~~percentage~~ index" means the state share ~~percentage~~ index of the child's school district.

~~(B) Except as provided in division (C) of this section, the~~ The department shall annually pay each county DD board for each child with a disability, other than a preschool child with a disability, for whom the county DD board provides special education and related services an amount equal to the formula amount + (state share ~~percentage~~ index X the applicable ~~weight~~ special education amount).

~~(C) If any school district places with a county DD board more children with disabilities than it had placed with a county DD board in fiscal year 1998, the department shall not make a payment under division (B) of this section for the number of children exceeding the number placed in fiscal year 1998. The department instead shall deduct from the district's payments under this chapter, and pay to the county DD board, an amount calculated in accordance with the formula prescribed in division (B) of this section for each child over the number of children placed in fiscal year 1998.~~

~~(D) The department shall calculate for each county DD board receiving payments under divisions (B) and (C) of this section the following amounts:~~

~~(1) The amount received by the county DD board for approved special education and related services units, other than units for preschool children with disabilities, in fiscal year 1998, divided by the total number of children served in the units that year;~~

~~(2) The product of the quotient calculated under division (D)(1) of this section times the number of children for whom payments are made under divisions (B) and (C) of this section.~~

~~If the amount calculated under division (D)(2) of this section is greater than the total amount calculated under divisions (B) and (C) of this section, the department shall pay the county DD board one hundred per cent of the difference in addition to the payments under divisions (B) and (C) of this section.~~

~~(E)(C)~~ Each county DD board shall report to the department, in the manner specified by the department, the name of each child for whom the county DD board provides special education and related services and the child's school district.

~~(F)(D)(1)~~ For the purpose of verifying the accuracy of the payments under this section, the department may request from either of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any child who is placed with a county DD board:

- (a) The child's school district;
- (b) The independent contractor engaged to create and maintain data verification codes.

(2) Upon a request by the department under division ~~(F)(D)(1)~~ of this section for the data verification code of a child, the child's school district shall submit that code to the department in the manner specified by the department. If the child has not been assigned a code, the district shall assign a code to that child and submit the code to the department by a date specified by the department. If the district does not assign a code to the child by the specified date, the department shall assign a code to the child.

The department annually shall submit to each school district the name and data verification code of each child residing in the district for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division ~~(F)(D)~~ of this section to any person except as provided by law.

~~(G)(E)~~ Any document relative to special education and related services provided by a county DD board that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

Sec. 3317.201. This section does not apply to preschool children with disabilities.

(A) As used in this section, the "total special education ~~weight~~ amount" for an institution means the sum of the following amounts:

- (1) The number of children reported by the institution under division

(G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (A) of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ amount specified in that division;

(2) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (B) of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ amount specified in that division;

(3) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (C) of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ amount specified in that division;

(4) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (D) of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ amount specified in that division;

(5) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (E) of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ amount specified in that division;

(6) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (F) of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ amount specified in that division.

(B) For each fiscal year, the department of education shall pay each state institution required to provide special education services under division (A) of section 3323.091 of the Revised Code an amount equal to the ~~greater of:~~

~~(1) The formula amount times the institution's total special education weight;~~

~~(2) The aggregate amount of special education and related services unit funding the institution received for all children with disabilities other than preschool children with disabilities in fiscal year 2005 under sections 3317.052 and 3317.053 of the Revised Code, as those sections existed prior to June 30, 2005 amount.~~

Sec. 3317.25. (A) As used in this section, "economically disadvantaged funds" means the following:

(1) For a city, local, or exempted village school district, the funds received under division (A)(5) of section 3317.022 of the Revised Code;

(2) For a joint vocational school district, the funds received under division (A)(3) of section 3317.16 of the Revised Code;

(3) For a community school established under Chapter 3314. of the Revised Code, the funds received under division (C)(1)(e) of section 3314.08 of the Revised Code;

(4) For a STEM school established under Chapter 3326. of the Revised Code, the funds received under division (E) of section 3326.33 of the Revised Code.

(B) In any fiscal year, a city, local, exempted village, or joint vocational school district, community school, or STEM school shall spend the economically disadvantaged funds it receives for any of the following initiatives or a combination of any of the following initiatives:

(1) Extended school day and school year;

(2) Reading improvement and intervention;

(3) Instructional technology or blended learning;

(4) Professional development in reading instruction for teachers of students in kindergarten through third grade;

(5) Dropout prevention;

(6) School safety and security measures;

(7) Community learning centers that address barriers to learning;

(8) Academic interventions for students in any of grades six through twelve.

(C) At the end of each fiscal year, each city, local, exempted village, or joint vocational school district, community school, and STEM school shall submit a report to the department of education describing the initiative or initiatives on which the district's or school's economically disadvantaged funds were spent during that fiscal year.

(D) Starting in 2015, the department shall submit a report of the information it receives under division (C) of this section to the General Assembly not later than the first day of December of each odd-numbered year in accordance with section 101.68 of the Revised Code.

Sec. ~~3313.847~~ 3317.30. (A) In the case of a child placed in the custody of a juvenile facility established under section 2151.65 or a detention facility established under section 2152.41 of the Revised Code, if payment for the child's education services shall be administered by one of the following methods:

(1) If the facility educates the child, the facility, or the chartered nonpublic school it operates, may submit its request for payment directly to the school district that is to bear the cost of educating the child, as determined under section 2151.362 of the Revised Code. That district shall pay the facility or the chartered nonpublic school directly for those services.

(2) If the facility contracts directly with a school district in which the

facility is located for services for that child, the school district may submit its request for payment directly to the school district that is to bear the cost of educating the child, as determined under section 2151.362 of the Revised Code. That district shall pay the school district where the facility is located directly for those services.

(3) If that facility contracts directly with an educational service center for services for that child, the service center may submit its request for payment for services for the child directly to the school district that is responsible to bear the cost of educating the child, as determined under section 2151.362 of the Revised Code. That district shall pay the service center directly for those services. ~~Notwithstanding~~

(B) Notwithstanding anything to the contrary in section 3317.03 of the Revised Code, the district that pays a service center, facility or chartered nonpublic school the facility operates, or other school district for services for a particular child under this section shall include that child in the district's average daily membership as reported under division (A) of section 3317.03 of the Revised Code. No other district shall include the child in its average daily membership.

Payments made for a child under this section shall be determined in accordance with division (C)(4) of section 3313.64 of the Revised Code.

Sec. 3317.40. (A) As used in this section, "subgroup" means one of the following subsets of the entire student population of a school district or a school building:

(1) Students with disabilities;

(2) Economically disadvantaged students;

(3) Limited English proficient students;

(4) Students identified as gifted in superior cognitive ability and specific academic ability fields under Chapter 3324. of the Revised Code.

(B) It is the intent of the general assembly that funds provided under this chapter shall be used for the provision of a system of common schools and the advancement of the knowledge of all students. As such, school districts and schools shall be held accountable for those funds to ensure that all students are provided an opportunity to graduate from high school prepared for a career or for post-secondary education.

(C) When funds are provided under this chapter specifically for services for a subgroup of students, the general assembly has determined that these students experience unique challenges requiring additional resources and intends that the funds so provided be used for services that will allow students in those subgroups to master the knowledge base required for high school graduation.

(D) If a district or school fails to show satisfactory achievement and progress, as determined by the state board of education, for any subgroup of students based on performance measures reported or graded under section 3302.03 of the Revised Code, the district or school shall submit an improvement plan to the department for approval. The plan may be included in any other improvement plan required of the district or school under state or federal law. The department may require that a plan required under division (C) of this section include an agreement to partner with another organization that has demonstrated the ability to improve the educational outcome for that subgroup of students to provide services to those students. The partner organization may be another school, district, or other education provider.

Not later than December 31, 2014, the state board of education shall establish measures of satisfactory achievement and progress, which include, but are not limited to, performance measures under section 3302.03 of the Revised Code. The department shall make the initial determination of satisfactory achievement and progress under this section using those measures not later than September 1, 2015, and then make determinations under this section annually thereafter.

The department shall publish a list of schools, school districts, and other educational providers that have demonstrated an ability to serve each subgroup of students.

Sec. 3317.50. The ~~eTech-Ohio~~ telecommunity education fund is hereby created in the state treasury. The fund shall consist of certain excess local exchange telephone company contributions transferred from the reserve fund of the Ohio telecommunications advisory board pursuant to an agreement between the public utilities commission of Ohio and the Ohio department of education. The fund shall be used by the chancellor of the Ohio board of regents, in the amounts appropriated, to finance technology grants to state-chartered elementary and secondary schools. Investment earnings of the fund shall be credited to the fund.

Sec. 3317.51. (A) The distance learning fund is hereby created in the state treasury. The fund shall consist of moneys paid ~~to the eTech-Ohio commission~~ by any telephone company as a part of a settlement agreement between such company and the public utilities commission in fiscal year 1995 in part to establish distance learning throughout the state. The ~~commission~~ chancellor of the Ohio board of regents shall administer the fund and expend moneys from it to finance technology grants to eligible schools chartered by the state board of education to establish distance learning in those schools. Chartered schools are eligible for funds if they are

within the service area of the telephone company. Investment earnings of the fund shall be credited to the fund.

(B) For purposes of this section, "distance learning" means the creation of a learning environment involving a school setting and at least one other location outside of the school which allows for information available at one site to be accessed at the other through the use of such educational applications as one-way or two-way transmission of data, voice, and video, singularly or in appropriate combinations.

Sec. 3318.011. For purposes of providing assistance under sections 3318.01 to 3318.20 of the Revised Code, the department of education shall annually do all of the following:

(A) Calculate the adjusted valuation per pupil of each city, local, and exempted village school district according to the following formula:

$$\text{The district's valuation per pupil -} \\ [\$30,000 \times (1 - \text{the district's income factor})].$$

For purposes of this calculation:

(1) Except for a district with an open enrollment net gain that is ten per cent or more of its formula ADM, "valuation per pupil" for a district means its average taxable value, divided by its formula ADM for the previous fiscal year. "Valuation per pupil," for a district with an open enrollment net gain that is ten per cent or more of its formula ADM, means its average taxable value, divided by the sum of its formula ADM for the previous fiscal year plus its open enrollment net gain for the previous fiscal year.

(2) "Average taxable value" means the average of the sum of the amounts certified for a district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code in the second, third, and fourth preceding fiscal years.

(3) "Entitled to attend school" means entitled to attend school in a city, local, or exempted village school district under section 3313.64 or 3313.65 of the Revised Code.

(4) "Formula ADM" ~~and "income factor" have~~ has the same ~~meanings~~ meaning as in section 3317.02 of the Revised Code.

(5) "Native student" has the same meaning as in section 3313.98 of the Revised Code.

(6) "Open enrollment net gain" for a district means (a) the number of the students entitled to attend school in another district but who are enrolled in the schools of the district under its open enrollment policy minus (b) the number of the district's native students who are enrolled in the schools of another district under the other district's open enrollment policy, both numbers as certified to the department under section 3313.981 of the

Revised Code. If the difference is a negative number, the district's "open enrollment net gain" is zero.

(7) "Open enrollment policy" means an interdistrict open enrollment policy adopted under section 3313.98 of the Revised Code.

(8) "District median income" means the median Ohio adjusted gross income certified for a school district under section 3317.021 of the Revised Code.

(9) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

(10) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

(B) Calculate for each district the three-year average of the adjusted valuations per pupil calculated for the district for the current and two preceding fiscal years;

(C) Rank all such districts in order of adjusted valuation per pupil from the district with the lowest three-year average adjusted valuation per pupil to the district with the highest three-year average adjusted valuation per pupil;

(D) Divide such ranking into percentiles with the first percentile containing the one per cent of school districts having the lowest three-year average adjusted valuations per pupil and the one-hundredth percentile containing the one per cent of school districts having the highest three-year average adjusted valuations per pupil;

(E) Determine the school districts that have three-year average adjusted valuations per pupil that are greater than the median three-year average adjusted valuation per pupil for all school districts in the state;

(F) On or before the first day of September, certify the information described in divisions (A) to (E) of this section to the Ohio school facilities commission.

Sec. 3318.031. (A) The Ohio school facilities commission shall consider student and staff safety and health when reviewing design plans for classroom facility construction projects proposed under this chapter. After consulting with appropriate education, health, and law enforcement personnel, the commission may require as a condition of project approval under either section 3318.03 or division (B)(1) of section 3318.41 of the Revised Code such changes in the design plans as the commission believes will advance or improve student and staff safety and health in the proposed classroom facility.

To carry out its duties under this division, the commission shall review and, if necessary, amend any construction and design standards used in its

project approval process, including standards for location and number of exits, standards for lead safety in classroom facilities constructed before 1978 in which services are provided to children under six years of age, and location of restrooms, with a focus on advancing student and staff safety and health.

(B) When reviewing design standards for classroom facility construction projects proposed under this chapter, the commission shall also consider the extent to which the design standards support the following:

(1) ~~Support and facilitation of smaller classes and the trend toward smaller schools~~ Trends in educational delivery methods, including digital access and blended learning;

(2) Provision of sufficient space for training new teachers and promotion of collaboration among teaching candidates, experienced teachers, and teacher educators;

(3) Provision of adequate space for teacher planning and collaboration;

(4) Provision of adequate space for parent involvement activities;

(5) Provision of sufficient space for innovative partnerships between schools and health and social service agencies.

Sec. 3318.08. Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project. In the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation thereof, as soon as practicable after the execution of the agreement, in an amount equal to the school district's portion of the basic project cost, including any securities authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's

portion of the basic project cost of the project; provided, that if at that time the county treasurer of each county in which the school district is located has not commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, the school district board shall authorize the issuance of a first installment of bond anticipation notes in an amount specified by the agreement, which amount shall not exceed an amount necessary to raise the net bonded indebtedness of the school district as of the date of the controlling board's approval to within five thousand dollars of the required level of indebtedness for the preceding year. In the event that a first installment of bond anticipation notes is issued, the school district board shall, as soon as practicable after the county treasurer of each county in which the school district is located has commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, authorize the issuance of a second and final installment of bond anticipation notes or a first and final issue of bonds.

The combined value of the first and second installment of bond anticipation notes or the value of the first and final issue of bonds shall be equal to the school district's portion of the basic project cost. The proceeds of any such bonds shall be used first to retire any bond anticipation notes. Otherwise, the proceeds of such bonds and of any bond anticipation notes, except the premium and accrued interest thereon, shall be deposited in the school district's project construction fund. In determining the amount of net bonded indebtedness for the purpose of fixing the amount of an issue of either bonds or bond anticipation notes, gross indebtedness shall be reduced by moneys in the bond retirement fund only to the extent of the moneys therein on the first day of the year preceding the year in which the controlling board approved the project. Should there be a decrease in the tax valuation of the school district so that the amount of indebtedness that can be incurred on the tax duplicates for the year in which the controlling board approved the project is less than the amount of the first installment of bond anticipation notes, there shall be paid from the school district's project construction fund to the school district's bond retirement fund to be applied against such notes an amount sufficient to cause the net bonded indebtedness of the school district, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness for the year in which the controlling board approved the project. The maximum amount of indebtedness to be incurred by any school district board as its share of the

cost of the project is either an amount that will cause its net bonded indebtedness, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness, or an amount equal to the required percentage of the basic project costs, whichever is greater. All bonds and bond anticipation notes shall be issued in accordance with Chapter 133. of the Revised Code, and notes may be renewed as provided in section 133.22 of the Revised Code.

(B) The transfer of such funds of the school district board available for the project, together with the proceeds of the sale of the bonds or notes, except premium, accrued interest, and interest included in the amount of the issue, to the school district's project construction fund;

(C) For all school districts except joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the following provisions as applicable:

(1) If section 3318.052 of the Revised Code applies, the earmarking of the proceeds of a tax levied under section 5705.21 of the Revised Code for general permanent improvements or under section 5705.218 of the Revised Code for the purpose of permanent improvements, or the proceeds of a school district income tax levied under Chapter 5748. of the Revised Code, or the proceeds from a combination of those two taxes, in an amount to pay all or part of the service charges on bonds issued to pay the school district portion of the project and an amount equivalent to all or part of the tax required under division (B) of section 3318.05 of the Revised Code;

(2) If section 3318.052 of the Revised Code does not apply, one of the following:

(a) The levy of the tax authorized at the election for the payment of maintenance costs, as specified in division (B) of section 3318.05 of the Revised Code;

(b) If the school district electors have approved a continuing tax for general permanent improvements under section 5705.21 of the Revised Code and that tax can be used for maintenance, the earmarking of an amount of the proceeds from such tax for maintenance of classroom facilities as specified in division (B) of section 3318.05 of the Revised Code;

(c) If, in lieu of the tax otherwise required under division (B) of section 3318.05 of the Revised Code, the commission has approved the transfer of money to the maintenance fund in accordance with section 3318.051 of the Revised Code, a requirement that the district board comply with the provisions of that section. The district board may rescind the provision prescribed under division (C)(2)(c) of this section only so long as the

electors of the district have approved, in accordance with section 3318.063 of the Revised Code, the levy of a tax for the maintenance of the classroom facilities acquired under the district's project and that levy continues to be collected as approved by the electors.

(D) For joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, provision for deposit of school district moneys dedicated to maintenance of the classroom facilities acquired under those sections as prescribed in section 3318.43 of the Revised Code;

(E) Dedication of any local donated contribution as provided for under section 3318.084 of the Revised Code, including a schedule for depositing such moneys applied as an offset of the district's obligation to levy the tax described in division (B) of section 3318.05 of the Revised Code as required under division (D)(2) of section 3318.084 of the Revised Code;

(F) Ownership of or interest in the project during the period of construction, which shall be divided between the commission and the school district board in proportion to their respective contributions to the school district's project construction fund;

(G) Maintenance of the state's interest in the project until any obligations issued for the project under section 3318.26 of the Revised Code are no longer outstanding;

(H) The insurance of the project by the school district from the time there is an insurable interest therein and so long as the state retains any ownership or interest in the project pursuant to division (F) of this section, in such amounts and against such risks as the commission shall require; provided, that the cost of any required insurance until the project is completed shall be a part of the basic project cost;

(I) The certification by the director of budget and management that funds are available and have been set aside to meet the state's share of the basic project cost as approved by the controlling board pursuant to either section 3318.04 or division (B)(1) of section 3318.41 of the Revised Code;

(J) Authorization of the school district board to advertise for and receive construction bids for the project, for and on behalf of the commission, and to award contracts in the name of the state subject to approval by the commission;

(K) Provisions for the disbursement of moneys from the school district's project account upon issuance by the commission or the commission's designated representative of vouchers for work done to be certified to the commission by the treasurer of the school district board;

(L) Disposal of any balance left in the school district's project

construction fund upon completion of the project;

(M) Limitations upon use of the project or any part of it so long as any obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(N) Provision for vesting the state's interest in the project to the school district board when the obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(O) Provision for deposit of an executed copy of the agreement in the office of the commission;

(P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund and if bids for the construction of the project have not been taken within such period after the execution of the agreement as may be fixed by the commission;

(Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission;

(R) Provision that all state funds reserved and encumbered to pay the state share of the cost of the project and the funds provided by the school district to pay for its share of the project cost, including the respective shares of the cost of a segment if the project is divided into segments, be spent on the construction and acquisition of the project or segment simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code or, if the district is a joint vocational school district, under section 3318.42 of the Revised Code. However, if the school district certifies to the commission that expenditure by the school district is necessary to maintain the federal tax status or tax-exempt status of notes or bonds issued by the school district to pay for its share of the project cost or to comply with applicable temporary investment periods or spending exceptions to rebate as provided for under federal law in regard to those notes or bonds, the school district may commit to spend, or spend, a greater portion of the funds it provides during any specific period than would otherwise be required under this division.

(S) A provision stipulating that the commission may prohibit the district from proceeding with any project if the commission determines that the site is not suitable for construction purposes. The commission may perform soil tests in its determination of whether a site is appropriate for construction purposes.

(T) A provision stipulating that, unless otherwise authorized by the

commission, any contingency reserve portion of the construction budget prescribed by the commission shall be used only to pay costs resulting from unforeseen job conditions, to comply with rulings regarding building and other codes, to pay costs related to design clarifications or corrections to contract documents, and to pay the costs of settlements or judgments related to the project as provided under section 3318.086 of the Revised Code;

(U) ~~Provision A~~ provision stipulating that for continued release of project funds the school district board shall comply with ~~section~~ sections 3313.41 and 3313.411 of the Revised Code throughout the project and shall notify the department of education and the Ohio community school association when the board plans to dispose of facilities by sale under that section;

(V) ~~Provision A~~ provision stipulating that the commission shall not approve a contract for demolition of a facility until the school district board has complied with ~~section~~ sections 3313.41 and 3313.411 of the Revised Code relative to that facility, unless demolition of that facility is to clear a site for construction of a replacement facility included in the district's project;

(W) A requirement for the school district to adhere to a facilities maintenance plan approved by the commission.

Sec. 3318.31. (A) The Ohio school facilities commission may perform any act and ensure the performance of any function necessary or appropriate to carry out the purposes of, and exercise the powers granted under, Chapter 3318. of the Revised Code, including any of the following:

(1) Adopt, amend, and rescind, pursuant to section 111.15 of the Revised Code, rules for the administration of programs authorized under Chapter 3318. of the Revised Code.

(2) Contract with, retain the services of, or designate, and fix the compensation of, such agents, accountants, consultants, advisers, and other independent contractors as may be necessary or desirable to carry out the programs authorized under Chapter 3318. of the Revised Code, or authorize the executive director to perform such powers and duties.

(3) Receive and accept any gifts, grants, donations, and pledges, and receipts therefrom, to be used for the programs authorized under Chapter 3318. of the Revised Code.

(4) Make and enter into all contracts, commitments, and agreements, and execute all instruments, necessary or incidental to the performance of its duties and the execution of its rights and powers under Chapter 3318. of the Revised Code, or authorize the executive director or the Ohio facilities construction commission to perform such powers and duties.

(5) Request the Ohio facilities construction commission to debar a contractor as provided in section 153.02 of the Revised Code.

(B) ~~The Ohio school facilities commission shall appoint and fix the compensation of an~~ executive director ~~who~~ of the Ohio facilities construction commission, as appointed under division (B) of section 123.21 of the Revised Code, shall ~~also serve at the pleasure of~~ as the executive director for the Ohio school facilities commission. The executive director shall exercise all powers that the Ohio school facilities commission possesses, supervise the operations of the Ohio school facilities commission and perform such other duties as delegated by the Ohio school facilities commission. The executive director also shall employ and fix the compensation of such employees as will facilitate the activities and purposes of the Ohio school facilities commission, who shall serve at the pleasure of the executive director. The employees of the Ohio school facilities commission shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code. Any agreement entered into prior to July 1, 2012, between the office of collective bargaining and the exclusive representative for employees of the commission is binding and shall continue to have effect.

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

Sec. 3318.36. (A)(1) As used in this section:

(a) "Ohio school facilities commission," "classroom facilities," "school district," "school district board," "net bonded indebtedness," "required percentage of the basic project costs," "basic project cost," "valuation," and "percentile" have the same meanings as in section 3318.01 of the Revised Code.

(b) "Required level of indebtedness" means five per cent of the school district's valuation for the year preceding the year in which the commission and school district enter into an agreement under division (B) of this section, plus [two one-hundredths of one per cent multiplied by (the percentile in which the district ranks minus one)].

(c) "Local resources" means any moneys generated in any manner permitted for a school district board to raise the school district portion of a project undertaken with assistance under sections 3318.01 to 3318.20 of the Revised Code.

(d) "Tangible personal property phase-out impacted district" means a school district for which the taxable value of its tangible personal property

certified under division (A)(2) of section 3317.021 of the Revised Code for tax year 2005, excluding the taxable value of public utility personal property, made up eighteen per cent or more of its total taxable value for tax year 2005 as certified under that section.

(2) For purposes of determining the required level of indebtedness, the required percentage of the basic project costs under division (C)(1) of this section, and priority for assistance under sections 3318.01 to 3318.20 of the Revised Code, the percentile ranking of a school district with which the commission has entered into an agreement under this section between the first day of July and the thirty-first day of August in each fiscal year is the percentile ranking calculated for that district for the immediately preceding fiscal year, and the percentile ranking of a school district with which the commission has entered into such agreement between the first day of September and the thirtieth day of June in each fiscal year is the percentile ranking calculated for that district for the current fiscal year. However, in the case of a tangible personal property phase-out impacted district, the district's priority for assistance under sections 3318.01 to 3318.20 of the Revised Code and its portion of the basic project cost under those sections shall be determined in the manner prescribed, respectively, in divisions (B)(3)(b) and (E)(1)(b) of this section.

(B)(1) There is hereby established the school building assistance expedited local partnership program. Under the program, the Ohio school facilities commission may enter into an agreement with the board of any school district under which the board may proceed with the new construction or major repairs of a part of the district's classroom facilities needs, as determined under sections 3318.01 to 3318.20 of the Revised Code, through the expenditure of local resources prior to the school district's eligibility for state assistance under those sections, and may apply that expenditure toward meeting the school district's portion of the basic project cost of the total of the district's classroom facilities needs, as recalculated under division (E) of this section, when the district becomes eligible for state assistance under sections 3318.01 to 3318.20 or section 3318.364 of the Revised Code. Any school district that is reasonably expected to receive assistance under sections 3318.01 to 3318.20 of the Revised Code within two fiscal years from the date the school district adopts its resolution under division (B) of this section shall not be eligible to participate in the program established under this section.

(2) To participate in the program, a school district board shall first adopt a resolution certifying to the commission the board's intent to participate in the program.

The resolution shall specify the approximate date that the board intends to seek elector approval of any bond or tax measures or to apply other local resources to use to pay the cost of classroom facilities to be constructed under this section. The resolution may specify the application of local resources or elector-approved bond or tax measures after the resolution is adopted by the board, and in such case the board may proceed with a discrete portion of its project under this section as soon as the commission and the controlling board have approved the basic project cost of the district's classroom facilities needs as specified in division (D) of this section. The board shall submit its resolution to the commission not later than ten days after the date the resolution is adopted by the board.

The commission shall not consider any resolution that is submitted pursuant to division (B)(2) of this section, as amended by this amendment, sooner than September 14, 2000.

(3) For purposes of determining when a district that enters into an agreement under this section becomes eligible for assistance under sections 3318.01 to 3318.20 of the Revised Code or priority for assistance under section 3318.364 of the Revised Code, the commission shall use one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the district's percentile ranking determined at the time the district entered into the agreement under this section, as prescribed by division (A)(2) of this section;

(b) For a tangible personal property phase-out impacted district, the lesser of (i) the district's percentile ranking determined at the time the district entered into the agreement under this section, as prescribed by division (A)(2) of this section, or (ii) the district's current percentile ranking under section 3318.011 of the Revised Code.

(4) Any project under this section shall comply with section 3318.03 of the Revised Code and with any specifications for plans and materials for classroom facilities adopted by the commission under section 3318.04 of the Revised Code.

(5) If a school district that enters into an agreement under this section has not begun a project applying local resources as provided for under that agreement at the time the district is notified by the commission that it is eligible to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code, all assessment and agreement documents entered into under this section are void.

(6) Only construction of or repairs to classroom facilities that have been approved by the commission and have been therefore included as part of a

district's basic project cost qualify for application of local resources under this section.

(C) Based on the results of on-site visits and assessment, the commission shall determine the basic project cost of the school district's classroom facilities needs. The commission shall determine the school district's portion of such basic project cost, which shall be the greater of:

(1) The required percentage of the basic project costs, determined based on the school district's percentile ranking;

(2) An amount necessary to raise the school district's net bonded indebtedness, as of the fiscal year the commission and the school district enter into the agreement under division (B) of this section, to within five thousand dollars of the required level of indebtedness.

(D)(1) When the commission determines the basic project cost of the classroom facilities needs of a school district and the school district's portion of that basic project cost under division (C) of this section, the project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval thereof. The controlling board shall forthwith approve or reject the commission's determination, conditional approval, and the amount of the state's portion of the basic project cost; however, no state funds shall be encumbered under this section. Upon approval by the controlling board, the school district board may identify a discrete part of its classroom facilities needs, which shall include only new construction of or additions or major repairs to a particular building, to address with local resources. Upon identifying a part of the school district's basic project cost to address with local resources, the school district board may allocate any available school district moneys to pay the cost of that identified part, including the proceeds of an issuance of bonds if approved by the electors of the school district.

All local resources utilized under this division shall first be deposited in the project construction account required under section 3318.08 of the Revised Code.

(2) Unless the school district board exercises its option under division (D)(3) of this section, for a school district to qualify for participation in the program authorized under this section, one of the following conditions shall be satisfied:

(a) The electors of the school district by a majority vote shall approve the levy of taxes outside the ten-mill limitation for a period of twenty-three years at the rate of not less than one-half mill for each dollar of valuation to be used to pay the cost of maintaining the classroom facilities included in the basic project cost as determined by the commission. The form of the

ballot to be used to submit the question whether to approve the tax required under this division to the electors of the school district shall be the form for an additional levy of taxes prescribed in section 3318.361 of the Revised Code, which may be combined in a single ballot question with the questions prescribed under section 5705.218 of the Revised Code.

(b) As authorized under division (C) of section 3318.05 of the Revised Code, the school district board shall earmark from the proceeds of a permanent improvement tax levied under section 5705.21 of the Revised Code, an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(c) As authorized under section 3318.051 of the Revised Code, the school district board shall, if approved by the commission, annually transfer into the maintenance fund required under section 3318.05 of the Revised Code the amount prescribed in section 3318.051 of the Revised Code in lieu of the tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(d) If the school district board has rescinded the agreement to make transfers under section 3318.051 of the Revised Code, as provided under division (F) of that section, the electors of the school district, in accordance with section 3318.063 of the Revised Code, first shall approve the levy of taxes outside the ten-mill limitation for the period specified in that section at a rate of not less than one-half mill for each dollar of valuation.

(e) The school district board shall apply the proceeds of a tax to leverage bonds as authorized under section 3318.052 of the Revised Code or dedicate a local donated contribution in the manner described in division (B) of section 3318.084 of the Revised Code in an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(3) A school district board may opt to delay taking any of the actions described in division (D)(2) of this section until the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code. In order to exercise this option, the board shall certify to the commission a resolution indicating the board's intent to do so prior to entering into an agreement under division (B) of this section.

(4) If pursuant to division (D)(3) of this section a district board opts to delay levying an additional tax until the district becomes eligible for state assistance, it shall submit the question of levying that tax to the district

electors as follows:

(a) In accordance with section 3318.06 of the Revised Code if it will also be necessary pursuant to division (E) of this section to submit a proposal for approval of a bond issue;

(b) In accordance with section 3318.361 of the Revised Code if it is not necessary to also submit a proposal for approval of a bond issue pursuant to division (E) of this section.

(5) No state assistance under sections 3318.01 to 3318.20 of the Revised Code shall be released until a school district board that adopts and certifies a resolution under division (D) of this section also demonstrates to the satisfaction of the commission compliance with the provisions of division (D)(2) of this section.

Any amount required for maintenance under division (D)(2) of this section shall be deposited into a separate fund as specified in division (B) of section 3318.05 of the Revised Code.

(E)(1) If the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code based on its percentile ranking under division (B)(3) of this section or is offered assistance under section 3318.364 of the Revised Code, the commission shall conduct a new assessment of the school district's classroom facilities needs and shall recalculate the basic project cost based on this new assessment. The basic project cost recalculated under this division shall include the amount of expenditures made by the school district board under division (D)(1) of this section. The commission shall then recalculate the school district's portion of the new basic project cost, which shall be one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the percentage of the original basic project cost assigned to the school district as its portion under division (C) of this section;

(b) For a tangible personal property phase-out impacted district, the lesser of (i) the percentage of the original basic project cost assigned to the school district as its portion under division (C) of this section, or (ii) the percentage of the new basic project cost determined under section 3318.032 of the Revised Code using the district's current percentile ranking under section 3318.011 of the Revised Code. The

The commission shall deduct the expenditure of school district moneys made under division (D)(1) of this section from the school district's portion of the basic project cost as recalculated under this division. If the amount of school district resources applied by the school district board to the school district's portion of the basic project cost under this section is less than the

total amount of such portion as recalculated under this division, the school district board by a majority vote of all of its members shall, if it desires to seek state assistance under sections 3318.01 to 3318.20 of the Revised Code, adopt a resolution as specified in section 3318.06 of the Revised Code to submit to the electors of the school district the question of approval of a bond issue in order to pay any additional amount of school district portion required for state assistance. Any tax levy approved under division (D) of this section satisfies the requirements to levy the additional tax under section 3318.06 of the Revised Code.

(2) If the amount of school district resources applied by the school district board to the school district's portion of the basic project cost under this section is more than the total amount of such portion as recalculated under ~~this division (E)(1) of this section~~, within one year after the school district's portion is so recalculated under division (E)(1) of this section the commission may grant to the school district the difference between the two calculated portions, but at no time shall the commission expend any state funds on a project in an amount greater than the state's portion of the basic project cost as recalculated under ~~this division (E)(1) of this section~~.

Any reimbursement under this division shall be only for local resources the school district has applied toward construction cost expenditures for the classroom facilities approved by the commission, which shall not include any financing costs associated with that construction.

The school district board shall use any moneys reimbursed to the district under this division to pay off any debt service the district owes for classroom facilities constructed under its project under this section before such moneys are applied to any other purpose. However, the district board first may deposit moneys reimbursed under this division into the district's general fund or a permanent improvement fund to replace local resources the district withdrew from those funds, as long as, and to the extent that, those local resources were used by the district for constructing classroom facilities included in the district's basic project cost.

(3) A tangible personal property phase-out impacted district shall receive credit under division (E) of this section for the expenditure of local resources pursuant to any prior agreement authorized by this section, notwithstanding any recalculation of its average taxable value.

Sec. 3318.363. (A) This section applies beginning in fiscal year 2003 and only to a school district participating in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code.

(B) If there is a decrease in the tax valuation of a school district to

which this section applies by ten per cent or greater from one tax year to the next due to a decrease in the assessment rate of the taxable property of an electric company that owns property in the district, as provided for in section 5727.111 of the Revised Code as amended by Am. Sub. S.B. 3 of the 123rd General Assembly, the Ohio school facilities commission shall calculate or recalculate the state and school district portions of the basic project cost of the school district's project by determining the percentile rank in which the district would be located if such ranking were made using the adjusted valuation per pupil calculated under division (C) of this section rather than the three-year average adjusted valuation per pupil, calculated under division (B) of section 3318.011 of the Revised Code. For such district, the required percentage of the basic project cost used to determine the state and school district shares of that cost under division (C) of section 3318.36 of the Revised Code shall be based on the percentile rank as calculated under this section rather than as otherwise provided in division (C)(1) of section 3318.36 of the Revised Code. If the commission has determined the state and school district portion of the basic project cost of such a district's project under section 3318.36 of the Revised Code prior to that decrease in tax valuation, the commission shall adjust the state and school district shares of the basic project cost of such project in accordance with this section.

(C)(1) As used in divisions (C) and (D) of this section, "total taxable value," and "formula ADM," and "~~income factor~~" have the same meanings as in section 3317.02 of the Revised Code, and "income factor" has the same meaning as in section 3318.011 of the Revised Code.

(2) The adjusted valuation per pupil for a school district to which this section applies shall be calculated using the following formula:

(The district's total taxable value for the tax year preceding the calendar year in which the current fiscal year begins / the district's formula ADM for the previous fiscal year) - [\$30,000 x (1 - the district's income factor)].

(D) At the request of the Ohio school facilities commission, the department of education shall report a district's total taxable value for the tax year preceding the calendar year in which the current fiscal year begins for any district to which this section applies as that information has been certified to the department by the tax commissioner pursuant to section 3317.021 of the Revised Code.

Sec. 3319.031. Notwithstanding any provision of the Revised Code to the contrary, if the board of education of a city, local, or exempted village school district does not appoint a business manager under section 3319.03 of the Revised Code, the board may assign powers and duties specified in

section 3319.04 of the Revised Code to one or more employees or officers of the board, including the treasurer, and may give the employees or officers any title recognizing the assignment of the powers and duties. The prohibition, in section 3319.04 of the Revised Code, against a business manager having possession of moneys does not prevent a board from assigning powers and duties specified in that section to the treasurer and does not prevent a treasurer who is assigned those powers and duties from exercising the powers and duties of treasurer. If the board assigns the duties of a business manager under section 3319.04 of the Revised Code to the treasurer, the treasurer shall not have the authority to make recommendations to appoint or discharge noneducational employees, except as provided under section 3313.31 of the Revised Code. Instead, the district superintendent shall be responsible for making recommendations, subject to confirmation by the board, for the appointment or discharge of noneducational employees.

Sec. 3319.07. (A) The board of education of each city, exempted village, local, and joint vocational school district shall employ the teachers of the public schools of their respective districts.

The governing board of each educational service center may employ special instruction teachers, special education teachers, and teachers of academic courses in which there are too few students in each of the school districts entering into agreements pursuant to section 3313.843 of the Revised Code to warrant each district's employing teachers for those courses.

When any board makes appointments of teachers, the teachers in the employ of the board shall be considered before new teachers are chosen in their stead. In all school districts and in service centers, no teacher shall be employed unless such person is nominated by the superintendent of such district or center, or by another individual designated by the board in the event that the superintendent's nomination would be a violation of section 2921.42 of the Revised Code. Such board, by a three-fourths vote of its full membership, may re-employ any teacher whom the superintendent refuses to appoint.

(B) The board of education of any school district may contract with the governing board of the educational service center from which it otherwise receives services to conduct searches and recruitment of candidates for teacher positions.

Sec. 3319.073. (A) The board of education of each city and exempted village school district and the governing board of each educational service center shall adopt or adapt the curriculum developed by the department of

education for, or shall develop in consultation with public or private agencies or persons involved in child abuse prevention or intervention programs, a program of in-service training in the prevention of child abuse, violence, and substance abuse and the promotion of positive youth development. Each person employed by any school district or service center to work in a school as a nurse, teacher, counselor, school psychologist, or administrator shall complete at least four hours of the in-service training within two years of commencing employment with the district or center, and every five years thereafter. A person who is employed by any school district or service center to work in an elementary school as a nurse, teacher, counselor, school psychologist, or administrator on March 30, 2007, shall complete at least four hours of the in-service training not later than March 30, 2009, and every five years thereafter. A person who is employed by any school district or service center to work in a middle or high school as a nurse, teacher, counselor, school psychologist, or administrator on October 16, 2009, shall complete at least four hours of the in-service training not later than October 16, 2011, and every five years thereafter.

(B) Each board shall incorporate training in school safety and violence prevention, including human trafficking content, into the in-service training required by division (A) of this section. For this purpose, the board shall adopt or adapt the curriculum developed by the department or shall develop its own curriculum in consultation with public or private agencies or persons involved in school safety and violence prevention programs.

(C) Each board shall incorporate training on the board's harassment, intimidation, or bullying policy adopted under section 3313.666 of the Revised Code into the in-service training required by division (A) of this section. Each board also shall incorporate training in the prevention of dating violence into the in-service training required by that division for middle and high school employees. The board shall develop its own curricula for these purposes.

(D) Each board shall incorporate training in youth suicide awareness and prevention into the in-service training required by division (A) of this section for each person employed by a school district or service center to work in a school as a nurse, teacher, counselor, school psychologist, or administrator, and any other personnel that the board determines appropriate. For this purpose, the board shall adopt or adapt the curriculum developed by the department or shall develop its own curriculum in consultation with public or private agencies or persons involved in youth suicide awareness and prevention programs.

The training completed under this division shall count toward the

satisfaction of requirements for professional development required by the school district or service center board, and the training may be accomplished through self-review of suitable suicide prevention materials approved by the board.

Sec. 3319.112. (A) Not later than December 31, 2011, the state board of education shall develop a standards-based state framework for the evaluation of teachers. The state board may update the framework periodically by adoption of a resolution. The framework shall establish an evaluation system that does the following:

(1) Provides for multiple evaluation factors. One factor shall be student academic growth which shall account for fifty per cent of each evaluation. When applicable to the grade level or subject area taught by a teacher, the value-added progress dimension established under section 3302.021 of the Revised Code or an alternative student academic progress measure if adopted under division (C)(1)(e) of section 3302.03 of the Revised Code shall be used in the student academic growth portion of an evaluation in proportion to the part of a teacher's schedule of courses or subjects for which the value-added progress dimension is applicable.

If a teacher's schedule is comprised only of courses or subjects for which the value-added progress dimension is applicable, one of the following applies:

(a) Beginning with ~~the effective date of this amendment~~ March 22, 2013, until June 30, 2014, the majority of the student academic growth factor of the evaluation shall be based on the value-added progress dimension.

(b) On or after July 1, 2014, the entire student academic growth factor of the evaluation shall be based on the value-added progress dimension. In calculating student academic growth for an evaluation, a student shall not be included if the student has ~~sixty~~ forty-five or more excused or unexcused absences ~~for the school~~ during the full academic year.

(2) Is aligned with the standards for teachers adopted under section 3319.61 of the Revised Code;

(3) Requires observation of the teacher being evaluated, including at least two formal observations by the evaluator of at least thirty minutes each and classroom walkthroughs;

(4) Assigns a rating on each evaluation in accordance with division (B) of this section;

(5) Requires each teacher to be provided with a written report of the results of the teacher's evaluation;

(6) Identifies measures of student academic growth for grade levels and

subjects for which the value-added progress dimension prescribed by section 3302.021 of the Revised Code or an alternative student academic progress measure if adopted under division (C)(1)(e) of section 3302.03 of the Revised Code does not apply;

(7) Implements a classroom-level, value-added program developed by a nonprofit organization described in division (B) of section 3302.021 of the Revised Code or an alternative student academic progress measure if adopted under division (C)(1)(e) of section 3302.03 of the Revised Code;

(8) Provides for professional development to accelerate and continue teacher growth and provide support to poorly performing teachers;

(9) Provides for the allocation of financial resources to support professional development.

(B) For purposes of the framework developed under this section, the state board also shall do the following:

(1) Develop specific standards and criteria that distinguish between the following levels of performance for teachers and principals for the purpose of assigning ratings on the evaluations conducted under sections 3311.80, 3311.84, 3319.02, and 3319.111 of the Revised Code:

- (a) Accomplished;
- (b) ~~Proficient~~ Skilled;
- (c) Developing;
- (d) Ineffective.

(2) For grade levels and subjects for which the assessments prescribed under sections 3301.0710 and 3301.0712 of the Revised Code and the value-added progress dimension prescribed by section 3302.021 of the Revised Code, or alternative student academic progress measure, do not apply, develop a list of student assessments that measure mastery of the course content for the appropriate grade level, which may include nationally normed standardized assessments, industry certification examinations, or end-of-course examinations.

(C) The state board shall consult with experts, teachers and principals employed in public schools, and representatives of stakeholder groups in developing the standards and criteria required by division (B)(1) of this section.

(D) To assist school districts in developing evaluation policies under sections 3311.80, 3311.84, 3319.02, and 3319.111 of the Revised Code, the department shall do both of the following:

(1) Serve as a clearinghouse of promising evaluation procedures and evaluation models that districts may use;

(2) Provide technical assistance to districts in creating evaluation

policies.

(E) Not later than June 30, 2013, the state board, in consultation with state agencies that employ teachers, shall develop a standards-based framework for the evaluation of teachers employed by those agencies. Each state agency that employs teachers shall adopt a standards-based teacher evaluation policy that conforms with the framework developed under this division. The policy shall become operative at the expiration of any collective bargaining agreement covering teachers employed by the agency that is in effect on September 24, 2012, and shall be included in any renewal or extension of such an agreement. However, this division does not apply to any person who is employed as a substitute teacher or as an instructor of adult education.

Sec. 3319.17. (A) As used in this section, "interdistrict contract" means any contract or agreement entered into by an educational service center governing board and another board or other public entity pursuant to section 3313.17, 3313.841, 3313.842, 3313.843, 3313.844, 3313.845, 3313.91, or 3323.08 of the Revised Code, including any such contract or agreement for the provision of services funded under division (E) of section 3317.024 of the Revised Code ~~or provided in any unit approved under section 3317.05 of the Revised Code.~~

(B) When, for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including suspension of schools, territorial changes affecting the district or center, or financial reasons;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of

these interdistrict contracts.

(C) In making any such reduction, any city, exempted village, local, or joint vocational school board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference to teachers on continuing contracts. The board shall not give preference to any teacher based on seniority, except when making a decision between teachers who have comparable evaluations.

On a case-by-case basis, in lieu of suspending a contract in whole, a board may suspend a contract in part, so that an individual is required to work a percentage of the time the employee otherwise is required to work under the contract and receives a commensurate percentage of the full compensation the employee otherwise would receive under the contract.

The teachers whose continuing contracts are suspended by any board pursuant to this section shall have the right of restoration to continuing service status by that board if and when teaching positions become vacant or are created for which any of such teachers are or become qualified. No teacher whose continuing contract has been suspended pursuant to this section shall lose that right of restoration to continuing service status by reason of having declined recall to a position that is less than full-time or, if the teacher was not employed full-time just prior to suspension of the teacher's continuing contract, to a position requiring a lesser percentage of full-time employment than the position the teacher last held while employed in the district or service center. Seniority shall not be the basis for rehiring a teacher, except when making a decision between teachers who have comparable evaluations.

(D) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code:

(1) The requirements of this section, as it existed prior to ~~the effective date of this amendment~~ September 29, 2011, prevail over any conflicting provisions of agreements between employee organizations and public employers entered into between September 29, 2005, and ~~that effective date~~ September 29, 2011;

(2) The requirements of this section, as it exists on and after ~~the effective date of this amendment~~ September 29, 2011, prevail over any conflicting provisions of agreements between employee organizations and public employers entered into on or after ~~that effective date~~ September 29, 2011.

Sec. 3319.22. (A)(1) The state board of education shall issue the following educator licenses:

(a) A resident educator license, which shall be valid for four years, except that the state board, on a case-by-case basis, may extend the license's duration as necessary to enable the license holder to complete the Ohio teacher residency program established under section 3319.223 of the Revised Code;

(b) A professional educator license, which shall be valid for five years and shall be renewable;

(c) A senior professional educator license, which shall be valid for five years and shall be renewable;

(d) A lead professional educator license, which shall be valid for five years and shall be renewable.

(2) The state board may issue any additional educator licenses of categories, types, and levels the board elects to provide.

(3) The state board shall adopt rules establishing the standards and requirements for obtaining each educator license issued under this section.

(B) The rules adopted under this section shall require at least the following standards and qualifications for the educator licenses described in division (A)(1) of this section:

(1) An applicant for a resident educator license shall hold at least a bachelor's degree from an accredited teacher preparation program or be a participant in the teach for America program and meet the qualifications required under section 3319.227 of the Revised Code.

(2) An applicant for a professional educator license shall:

(a) Hold at least a bachelor's degree from an institution of higher education accredited by a regional accrediting organization;

(b) Have successfully completed the Ohio teacher residency program established under section 3319.223 of the Revised Code, if the applicant's current or most recently issued license is a resident educator license issued under this section or an alternative resident educator license issued under section 3319.26 of the Revised Code.

(3) An applicant for a senior professional educator license shall:

(a) Hold at least a master's degree from an institution of higher education accredited by a regional accrediting organization;

(b) Have previously held a professional educator license issued under this section or section 3319.222 or under former section 3319.22 of the Revised Code;

(c) Meet the criteria for the accomplished or distinguished level of performance, as described in the standards for teachers adopted by the state board under section 3319.61 of the Revised Code.

(4) An applicant for a lead professional educator license shall:

(a) Hold at least a master's degree from an institution of higher education accredited by a regional accrediting organization;

(b) Have previously held a professional educator license or a senior professional educator license issued under this section or a professional educator license issued under section 3319.222 or former section 3319.22 of the Revised Code;

(c) Meet the criteria for the distinguished level of performance, as described in the standards for teachers adopted by the state board under section 3319.61 of the Revised Code;

(d) Either hold a valid certificate issued by the national board for professional teaching standards or meet the criteria for a master teacher or other criteria for a lead teacher adopted by the educator standards board under division (F)(4) or (5) of section 3319.61 of the Revised Code.

(C) The state board shall align the standards and qualifications for obtaining a principal license with the standards for principals adopted by the state board under section 3319.61 of the Revised Code.

(D) If the state board requires any examinations for educator licensure, the department of education shall provide the results of such examinations received by the department to the chancellor of the Ohio board of regents, in the manner and to the extent permitted by state and federal law.

(E) Any rules the state board of education adopts, amends, or rescinds for educator licenses under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows:

(1) Notwithstanding division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, in the case of the adoption of any rule or the amendment or rescission of any rule that necessitates institutions' offering preparation programs for educators and other school personnel that are approved by the chancellor of the Ohio board of regents under section 3333.048 of the Revised Code to revise the curriculum of those programs, the effective date shall not be as prescribed in division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code. Instead, the effective date of such rules, or the amendment or rescission of such rules, shall be the date prescribed by section 3333.048 of the Revised Code.

(2) Notwithstanding the authority to adopt, amend, or rescind emergency rules in division (F) of section 119.03 of the Revised Code, this authority shall not apply to the state board of education with regard to rules for educator licenses.

(F)(1) The rules adopted under this section establishing standards requiring additional coursework for the renewal of any educator license

shall require a school district and a chartered nonpublic school to establish local professional development committees. In a nonpublic school, the chief administrative officer shall establish the committees in any manner acceptable to such officer. The committees established under this division shall determine whether coursework that a district or chartered nonpublic school teacher proposes to complete meets the requirement of the rules. The department of education shall provide technical assistance and support to committees as the committees incorporate the professional development standards adopted by the state board of education pursuant to section 3319.61 of the Revised Code into their review of coursework that is appropriate for license renewal. The rules shall establish a procedure by which a teacher may appeal the decision of a local professional development committee.

(2) In any school district in which there is no exclusive representative established under Chapter 4117. of the Revised Code, the professional development committees shall be established as described in division (F)(2) of this section.

Not later than the effective date of the rules adopted under this section, the board of education of each school district shall establish the structure for one or more local professional development committees to be operated by such school district. The committee structure so established by a district board shall remain in effect unless within thirty days prior to an anniversary of the date upon which the current committee structure was established, the board provides notice to all affected district employees that the committee structure is to be modified. Professional development committees may have a district-level or building-level scope of operations, and may be established with regard to particular grade or age levels for which an educator license is designated.

Each professional development committee shall consist of at least three classroom teachers employed by the district, one principal employed by the district, and one other employee of the district appointed by the district superintendent. For committees with a building-level scope, the teacher and principal members shall be assigned to that building, and the teacher members shall be elected by majority vote of the classroom teachers assigned to that building. For committees with a district-level scope, the teacher members shall be elected by majority vote of the classroom teachers of the district, and the principal member shall be elected by a majority vote of the principals of the district, unless there are two or fewer principals employed by the district, in which case the one or two principals employed shall serve on the committee. If a committee has a particular grade or age

level scope, the teacher members shall be licensed to teach such grade or age levels, and shall be elected by majority vote of the classroom teachers holding such a license and the principal shall be elected by all principals serving in buildings where any such teachers serve. The district superintendent shall appoint a replacement to fill any vacancy that occurs on a professional development committee, except in the case of vacancies among the elected classroom teacher members, which shall be filled by vote of the remaining members of the committee so selected.

Terms of office on professional development committees shall be prescribed by the district board establishing the committees. The conduct of elections for members of professional development committees shall be prescribed by the district board establishing the committees. A professional development committee may include additional members, except that the majority of members on each such committee shall be classroom teachers employed by the district. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which a predecessor was appointed shall hold office as a member for the remainder of that term.

The initial meeting of any professional development committee, upon election and appointment of all committee members, shall be called by a member designated by the district superintendent. At this initial meeting, the committee shall select a chairperson and such other officers the committee deems necessary, and shall adopt rules for the conduct of its meetings. Thereafter, the committee shall meet at the call of the chairperson or upon the filing of a petition with the district superintendent signed by a majority of the committee members calling for the committee to meet.

(3) In the case of a school district in which an exclusive representative has been established pursuant to Chapter 4117. of the Revised Code, professional development committees shall be established in accordance with any collective bargaining agreement in effect in the district that includes provisions for such committees.

If the collective bargaining agreement does not specify a different method for the selection of teacher members of the committees, the exclusive representative of the district's teachers shall select the teacher members.

If the collective bargaining agreement does not specify a different structure for the committees, the board of education of the school district shall establish the structure, including the number of committees and the number of teacher and administrative members on each committee; the specific administrative members to be part of each committee; whether the scope of the committees will be district levels, building levels, or by type of

grade or age levels for which educator licenses are designated; the lengths of terms for members; the manner of filling vacancies on the committees; and the frequency and time and place of meetings. However, in all cases, except as provided in division (F)(4) of this section, there shall be a majority of teacher members of any professional development committee, there shall be at least five total members of any professional development committee, and the exclusive representative shall designate replacement members in the case of vacancies among teacher members, unless the collective bargaining agreement specifies a different method of selecting such replacements.

(4) Whenever an administrator's coursework plan is being discussed or voted upon, the local professional development committee shall, at the request of one of its administrative members, cause a majority of the committee to consist of administrative members by reducing the number of teacher members voting on the plan.

(G)(1) The department of education, educational service centers, county boards of developmental disabilities, regional professional development centers, special education regional resource centers, college and university departments of education, head start programs, ~~the eTech Ohio commission,~~ and the Ohio education computer network may establish local professional development committees to determine whether the coursework proposed by their employees who are licensed or certificated under this section or section 3319.222 of the Revised Code, or under the former version of either section as it existed prior to October 16, 2009, meet the requirements of the rules adopted under this section. They may establish local professional development committees on their own or in collaboration with a school district or other agency having authority to establish them.

Local professional development committees established by county boards of developmental disabilities shall be structured in a manner comparable to the structures prescribed for school districts in divisions (F)(2) and (3) of this section, as shall the committees established by any other entity specified in division (G)(1) of this section that provides educational services by employing or contracting for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code, or under the former version of either section as it existed prior to October 16, 2009. All other entities specified in division (G)(1) of this section shall structure their committees in accordance with guidelines which shall be issued by the state board.

(2) Any public agency that is not specified in division (G)(1) of this section but provides educational services and employs or contracts for services of classroom teachers licensed or certificated under this section or

section 3319.222 of the Revised Code, or under the former version of either section as it existed prior to October 16, 2009, may establish a local professional development committee, subject to the approval of the department of education. The committee shall be structured in accordance with guidelines issued by the state board.

Sec. 3319.235. (A) The standards for the preparation of teachers adopted under section 3333.048 of the Revised Code shall require any institution that provides a course of study for the training of teachers to ensure that graduates of such course of study are skilled at integrating educational technology in the instruction of children, as evidenced by the graduate having either demonstrated proficiency in such skills in a manner prescribed by the department of education or completed a course that includes training in such skills.

(B) ~~The eTech Ohio commission~~ chancellor of the Ohio board of regents, in consultation with the department of education, shall establish model professional development programs to assist teachers who completed their teacher preparation prior to the effective date of division (A) of this section to become skilled at integrating educational technology in the instruction of children. ~~The commission~~ chancellor shall provide technical assistance to school districts wishing to establish such programs.

Sec. 3319.57. (A) A grant program is hereby established under which the department of education shall award grants to assist certain schools in a city, exempted village, local, or joint vocational school district in implementing one of the following innovations:

(1) The use of instructional specialists to mentor and support classroom teachers;

(2) The use of building managers to supervise the administrative functions of school operation so that a school principal can focus on supporting instruction, providing instructional leadership, and engaging teachers as part of the instructional leadership team;

(3) The reconfiguration of school leadership structure in a manner that allows teachers to serve in leadership roles so that teachers may share the responsibility for making and implementing school decisions;

(4) The adoption of new models for restructuring the school day or school year, such as including teacher planning and collaboration time as part of the school day;

(5) The creation of smaller schools or smaller units within larger schools for the purpose of facilitating teacher collaboration to improve and advance the professional practice of teaching;

(6) The implementation of "grow your own" recruitment strategies that

are designed to assist individuals who show a commitment to education become licensed teachers, to assist experienced teachers obtain licensure in subject areas for which there is need, and to assist teachers in becoming principals;

(7) The provision of better conditions for new teachers, such as reduced teaching load and reduced class size;

(8) The provision of incentives to attract qualified mathematics, science, or special education teachers;

(9) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas;

(10) The implementation of a program to increase the cultural competency of both new and veteran teachers;

(11) The implementation of a program to increase the subject matter competency of veteran teachers.

(B) To qualify for a grant to implement one of the innovations described in division (A) of this section, a school must meet both of the following criteria:

(1) Be hard to staff, as defined by the department.

(2) Use existing school district funds for the implementation of the innovation in an amount equal to the grant amount multiplied by (1 - the district's state share percentage index for the fiscal year in which the grant is awarded).

For purposes of division (B)(2) of this section, "state share percentage index" has the same meaning as in section 3317.02 of the Revised Code.

(C) The amount and number of grants awarded under this section shall be determined by the department based on any appropriations made by the general assembly for grants under this section.

(D) The state board of education shall adopt rules for the administration of this grant program.

Sec. 3319.58. (A) As used in this section, "core subject area" has the same meaning as in section 3319.074 of the Revised Code.

(B) Each year, beginning with the 2015-2016 school year, the board of education of each city, exempted village, local, and joint vocational school district shall require each classroom teacher who is currently teaching in a core subject area and has received a rating of ineffective on the evaluations conducted under section 3319.111 of the Revised Code for two of the three most recent school years to register for and take all written examinations of content knowledge selected by the department of education as appropriate to determine expertise to teach that core subject area and the grade level to

which the teacher is assigned.

(C) Each year, beginning with the 2015-2016 school year, the governing authority of each community school established under Chapter 3314. of the Revised Code, except a community school to which section 3314.017 of the Revised Code applies or a community school described in division (A)(4)(b) of section 3314.35 of the Revised Code, and governing body of each STEM school established under Chapter 3326. of the Revised Code with a building ranked in the lowest ten per cent of all public school buildings according to performance index score, under section 3302.21 of the Revised Code, shall require each classroom teacher currently teaching in a core subject area in such a building to register for and take all written examinations of content knowledge selected by the department as appropriate to determine expertise to teach that core subject area and the grade level to which the teacher is assigned.

(D) If a teacher who takes an examination under division (B) of this section passes that examination and provides proof of that passage to the teacher's employer, the employer shall require the teacher, at the teacher's expense, to complete professional development that is targeted to the deficiencies identified in the teacher's evaluations conducted under section 3319.111 of the Revised Code. The receipt by the teacher of a rating of ineffective on the teacher's next evaluation after completion of the professional development, or the failure of the teacher to complete the professional development, shall be grounds for termination of the teacher under section 3319.16 of the Revised Code.

(E) If a teacher who takes an examination under this section passes that examination and provides proof of that passage to the teacher's employer, the teacher shall not be required to take the examination again for three years, regardless of the teacher's evaluation ratings or the performance index score ranking of the building in which the teacher teaches. No teacher shall be responsible for the cost of taking an examination under this section.

(F) Each district board of education, each community school governing authority, and each STEM school governing body may use the results of a teacher's examinations required under division (B) or (C) of this section in developing and revising professional development plans and in deciding whether or not to continue employing the teacher in accordance with the provisions of this chapter or Chapter 3314. or 3326. of the Revised Code. However, no decision to terminate or not to renew a teacher's employment contract shall be made solely on the basis of the results of a teacher's examination under this section until and unless the teacher has not attained a passing score on the same required examination for at least three

consecutive administrations of that examination.

Sec. 3321.01. (A)(1) As used in this chapter, "parent," "guardian," or "other person having charge or care of a child" means either parent unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. If the child is in the legal or permanent custody of a person or government agency, "parent" means that person or government agency. When a child is a resident of a home, as defined in section 3313.64 of the Revised Code, and the child's parent is not a resident of this state, "parent," "guardian," or "other person having charge or care of a child" means the head of the home.

A child between six and eighteen years of age is "of compulsory school age" for the purpose of sections 3321.01 to 3321.13 of the Revised Code. A child under six years of age who has been enrolled in kindergarten also shall be considered "of compulsory school age" for the purpose of sections 3321.01 to 3321.13 of the Revised Code unless at any time the child's parent or guardian, at the parent's or guardian's discretion and in consultation with the child's teacher and principal, formally withdraws the child from kindergarten. The compulsory school age of a child shall not commence until the beginning of the term of such schools, or other time in the school year fixed by the rules of the board of the district in which the child resides.

~~(2) No child shall be admitted to a kindergarten or a first grade of a public school in~~ In a district in which all children are admitted to kindergarten and the first grade in August or September ~~unless, a child shall be admitted if~~ the child is five or six years of age, respectively, by the thirtieth day of September of the year of admittance, or by the first day of a term or semester other than one beginning in August or September in school districts granting admittance at the beginning of such term or semester; ~~unless the child has been recommended for early admittance in accordance with the district's acceleration policy adopted under section 3324.10 of the Revised Code.~~ A child who does not meet the age ~~requirement~~ requirements of this section for admittance to kindergarten or first grade, but who will be five or six years old, respective, prior to the first day of January of the school year in which admission is requested, shall be evaluated for early admittance in accordance with district policy upon referral by the child's parent or guardian, an educator employed by the district, a preschool educator who knows the child, or a pediatrician or psychologist who knows the child. Following an evaluation in accordance with a referral under this section, the district board shall decide whether to admit the child. If a child for whom admission to kindergarten or first grade is requested will not be

five or six years of age, respectively, prior to the first day of January of the school year in which admission is requested, the child shall be admitted only in accordance with the district's acceleration policy adopted under section 3324.10 of the Revised Code.

(3) Notwithstanding division (A)(2) of this section, beginning with the school year that starts in 2001 and continuing thereafter the board of education of any district may adopt a resolution establishing the first day of August in lieu of the thirtieth day of September as the required date by which students must have attained the age specified in that division.

(4) After a student has been admitted to kindergarten in a school district or chartered nonpublic school, no board of education of a school district to which the student transfers shall deny that student admission based on the student's age.

(B) As used in division (C) of this section, "successfully completed kindergarten" means that the child has completed the kindergarten requirements at one of the following:

(1) A public or chartered nonpublic school;

(2) A kindergarten class that is both of the following:

(a) Offered by a day-care provider licensed under Chapter 5104. of the Revised Code;

(b) If offered after July 1, 1991, is directly taught by a teacher who holds one of the following:

(i) A valid educator license issued under section 3319.22 of the Revised Code;

(ii) A Montessori preprimary credential or age-appropriate diploma granted by the American Montessori society or the association Montessori internationale;

(iii) Certification determined under division (F) of this section to be equivalent to that described in division (B)(2)(b)(ii) of this section;

(iv) Certification for teachers in nontax-supported schools pursuant to section 3301.071 of the Revised Code.

(C)(1) Except as provided in division (A)(2) of this section, no school district shall admit to the first grade any child who has not successfully completed kindergarten.

(2) Notwithstanding division (A)(2) of this section, any student who has successfully completed kindergarten in accordance with section (B) of this section shall be admitted to first grade.

(D) The scheduling of times for kindergarten classes and length of the school day for kindergarten shall be determined by the board of education of a city, exempted village, or local school district.

(E) Any kindergarten class offered by a day-care provider or school described by division (B)(1) or (B)(2)(a) of this section shall be developmentally appropriate.

(F) Upon written request of a day-care provider described by division (B)(2)(a) of this section, the department of education shall determine whether certification held by a teacher employed by the provider meets the requirement of division (B)(2)(b)(iii) of this section and, if so, shall furnish the provider a statement to that effect.

(G) As used in this division, "all-day kindergarten" has the same meaning as in section 3321.05 of the Revised Code.

(1) ~~Any A~~ school district that ~~did not receive for fiscal year 2009 poverty based assistance for~~ is offering all-day kindergarten under division (D) of section 3317.029 of the Revised Code for the first time or that charged fees or tuition for all-day kindergarten in the 2012-2013 school year may charge fees or tuition for ~~students~~ a student enrolled in all-day kindergarten in any school year following the 2012-2013 school year. The department shall adjust the district's average daily membership certification under section 3317.03 of the Revised Code by one-half of the full-time equivalency for each student charged fees or tuition for all-day kindergarten under this division. If a district charges fees or tuition for all-day kindergarten under this division, the district shall develop a sliding fee scale based on family incomes.

(2) The department of education shall conduct an annual survey of each school district described in division (G)(1) of this section to determine the following:

(a) Whether the district charges fees or tuition for students enrolled in all-day kindergarten;

(b) The amount of the fees or tuition charged;

(c) How many of the students for whom tuition is charged are eligible for free lunches under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, and how many of the students for whom tuition is charged are eligible for reduced price lunches under those acts;

(d) How many students are enrolled in traditional half-day kindergarten rather than all-day kindergarten.

Each district shall report to the department, in the manner prescribed by the department, the information described in divisions (G)(2)(a) to (d) of this section.

The department shall issue an annual report on the results of the survey

and shall post the report on its web site. The department shall issue the first report not later than April 30, 2008, and shall issue a report not later than the thirtieth day of April each year thereafter.

Sec. 3321.04. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section does not apply to any joint vocational or cooperative education school district or its superintendent.

Every parent of any child of compulsory school age who is not employed under an age and schooling certificate must send such child to a school or a special education program that conforms to the minimum standards prescribed by the state board of education, for the full time the school or program attended is in session, which shall not be for less than thirty-two weeks per school year. Such attendance must begin within the first week of the school term or program or within one week of the date on which the child begins to reside in the district or within one week after ~~his~~ the child's withdrawal from employment.

For the purpose of operating a school or program on a trimester plan, "full time the school attended is in session," as used in this section means the two trimesters to which the child is assigned by the board of education. For the purpose of operating a school or program on a quarterly plan, "full time the school attended is in session," as used in this section, means the three quarters to which the child is assigned by the board of education. For the purpose of operating a school or program on a pentamester plan, "full time the school is in session," as used in this section, means the four pentamesters to which the child is assigned by the board of education.

Excuses from future attendance at or past absence from school or a special education program may be granted for the causes, by the authorities, and under the following conditions:

(A) ~~The superintendent of the city or exempted village school district or the educational service center~~ in which the child resides may excuse the child from attendance for any part of the remainder of the current school year upon satisfactory showing of either of the following facts:

(1) That the child's bodily or mental condition does not permit attendance at school or a special education program during such period; this fact is certified in writing by a licensed physician or, in the case of a mental condition, by a licensed physician, a licensed psychologist, licensed school psychologist or a certificated school psychologist; and provision is made for appropriate instruction of the child, in accordance with Chapter 3323. of the Revised Code;

(2) That the child is being instructed at home by a person qualified to

teach the branches in which instruction is required, and such additional branches, as the advancement and needs of the child may, in the opinion of such superintendent, require. In each such case the issuing superintendent shall file in ~~his~~ the superintendent's office, with a copy of the excuse, papers showing how the inability of the child to attend school or a special education program or the qualifications of the person instructing the child at home were determined. All such excuses shall become void and subject to recall upon the removal of the disability of the child or the cessation of proper home instruction; and thereupon the child or the child's parents may be proceeded against after due notice whether such excuse be recalled or not.

(B) The state board of education may adopt rules authorizing the superintendent of schools of the district in which the child resides to excuse a child over fourteen years of age from attendance for a future limited period for the purpose of performing necessary work directly and exclusively for the child's parents or legal guardians.

All excuses provided for in divisions (A) and (B) of this section shall be in writing and shall show the reason for excusing the child. A copy thereof shall be sent to the person in charge of the child.

(C) The board of education of the ~~city or exempted village~~ school district ~~or the governing board of the educational service center in which a public school is located~~ or the governing authorities of a private or parochial school may in the rules governing the discipline in such schools, prescribe the authority by which and the manner in which any child may be excused for absence from such school for good and sufficient reasons.

The state board of education may by rule prescribe conditions governing the issuance of excuses, which shall be binding upon the authorities empowered to issue them.

Sec. 3321.05. (A) As used in this section, "all-day kindergarten" means a kindergarten class that is in session ~~five days per week~~ for not less than the same number of clock hours each ~~day~~ week as for students in grades one through six.

(B) Any school district may operate all-day kindergarten or extended kindergarten, but no district shall require any student to attend kindergarten for more than the number of clock hours required each day for traditional kindergarten by the minimum standards adopted under division (D) of section 3301.07 of the Revised Code. Each school district that operates all-day or extended kindergarten shall accommodate kindergarten students whose parents or guardians elect to enroll them for the minimum number of hours.

(C) A school district may use space in child day-care centers licensed

under Chapter 5104. of the Revised Code to provide all-day kindergarten under this section.

Sec. 3321.13. (A) Whenever any child of compulsory school age withdraws from school the teacher of that child shall ascertain the reason for withdrawal. The fact of the withdrawal and the reason for it shall be immediately transmitted by the teacher to the superintendent ~~of schools of the city, local, or exempted village school district or the educational service center as the case may be.~~ If the child who has withdrawn from school has done so because of change of residence, the next residence shall be ascertained and shall be included in the notice thus transmitted. The superintendent shall thereupon forward a card showing the essential facts regarding the child and stating the place of the child's new residence to the superintendent of schools of the district to which the child has moved.

The superintendent of public instruction may prescribe the forms to be used in the operation of this division.

(B)(1) Upon receipt of information that a child of compulsory school age has withdrawn from school for a reason other than because of change of residence and is not enrolled in and attending in accordance with school policy an approved program to obtain a diploma or its equivalent, the superintendent shall notify the registrar of motor vehicles and the juvenile judge of the county in which the district is located of the withdrawal and failure to enroll in and attend an approved program to obtain a diploma or its equivalent. A notification to the registrar required by this division shall be given in the manner the registrar by rule requires and a notification to the juvenile judge required by this division shall be given in writing. Each notification shall be given within two weeks after the withdrawal and failure to enroll in and attend an approved program or its equivalent.

(2) The board of education of a school district may adopt a resolution providing that the provisions of division (B)(2) of this section apply within the district. The provisions of division (B)(2) of this section do not apply within any school district, and no superintendent of a school district shall send a notification of the type described in division (B)(2) of this section to the registrar of motor vehicles or the juvenile judge of the county in which the district is located, unless the board of education of the district has adopted such a resolution. If the board of education of a school district adopts a resolution providing that the provisions of division (B)(2) of this section apply within the district, and if the superintendent of schools of that district receives information that, during any semester or term, a child of compulsory school age has been absent without legitimate excuse from the school the child is supposed to attend for more than ten consecutive school

days or for at least fifteen total school days, the superintendent shall notify the child and the child's parent, guardian, or custodian, in writing, that the information has been provided to the superintendent, that as a result of that information the child's temporary instruction permit or driver's license will be suspended or the opportunity to obtain such a permit or license will be denied, and that the child and the child's parent, guardian, or custodian may appear in person at a scheduled date, time, and place before the superintendent or a designee to challenge the information provided to the superintendent.

The notification to the child and the child's parent, guardian, or custodian required by division (B)(2) of this section shall set forth the information received by the superintendent and shall inform the child and the child's parent, guardian, or custodian of the scheduled date, time, and place of the appearance that they may have before the superintendent or a designee. The date scheduled for the appearance shall be no earlier than three and no later than five days after the notification is given, provided that an extension may be granted upon request of the child or the child's parent, guardian, or custodian. If an extension is granted, the superintendent shall schedule a new date, time, and place for the appearance and shall inform the child and the child's parent, guardian, or custodian of the new date, time, and place.

If the child and the child's parent, guardian, or custodian do not appear before the superintendent or a designee on the scheduled date and at the scheduled time and place, or if the child and the child's parent, guardian, or custodian appear before the superintendent or a designee on the scheduled date and at the scheduled time and place but the superintendent or a designee determines that the information the superintendent received indicating that, during the semester or term, the child had been absent without legitimate excuse from the school the child was supposed to attend for more than ten consecutive school days or for at least fifteen total school days, the superintendent shall notify the registrar of motor vehicles and the juvenile judge of the county in which the district is located that the child has been absent for that period of time and that the child does not have any legitimate excuse for the habitual absence. A notification to the registrar required by this division shall be given in the manner the registrar by rule requires and a notification to the juvenile judge required by this division shall be given in writing. Each notification shall be given within two weeks after the receipt of the information of the habitual absence from school without legitimate excuse, or, if the child and the child's parent, guardian, or custodian appear before the superintendent or a designee to challenge the

information, within two weeks after the appearance.

For purposes of division (B)(2) of this section, a legitimate excuse for absence from school includes, but is not limited to, the fact that the child in question has enrolled in another school or school district in this or another state, the fact that the child in question was excused from attendance for any of the reasons specified in section 3321.04 of the Revised Code, or the fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(3) Whenever a pupil is suspended or expelled from school pursuant to section 3313.66 of the Revised Code and the reason for the suspension or expulsion is the use or possession of alcohol, a drug of abuse, or alcohol and a drug of abuse, the superintendent of schools of that district may notify the registrar and the juvenile judge of the county in which the district is located of such suspension or expulsion. Any such notification of suspension or expulsion shall be given to the registrar, in the manner the registrar by rule requires and shall be given to the juvenile judge in writing. The notifications shall be given within two weeks after the suspension or expulsion.

(4) Whenever a pupil is suspended, expelled, removed, or permanently excluded from a school for misconduct included in a policy that the board of education of a city, exempted village, or local school district has adopted under division (A) of section 3313.661 of the Revised Code, and the misconduct involves a firearm or a knife or other weapon as defined in that policy, the superintendent of schools of that district shall notify the registrar and the juvenile judge of the county in which the district is located of the suspension, expulsion, removal, or permanent exclusion. The notification shall be given to the registrar in the manner the registrar, by rule, requires and shall be given to the juvenile judge in writing. The notifications shall be given within two weeks after the suspension, expulsion, removal, or permanent exclusion.

(C) A notification of withdrawal, habitual absence without legitimate excuse, suspension, or expulsion given to the registrar or a juvenile judge under division (B)(1), (2), (3), or (4) of this section shall contain the name, address, date of birth, school, and school district of the child. If the superintendent finds, after giving a notification of withdrawal, habitual absence without legitimate excuse, suspension, or expulsion to the registrar and the juvenile judge under division (B)(1), (2), (3), or (4) of this section, that the notification was given in error, the superintendent immediately shall notify the registrar and the juvenile judge of that fact.

Sec. 3321.14. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, the provisions of this

section and sections 3321.15 to 3321.21 of the Revised Code that apply to a city school district or its superintendent do not apply to any joint vocational or cooperative education school district or its superintendent unless otherwise specified.

The board of education of every city ~~school district and of every~~, exempted village, or local school district shall either employ an attendance officer, and may employ or appoint any assistants that the board deems advisable, or shall obtain such services from the educational service center with which the district has entered into an agreement under section 3313.843 or 3313.845 of the Revised Code, in accordance with the terms prescribed in that agreement. ~~It~~

In cities of one hundred thousand population or over, the board may appoint, subject to the nomination of the district superintendent ~~of schools~~, one or more pupil-personnel workers and make provision for the traveling expenses within the school district of those employees.

Sec. 3321.15. Every governing board of an educational service center ~~shall~~ may employ an educational service center attendance officer, and may employ or appoint such assistants as the board deems advisable. The decision to employ an attendance officer shall be based on consultation with the districts that have entered into agreements with the educational service center under section 3313.843 or 3313.845 of the Revised Code and the services outlined in the agreements. The compensation and necessary traveling expenses of such attendance officer and assistants shall be paid out of the educational service center governing board fund. With the consent and approval of the judge of the juvenile court, a probation officer of the court may be designated as the service center attendance officer or as an assistant. The compensation of the probation officers of the juvenile court so designated shall be fixed and paid in the same manner as salaries of other probation officers of the juvenile court; their traveling expenses as attendance officers which would not be incurred as probation officers shall be paid out of the educational service center governing board fund. In addition to the compensation provided in this section the board may pay such additional compensation as it deems advisable, to any probation officer designated as attendance officer and such additional amount shall be paid from the educational service center governing board fund. The attendance officer and assistants shall work under the direction of the educational service center superintendent. The authority of such attendance officer and assistants ~~shall~~ may extend to all the ~~local~~ school districts served by the service center pursuant to any agreements entered into under section 3313.843 or 3313.845 of the Revised Code. This section does not confine

their authority to investigate ~~employment~~ attendance to that within the territory of the service center.

Sec. 3323.021. As used in this section, "participating county DD board" means a county board of developmental disabilities electing to participate in the provision of or contracting for educational services for children under division (D) of section 5126.05 of the Revised Code.

(A) When a school district, educational service center, or participating county DD board enters into an agreement or contract with another school district, educational service center, or participating county DD board to provide educational services to a disabled child during a school year, both of the following shall apply:

(1) Beginning with fiscal year 1999, if the provider of the services intends to increase the amount it charges for some or all of those services during the next school year or if the provider intends to cease offering all or part of those services during the next school year, the provider shall notify the entity for which the services are provided of these intended changes no later than the first day of March of the current fiscal year.

(2) Beginning with fiscal year 1999, if the entity for which services are provided intends to cease obtaining those services from the provider for the next school year or intends to change the type or amount of services it obtains from the provider for the next school year, the entity shall notify the service provider of these intended changes no later than the first day of March of the current fiscal year.

(B) School districts, educational service centers, participating county DD boards, and other applicable governmental entities shall collaborate where possible to maximize federal sources of revenue to provide additional funds for special education related services for disabled children. Annually, each school district shall report to the department of education any amounts of ~~money such federal revenue~~ the district received ~~through such medical assistance program~~.

(C) The state board of education, the department of developmental disabilities, and the department of ~~job and family services~~ medicaid shall develop working agreements for pursuing additional funds for services for disabled children.

Sec. 3323.03. The state board of education shall, in consultation with the department of health, the department of ~~mental health~~ mental health and addiction services, and the department of developmental disabilities, establish standards and procedures for the identification, location, and evaluation of all children with disabilities residing in the state, including children with disabilities who are homeless children or are wards of the state

and children with disabilities attending nonpublic schools, regardless of the severity of their disabilities, and who are in need of special education and related services. The state board shall develop and implement a practical method to determine which children with disabilities are currently receiving needed special education and related services.

In conducting the evaluation, the board of education of each school district shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the child's parent. The board of education of each school district, in consultation with the county DD board, the county family and children first council, and the board of alcohol, drug addiction, and mental health services of each county in which the school district has territory, shall identify, locate, and evaluate all children with disabilities residing within the district to determine which children with disabilities are not receiving appropriate special education and related services. In addition, the board of education of each school district, in consultation with such county boards or council, shall identify, locate, and evaluate all children with disabilities who are enrolled by their parents in nonpublic elementary and secondary schools located within the public school district, without regard to where those children reside in accordance with rules of the state board of education or guidelines of the superintendent of public instruction.

Each county DD board, county family and children first council, and board of alcohol, drug addiction, and mental health services and the board's or council's contract agencies may transmit to boards of education the names and addresses of children with disabilities who are not receiving appropriate special education and related services.

Sec. 3323.04. The state board of education, in consultation with the department of ~~mental health~~ mental health and addiction services and the department of developmental disabilities, shall establish procedures and standards for the development of individualized education programs for children with disabilities.

The state board shall require the board of education of each school district to develop an individualized education program for each child with a disability who is at least three years of age and less than twenty-two years of age residing in the district in a manner that is in accordance with rules of the state board.

Prior to the placement of a child with a disability in a program operated under section 3323.09 of the Revised Code, the district board of education shall consult the county DD board of the county in which the child resides

regarding the proposed placement.

A child with a disability enrolled in a nonpublic school or facility shall be provided special education and related services, in accordance with an individualized education program, at no cost for those services, if the child is placed in, or referred to, that nonpublic school or facility by the department of education or a school district.

The IEP team shall review the individualized education program of each child with a disability periodically, but at least annually, to determine whether the annual goals for the child are being achieved, and shall revise the individualized education program as appropriate.

The state board shall establish procedures and standards to assure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, shall be educated with children who are not disabled. Special classes, separate schools, or other removal of children with disabilities from the regular educational environment shall be used only when the nature or severity of a child's disability is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily.

If an agency directly affected by a placement decision objects to such decision, an impartial hearing officer, appointed by the department of education from a list prepared by the department, shall conduct a hearing to review the placement decision. The agencies that are parties to a hearing shall divide the costs of such hearing equally. The decision of the hearing officer shall be final, except that any party to the hearing who is aggrieved by the findings or the decision of the hearing officer may appeal the findings or decision in accordance with division (H) of section 3323.05 of the Revised Code or the parent of any child affected by such decision may present a complaint in accordance with that section.

Sec. 3323.07. The state board of education shall authorize the establishment and maintenance of special education and related services for all children with disabilities who are at least three years of age and less than twenty-two years of age, including children with disabilities who have been suspended or expelled from school, and may authorize special education and related services for children with disabilities who are less than three years of age in accordance with rules adopted by the state board. The state board shall require the boards of education of school districts, shall authorize the department of ~~mental health~~ mental health and addiction services and the department of developmental disabilities, and may authorize any other educational agency, to establish and maintain such special education and related services in accordance with standards adopted by the state board.

Sec. 3323.08. (A) Each school district shall submit a plan to the superintendent of public instruction that provides assurances that the school district will provide for the education of children with disabilities within its jurisdiction and has in effect policies, procedures, and programs that are consistent with the policies and procedures adopted by the state board of education in accordance with section 612 of the "Individuals with Disabilities Education Improvement Act of 2004," 20 U.S.C. 1412, and that meet the conditions applicable to school districts under section 613 of that act, 20 U.S.C. 1413.

Each district's plan shall do all of the following:

(1) Provide, as specified in section 3323.11 of the Revised Code and in accordance with standards established by the state board, for an organizational structure and necessary and qualified staffing and supervision for the identification of and provision of special education and related services for children with disabilities;

(2) Provide, as specified by section 3323.03 of the Revised Code and in accordance with standards established by the state board, for the identification, location, and evaluation of all children with disabilities residing in the district, including children with disabilities who are homeless children or are wards of the state and children with disabilities attending private schools and who are in need of special education and related services. A practical method shall be developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

(3) Provide, as specified by section 3323.07 of the Revised Code and standards established by the state board, for the establishment and maintenance of special education and related services for children with disabilities who are at least three years of age and less than twenty-two years of age, including children with disabilities who have been suspended or expelled from school.

(4) Provide, as specified by section 3323.04 of the Revised Code and in accordance with standards adopted by the state board, for an individualized education program for each child with a disability who is at least three years of age and less than twenty-two years of age residing within the district;

(5) Provide, as specified by section 3323.02 of the Revised Code and in accordance with standards established by the state board, for special education and related services and a free appropriate public education for every child with a disability who is at least three years of age and less than twenty-two years of age, including children with disabilities who have been suspended or expelled from school;

(6) Provide procedural safeguards and prior written notice as required under section 3323.05 of the Revised Code and the standards established by the state board;

(7) Outline the steps that have been or are being taken to comply with standards established by the state board.

(B)(1) A school district may arrange, by a cooperative agreement or contract with one or more school districts or with a cooperative education or joint vocational school district or an educational service center, to provide for the identification, location, and evaluation of children with disabilities, and to provide special education and related services for such children that meet the standards established by the state board. A school district may arrange, by a cooperative agreement or contract, for the provision of related services for children with disabilities that meet the standards established by the state board.

(2) A school district shall arrange by interagency agreement with one or more school districts or with a cooperative education or joint vocational school district or an educational service center or other providers of early learning services to provide for the identification, location, evaluation of children with disabilities of ages birth through five years of age and for the transition of children with disabilities at age three in accordance with the standards established by the state board. A school district may arrange by interagency agreement with providers of early learning services to provide special education and related services for such children that meet the standards established by the state board.

(3) If at the time an individualized education program is developed for a child a school district is not providing special education and related services required by that individualized education program, the school district may arrange by contract with a nonpublic entity for the provision of the special education and related services, provided the special education and related services meet the standards for special education and related services established by the state board and is provided within the state.

(4) Any cooperative agreement or contract under division (B)(1) or (2) of this section involving a local school district shall be approved by the governing board of the educational service center which serves that district.

(C) No plan of a local school district shall be submitted to the superintendent of public instruction until it has been approved by the superintendent of the educational service center which serves that district.

(D) Upon approval of a school district's plan by the superintendent of public instruction, the district shall immediately certify students for state funds under section 3317.03 of the Revised Code to implement and maintain

such plan. ~~The district also shall request approval of classroom units under division (B) of section 3317.05 of the Revised Code for which the district has adequately identified preschool children with disabilities and shall, in accordance with procedures adopted by the state board, request approval of units under division (C) of section 3317.05 of the Revised Code.~~ The district shall, in accordance with guidelines adopted by the state board, identify problems relating to the provision of qualified personnel and adequate facilities, and indicate the extent to which the cost of programs required under the plan will exceed anticipated state reimbursement. Each school district shall immediately implement the identification, location, and evaluation of children with disabilities in accordance with this chapter, and shall implement those parts of the plan involving placement and provision of special education and related services.

Sec. 3323.09. (A) As used in this section:

(1) "Home" has the meaning given in section 3313.64 of the Revised Code.

(2) "Preschool child" means a child who is at least age three but under age six on the thirtieth day of September of an academic year.

(B) Each county DD board shall establish special education programs for all children with disabilities who in accordance with section 3323.04 of the Revised Code have been placed in special education programs operated by the county board and for preschool children who are developmentally delayed or at risk of being developmentally delayed. The board annually shall submit to the department of education a plan for the provision of these programs ~~and, if applicable, a request for approval of units under section 3317.05 of the Revised Code.~~ The superintendent of public instruction shall review the plan and approve or modify it in accordance with rules adopted by the state board of education under section 3301.07 of the Revised Code. The superintendent of public instruction shall compile the plans submitted by county boards and shall submit a comprehensive plan to the state board.

A county DD board may combine transportation for children enrolled in classes funded under ~~section~~ sections 3317.0213 or 3317.20 ~~or units approved under section 3317.05~~ with transportation for children and adults enrolled in programs and services offered by the board under Chapter 5126. of the Revised Code.

(C) A county DD board that during the school year provided special education pursuant to this section for any child with mental disabilities under twenty-two years of age shall prepare and submit the following reports and statements:

(1) The board shall prepare a statement for each child who at the time of

receiving such special education was a resident of a home and was not in the legal or permanent custody of an Ohio resident or a government agency in this state, and whose natural or adoptive parents are not known to have been residents of this state subsequent to the child's birth. The statement shall contain the child's name, the name of the child's school district of residence, the name of the county board providing the special education, and the number of months, including any fraction of a month, it was provided. Not later than the thirtieth day of June, the board shall forward a certified copy of such statement to both the director of developmental disabilities and to the home.

Within thirty days after its receipt of a statement, the home shall pay tuition to the county board computed in the manner prescribed by section 3323.141 of the Revised Code.

(2) The board shall prepare a report for each school district that is the school district of residence of one or more of such children for whom statements are not required by division (C)(1) of this section. The report shall contain the name of the county board providing special education, the name of each child receiving special education, the number of months, including fractions of a month, that the child received it, and the name of the child's school district of residence. Not later than the thirtieth day of June, the board shall forward certified copies of each report to the school district named in the report, the superintendent of public instruction, and the director of developmental disabilities.

Sec. 3323.091. (A) The department of ~~mental health~~ mental health and addiction services, the department of developmental disabilities, the department of youth services, and the department of rehabilitation and correction shall establish and maintain special education programs for children with disabilities in institutions under their jurisdiction according to standards adopted by the state board of education.

(B) ~~The superintendent of each state institution required to provide services under division (A) of this section, and each county DD board, providing special education for preschool children with disabilities under this chapter may apply to the state department of education for unit funding, which shall be paid in accordance with sections 3317.052 and 3317.053 of the Revised Code.~~

The superintendent of each state institution required to provide services under division (A) of this section may apply to the department of education for special education and related services ~~weighted~~ funding for children with disabilities other than preschool children with disabilities, calculated in accordance with section 3317.201 of the Revised Code.

Each county DD board providing special education for children with disabilities other than preschool children with disabilities may apply to the department of education for ~~base cost and~~ opportunity funds and special education and related services ~~weighted~~ funding calculated in accordance with section 3317.20 of the Revised Code.

(C) In addition to the authorization to apply for state funding described in division (B) of this section, each state institution required to provide services under division (A) of this section is entitled to tuition payments calculated in the manner described in division (C) of this section.

On or before the thirtieth day of June of each year, the superintendent of each institution that during the school year provided special education pursuant to this section shall prepare a statement for each child with a disability under twenty-two years of age who has received special education. The statement shall contain the child's data verification code assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code and the name of the child's school district of residence. Within sixty days after receipt of such statement, the department of education shall perform one of the following:

(1) For any child except a preschool child with a disability described in division (C)(2) of this section, pay to the institution submitting the statement an amount equal to the tuition calculated under division (A) of section 3317.08 of the Revised Code for the period covered by the statement, and deduct the same from the amount of state funds, if any, payable under Chapter 3317. of the Revised Code, to the child's school district of residence or, if the amount of such state funds is insufficient, require the child's school district of residence to pay the institution submitting the statement an amount equal to the amount determined under this division.

(2) For any preschool child with a disability ~~not included in a unit approved under division (B) of section 3317.05 of the Revised Code,~~ perform the following:

(a) Pay to the institution submitting the statement an amount equal to the tuition calculated under division (B) of section 3317.08 of the Revised Code for the period covered by the statement, except that in calculating the tuition under that section the operating expenses of the institution submitting the statement under this section shall be used instead of the operating expenses of the school district of residence;

(b) Deduct from the amount of state funds, if any, payable under Chapter 3317. of the Revised Code to the child's school district of residence an amount equal to the amount paid under division (C)(2)(a) of this section.

Sec. 3323.13. (A) If a child who is a school resident of one school

district receives special education from another district, the board of education of the district providing the education, subject to division (C) of this section, may require the payment by the board of education of the district of residence of a sum not to exceed one of the following, as applicable:

(1) For any child except a preschool child with a disability described in division (A)(2) of this section, the tuition of the district providing the education for a child of normal needs of the same school grade. The determination of the amount of such tuition shall be in the manner provided for by division (A) of section 3317.08 of the Revised Code.

(2) For any preschool child with a disability ~~not included in a unit approved under division (B) of section 3317.05 of the Revised Code~~, the tuition of the district providing the education for the child as calculated under division (B) of section 3317.08 of the Revised Code, multiplied by 0.50.

(B) The board of the district of residence may contract with the board of another district for the transportation of such child into any school in such other district, on terms agreed upon by such boards. Upon direction of the state board of education, the board of the district of residence shall pay for the child's transportation and the tuition.

(C) The board of education of a district providing the education for a child shall be entitled to require payment from the district of residence under this section or section 3323.14 of the Revised Code only if the district providing the education has done at least one of the following:

(1) Invited the district of residence to send representatives to attend the meetings of the team developing the child's individualized education program;

(2) Received from the district of residence a copy of the individualized education program or a multifaceted evaluation developed for the child by the district of residence;

(3) Informed the district of residence in writing that the district is providing the education for the child.

As used in division (C)(2) of this section, "multifaceted evaluation" means an evaluation, conducted by a multidisciplinary team, of more than one area of the child's functioning so that no single procedure shall be the sole criterion for determining an appropriate educational program placement for the child.

Sec. 3323.14. ~~This section does not apply to any preschool child with a disability except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.~~

(A) Where a child who is a school resident of one school district receives special education from another district and the per capita cost to the educating district for that child exceeds the sum of the amount received by the educating district for that child under division (A) of section 3317.08 of the Revised Code and the amount received by the district from the state board of education for that child, then the board of education of the district of residence shall pay to the board of the school district that is providing the special education such excess cost as is determined by using a formula approved by the department of education and agreed upon in contracts entered into by the boards of the districts concerned at the time the district providing such special education accepts the child for enrollment. The department shall certify the amount of the payments under Chapter 3317. of the Revised Code for such pupils with disabilities for each school year ending on the thirtieth day of July.

(B) In the case of a child described in division (A) of this section who has been placed in a home, as defined in section 3313.64 of the Revised Code, pursuant to the order of a court and who is not subject to section 3323.141 of the Revised Code, the district providing the child with special education and related services may charge to the child's district of residence the excess cost determined by formula approved by the department, regardless of whether the district of residence has entered into a contract with the district providing the services. If the district providing the services chooses to charge excess costs, the district may report the amount calculated under this division to the department.

(C) If a district providing special education for a child reports an amount for the excess cost of those services, as authorized and calculated under division (A) or (B) of this section, the department shall pay that amount of excess cost to the district providing the services and shall deduct that amount from the child's district of residence in accordance with division (K) of section 3317.023 of the Revised Code.

Sec. 3323.141. (A) When a child who is not in the legal or permanent custody of an Ohio resident or a government agency in this state and whose natural or adoptive parents are not known to have been residents of this state subsequent to the child's birth is a resident of a home as defined in section 3313.64 of the Revised Code and receives special education and related services from a school district or county ~~MR/DD~~ DD board, the home shall pay tuition to the board providing the special education.

(B) In the case of a child described in division (A) of this section who receives special education and related services from a school district, tuition shall be the amount determined under division (B)(1) or (2) of this section.

(1) For a child other than a child described in division (B)(2) of this section the tuition shall be an amount equal to the sum of the following:

(a) Tuition as determined in the manner provided for by division (B) of section 3317.081 of the Revised Code for the district that provides the special education;

(b) Such excess cost as is determined by using a formula established by rule of the department of education. The excess cost computed in this section shall not be used as excess cost computed under section 3323.14 of the Revised Code.

(2) For a child who is a preschool child with a disability ~~not included in a unit approved under division (B) of section 3317.05 of the Revised Code~~, the tuition shall be computed as follows:

(a) Determine the amount of the tuition of the district providing the education for the child as calculated under division (B) of section 3317.08 of the Revised Code;

(b) For each type of special education service included in the computation of the amount of tuition under division (B)(2)(a) of this section, divide the amount determined for that computation under division (B)(2) of section 3317.08 of the Revised Code by the total number of preschool children with disabilities used for that computation under division (B)(3) of section 3317.08 of the Revised Code;

(c) Determine the sum of the quotients obtained under division (B)(2)(b) of this section;

(d) Determine the sum of the amounts determined under divisions (B)(2)(a) and (c) of this section.

(C) In the case of a child described in division (A) of this section who receives special education and related services from a county ~~MR/DD~~ DD board, tuition shall be the amount determined under division (C)(1) or (2) of this section.

(1) For a child other than a child described in division (C)(2) of this section, the tuition shall be an amount equal to such board's per capita cost of providing special education and related services for children at least three but less than twenty-two years of age as determined by using a formula established by rule of the department of developmental disabilities.

(2) For a child who is a preschool child with a disability ~~not included in a unit approved under division (B) of section 3317.05 of the Revised Code~~, the tuition shall equal the sum of the amounts of each such board's per capita cost of providing each of the special education or related service that the child receives. The calculation of tuition shall be made by using a formula established by rule of the department of developmental disabilities. The

formula for the calculation of per capita costs under division (C)(2) of this section shall be based only on each such ~~MR/DD~~ DD board's cost of providing each type of special education or related service to preschool children with disabilities ~~not included in a unit approved under division (B) of section 3317.05 of the Revised Code.~~

(D) If a home fails to pay the tuition required under this section, the board of education or county ~~MR/DD~~ DD board providing the education may recover in a civil action the tuition and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. If the prosecuting attorney or city director of law represents the board in such action, costs and reasonable attorney's fees awarded by the court, based upon the time spent preparing and presenting the case by the prosecuting attorney, director, or a designee of either, shall be deposited in the county or city general fund.

~~Sec. 3323.142. This section does not apply to any preschool child with a disability except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.~~

As used in this section, "per pupil amount" for a preschool child with a disability included in such an approved unit means the amount determined by dividing the amount received for the classroom unit in which the child has been placed by the number of children in the unit. For any other child, "per pupil amount" means the amount paid for the child under section 3317.20 of the Revised Code.

When a school district places or has placed a child with a county DD board for special education, but another district is responsible for tuition under section 3313.64 or 3313.65 of the Revised Code and the child is not a resident of the territory served by the county DD board, the board may charge the district responsible for tuition with the educational costs in excess of the per pupil amount received by the board under Chapter 3317. of the Revised Code. The amount of the excess cost shall be determined by the formula established by rule of the department of education under section 3323.14 of the Revised Code, and the payment for such excess cost shall be made by the school district directly to the county DD board.

A school district board of education and the county DD board that serves the school district may negotiate and contract, at or after the time of placement, for payments by the board of education to the county DD board for additional services provided to a child placed with the county DD board and whose individualized education program established pursuant to section 3323.08 of the Revised Code requires additional services that are not routinely provided children in the county DD board's program but are

necessary to maintain the child's enrollment and participation in the program. Additional services may include, but are not limited to, specialized supplies and equipment for the benefit of the child and instruction, training, or assistance provided by staff members other than staff members for which funding is received under Chapter 3317. of the Revised Code.

Sec. 3325.13. The state school for the blind employees food service fund is hereby created in the state treasury. The fund shall consist of payments received from employees who make purchases from the school's food service program. Notwithstanding section 3325.01 of the Revised Code, the approval of the state board of education is not required to designate money for deposit into the fund. The school for the blind shall use money in the fund to pay costs associated with the school's food service program.

Sec. 3325.14. The state school for the deaf employees food service fund is hereby created in the state treasury. The fund shall consist of payments received from employees who make purchases from the school's food service program. Notwithstanding section 3325.01 of the Revised Code, the approval of the state board of education is not required to designate money for deposit into the fund. The school for the deaf shall use money in the fund to pay costs associated with the school's food service program.

Sec. 3326.07. Each science, technology, engineering, and mathematics school established under this chapter is a public school, is part of the state's program of education, may contract for any services necessary for the operation of the school, and may continue in operation for as long as the school is in compliance with the provisions of this chapter and with the proposal for its establishment as approved by the STEM committee. If the school closes for any reason, its assets shall be distributed in the manner provided in the proposal for its establishment as required by division (C)(9) of section 3326.03 of the Revised Code.

Sec. 3326.08. (A) The governing body of each science, technology, engineering, and mathematics school shall ~~employ and fix the compensation for the~~ engage the services of administrative officers, teachers, and nonteaching employees of the STEM school necessary for the school to carry out its mission and shall oversee the operations of the school. The governing body of each STEM school shall ~~employ~~ engage the services of a chief administrative officer to serve as the school's instructional and administrative leader. The chief administrative officer shall be granted the authority to oversee the recruitment, retention, and employment of teachers and nonteaching employees.

(B) The department of education shall monitor the oversight of each

STEM school exercised by the school's governing body and shall monitor the school's compliance with this chapter and with the proposal for the establishment of the school as it was approved by the STEM committee under section 3326.04 of the Revised Code. If the department finds that the school is not in compliance with this chapter or with the proposal, the department shall consult with the STEM committee, and the committee may order the school to close on the last day of the school year in which the committee issues its order.

(C) The governing body of each STEM school shall comply with sections 121.22 and 149.43 of the Revised Code.

Sec. 3326.11. Each science, technology, engineering, and mathematics school established under this chapter and its governing body shall comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 3313.536, 3313.539, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 3313.816, 3313.817, 3313.86, ~~3313.88~~, 3313.96, 3319.073, 3319.21, 3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district.

Sec. 3326.112. The governing body of each STEM school shall comply with the standards for financial reporting adopted under division (B)(2) of section 3301.07 of the Revised Code.

Sec. 3326.31. As used in sections 3326.31 to 3326.50 of the Revised Code:

(A) ~~"Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section.~~

(B) ~~"Applicable vocational education weight" means the multiple specified in section 3317.014 of the Revised Code for vocational education programs or classes described in that section~~ (1) "Category one career-technical education student" means a student who is receiving the career-technical education services described in division (A) of section 3317.014 of the Revised Code.

(2) "Category two career-technical student" means a student who is receiving the career-technical education services described in division (B) of section 3317.014 of the Revised Code.

(3) "Category three career-technical student" means a student who is receiving the career-technical education services described in division (C) of section 3317.014 of the Revised Code.

(4) "Category four career-technical student" means a student who is receiving the career-technical education services described in division (D) of section 3317.014 of the Revised Code.

(5) "Category five career-technical education student" means a student who is receiving the career-technical education services described in division (E) of section 3317.014 of the Revised Code.

(B)(1) "Category one limited English proficient student" means a limited English proficient student described in division (A) of section 3317.016 of the Revised Code.

(2) "Category two limited English proficient student" means a limited English proficient student described in division (B) of section 3317.016 of the Revised Code.

(3) "Category three limited English proficient student" means a limited English proficient student described in division (C) of section 3317.016 of the Revised Code.

(C)(1) "Category one special education student" means a student who is receiving special education services for a disability specified in division (A) of section 3317.013 of the Revised Code.

(2) "Category two special education student" means a student who is receiving special education services for a disability specified in division (B) of section 3317.013 of the Revised Code.

(3) "Category three special education student" means a student who is receiving special education services for a disability specified in division (C) of section 3317.013 of the Revised Code.

(4) "Category four special education student" means a student who is receiving special education services for a disability specified in division (D) of section 3317.013 of the Revised Code.

(5) "Category five special education student" means a student who is receiving special education services for a disability specified in division (E) of section 3317.013 of the Revised Code.

(6) "Category six special education student" means a student who is receiving special education services for a disability specified in division (F) of section 3317.013 of the Revised Code.

~~(C)~~(D) "Formula amount" has the same meaning as in section 3317.02

of the Revised Code.

~~(D)~~(E) "IEP" means an individualized education program as defined in section 3323.01 of the Revised Code.

~~(E)~~ A student is "included in the poverty student count of the student's resident district" if the student's family receives assistance under the Ohio works first program.

(F) "Resident district" means the school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(G) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

Sec. 3326.32. Each science, technology, engineering, and mathematics school shall report to the department of education, in the form and manner required by the department, all of the following information:

(A) The total number of students enrolled in the school;

(B) The number of students who are receiving special education and related services pursuant to an IEP;

(C) For each student reported under division (B) of this section, which category specified in divisions (A) to (F) of section 3317.013 of the Revised Code applies to the student;

(D) The full-time equivalent number of students who are enrolled in ~~vocational~~ career-technical education programs or classes described in each of divisions (A) ~~and~~, (B), (C), (D), and (E) of section 3317.014 of the Revised Code that are provided by the STEM school;

(E) The number of students who are limited English proficient students and which category specified in divisions (A) to (C) of section 3317.016 of the Revised Code applies to each student;

(F) The number of students reported under division (A) of this section who are economically disadvantaged, as defined by the department. A student shall not be categorically excluded from the number reported under division (F) of this section based on anything other than family income.

~~(G)~~ The resident district of each student;

~~(F)~~(H) Any additional information the department determines necessary to make payments under this chapter.

Sec. 3326.33. ~~Payments and deductions under this section for fiscal years 2012 and 2013 shall be made in accordance with section 3326.39 of the Revised Code.~~

For each student enrolled in a science, technology, engineering, and mathematics school established under this chapter, on a full-time equivalency basis, the department of education annually shall deduct from

the state education aid of a student's resident school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code and pay to the school the sum of the following:

~~(A) The sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.~~

~~(B) If the student is receiving special education and related services pursuant to an IEP, the product of the applicable special education weight times the formula amount;~~

~~(C) If the student is enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, the product of the applicable vocational education weight times the formula amount times the percentage of time the student spends in the vocational education programs or classes;~~

~~(D) If the student is included in the poverty student count of the student's resident district, the per pupil amount of the district's payment under division (C) of section 3317.029 of the Revised Code;~~

~~(E) If the student is identified as limited English proficient and the student's resident district receives a payment for services to limited English proficient students under division (F) of section 3317.029 of the Revised Code, the per pupil amount of the district's payment under that division, calculated in the same manner as per pupil payments are calculated under division (C)(6) of section 3314.08 of the Revised Code;~~

~~(F) If the student's resident district receives a payment under division (G), (H), or (I) of section 3317.029 of the Revised Code, the per pupil amount of the district's payments under each division, calculated in the same manner as per pupil payments are calculated under divisions (C)(7) and (8) of section 3314.08 of the Revised Code;~~

~~(G) If the student's resident district receives a parity aid payment under section 3317.0217 of the Revised Code, the per pupil amount calculated for the district under division (C) or (D) of that section An opportunity grant in an amount equal to the formula amount;~~

(B) The per pupil amount of targeted assistance funds calculated under division (A) of section 3317.0217 of the Revised Code for the student's resident district, as determined by the department, X 0.25;

(C) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code as follows:

(1) If the student is a category one special education student, the amount specified in division (A) of section 3317.013 of the Revised Code;

(2) If the student is a category two special education student, the amount specified in division (B) of section 3317.013 of the Revised Code;

(3) If the student is a category three special education student, the amount specified in division (C) of section 3317.013 of the Revised Code;

(4) If the student is a category four special education student, the amount specified in division (D) of section 3317.013 of the Revised Code;

(5) If the student is a category five special education student, the amount specified in division (E) of section 3317.013 of the Revised Code;

(6) If the student is a category six special education student, the amount specified in division (F) of section 3317.013 of the Revised Code.

(D) If the student is in kindergarten through third grade, \$211, in fiscal year 2014, or \$290, in fiscal year 2015;

(E) If the student is economically disadvantaged, an amount equal to the following:

(\$269, in fiscal year 2014, or \$272, in fiscal year 2015) X (the resident district's economically disadvantaged index)

(F) Limited English proficiency funds, as follows:

(1) If the student is a category one limited English proficient student, the amount specified in division (A) of section 3317.016 of the Revised Code;

(2) If the student is a category two limited English proficient student, the amount specified in division (B) of section 3317.016 of the Revised Code;

(3) If the student is a category three limited English proficient student, the amount specified in division (C) of section 3317.016 of the Revised Code.

(G) Career-technical education funds as follows:

(1) If the student is a category one career-technical education student, the amount specified in division (A) of section 3317.014 of the Revised Code;

(2) If the student is a category two career-technical education student, the amount specified in division (B) of section 3317.014 of the Revised Code;

(3) If the student is a category three career-technical education student, the amount specified in division (C) of section 3317.014 of the Revised Code;

(4) If the student is a category four career-technical education student, the amount specified in division (D) of section 3317.014 of the Revised Code;

(5) If the student is a category five career-technical education student, the amount specified in division (E) of section 3317.014 of the Revised Code.

Deduction and payment of funds under division (G) of this section is subject to approval under section 3317.161 of the Revised Code.

Sec. 3326.34. If a science, technology, engineering, and mathematics school established under this chapter incurs costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a disability described in divisions (B) to (F) of section 3317.013 of the Revised Code that exceed the threshold catastrophic cost for serving the student as specified in division ~~(C)(3)(b)~~(B) of section ~~3317.022~~ 3317.0214 of the Revised Code, the STEM school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department of education shall pay to the school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

The school shall only report under this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's IEP. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

Sec. 3326.38. A science, technology, engineering, and mathematics school may do ~~all~~ both of the following:

(A) ~~Apply to the department of education for gifted unit funding;~~

~~(B)~~ Apply to any state or federal agency for grants that a school district or public school may receive under federal or state law or any appropriations act of the general assembly;

~~(C)~~(B) Apply to any private entity or foundation for additional funds.

Sec. 3326.39. (A) In any fiscal year, a STEM school receiving funds under division (G) of section 3326.33 of the Revised Code shall spend those funds only for the purposes that the department designates as approved for career-technical education expenses. Career-technical educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school to report data annually so that the department may monitor the school's compliance with the requirements regarding the manner in which funding received under division (G) of section 3326.33 of the Revised Code may be spent.

(B) All funds received under division (G) of section 3326.33 of the

Revised Code shall be spent in the following manner:

(1) At least seventy-five per cent of the funds shall be spent on curriculum development, purchase, and implementation; instructional resources and supplies; industry-based program certification; student assessment, credentialing, and placement; curriculum specific equipment purchases and leases; career-technical student organization fees and expenses; home and agency linkages; work-based learning experiences; professional development; and other costs directly associated with career-technical education programs including development of new programs.

(2) Not more than twenty-five per cent of the funds shall be used for personnel expenditures.

Sec. 3326.40. A STEM school shall spend the funds it receives under division (E) of section 3326.33 of the Revised Code in accordance with section 3317.25 of the Revised Code.

Sec. 3326.45. (A) The governing body of a science, technology, engineering, and mathematics school may contract with the governing board of an educational service center or the board of education of a joint vocational school district for the provision of services to the STEM school or to any student enrolled in the school. Services provided under the contract and the amount to be paid for those services shall be mutually agreed to by the parties to the contract, and shall be specified in the contract.

(B) A contract entered into under this section may require an educational service center to provide any one or a combination of the following services to a STEM school:

- (1) Supervisory teachers;
- (2) In-service and continuing education programs for personnel of the STEM school;
- (3) Curriculum services as provided to the client school districts of the service center;
- (4) Research and development programs;
- (5) Academic instruction for which the service center governing board employs teachers;
- (6) Assistance in the provision of special accommodations and classes for students with disabilities.

Services described in division (B) of this section shall be provided to the STEM school in the same manner they are provided to client school districts of the service center, unless otherwise specified in the contract. The contract shall specify whether the service center will receive a per-pupil payment from the department of education for the provision of these services and, if

so, the amount of the per-pupil payment, ~~which shall not exceed the per pupil amount paid to the service center under division (F) of section 3317.11 of the Revised Code for each student in the service center ADM.~~

(C) For each contract entered into under this section, the department shall deduct the amount owed by the STEM school from the state funds due to the STEM school under this chapter and shall pay that amount to the educational service center or joint vocational school district that is party to the contract. ~~In the case of a contract with an educational service center that specifies per-pupil payments for the provision of services described in division (B) of this section, the department also shall pay the service center the amount calculated under division (H) of section 3317.11 of the Revised Code.~~

(D) No contract entered into under this section shall be valid unless a copy is filed with the department by the first day of the school year for which the contract is in effect.

(E) As used in this section, "client school district" ~~has the same meaning as in section 3317.11 of the Revised Code~~ means a city, exempted village, or local school district that has entered into an agreement under section 3313.843 or 3313.845 of the Revised Code to receive any services from an educational service center.

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and sections 3327.011, 3327.012, and 3327.02 of the Revised Code do not apply to any joint vocational or cooperative education school district.

In all city, local, and exempted village school districts where resident school pupils in grades kindergarten through eight live more than two miles from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community school which they attend, the board of education shall provide transportation for such pupils to and from ~~such~~ that school except as provided in section 3327.02 of the Revised Code.

In all city, local, and exempted village school districts where pupil transportation is required under a career-technical plan approved by the state board of education under section 3313.90 of the Revised Code, for any student attending a career-technical program operated by another school district, including a joint vocational school district, as prescribed under that section, the board of education of the student's district of residence shall provide transportation from the public high school operated by that district

to which the student is assigned to the career-technical program.

In all city, local, and exempted village school districts, the board may provide transportation for resident school pupils in grades nine through twelve to and from the high school to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community high school which they attend for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code.

A board of education shall not be required to transport elementary or high school pupils to and from a nonpublic or community school where such transportation would require more than thirty minutes of direct travel time as measured by school bus from the public school building to which the pupils would be assigned if attending the public school designated by the district of residence.

Where it is impractical to transport a pupil by school conveyance, a board of education may offer payment, in lieu of providing such transportation in accordance with section 3327.02 of the Revised Code.

A board of education shall not be required to transport elementary or high school pupils to and from a nonpublic or community school on Saturday or Sunday, unless a board of education and a nonpublic or community school have an agreement in place to do so before July 1, 2014.

In all city, local, and exempted village school districts, the board shall provide transportation for all children who are so disabled that they are unable to walk to and from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and which they attend. In case of dispute whether the child is able to walk to and from the school, the health commissioner shall be the judge of such ability. In all city, exempted village, and local school districts, the board shall provide transportation to and from school or special education classes for ~~educable~~ ~~mentally retarded~~ disabled children in accordance with standards adopted by the state board of education.

When transportation of pupils is provided the conveyance shall be run on a time schedule that shall be adopted and put in force by the board not later than ten days after the beginning of the school term.

The cost of any transportation service authorized by this section shall be paid first out of federal funds, if any, available for the purpose of pupil transportation, and secondly out of state appropriations, in accordance with regulations adopted by the state board of education.

No transportation of any pupils shall be provided by any board of education to or from any school which in the selection of pupils, faculty

members, or employees, practices discrimination against any person on the grounds of race, color, religion, or national origin.

Sec. 3327.02. (A) After considering each of the following factors, the board of education of a city, exempted village, or local school district may determine that it is impractical to transport a pupil who is eligible for transportation to and from a school under section 3327.01 of the Revised Code:

- (1) The time and distance required to provide the transportation;
- (2) The number of pupils to be transported;
- (3) The cost of providing transportation in terms of equipment, maintenance, personnel, and administration;
- (4) Whether similar or equivalent service is provided to other pupils eligible for transportation;
- (5) Whether and to what extent the additional service unavoidably disrupts current transportation schedules;
- (6) Whether other reimbursable types of transportation are available.

(B)(1) Based on its consideration of the factors established in division (A) of this section, the board may pass a resolution declaring the impracticality of transportation. The resolution shall include each pupil's name and the reason for impracticality.

(2) The board shall report its determination to the state board of education in a manner determined by the state board.

(3) The board of education of a local school district additionally shall submit the resolution for concurrence to the educational service center that contains the local district's territory. If the educational service center governing board considers transportation by school conveyance practicable, it shall so inform the local board and transportation shall be provided by such local board. If the educational service center board agrees with the view of the local board, the local board may offer payment in lieu of transportation as provided in this section.

(C) After passing the resolution declaring the impracticality of transportation, the district board shall offer to provide payment in lieu of transportation by doing the following:

(1) In accordance with guidelines established by the department of education, informing the pupil's parent, guardian, or other person in charge of the pupil of both of the following:

- (a) The board's resolution;
- (b) The right of the pupil's parent, guardian, or other person in charge of the pupil to accept the offer of payment in lieu of transportation or to reject the offer and instead request the department to initiate mediation procedures.

(2) Issuing the pupil's parent, guardian, or other person in charge of the pupil a contract or other form on which the parent, guardian, or other person in charge of the pupil is given the option to accept or reject the board's offer of payment in lieu of transportation.

(D) If the parent, guardian, or other person in charge of the pupil accepts the offer of payment in lieu of providing transportation, the board shall pay the parent, guardian, or other person in charge of the pupil an amount that shall be not less than the amount determined by the ~~department of education~~ general assembly as the minimum for payment in lieu of transportation, and not more than the amount determined by the department of education as the average cost of pupil transportation for the previous school year. Payment may be prorated if the time period involved is only a part of the school year.

(E)(1)(a) Upon the request of a parent, guardian, or other person in charge of the pupil who rejected the payment in lieu of transportation, the department shall conduct mediation procedures.

(b) If the mediation does not resolve the dispute, the state board of education shall conduct a hearing in accordance with Chapter 119. of the Revised Code. The state board may approve the payment in lieu of transportation or may order the board of education to provide transportation. The decision of the state board is binding in subsequent years and on future parties in interest provided the facts of the determination remain comparable.

(2) The school district shall provide transportation for the pupil from the time the parent, guardian, or other person in charge of the pupil requests mediation until the matter is resolved under division (E)(1)(a) or (b) of this section.

(F)(1) If the department determines that a school district board has failed or is failing to provide transportation as required by division (E)(2) of this section or as ordered by the state board under division (E)(1)(b) of this section, the department shall order the school district board to pay to the pupil's parent, guardian, or other person in charge of the pupil, an amount equal to the state average daily cost of transportation as determined by the state board of education for the previous year. The school district board shall make payments on a schedule ordered by the department.

(2) If the department subsequently finds that a school district board is not in compliance with an order issued under division (F)(1) of this section and the affected pupils are enrolled in a nonpublic or community school, the department shall deduct the amount that the board is required to pay under that order from any pupil transportation payments the department makes to the school district board under section 3317.0212 of the Revised Code or

other provisions of law. The department shall use the moneys so deducted to make payments to the nonpublic or community school attended by the pupil. The department shall continue to make the deductions and payments required under this division until the school district board either complies with the department's order issued under division (F)(1) of this section or begins providing transportation.

(G) A nonpublic or community school that receives payments from the department under division (F)(2) of this section shall do either of the following:

(1) Disburse the entire amount of the payments to the parent, guardian, or other person in charge of the pupil affected by the failure of the school district of residence to provide transportation;

(2) Use the entire amount of the payments to provide acceptable transportation for the affected pupil.

Sec. 3327.07. (A) The governing authority of a chartered nonpublic school that transports a student enrolled in the school to and from school may charge the parent or guardian of the student a fee for the transportation, if the governing authority purchased the vehicle that transports the student using no state or federal funds. The fee shall not exceed the per student cost of the transportation, as determined by the governing authority.

(B) The parent or guardian of a student who is enrolled in a chartered nonpublic school and is eligible for transportation by a school district under section 3327.01 of the Revised Code may decline that transportation and accept transportation from the chartered nonpublic school. The governing authority of a chartered nonpublic school may charge a fee under division (A) of this section regardless of whether a student is eligible for transportation under section 3327.01 of the Revised Code.

(C) The offering by the governing authority of a chartered nonpublic school of transportation to and from the school does not relieve any school district board of education from any duty imposed by sections 3327.01 and 3327.02 of the Revised Code with respect to the chartered nonpublic school's students.

Sec. 3327.10. (A) No person shall be employed as driver of a school bus or motor van, owned and operated by any school district or educational service center or privately owned and operated under contract with any school district or service center in this state, who has not received a certificate from either the educational service center governing board ~~in case such person is employed by a service center or by a local school district under the supervision of the service center governing board,~~ that has entered into an agreement with the school district under section 3313.843 or

~~3313.845 of the Revised Code or by the superintendent of schools, in case such person is employed by the board of a city or exempted village~~ the school district, certifying that such person is at least eighteen years of age and is of good moral character and is qualified physically and otherwise for such position. The service center governing board or the superintendent, as the case may be, shall provide for an annual physical examination that conforms with rules adopted by the state board of education of each driver to ascertain the driver's physical fitness for such employment. Any certificate may be revoked by the authority granting the same on proof that the holder has been guilty of failing to comply with division (D)(1) of this section, or upon a conviction or a guilty plea for a violation, or any other action, that results in a loss or suspension of driving rights. Failure to comply with such division may be cause for disciplinary action or termination of employment under division (C) of section 3319.081, or section 124.34 of the Revised Code.

(B) No person shall be employed as driver of a school bus or motor van not subject to the rules of the department of education pursuant to division (A) of this section who has not received a certificate from the school administrator or contractor certifying that such person is at least eighteen years of age, is of good moral character, and is qualified physically and otherwise for such position. Each driver shall have an annual physical examination which conforms to the state highway patrol rules, ascertaining the driver's physical fitness for such employment. The examination shall be performed by one of the following:

- (1) A person licensed under Chapter 4731. of the Revised Code or by another state to practice medicine and surgery or osteopathic medicine and surgery;
- (2) A physician assistant;
- (3) A certified nurse practitioner;
- (4) A clinical nurse specialist;
- (5) A certified nurse-midwife.

Any written documentation of the physical examination shall be completed by the individual who performed the examination.

Any certificate may be revoked by the authority granting the same on proof that the holder has been guilty of failing to comply with division (D)(2) of this section.

(C) Any person who drives a school bus or motor van must give satisfactory and sufficient bond except a driver who is an employee of a school district and who drives a bus or motor van owned by the school district.

(D) No person employed as driver of a school bus or motor van under this section who is convicted of a traffic violation or who has had the person's commercial driver's license suspended shall drive a school bus or motor van until the person has filed a written notice of the conviction or suspension, as follows:

(1) If the person is employed under division (A) of this section, the person shall file the notice with the superintendent, or a person designated by the superintendent, of the school district for which the person drives a school bus or motor van as an employee or drives a privately owned and operated school bus or motor van under contract.

(2) If employed under division (B) of this section, the person shall file the notice with the employing school administrator or contractor, or a person designated by the administrator or contractor.

(E) In addition to resulting in possible revocation of a certificate as authorized by divisions (A) and (B) of this section, violation of division (D) of this section is a minor misdemeanor.

(F)(1) Not later than thirty days after June 30, 2007, each owner of a school bus or motor van shall obtain the complete driving record for each person who is currently employed or otherwise authorized to drive the school bus or motor van. An owner of a school bus or motor van shall not permit a person to operate the school bus or motor van for the first time before the owner has obtained the person's complete driving record. Thereafter, the owner of a school bus or motor van shall obtain the person's driving record not less frequently than semiannually if the person remains employed or otherwise authorized to drive the school bus or motor van. An owner of a school bus or motor van shall not permit a person to resume operating a school bus or motor van, after an interruption of one year or longer, before the owner has obtained the person's complete driving record.

(2) The owner of a school bus or motor van shall not permit a person to operate the school bus or motor van for six years after the date on which the person pleads guilty to or is convicted of a violation of section 4511.19 of the Revised Code or a substantially equivalent municipal ordinance.

(3) An owner of a school bus or motor van shall not permit any person to operate such a vehicle unless the person meets all other requirements contained in rules adopted by the state board of education prescribing qualifications of drivers of school buses and other student transportation.

(G) No superintendent of a school district, educational service center, community school, or public or private employer shall permit the operation of a vehicle used for pupil transportation within this state by an individual unless both of the following apply:

(1) Information pertaining to that driver has been submitted to the department of education, pursuant to procedures adopted by that department. Information to be reported shall include the name of the employer or school district, name of the driver, driver license number, date of birth, date of hire, status of physical evaluation, and status of training.

(2) The most recent criminal records check required by division (J) of this section has been completed and received by the superintendent or public or private employer.

(H) A person, school district, educational service center, community school, nonpublic school, or other public or nonpublic entity that owns a school bus or motor van, or that contracts with another entity to operate a school bus or motor van, may impose more stringent restrictions on drivers than those prescribed in this section, in any other section of the Revised Code, and in rules adopted by the state board.

(I) For qualified drivers who, on July 1, 2007, are employed by the owner of a school bus or motor van to drive the school bus or motor van, any instance in which the driver was convicted of or pleaded guilty to a violation of section 4511.19 of the Revised Code or a substantially equivalent municipal ordinance prior to two years prior to July 1, 2007, shall not be considered a disqualifying event with respect to division (F) of this section.

(J)(1) This division applies to persons hired by a school district, educational service center, community school, chartered nonpublic school, or science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code to operate a vehicle used for pupil transportation.

For each person to whom this division applies who is hired on or after November 14, 2007, the employer shall request a criminal records check in accordance with section 3319.39 of the Revised Code and every six years thereafter. For each person to whom this division applies who is hired prior to that date, the employer shall request a criminal records check by a date prescribed by the department of education and every six years thereafter.

(2) This division applies to persons hired by a public or private employer not described in division (J)(1) of this section to operate a vehicle used for pupil transportation.

For each person to whom this division applies who is hired on or after November 14, 2007, the employer shall request a criminal records check prior to the person's hiring and every six years thereafter. For each person to whom this division applies who is hired prior to that date, the employer shall request a criminal records check by a date prescribed by the department and

every six years thereafter.

(3) Each request for a criminal records check under division (J) of this section shall be made to the superintendent of the bureau of criminal identification and investigation in the manner prescribed in section 3319.39 of the Revised Code, except that if both of the following conditions apply to the person subject to the records check, the employer shall request the superintendent only to obtain any criminal records that the federal bureau of investigation has on the person:

(a) The employer previously requested the superintendent to determine whether the bureau of criminal identification and investigation has any information, gathered pursuant to division (A) of section 109.57 of the Revised Code, on the person in conjunction with a criminal records check requested under section 3319.39 of the Revised Code or under division (J) of this section.

(b) The person presents proof that the person has been a resident of this state for the five-year period immediately prior to the date upon which the person becomes subject to a criminal records check under this section.

Upon receipt of a request, the superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code as if the request had been made under section 3319.39 of the Revised Code. However, as specified in division (B)(2) of section 109.572 of the Revised Code, if the employer requests the superintendent only to obtain any criminal records that the federal bureau of investigation has on the person for whom the request is made, the superintendent shall not conduct the review prescribed by division (B)(1) of that section.

(K)(1) Until the effective date of the amendments to rule 3301-83-23 of the Ohio Administrative Code required by the second paragraph of division (E) of section 3319.39 of the Revised Code, any person who is the subject of a criminal records check under division (J) of this section and has been convicted of or pleaded guilty to any offense described in division (B)(1) of section 3319.39 of the Revised Code shall not be hired or shall be released from employment, as applicable, unless the person meets the rehabilitation standards prescribed for nonlicensed school personnel by rule 3301-20-03 of the Ohio Administrative Code.

(2) Beginning on the effective date of the amendments to rule 3301-83-23 of the Ohio Administrative Code required by the second paragraph of division (E) of section 3319.39 of the Revised Code, any person who is the subject of a criminal records check under division (J) of this section and has been convicted of or pleaded guilty to any offense that, under the rule, disqualifies a person for employment to operate a vehicle

used for pupil transportation shall not be hired or shall be released from employment, as applicable, unless the person meets the rehabilitation standards prescribed by the rule.

Sec. 3328.27. The board of trustees of each college-preparatory boarding school shall comply with the standards for financial reporting adopted under division (B)(2) of section 3301.07 of the Revised Code.

Sec. 3333.041. (A) On or before the last day of December of each year, the chancellor of the Ohio board of regents shall submit to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly a report or reports concerning all of the following:

(1) The status of graduates of Ohio school districts at state institutions of higher education during the twelve-month period ending on the thirtieth day of September of the current calendar year. The report shall list, by school district, the number of graduates of each school district who attended a state institution of higher education and the percentage of each district's graduates enrolled in a state institution of higher education during the reporting period who were required during such period by the college or university, as a prerequisite to enrolling in those courses generally required for first-year students, to enroll in a remedial course in English, including composition or reading, mathematics, and any other area designated by the chancellor. The chancellor also shall make the information described in division (A)(1) of this section available to the board of education of each city, exempted village, and local school district.

Each state institution of higher education shall, by the first day of November of each year, submit to the chancellor in the form specified by the chancellor the information the chancellor requires to compile the report.

(2) Aggregate academic growth data for students assigned to graduates of teacher preparation programs approved under section 3333.048 of the Revised Code who teach English language arts or mathematics in any of grades four to eight in a public school in Ohio. For this purpose, the chancellor shall use the value-added progress dimension prescribed by section 3302.021 of the Revised Code or the alternative student academic progress measure if adopted under division (C)(1)(e) of section 3302.03 of the Revised Code. The chancellor shall aggregate the data by graduating class for each approved teacher preparation program, except that if a particular class has ten or fewer graduates to which this section applies, the chancellor shall report the data for a group of classes over a three-year period. In no case shall the report identify any individual graduate. The department of education shall share any data necessary for the report with the chancellor.

(3) The following information with respect to the Ohio tuition trust authority:

(a) The name of each investment manager that is a minority business enterprise or a women's business enterprise with which the chancellor contracts;

(b) The amount of assets managed by investment managers that are minority business enterprises or women's business enterprises, expressed as a percentage of assets managed by investment managers with which the chancellor has contracted;

(c) Efforts by the chancellor to increase utilization of investment managers that are minority business enterprises or women's business enterprises.

~~(4) The status of implementation of faculty improvement programs under section 3345.28 of the Revised Code. The report shall include, but need not be limited to, the following: the number of professional leave grants made by each institution; the purpose of each professional leave; and a statement of the cost to the institution of each professional leave, to the extent that the cost exceeds the salary of the faculty member on professional leave.~~

~~(5) The number and types of biobased products purchased under section 125.092 of the Revised Code and the amount of money spent by state institutions of higher education for those biobased products as that information is provided to the chancellor under division (A) of section 3345.692 of the Revised Code.~~

(6) A description of dual enrollment programs, as defined in section 3313.6013 of the Revised Code, that are offered by school districts, community schools established under Chapter 3314. of the Revised Code, STEM schools established under Chapter 3326. of the Revised Code, college-preparatory boarding schools established under Chapter 3328. of the Revised Code, and chartered nonpublic high schools. The chancellor also shall post the information on the chancellor's web site.

~~(7) The academic and economic impact of the Ohio innovation partnership established under section 3333.61 of the Revised Code. At a minimum, the report shall include the following:~~

~~(a) Progress and performance metrics for each initiative that received an award in the previous fiscal year;~~

~~(b) Economic indicators of the impact of each initiative, and all initiatives as a whole, on the regional economies and the statewide economy;~~

~~(e)(5) The chancellor's strategy in assigning choose Ohio first~~

scholarships, as established under section 3333.61 of the Revised Code, among state universities and colleges and how the actual awards fit that strategy.

~~(8)~~(6) The academic and economic impact of the Ohio co-op/internship program established under section 3333.72 of the Revised Code. At a minimum, the report shall include the following:

(a) Progress and performance metrics for each initiative that received an award in the previous fiscal year;

(b) Economic indicators of the impact of each initiative, and all initiatives as a whole, on the regional economies and the statewide economy;

(c) The chancellor's strategy in allocating awards among state institutions of higher education and how the actual awards fit that strategy.

(B) As used in this section:

(1) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(2) "State institution of higher education" and "state university" have the same meanings as in section 3345.011 of the Revised Code.

(3) "State university or college" has the same meaning as in section 3345.12 of the Revised Code.

(4) "Women's business enterprise" means a business, or a partnership, corporation, limited liability company, or joint venture of any kind, that is owned and controlled by women who are United States citizens and residents of this state.

Sec. 3333.0412. No nonprofit institution that holds a certificate of authorization issued under Chapter 1713. of the Revised Code shall be liable for a breach of confidentiality arising from the institution's submission of student data or records to the board of regents or any other state agency in compliance with any law, rule, or regulation, provided that the breach occurs as a result of one of the following:

(A) An action by a third party during and after the transmission of the data or records by the institution but prior to receipt of the data or records by the board of regents or other state agency;

(B) An action by the board of regents or the state agency.

This provision shall apply to the submission of any student data or records that are subject to any laws of this state or, to the extent permitted, any federal law, including the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g.

Sec. 3333.124. There is hereby created in the state treasury the Ohio college opportunity grant program reserve fund. Not later than the first day

of July of each fiscal year, the chancellor of the Ohio board of regents shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding fiscal year for purposes of the Ohio college opportunity grant program created in section 3333.122 of the Revised Code. Upon receipt of the certification, the director may transfer an amount not exceeding the certified amount from the general revenue fund to the Ohio college opportunity grant program reserve fund. Moneys in the Ohio college opportunity grant program reserve fund shall be used to pay grant obligations in excess of the general revenue fund appropriations made for that purpose.

The director may transfer any unencumbered balance from the Ohio college opportunity grant program reserve fund to the general revenue fund.

Sec. 3333.342. (A) The chancellor of the Ohio board of regents may designate a "certificate of value" for a certificate program at any adult career-technical education institution or state institution of higher education, as defined under section 3345.011 of the Revised Code, based on the standards adopted under division (B) of this section.

(B) The chancellor shall develop standards for designation of the certificates of value for certificate programs at adult career-technical education institutions and state institutions of higher education. The standards shall include at least the following considerations:

(1) The quality of the certificate program;

(2) The ability to transfer agreed-upon technical courses completed through an adult career-technical education institution to a state institution of higher education without unnecessary duplication or institutional barriers;

(3) The extent to which the certificate program encourages a student to obtain an associate's or bachelor's degree;

(4) The extent to which the certificate program increases a student's likelihood to complete other certificate programs or an associate's or bachelor's degree;

(5) The ability of the certificate program to meet the expectations of the workplace and higher education;

(6) The extent to which the certificate program is aligned with the strengths of the regional economy;

(7) The extent to which the certificate program increases the amount of individuals who remain in or enter the state's workforce;

(8) The extent of a certificate program's relationship with private companies in the state to fill potential job growth.

(C) The designation of a certificate of value under this section shall

expire six years after its designation date.

(D) The chancellor may revoke a designation prior to its expiration date if the chancellor determines that the program no longer complies with the standards developed under division (B) of this section.

(E) Any revocation of a certificate of value under this section shall become effective one hundred eighty days after the date the revocation was declared by the chancellor.

(F) Any adult career-technical education institution or state institution of higher education that desires to be eligible to receive a designation of certificate of value for one or more of its certificate programs shall comply with all records and data requests required by the chancellor.

Sec. ~~3333.90~~ 3333.59. (A) As used in this section:

(1) "Allocated state share of instruction" means, for any fiscal year, the amount of the state share of instruction appropriated to the Ohio board of regents by the general assembly that is allocated to a community or technical college or community or technical college district for such fiscal year.

(2) "Issuing authority" has the same meaning as in section 154.01 of the Revised Code.

(3) "Bond service charges" has the same meaning as in section 154.01 of the Revised Code.

(4) "Chancellor" means the chancellor of the Ohio board of regents.

(5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education:

(a) A community college as defined in section 3354.01 of the Revised Code;

(b) A technical college as defined in section 3357.01 of the Revised Code;

(c) A state community college as defined in section 3358.01 of the Revised Code.

(6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted:

(a) A community college district as defined in section 3354.01 of the Revised Code;

(b) A technical college district as defined in section 3357.01 of the Revised Code;

(c) A state community college district as defined in section 3358.01 of the Revised Code.

(7) "Credit enhancement facilities" has the same meaning as in section

133.01 of the Revised Code.

(8) "Obligations" has the meaning as in section 154.01 or 3345.12 of the Revised Code, as the context requires.

(B) The board of trustees of any community or technical college district authorizing the issuance of obligations under section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the Revised Code, or for whose benefit and on whose behalf the issuing authority proposes to issue obligations under section 154.25 of the Revised Code, may adopt a resolution requesting the chancellor to enter into an agreement with the community or technical college district and the primary paying agent or fiscal agent for such obligations, providing for the withholding and deposit of funds otherwise due the district or the community or technical college it operates in respect of its allocated state share of instruction, for the payment of bond service charges on such obligations.

The board of trustees shall deliver to the chancellor a copy of the resolution and any additional pertinent information the chancellor may require.

The chancellor and the office of budget and management, and the issuing authority in the case of obligations to be issued by the issuing authority, shall evaluate each request received from a community or technical college district under this section. The chancellor, with the advice and consent of the director of budget and management and the issuing authority in the case of obligations to be issued by the issuing authority, shall approve each request if all of the following conditions are met:

(1) Approval of the request will enhance the marketability of the obligations for which the request is made;

(2) The chancellor and the office of budget and management, and the issuing authority in the case of obligations to be issued by the issuing authority, have no reason to believe the requesting community or technical college district or the community or technical college it operates will be unable to pay when due the bond service charges on the obligations for which the request is made, and bond service charges on those obligations are therefore not anticipated to be paid pursuant to this section from the allocated state share of instruction for purposes of Section 17 of Article VIII, Ohio Constitution.

(3) Any other pertinent conditions established in rules adopted under division (H) of this section.

(C) If the chancellor approves the request of a community or technical college district to withhold and deposit funds pursuant to this section, the chancellor shall enter into a written agreement with the district and the

primary paying agent or fiscal agent for the obligations, which agreement shall provide for the withholding of funds pursuant to this section for the payment of bond service charges on those obligations. The agreement may also include both of the following:

(1) Provisions for certification by the district to the chancellor, prior to the deadline for payment of the applicable bond service charges, whether the district and the community or technical college it operates are able to pay those bond service charges when due;

(2) Requirements that the district or the community or technical college it operates deposits amounts for the payment of those bond service charges with the primary paying agent or fiscal agent for the obligations prior to the date on which the bond service charges are due to the owners or holders of the obligations.

(D) Whenever a district or the community or technical college it operates notifies the chancellor that it will not be able to pay the bond service charges when they are due, subject to the withholding provisions of this section, or whenever the applicable paying agent or fiscal agent notifies the chancellor that it has not timely received from a district or from the college it operates the full amount needed for payment of the bond service charges when due to the holders or owners of such obligations, the chancellor shall immediately contact the district or college and the paying agent or fiscal agent to confirm that the district and the college are not able to make the required payment by the date on which it is due.

If the chancellor confirms that the district and the college are not able to make the payment and the payment will not be made pursuant to a credit enhancement facility, the chancellor shall promptly pay to the applicable primary paying agent or fiscal agent the lesser of the amount due for bond service charges or the amount of the next periodic distribution scheduled to be made to the district or to the college in respect of its allocated state share of instruction. If this amount is insufficient to pay the total amount then due the agent for the payment of bond service charges, the chancellor shall continue to pay to the agent from each periodic distribution thereafter, and until the full amount due the agent for unpaid bond service charges is paid in full, the lesser of the remaining amount due the agent for bond service charges or the amount of the next periodic distribution scheduled to be made to the district or college in respect of its allocated state share of instruction.

(E) The chancellor may make any payments under this section by direct deposit of funds by electronic transfer.

Any amount received by a paying agent or fiscal agent under this section shall be applied only to the payment of bond service charges on the

obligations of the community or technical college district or community or technical college subject to this section or to the reimbursement of the provider of a credit enhancement facility that has paid the bond service charges.

(F) The chancellor may make payments under this section to paying agents or fiscal agents during any fiscal biennium of the state only from and to the extent that money is appropriated to the board of regents by the general assembly for distribution during such biennium for the state share of instruction and only to the extent that a portion of the state share of instruction has been allocated to the community or technical college district or community or technical college. Obligations of the issuing authority or of a community or technical college district to which this section is made applicable do not constitute an obligation or a debt or a pledge of the faith, credit, or taxing power of the state, and the holders or owners of those obligations have no right to have excises or taxes levied or appropriations made by the general assembly for the payment of bond service charges on the obligations, and the obligations shall contain a statement to that effect. The agreement for or the actual withholding and payment of money under this section does not constitute the assumption by the state of any debt of a community or technical college district or a community or technical college, and bond service charges on the related obligations are not anticipated to be paid from the state general revenue fund for purposes of Section 17 of Article VIII, Ohio Constitution.

(G) In the case of obligations subject to the withholding provisions of this section, the issuing community or technical college district, or the issuing authority in the case of obligations issued by the issuing authority, shall appoint a paying agent or fiscal agent who is not an officer or employee of the district or college.

(H) The chancellor, with the advice and consent of the office of budget and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section to secure payment of bond service charges on obligations issued by a community or technical college district or by the issuing authority for the benefit of a community or technical college district or the community or technical college it operates. Those rules shall include criteria for the evaluation and approval or denial of community or technical college district requests for withholding under this section.

(I) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

Sec. 3333.613. There is hereby created in the state treasury the choose Ohio first scholarship reserve fund. Not later than the first day of July of each fiscal year, the chancellor of the Ohio board of regents shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding fiscal year for purposes of the choose Ohio first scholarship program created in section 3333.61 of the Revised Code. Upon receipt of the certification, the director may transfer an amount not exceeding the certified amount from the general revenue fund to the choose Ohio first scholarship reserve fund. Moneys in the choose Ohio first scholarship reserve fund shall be used to pay scholarship obligations in excess of the general revenue fund appropriations made for that purpose.

The director may transfer any unencumbered balance from the choose Ohio first scholarship reserve fund to the general revenue fund.

Sec. 3333.73. The chancellor of the Ohio board of regents shall establish a competitive process for making awards under the Ohio co-op/internship program. The chancellor, on completion of that process, shall make a recommendation to the controlling board asking for approval of each award selected by the chancellor.

The state institution of higher education shall submit a proposal and other documentation required by the chancellor, in the form and manner prescribed by the chancellor, for each award it seeks. A proposal may propose an initiative to be implemented solely by the state institution of higher education or in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges.

The chancellor shall determine which proposals will receive awards each fiscal year, and the amount of each award, on the basis of the merit of each proposal, which the chancellor, subject to approval by the controlling board, shall determine based on one or more of the following criteria:

(A) The extent to which the proposal will keep Ohio students in Ohio institutions of higher education;

(B) The extent to which the proposal will attract Ohio residents who left Ohio to attend out-of-state institutions of higher education to return to Ohio institutions of higher education;

(C) The extent to which the proposal will increase the number of Ohio graduates who remain in Ohio and enter Ohio's workforce;

(D) The quality of the program that is the subject of the proposal and the extent to which additional resources will enhance its quality;

(E) The extent to which the proposal is integrated with the strengths of the regional economy;

(F) ~~The extent to which the proposal is aligned with the report submitted by the chancellor pursuant to Section 4 of Sub. H.B. 2 of the 127th general assembly, as amended~~ supports the workforce policies of the governor's office of workforce transformation to meet the workforce needs of the state and to provide a student participating in the program with the skills needed for workplace success;

(G) The extent to which the proposal facilitates the development of high quality academic programs with a cooperative education program or a significant internship program at state institutions of higher education;

(H) The extent to which the proposal is integrated with supporting private companies to fill potential job growth, is responsive to the needs of employers, aligns with the skills identified by employers as necessary to fill high-demand job openings, particularly job openings in targeted industry sectors as identified by the governor's office of workforce transformation;

(I) The amount of other institutional, public, or private resources, whether monetary or nonmonetary, the proposal pledges to leverage that are in addition to the monetary cost-sharing requirement prescribed in section 3333.74 of the Revised Code;

(J) The extent to which the proposal is collaborative with other Ohio institutions of higher education;

(K) The extent to which the proposal is integrated with the institution's mission;

(L) The extent to which the proposal meets a statewide educational need at the undergraduate or graduate level;

(M) The demonstrated productivity or future capacity of the students to be recruited;

(N) The extent to which the proposal will create additional capacity in a high quality academic program with a cooperative education program or significant internship program;

(O) The extent to which the proposal will encourage students who received degrees from two-year institutions to pursue baccalaureate degrees;

(P) The extent to which the proposal facilitates the completion of a baccalaureate degree in a cost-effective manner;

(Q) The extent to which other institutional, public, or private resources that are pledged to the proposal, in addition to the monetary cost-sharing requirement prescribed in section 3333.74 of the Revised Code, will be deployed to assist in sustaining the academic program of excellence;

(R) The extent to which the proposal increases the likelihood that students will successfully complete their degree programs or certificate programs;

(S) The extent to which the proposal ensures that a student participating in the high quality academic program funded by the Ohio co-op/internship program is appropriately qualified and prepared to successfully transition into professions in Ohio's growing companies and industries.

Sec. 3333.81. As used in sections 3333.81 to 3333.88 of the Revised Code:

(A) "Clearinghouse" means the clearinghouse established under section 3333.82 of the Revised Code.

(B) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(C) "Common statewide platform" means a software program that facilitates the delivery of courses via computers from multiple course providers to multiple end users, tracks the progress of the end user, and includes an integrated searchable database of standards-based course content.

(D) "Course provider" means a school district, community school, STEM school, state institution of higher education, private college or university, or nonprofit or for-profit private entity that creates or is an agent of the creator of original course content for a course offered through the clearinghouse.

(E) "Instructor" means an individual who holds a license issued by the state board of education, as defined in section 3319.31 of the Revised Code, or an individual employed as an instructor or professor by a state institution of higher education or a private college or university.

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

(G) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

(H) A "student's community school" means the community school in which the student is enrolled instead of being enrolled in a school operated by a school district.

(I) A "student's school district" means the school district operating the school in which the student is lawfully enrolled.

(J) "A "student's STEM school" means the STEM school in which the student is enrolled instead of being enrolled in a school operated by a school district.

(K) "School district" means a city, exempted village, local, or joint vocational school district.

(L) "Digital texts" has the same meaning as defined in section 3317.06 of the Revised Code.

Sec. 3333.82. (A) The chancellor of the Ohio board of regents shall establish a clearinghouse of digital texts, interactive distance learning courses, and other distance learning courses delivered via a computer-based method offered by school districts, community schools, STEM schools, state institutions of higher education, private colleges and universities, and other nonprofit and for-profit course providers for sharing with other school districts, community schools, STEM schools, state institutions of higher education, private colleges and universities, and individuals for the fee set pursuant to section 3333.84 of the Revised Code. The chancellor shall not be responsible for the content of digital texts or courses offered through the clearinghouse; however, all such digital texts and courses shall be delivered only in accordance with technical specifications approved by the chancellor and on a common statewide platform administered by the chancellor. The chancellor may provide professional development and training on the use of the distance learning clearinghouse.

The clearinghouse's distance learning program for students in grades kindergarten to twelve shall be based on the following principles:

(1) All Ohio students shall have access to high quality digital texts and distance learning courses at any point in their educational careers.

(2) All students shall be able to customize their education using digital texts and distance learning courses offered through the clearinghouse and no student shall be denied access to any digital text or course in the clearinghouse in which the student is eligible to enroll.

(3) Students may take distance learning courses for all or any portion of their curriculum requirements and may utilize a combination of digital texts and distance learning courses and courses taught in a traditional classroom setting.

(4) Students may earn an unlimited number of academic credits through distance learning courses.

(5) Students may take distance learning courses at any time of the calendar year.

(6) Student advancement to higher coursework shall be based on a demonstration of subject area competency instead of completion of any particular number of hours of instruction.

(B) To offer digital texts or a course through the clearinghouse, a ~~course~~ provider shall apply to the chancellor in a form and manner prescribed by the chancellor. The application for each digital text or course shall describe the digital text or course of study in as much detail as required by the chancellor, whether an instructor is provided, the qualification and credentials of the instructor, the number of hours of instruction, and any

other information required by the chancellor. The chancellor may require course providers to include in their applications information recommended by the state board of education under former section 3353.30 of the Revised Code.

(C) The chancellor shall review the technical specifications of each application submitted under division (B) of this section. In reviewing applications, the chancellor may consult with the department of education; however, the responsibility to either approve or not approve a digital text or course for the clearinghouse belongs to the chancellor. The chancellor may request additional information from a ~~course~~ provider that submits an application under division (B) of this section, if the chancellor determines that such information is necessary. The chancellor may negotiate changes in the proposal to offer a digital text or course, if the chancellor determines that changes are necessary in order to approve the digital text or course.

(D) The chancellor shall catalog each digital text or course approved for the clearinghouse, through a print or electronic medium, displaying the following:

(1) Information necessary for a student and the student's parent, guardian, or custodian and the student's school district, community school, STEM school, college, or university to decide whether to enroll in or subscribe to the course;

(2) Instructions for enrolling in that digital text or course, including deadlines for enrollment.

(E) Any expenses related to the installation of a course into the common statewide platform shall be borne by the course provider.

~~(F) The eTech Ohio commission, in consultation with the chancellor and the state board, shall distribute information to students and parents describing the clearinghouse. The information shall be provided in an easily understandable format.~~ The chancellor may contract with an entity to perform any or all of the chancellor's duties under sections 3333.81 to 3333.88 of the Revised Code.

Sec. 3333.84. (A) The fee charged for any digital texts or course offered through the clearinghouse shall be set by the ~~course~~ provider.

(B) The chancellor of the Ohio board of regents shall prescribe the manner in which the fee for a digital texts or course shall be collected or deducted from the school district, school, college or university, or individual subscribing to the digital texts or course and in which manner the fee shall be paid to the ~~course~~ provider.

(C) The chancellor may retain a percentage of the fee charged for a digital texts or course to offset the cost of maintaining and operating the

clearinghouse, including the payment of compensation for an entity or a private entity that is under contract with the chancellor under division (F) of section 3333.82 of the Revised Code. The percentage retained shall be determined by the chancellor.

(D) Nothing in this section shall be construed to require the school district, community school, or STEM school in which a student is enrolled to pay the fee charged for a digital texts or course taken by the student.

Sec. 3335.35. There is hereby created the "~~Ohio-cooperative~~ OSU extension service fund," which shall be under the custody and control of the board of trustees of the Ohio state university and shall consist of all moneys appropriated, given, granted, or bequeathed to the university for the use of ~~the Ohio-cooperative OSU extension service~~ by the United States, this state, any political subdivision of this state, or any person. The board shall have responsibility for expenditure of all moneys in the fund in accordance with state and federal law and memoranda of agreement between the university and the United States department of agriculture.

Sec. 3335.36. The board of trustees of the Ohio state university may employ such employees as it considers appropriate for the conduct of educational programs of ~~the Ohio-cooperative OSU extension service~~ and may provide for the payment from the ~~Ohio-cooperative OSU extension service~~ fund created by section 3335.35 of the Revised Code of reasonable compensation to such employees and of reasonable expenses incurred by them in the discharge of their duties, including expenses of travel and of maintaining, equipping, and supplying their offices.

The employees shall cooperate with the department of agriculture, the Ohio agricultural research and development center, the department of education, and the United States department of agriculture, for the purpose of making available the educational materials of ~~the OSU extension service~~. ~~Such~~ The employees shall represent the university and shall conduct educational activities related to agriculture, natural resources, ~~home economics~~ community development, family living and consumer sciences, and 4-H programs for the citizens of this state through personal instruction, bulletins, practical demonstrations, mass media, and otherwise, subject to such rules as may be prescribed by the board of trustees of the university. ~~Such~~ The employees shall have offices provided by the county or other political subdivision in which they serve in which bulletins and other educational materials of value to the people may be consulted and through which the employees may be reached.

The board of trustees of the Ohio state university may hire or use employees of ~~the Ohio-cooperative OSU extension service~~ to carry out the

functions and duties of a director of economic development under division (B) of section 307.07 of the Revised Code pursuant to any agreement with a county under division (A)(2) of section 307.07 of the Revised Code.

Sec. 3335.37. The board of county commissioners of any county may levy a tax, within the limitations prescribed by law, and appropriate money from the proceeds thereof or from the general fund of the county to be paid to the Ohio state university to the credit of the ~~Ohio cooperative~~ OSU extension service fund created by section 3335.35 of the Revised Code and expended for the purposes prescribed in section 3335.36 of the Revised Code for the benefit of the citizens of ~~such~~ that county. Any money paid into the fund under this section that aggregates more than ten per cent of the county appropriation in the preceding year and that remains unexpended for two years from the time of ~~such~~ the payment shall be returned to the county from which it came unless the board of county commissioners determines by resolution to contribute it to ~~the Ohio cooperative~~ OSU extension service for general purposes.

Sec. 3335.38. The board of trustees of the Ohio state university shall establish a farm financial management institute in ~~the Ohio cooperative~~ OSU extension service to train interested and qualified persons to assist farmers needing help with farm financial management problems.

Participation shall be open to all interested persons, but the following persons shall be given priority as to enrollment: employees or representatives of banks and other farm credit agencies, agricultural teachers, and faculty and employees of the Ohio state university and ~~the Ohio cooperative~~ OSU extension service who agree to assist Ohio farmers in completing and understanding the coordinated financial statement and other subjects. A fee may be charged participants, as determined by ~~the~~ OSU extension service, but may be waived for those participants granted priority status at enrollment.

Sec. ~~3304.23~~ 3335.60. (A) There is hereby created in the ~~rehabilitation services commission~~ Ohio state university college of medicine a brain injury program consisting of a program director and at least one support staff person.

(B) To the extent that funds are available, the brain injury program may do the following:

- (1) Identify existing services in this state to assist survivors and families of survivors of brain injury;
- (2) Promote the coordination of services for survivors and families of survivors of brain injury;
- (3) Explore options for delivery of services to survivors and families of

survivors of brain injury;

(4) Explore the establishment of a traumatic brain injury incidence reporting system to collect information on the incidence and character of traumatic brain injury in this state;

(5) Promote practices that will reduce the incidence of brain injury;

(6) Develop training programs on dealing with brain injury and the special needs of survivors of brain injury;

(7) Identify sources of available funds for services for survivors and families of survivors of brain injury;

(8) Explore options for the delivery of case management services to residents of this state who are survivors of brain injury;

(9) Provide assistance to assure that services for survivors and families of survivors of brain injury are all of the following:

(a) Designed to enhance the survivor's ability to lead an independent and productive life;

(b) Available within close proximity of the survivor's home;

(c) Provided in the least restrictive environment;

(d) Appropriate to the unique needs of the survivor.

(C) The staff of the brain injury program shall prepare a biennial report on the incidence of brain injury in this state ~~that. The report shall be submitted to the administrator of the rehabilitation services commission on or before December 15, 1992, completed not later than two years after the effective date of this amendment and every two years thereafter. A copy of the report shall be~~ and submitted to the brain injury advisory committee created under section ~~3304.231~~ 3335.61 of the Revised Code.

Sec. ~~3304.231~~ 3335.61. There is hereby created a brain injury advisory committee, which shall advise the ~~administrator of the rehabilitation services commission and~~ the brain injury program with regard to unmet needs of survivors of brain injury, development of programs for survivors and their families, establishment of training programs for health care professionals, and any other matter within the province of the brain injury program. The committee shall consist of not fewer than ~~twenty~~ nineteen and not more than ~~twenty-two~~ twenty-one members as follows:

(A) Not fewer than ten and not more than twelve members appointed by the ~~administrator of the rehabilitation services commission~~ dean of the college of medicine of the Ohio state university, including all of the following: a survivor of brain injury, a relative of a survivor of brain injury, a licensed physician recommended by the Ohio chapter of the American college of emergency physicians, a licensed physician recommended by the Ohio state medical association, one other health care professional, a

rehabilitation professional, an individual who represents the brain injury association of Ohio, and not fewer than three nor more than five individuals who shall represent the public;

(B) The directors of the departments of health, ~~alcohol and drug addiction services~~ mental health and drug addiction services, developmental disabilities, ~~mental health, job and family services~~, aging, and public safety; the medicaid director; the administrator of workers' compensation; the superintendent of public instruction; and the ~~administrator~~ executive director of the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency. Any of the officials specified in this division may designate an individual to serve in the official's place as a member of the committee.

Terms of office of the appointed members shall be two years. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term.

Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

Sec. 3337.16. (A) The president of Ohio university may create an advisory committee to do both of the following:

(1) Review the comprehensive land use plans and any updates of those land use plans prepared by Ohio university for the property conveyed to the university in Sub. H.B. 576 of the 117th general assembly;

(2) Comment on and periodically review the progress on the implementation of the comprehensive land use plans described in division (A)(1) of this section.

(B) The advisory committee created under division (A) of this section shall consist of the following members:

(1) The president of Ohio university or the president's designee, who shall serve as chairperson of the advisory committee;

(2) The mayor of the city of Athens or the mayor's designee;

(3) The following members appointed by the president of Ohio university:

(a) One Athens county commissioner;

(b) One to three individuals who reside in Athens county and have special knowledge and experience in land use planning, preservation, or economic development.

Vacancies on the committee shall be filled in the same manner as the

original appointments.

Sec. 3345.05. (A) All registration fees, nonresident tuition fees, academic fees for the support of off-campus instruction, laboratory and course fees when so assessed and collected, student health fees for the support of a student health service, all other fees, deposits, charges, receipts, and income from all or part of the students, all subsidy or other payments from state appropriations, and all other fees, deposits, charges, receipts, income, and revenue received by each state institution of higher education, the Ohio state university hospitals and their ancillary facilities, the Ohio agricultural research and development center, and ~~the Ohio state university cooperative~~ OSU extension service shall be held and administered by the respective boards of trustees of the state institution of higher education; provided, that such fees, deposits, charges, receipts, income and revenue, to the extent required by resolutions, trust agreements, indentures, leases, and agreements adopted, made, or entered into under Chapter 154. or section 3345.07, 3345.11, or 3345.12 of the Revised Code, shall be held, administered, transferred, and applied in accordance therewith.

(B) The Ohio board of regents shall require annual reporting by the Ohio agricultural research and development center and by each university and college receiving state aid in such form and detail as determined by the board in consultation with such center, universities and colleges, and the director of budget and management.

(C) Notwithstanding any provision of the Revised Code to the contrary, the title to investments made by the board of trustees of a state institution of higher education with funds derived from any of the sources described in division (A) of this section shall not be vested in the state or the political subdivision but shall be held in trust by the board. Such investments shall be made pursuant to an investment policy adopted by the board in public session that requires all fiduciaries to discharge their duties with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The policy also shall require at least the following:

(1) A stipulation that investment of at least twenty-five per cent of the average amount of the investment portfolio over the course of the previous fiscal year be invested in securities of the United States government or of its agencies or instrumentalities, the treasurer of state's pooled investment program, obligations of this state or any political subdivision of this state, certificates of deposit of any national bank located in this state, written repurchase agreements with any eligible Ohio financial institution that is a

member of the federal reserve system or federal home loan bank, money market funds, or bankers acceptances maturing in two hundred seventy days or less which are eligible for purchase by the federal reserve system, as a reserve;

(2) Eligible funds above those that meet the conditions of division (C)(1) of this section may be pooled with other institutional funds and invested in accordance with section 1715.52 of the Revised Code.

(3) The establishment of an investment committee.

(D) The investment committee established under division (C)(3) of this section shall meet at least quarterly. The committee shall review and recommend revisions to the board's investment policy and shall advise the board on its investments made under division (C) of this section in an effort to assist it in meeting its obligations as a fiduciary as described in division (C) of this section. The committee shall be authorized to retain the services of an investment advisor who meets both of the following qualifications:

(1) The advisor is either:

(a) Licensed by the division of securities under section 1707.141 of the Revised Code;

(b) Registered with the securities and exchange commission.

(2) The advisor either:

(a) Has experience in the management of investments of public funds, especially in the investment of state-government investment portfolios;

(b) Is an eligible institution referenced in section 135.03 of the Revised Code.

(E) As used in this section, "state institution of higher education" means a state institution of higher education as defined in section 3345.011 of the Revised Code.

Sec. 3345.06. (A) Subject to divisions (B) and (C) of this section, a graduate of the twelfth grade shall be entitled to admission without examination to any college or university which is supported wholly or in part by the state, but for unconditional admission may be required to complete such units not included in the graduate's high school course as may be prescribed, not less than two years prior to the graduate's entrance, by the faculty of the institution.

(B) Beginning with the 2014-2015 academic year, each state university listed in section 3345.011 of the Revised Code, except for Central state university, Shawnee state university, and Youngstown state university, shall permit a resident of this state who entered ninth grade for the first time on or after July 1, 2010, to begin undergraduate coursework at the university only if the person has successfully completed the Ohio core curriculum for high

school graduation prescribed in division (C) of section 3313.603 of the Revised Code, unless one of the following applies:

(1) The person has earned at least ten semester hours, or the equivalent, at a community college, state community college, university branch, technical college, or another post-secondary institution except a state university to which division (B) of this section applies, in courses that are college-credit-bearing and may be applied toward the requirements for a degree. The university shall grant credit for successful completion of those courses pursuant to any applicable articulation and transfer policy of the Ohio board of regents or any agreements the university has entered into in accordance with policies and procedures adopted under section 3333.16, 3313.161, or 3333.162 of the Revised Code. The university may count college credit that the student earned while in high school through the post-secondary enrollment options program under Chapter 3365. of the Revised Code, or through other dual enrollment programs, toward the requirements of division (B)(1) of this section if the credit may be applied toward a degree.

(2) The person qualified to graduate from high school under division (D) or (F) of section 3313.603 of the Revised Code and has successfully completed the topics or courses that the person lacked to graduate under division (C) of that section at any post-secondary institution or at a summer program at the state university. A state university may admit a person for enrollment contingent upon completion of such topics or courses or summer program.

(3) The person met the high school graduation requirements by successfully completing the person's individualized education program developed under section 3323.08 of the Revised Code.

~~(3)~~(4) The person is receiving or has completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code, or has graduated from a nonchartered, nonpublic school in Ohio, and demonstrates mastery of the academic content and skills in reading, writing, and mathematics needed to successfully complete introductory level coursework at an institution of higher education and to avoid remedial coursework.

~~(4)~~(5) The person is a high school student participating in the post-secondary enrollment options program under Chapter 3365. of the Revised Code or another dual enrollment program.

(C) A state university subject to division (B) of this section may delay admission for or admit conditionally an undergraduate student who has successfully completed the Ohio core curriculum if the university

determines the student requires academic remedial or developmental coursework. The university may delay admission pending, or make admission conditional upon, the student's successful completion of the academic remedial or developmental coursework at a university branch, community college, state community college, or technical college.

(D) This section does not deny the right of a college of law, medicine, or other specialized education to require college training for admission, or the right of a department of music or other art to require particular preliminary training or talent.

Sec. 3345.12. (A) As used in this section and sections 3345.07 and 3345.11 of the Revised Code, in other sections of the Revised Code that make reference to this section unless the context does not permit, and in related bond proceedings unless otherwise expressly provided:

(1) "State university or college" means each of the state universities identified in section 3345.011 of the Revised Code and the northeast Ohio medical university, and includes its board of trustees.

(2) "Institution of higher education" or "institution" means a state university or college, or a community college district, technical college district, university branch district, or state community college, and includes the applicable board of trustees or, in the case of a university branch district, any other managing authority.

(3) "Housing and dining facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with dormitories or other living quarters and accommodations, or related dining halls or other food service and preparation facilities, for students, members of the faculty, officers, or employees of the institution of higher education, and their spouses and families.

(4) "Auxiliary facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with student activity or student service facilities, housing and dining facilities, dining halls, and other food service and preparation facilities, vehicular parking facilities, bookstores, athletic and recreational facilities, faculty centers, auditoriums, assembly and exhibition halls, hospitals, infirmaries and other medical and health facilities, research, and continuing education facilities.

(5) "Education facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with, classrooms or other instructional facilities, libraries, administrative and office facilities, and

other facilities, other than auxiliary facilities, to be used directly or indirectly for or in connection with the conduct of the institution of higher education.

(6) "Facilities" means housing and dining facilities, auxiliary facilities, or education facilities, and includes any one, part of, or any combination of such facilities, and further includes site improvements, utilities, machinery, furnishings, and any separate or connected buildings, structures, improvements, sites, open space and green space areas, utilities or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, such facilities.

(7) "Obligations" means bonds or notes or other evidences of obligation, including interest coupons pertaining thereto, authorized to be issued under this section or section 3345.07, 3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code.

(8) "Bond service charges" means principal, including any mandatory sinking fund or redemption requirements for the retirement of obligations or assurances, interest, or interest equivalent and other accreted amounts, and any call premium required to be paid on obligations or assurances.

(9) "Bond proceedings" means the resolutions, trust agreement, indenture, and other agreements and credit enhancement facilities, and amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing, awarding, or providing for the terms and conditions applicable to, or providing for the security or liquidity of, obligations or assurances, and the provisions contained in those obligations or assurances.

(10) "Costs of facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the institution of higher education or state agency, cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, legal fees, fees and expenses of trustees, depositories, bond registrars, and paying agents for the obligations, cost of issuance of the obligations and financing costs and fees and expenses of financial advisers and consultants in connection therewith, interest on the obligations from the date thereof to the time when interest is to be covered by available receipts or other sources other than proceeds of the obligations,

amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursements of all moneys advanced or applied by or borrowed from the institution or others, from whatever source provided, including any temporary advances from state appropriations, for the payment of any item or items of cost of facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of facilities, the financing thereof and the placing of them in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(11) "Available receipts" means all moneys received by the institution of higher education, including income, revenues, and receipts from the operation, ownership, or control of facilities or entrepreneurial projects, grants, gifts, donations, and pledges and receipts therefrom, receipts from fees and charges, and the proceeds of the sale of obligations or assurances, including proceeds of obligations or assurances issued to refund obligations or assurances previously issued, but excluding any special fee, and receipts therefrom, charged pursuant to division (D) of section 154.21 of the Revised Code.

(12) "Credit enhancement facilities" has the meaning given in division (H) of section 133.01 of the Revised Code.

(13) "Financing costs" has the meaning given in division (K) of section 133.01 of the Revised Code.

(14) "Interest" or "interest equivalent" has the meaning given in division (R) of section 133.01 of the Revised Code.

(15) "Assurances" means bonds, notes, or other evidence of indebtedness, including interest coupons pertaining thereto, authorized to be issued under section 3345.36 of the Revised Code.

(16) "Entrepreneurial project" has the same meaning as in section 3345.36 of the Revised Code.

(17) "Costs of entrepreneurial projects" means any costs related to the establishment or development of entrepreneurial projects pursuant to a resolution adopted under section 3345.36 of the Revised Code.

(B) Obligations issued under section 3345.07 or 3345.11 of the Revised Code by a state university or college shall be authorized by resolution of its board of trustees. Obligations issued by any other institution of higher education shall be authorized by resolution of its board of trustees, or managing directors in the case of certain university branch districts, as

applicable. Sections 9.96 and 9.98 to 9.983 of the Revised Code apply to obligations and assurances. Obligations and assurances may be issued to pay costs of facilities or entrepreneurial projects even if the institution anticipates the possibility of a future state appropriation to pay all or a portion of such costs.

(C) Obligations and assurances shall be secured by a pledge of and lien on all or such part of the available receipts of the institution of higher education as it provides for in the bond proceedings, excluding moneys raised by taxation and state appropriations except as permitted by section ~~3333.90~~ 3333.59 of the Revised Code. Such pledge and lien may be made prior to all other expenses, claims, or payments, excepting any pledge of such available receipts previously made to the contrary and except as provided by any existing restrictions on the use thereof, or such pledge and lien may be made subordinate to such other expenses, claims, or payments, as provided in the bond proceedings. Obligations or assurances may be additionally secured by covenants of the institution to make, fix, adjust, collect, and apply such charges, rates, fees, rentals, and other items of available receipts as will produce pledged available receipts sufficient to meet bond service charges, reserve, and other requirements provided for in the bond proceedings. Notwithstanding this and any other sections of the Revised Code, the holders or owners of the obligations or assurances shall not be given the right and shall have no right to have excises or taxes levied by the general assembly for the payment of bond service charges thereon, and each such obligation or assurance shall bear on its face a statement to that effect and to the effect that the right to such payment is limited to the available receipts and special funds pledged to such purpose under the bond proceedings.

All pledged available receipts and funds and the proceeds of obligations or assurances are trust funds and, subject to the provisions of this section and the applicable bond proceedings, shall be held, deposited, invested, reinvested, disbursed, applied, and used to such extent, in such manner, at such times, and for such purposes, as are provided in the bond proceedings.

(D) The bond proceedings for obligations or assurances shall provide for the purpose thereof and the principal amount or maximum principal amount, and provide for or authorize the manner of determining the principal maturity or maturities, the sale price including any permitted discount, the interest rate or rates, which may be a variable rate or rates, or the maximum interest rate, the date of the obligations or assurances and the date or dates of payment of interest thereon, their denominations, the manner of sale thereof, and the establishment within or without the state of a

place or places of payment of bond service charges. The bond proceedings also shall provide for a pledge of and lien on available receipts of the institution of higher education as provided in division (C) of this section, and a pledge of and lien on such fund or funds provided in the bond proceedings arising from available receipts, which pledges and liens may provide for parity with obligations or assurances theretofore or thereafter issued by the institution. The available receipts so pledged and thereafter received by the institution and the funds so pledged are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the institution, irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such available receipts and funds shall be effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation.

(E) The bond proceedings may contain additional provisions customary or appropriate to the financing or to the obligations or assurances or to particular obligations and assurances, including:

(1) The acquisition, construction, reconstruction, equipment, furnishing, improvement, operation, alteration, enlargement, maintenance, insurance, and repair of facilities or entrepreneurial projects, and the duties of the institution of higher education with reference thereto;

(2) The terms of the obligations or assurances, including provisions for their redemption prior to maturity at the option of the institution of higher education at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(3) Limitations on the purposes to which the proceeds of the obligations or assurances may be applied;

(4) The rates or rentals or other charges for the use of or right to use the facilities or entrepreneurial projects financed by the obligations or assurances, or other properties the revenues or receipts from which are pledged to the obligations or assurances, and rules for assuring any applicable use and occupancy thereof, including limitations upon the right to modify such rates, rentals, other charges, or regulations;

(5) The use and expenditure of the pledged available receipts in such manner and to such extent as shall be determined, which may include

provision for the payment of the expenses of operation, maintenance, and repair of facilities or entrepreneurial projects so that such expenses, or part thereof, shall be paid or provided as a charge prior or subsequent to the payment of bond service charges and any other payments required to be made by the bond proceedings;

(6) Limitations on the issuance of additional obligations or assurances;

(7) The terms of any trust agreement or indenture securing the obligations or assurances or under which the same may be issued;

(8) The deposit, investment, and application of funds, and the safeguarding of funds on hand or on deposit without regard to Chapter 131. or 135. of the Revised Code, and any bank or trust company or other financial institution that acts as depository of any moneys under the bond proceedings shall furnish such indemnifying bonds or pledge such securities as required by the bond proceedings or otherwise by the institution of higher education;

(9) The binding effect of any or every provision of the bond proceedings upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(10) Any provision that may be made in a trust agreement or indenture;

(11) Any other or additional agreements with respect to the facilities of the institution of higher education or its entrepreneurial projects, their operation, the available receipts and funds pledged, and insurance of facilities or entrepreneurial projects and of the institution, its officers and employees.

(F) Such obligations or assurances may have the seal of the institution of higher education or a facsimile thereof affixed thereto or printed thereon and shall be executed by such officers as are designated in the bond proceedings, which execution may be by facsimile signatures. Any obligations or assurances may be executed by an officer who, on the date of execution, is the proper officer although on the date of such obligations or assurances such person was not the proper officer. In case any officer whose signature or a facsimile of whose signature appears on any such obligation or assurance ceases to be such officer before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the person had remained such officer until such delivery; and in case the seal of the institution has been changed after a facsimile of the seal has been imprinted on such obligations or assurances, such facsimile seal continues to be sufficient as to such obligations or assurances and obligations or

assurances issued in substitution or exchange therefor.

(G) All such obligations or assurances are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations or assurances may be issued in coupon or in registered form, or both. Provision may be made for the registration of any obligations or assurances with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations or assurances so registered, and for the conversion or reconversion into obligations or assurances with coupons attached thereto of any obligations or assurances registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(H) Pending preparation of definitive obligations or assurances, the institution of higher education may issue interim receipts or certificates which shall be exchanged for such definitive obligations or assurances.

(I) Such obligations or assurances may be secured additionally by a trust agreement or indenture between the institution of higher education and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without this state but authorized to exercise trust powers within this state. Any such agreement or indenture may contain the resolution authorizing the issuance of the obligations or assurances, any provisions that may be contained in the bond proceedings as authorized by this section, and other provisions which are customary or appropriate in an agreement or indenture of such type, including:

(1) Maintenance of each pledge, trust agreement, and indenture, or other instrument comprising part of the bond proceedings until the institution of higher education has fully paid the bond service charges on the obligations or assurances secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the institution of higher education made as a part of the contract under which the obligations or assurances were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

(3) The rights and remedies of the holders of obligations or assurances and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations or assurances;

(4) The replacement of any obligations or assurances that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the institution of higher education agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(J) Each duty of the institution of higher education and its officers or employees, undertaken pursuant to the bond proceedings or any related agreement or lease made under authority of law, is hereby established as a duty of such institution, and of each such officer or employee having authority to perform such duty, specially enjoined by law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the members of the board of trustees or the managing directors of the institution or its officers or employees are not liable in their personal capacities on such obligations or assurances, or lease, or other agreement of the institution.

(K) The authority to issue obligations or assurances includes authority to:

(1) Issue obligations or assurances in the form of bond anticipation notes and to renew them from time to time by the issuance of new notes. Such notes are payable solely from the available receipts and funds that may be pledged to the payment of such bonds, or from the proceeds of such bonds or renewal notes, or both, as the institution of higher education provides in its resolution authorizing such notes. Such notes may be additionally secured by covenants of the institution to the effect that it will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amount, and either exchange such bonds or renewal notes therefor or apply the proceeds thereof to the extent necessary, to make full payment of the bond service charges on such notes at the time or times contemplated, as provided in such resolution. Subject to the provisions of this division, all references to obligations or assurances in this section apply to such anticipation notes.

(2) Issue obligations or assurances to refund, including funding and retirement of, obligations or assurances previously issued to pay costs of facilities or entrepreneurial projects. Such obligations or assurances may be issued in amounts sufficient for payment of the principal amount of the obligations or assurances to be so refunded, any redemption premiums thereon, principal maturities of any obligations or assurances maturing prior to the redemption of any other obligations or assurances on a parity therewith to be so refunded, interest accrued or to accrue to the maturity date or dates of redemption of such obligations or assurances, and any expenses incurred or to be incurred in connection with such refunding or the issuance of the obligations or assurances.

(L) Obligations and assurances are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund, the administrator of workers' compensation in accordance with the investment policy approved by the bureau of workers' compensation board of directors pursuant to section 4121.12 of the Revised Code, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any state agency with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(M) All facilities or entrepreneurial projects purchased, acquired, constructed, or owned by an institution of higher education, or financed in whole or in part by obligations or assurances issued by an institution, and used for the purposes of the institution or other publicly owned and controlled college or university, is public property used exclusively for a public purpose, and such property and the income therefrom is exempt from all taxation and assessment within this state, including ad valorem and excise taxes. The obligations or assurances, the transfer thereof, and the income therefrom, including any profit made on the sale thereof, are at all times free from taxation within the state. The transfer of tangible personal property by lease under authority of this section or section 3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code is not a sale as used in Chapter 5739. of the Revised Code.

(N) The authority granted by this section is cumulative with the authority granted to institutions of higher education under Chapter 154. of the Revised Code, and nothing in this section impairs or limits the authority granted by Chapter 154. of the Revised Code. In any lease, agreement, or commitment made by an institution of higher education under Chapter 154. of the Revised Code, it may agree to restrict or subordinate any pledge it may thereafter make under authority of this section.

(O) Title to lands acquired under this section and sections 3345.07 and 3345.11 of the Revised Code by a state university or college shall be taken in the name of the state.

(P) Except where costs of facilities or entrepreneurial projects are to be paid in whole or in part from funds appropriated by the general assembly,

section 125.81 of the Revised Code and the requirement for certification with respect thereto under section 153.04 of the Revised Code do not apply to such facilities or entrepreneurial projects.

(Q) A state university or college may sell or lease lands or interests in land owned by it or by the state for its use, or facilities authorized to be acquired or constructed by it under section 3345.07 or 3345.11 of the Revised Code, to permit the purchasers or lessees thereof to acquire, construct, equip, furnish, reconstruct, alter, enlarge, remodel, renovate, rehabilitate, improve, maintain, repair, or maintain and operate thereon and to provide by lease or otherwise to such institution, facilities authorized in section 3345.07 or 3345.11 of the Revised Code or entrepreneurial projects authorized under section 3345.36 of the Revised Code. Such land or interests therein shall be sold for such appraised value, or leased, and on such terms as the board of trustees determines. All deeds or other instruments relating to such sales or leases shall be executed by such officer of the state university or college as the board of trustees designates. The state university or college shall hold, invest, or use the proceeds of such sales or leases for the same purposes for which proceeds of borrowings may be used under sections 3345.07 and 3345.11 of the Revised Code or, if the proceeds relate to the sale or lease of entrepreneurial projects, for purposes of section 3345.36 of the Revised Code.

(R) An institution of higher education may pledge available receipts, to the extent permitted by division (C) of this section with respect to obligations, to secure the payments to be made by it under any lease, lease with option to purchase, or lease-purchase agreement authorized under this section or section 3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code.

Sec. 3345.48. (A) As used in this section:

(1) "Cohort" means a group of students who will complete their bachelor's degree requirements and graduate from a state university at the same time. A cohort may include transfer students and other selected undergraduate student academic programs as determined by the board of trustees of a state university.

(2) "Eligible student" means an undergraduate student who:

(a) Is enrolled full-time in a bachelor's degree program at a state university;

(b) Is a resident of this state, as defined by the chancellor of the Ohio board of regents under section 3333.31 of the Revised Code.

(3) "State university" has the same meaning as in section 3345.011 of the Revised Code.

(B) The board of trustees of a state university may establish an undergraduate tuition guarantee program that allows eligible students in the same cohort to pay a fixed rate for general and instructional fees for four years. A board of trustees may include room and board and any additional fees in the program.

If the board of trustees chooses to establish such a program, the board shall adopt rules for the program that include, but are not limited to, all of the following:

(1) The number of credit hours required to earn an undergraduate degree in each major;

(2) A guarantee that the general and instructional fees for each student in the cohort shall remain constant for four years so long as the student complies with the requirements of the program, except that, notwithstanding any law to the contrary, the board may increase the guaranteed amount by up to six per cent above what has been charged in the previous academic year one time for the first cohort enrolled under the tuition guarantee program. If the board of trustees determines that economic conditions or other circumstances require an increase for the first cohort of above six per cent, the board shall submit a request to increase the amount by a specified percentage to the chancellor. The chancellor, based on information the chancellor requires from the board of trustees, shall approve or disapprove such a request. Thereafter, the board of trustees may increase the guaranteed amount by up to the sum of the following above what has been charged in the previous academic year one time per subsequent cohort:

(a) The average rate of inflation, as measured by the consumer price index prepared by the bureau of labor statistics of the United States department of labor (all urban consumers, all items), for the previous sixty-month period; and

(b) The percentage amount the general assembly restrains increases on in-state undergraduate instructional and general fees for the applicable fiscal year. If the general assembly does not enact a limit on the increase of in-state undergraduate instructional and general fees, then no limit shall apply under this division for the cohort that first enrolls in any academic year for which the general assembly does not prescribe a limit.

If, beginning with the academic year that starts four years after the effective date of this section, the board of trustees determines that the general and instructional fees charged under the tuition guarantee have fallen significantly lower than those of other state universities, the board of trustees may submit a request to increase the amount charged to a cohort by a specified percentage to the chancellor, who shall approve or disapprove

such a request.

(3) A benchmark by which the board sets annual increases in general and instructional fees. This benchmark and any subsequent change to the benchmark shall be subject to approval of the chancellor.

(4) Eligibility requirements for students to participate in the program;

(5) Student rights and privileges under the program;

(6) Consequences to the university for students unable to complete a degree program within four years, as follows:

(a) For a student who could not complete the program in four years due to a lack of available classes or space in classes provided by the university, the university shall provide the necessary course or courses for completion to the student free of charge.

(b) For a student who could not complete the program in four years due to military service or other circumstances beyond a student's control, as determined by the board of trustees, the university shall provide the necessary course or courses for completion to the student at the student's initial cohort rate.

(c) For a student who did not complete the program in four years for any other reason, as determined by the board of trustees, the university shall provide the necessary course or courses for completion to the student at a rate determined through a method established by the board under division (B)(7) of this section.

(7) Guidelines for adjusting a student's annual charges if the student, due to circumstances under the student's control, is unable to complete a degree program within four years;

(8) A requirement that the rules adopted under division (B) of this section be published or posted in the university handbook, course catalog, and web site.

(C) If a board of trustees implements a program under this section, the board shall submit the rules adopted under division (B) of this section to the chancellor for approval before beginning implementation of the program.

The chancellor shall not unreasonably withhold approval of a program if the program conforms in principle with the parameters and guidelines of this section.

(D) A board of trustees of a state university may establish an undergraduate tuition guarantee program for nonresident students.

(E) Within five years after the effective date of this section, the chancellor shall publish on the board of regents web site a report that includes all of the following:

(1) The state universities that have adopted an undergraduate tuition

guarantee program under this section:

(2) The details of each undergraduate tuition guarantee program established under this section;

(3) Comparative data, including general and instructional fees, room and board, graduation rates, and retention rates, from all state universities.

Sec. 3345.81. Not later than June 30, 2014, the board of trustees of each institution of higher education, as defined by section 3345.12 of the Revised Code, shall adopt an institution-specific strategic completion plan designed to increase the number of degrees and certificates awarded to students. The plan shall be consistent with the mission and strategic priorities of the institution, include measureable student completion goals, and align with the state's workforce development priorities. Upon adoption by the board of trustees, each institution of higher education shall provide a copy of its plan to the chancellor of the Ohio board of regents.

The board of trustees of each institution of higher education shall update its plan at least once every two years and provide a copy of their updated plan to the chancellor upon adoption.

Sec. 3350.15. The northeast Ohio medical university may enter into a partnership with Cleveland state university to establish the northeast Ohio medical university academic campus at Cleveland state university, to enable fifty per cent or more of the medical curriculum taught to students enrolled under this partnership to be based in Cleveland at Cleveland state university, local hospitals, and community- and neighborhood-based primary care clinics. Cleveland state university shall not receive state capital appropriations to pay for facilities for the academic campus.

Sec. 3353.01. As used in this chapter:

(A) "Educational television or radio" means television or radio programs which serve the educational needs of the community and which meet the requirements of the federal communications commission for noncommercial educational television or radio.

(B) "Educational telecommunications network" means a system of connected educational television, radio, or radio reading service facilities and coordinated programs established and operated or controlled by the ~~eTech Ohio~~ broadcast educational media commission, pursuant to this chapter.

(C) "Transmission" means the sending out of television, radio, or radio reading service programs, either directly to the public, or to broadcasting stations or services for simultaneous broadcast or rebroadcast.

(D) "Transmission facilities" means structures, equipment, material, and services used in the transmission of educational television, radio, or radio

reading service programs.

(E) "Interconnection facilities" means the equipment, material, and services used to link one location to another location or to several locations by means of telephone line, coaxial cable, microwave relays, or other available technologies.

(F) "Broadcasting station" means a properly licensed noncommercial educational television or radio station, appropriately staffed and equipped to produce programs or lessons and to broadcast programs.

(G) "Radio reading service" means a nonprofit organization that disseminates news and other information to blind and physically handicapped persons.

(H) "Affiliate" means an educational telecommunication entity, including a television or radio broadcasting station or radio reading service.

Sec. 3353.02. (A) There is hereby created the ~~eTech Ohio~~ broadcast educational media commission as an independent agency to advance education and accelerate the learning of the citizens of this state through ~~technology public educational broadcasting services~~. The commission shall provide leadership and support in extending the knowledge of the citizens of this state by promoting access to and use of ~~all forms of educational technology broadcasting services~~, including educational television and radio; and radio reading services, broadband networks, videotapes, compact discs, digital video on demand (DVD), and the internet. The commission also shall administer programs to provide financial and other assistance to ~~school districts and other educational institutions for the acquisition and utilization of educational technology television and radio and radio reading services~~.

The commission is a body corporate and politic, an agency of the state performing essential governmental functions of the state.

(B) The commission shall consist of ~~thirteen~~ fifteen members, ~~nine~~ eleven of whom shall be voting members. ~~Six~~ Nine of the voting members shall be representatives of the public selected from among leading citizens in the state who have demonstrated interest in educational broadcast media through service on boards or advisory councils of educational television stations, educational radio stations, educational technology agencies, or radio reading services. Of the representatives of the public, ~~four~~ three shall be appointed by the governor with the advice and consent of the senate, ~~one~~ three shall be appointed by the speaker of the house of representatives, and ~~one~~ three shall be appointed by the president of the senate. Not more than two members appointed by the speaker of the house of representatives and not more than two members appointed by the president of the senate shall be

~~of the same political party.~~ The superintendent of public instruction or a designee of the superintendent, and the chancellor of the Ohio board of regents or a designee of the chancellor, ~~and the state chief information officer or a designee of the officer~~ shall be ex officio voting members. Of the nonvoting members, two shall be members of the house of representatives appointed by the speaker of the house of representatives and two shall be members of the senate appointed by the president of the senate. The members appointed from each chamber shall not be members of the same political party.

(C) Initial terms of office for appointed voting members ~~appointed by the governor~~ shall be ~~one year for~~ as follows:

~~(1) For one member, two years for one member, three years for one member, and four years for one member~~ appointed by each of the governor, speaker of the house of representatives, and president of the senate, one year;

~~(2) For one member appointed by each of the governor, speaker of the house of representatives, and president of the senate, two years;~~

~~(3) For one member appointed by each of the governor, speaker of the house of representatives, and president of the senate, three years.~~ At the first meeting of the commission, such members ~~appointed by the governor~~ shall draw lots to determine the length of the term each member will serve. Thereafter, terms of office for such members ~~appointed by the governor~~ shall be for four years. ~~Terms of office for voting members appointed by the speaker of the house of representatives and the president of the senate shall be for four years.~~ Any member who is a representative of the public may be reappointed by the member's respective appointing authority, but no such member may serve more than two consecutive four-year terms. Such a member may be removed by the member's respective appointing authority for cause.

Any legislative member appointed by the speaker of the house of representatives or the president of the senate who ceases to be a member of the legislative chamber from which the member was appointed shall cease to be a member of the commission. The speaker of the house of representatives and the president of the senate may remove their respective appointments to the commission at any time.

(D) Vacancies among appointed members shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any appointed member shall continue in office subsequent to the expiration

of that member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(E) Members of the commission shall serve without compensation. The members who are representatives of the public shall be reimbursed, pursuant to office of budget and management guidelines, for actual and necessary expenses incurred in the performance of official duties.

(F) The governor shall appoint the chairperson of the commission from among the commission's public voting members. The chairperson shall serve a term of two years and may be reappointed. The commission shall elect other officers as necessary from among its voting members and shall prescribe its rules of procedure.

~~(G) The commission shall establish advisory groups as needed to address topics of interest and to provide guidance to the commission regarding educational technology issues and the technology needs of educators, learners, and the public. Members of each advisory group shall be appointed by the commission and shall include representatives of individuals or organizations with an interest in the topic addressed by the advisory group.~~

Sec. 3353.03. (A) The ~~eTech Ohio~~ broadcast educational media commission shall appoint an executive director, who shall serve at the pleasure of the commission. The executive director shall have no authority other than that provided by law or delegated to the executive director by the commission. The executive director shall do all of the following:

(1) ~~Direct commission employees in~~ the administration of all programs of the commission;

(2) Provide leadership and support in extending the knowledge of the citizens of this state by promoting equal access to and use of ~~all forms of~~ educational ~~technology~~ broadcast media, as directed by the commission;

(3) Provide financial and other assistance to ~~school districts, educational television and radio stations, radio reading services, educational technology organizations, and other educational institutions for the acquisition and utilization of educational technology~~ and related organizations and activities;

(4) Implement policies and directives issued by the commission;

(5) Perform other duties authorized by the commission.

(B) The commission shall fix the compensation of the executive director. The executive director shall employ and fix the compensation for such employees as necessary to facilitate the activities and purposes of the commission. The employees shall serve at the pleasure of the executive director.

(C) The employees of the commission shall be placed in the unclassified service.

(D)(1) Except as provided in division (D)(2) of this section, the employees of the commission shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.

(2) All employees of the commission who transferred to the commission from one of the commission's predecessor agencies upon the commission's creation and, when employed by the predecessor agency were included in a bargaining unit established under Chapter 4117. of the Revised Code, shall continue to be included in that bargaining unit, are public employees as defined in section 4117.01 of the Revised Code, and may collectively bargain with the commission in accordance with that chapter. Otherwise, any employee hired by the commission after July 1, 2005, either to fill vacancies or to fill new positions, shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.10 of the Revised Code.

Sec. 3353.04. (A) The ~~eTech Ohio~~ broadcast educational media commission may perform any act necessary to carry out the functions of this chapter, including any of the following:

~~(1) Make grants to institutions and other organizations as prescribed by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts, community schools established under Chapter 3314. of the Revised Code, other educational institutions, and affiliates to utilize educational technology;~~

~~(2) Establish a reporting system for school districts, community schools, other educational institutions, affiliates, and educational technology organizations that receive financial assistance from the commission. The system may require the reporting of information regarding the manner in which the assistance was expended, the manner in which the equipment or services purchased with the assistance is being utilized, the results or outcome of the utilization, the manner in which the utilization is compatible with the statewide academic standards adopted by the state board of education pursuant to section 3301.079 of the Revised Code, and any other information determined by the commission.~~

~~(3) Ensure that, where appropriate, products produced by any entity to which the commission provides financial assistance for use in elementary and secondary education are aligned with the statewide academic standards adopted by the state board pursuant to section 3301.079 of the Revised~~

~~Code:~~

~~(4)~~ Promote accessibility ~~to~~ through broadcasting services of educational products aligned with the statewide academic standards, adopted by the state board pursuant to section 3301.079 of the Revised Code, for school districts, community schools, and other entities serving grades kindergarten through twelve;

~~(5)~~(2) Own or operate transmission facilities and interconnection facilities, or contract for transmission facilities and interconnection facilities, for an educational television, radio, or radio reading service network;

~~(6)~~(3) Establish standards for interconnection facilities used by the commission in the transmission of educational television, radio, or radio reading service programming;

~~(7)~~(4) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the operation of the interconnection;

~~(8)~~(5) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the production and use of educational television, radio, or radio reading service programs to be transmitted by the educational telecommunications network;

~~(9)~~(6) Execute contracts and other agreements necessary and desirable to carry out the purposes of this chapter and other duties prescribed to the commission by law or authorize the executive director of the commission to execute such contracts and agreements on the commission's behalf;

~~(10)~~(7) Act as consultant with educational television and educational radio stations and radio reading services toward coordination within the state of the distribution of federal funds that may become available for equipment for educational broadcasting or radio reading services;

~~(11)~~(8) Make payments to noncommercial Ohio educational television or radio broadcasting stations or radio reading services to sustain the operation of such stations or services;

~~(12)~~(9) In consultation with participants in programs administered by the commission, establish guidelines governing purchasing and procurement that facilitate the timely and effective implementation of such programs;

~~(13)~~(10) In consultation with participants in programs administered by the commission, consider the efficiency and cost savings of statewide procurement prior to allocating and releasing funds for such programs;

~~(14)~~(11) In consultation with participants in programs administered by the commission, establish a systems support network to facilitate the timely implementation of the programs and other projects and activities for which

the commission provides assistance.

(B) Chapters 123., 124., 125., and 153. of the Revised Code and sections 9.331 to 9.335 of the Revised Code do not apply to contracts, programs, projects, or activities of the commission.

Sec. 3353.06. (A) The affiliates services fund is hereby created in the state treasury. The ~~eTech-Ohio~~ broadcast educational media commission shall deposit any money it receives for services provided to affiliates to the credit of the fund, including:

- (1) Reimbursements for services provided to stations;
- (2) Charges levied for maintenance of telecommunications, broadcasting, or transmission equipment;
- (3) Contract or grant payments from affiliates.

(B) The commission shall use money credited to the affiliates services fund for any commission operating purposes, including:

- (1) The purchase, repair, or maintenance of telecommunications, broadcasting, or transmission equipment;
- (2) The purchase or lease of educational programming;
- (3) The purchase of tape and digital media storage and maintenance of a media library;
- (4) ~~Professional development programs and services;~~
- (5) Administrative expenses.

Sec. 3353.07. (A) There is hereby created the Ohio government telecommunications service. The Ohio government telecommunications service shall provide the state government and affiliated organizations with multimedia support including audio, visual, and internet services, multimedia streaming, and hosting multimedia programs.

Services relating to the official activities of the general assembly and the executive offices provided by the Ohio government telecommunications service shall be funded through grants to a ~~public~~ an educational television broadcasting station that will manage the staff and provide the services of the Ohio government telecommunications service. The Ohio educational television stations shall select a member station to manage the Ohio government telecommunications service. The Ohio government telecommunications service shall receive grants from, or contract with, any of the three branches of Ohio government, and their affiliates, to provide additional services. Services provided by the Ohio government telecommunications service shall not be used for political purposes included in campaign materials, or otherwise used to influence an election, legislation, issue, judicial decision, or other policy of state government.

(B)(1) There is hereby created the legislative programming committee

of the Ohio government telecommunications service that shall consist of the president of the senate, speaker of the house of representatives, minority leader of the senate, and minority leader of the house of representatives, or their designees, and the clerks of the senate and house of representatives as nonvoting, ex officio members. By a vote of a majority of its members, the program committee may add additional members to the committee.

(2) The legislative programming committee shall adopt rules that govern the operation of the Ohio government telecommunications service relating to the general assembly and any affiliated organizations.

Sec. 3365.01. As used in this chapter:

(A) "College" means any state-assisted college or university described in section 3333.041 of the Revised Code, any nonprofit institution holding a certificate of authorization pursuant to Chapter 1713. of the Revised Code, any private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, and any institution holding a certificate of registration from the state board of career colleges and schools and program authorization for an associate or bachelor's degree program issued under section 3332.05 of the Revised Code.

(B) "School district," except as specified in division (G) of this section, means any school district to which a student is admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of the Revised Code and does not include a joint vocational or cooperative education school district.

(C) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(D) "Participant" means a student enrolled in a college under the post-secondary enrollment options program established by this chapter, including a student who has been excused from the compulsory attendance law for the purpose of home instruction under section 3321.04 of the Revised Code.

(E) "Secondary grade" means the ninth through twelfth grades.

(F) "School foundation payments" means the amount required to be paid to a school district for a fiscal year under Chapter 3317. of the Revised Code.

(G) "Tuition base" means, ~~with respect to a participant's school district, the sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 3317.02 of the Revised Code for the applicable fiscal year 2009.~~

~~The participant's "school district" in the case of a participant enrolled in a community school shall be the school district in which the student is~~

~~entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.~~

(H) "Educational program" means enrollment in one or more school districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code.

(I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June.

(K) "Community school" means any school established pursuant to Chapter 3314. of the Revised Code that includes secondary grades.

(L) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

Sec. 3365.02. There is hereby established the post-secondary enrollment options program under which a secondary grade student who is a resident of this state may enroll at a college, on a full- or part-time basis, and complete nonsectarian courses for high school and college credit.

Secondary grade students in a nonpublic school may participate in the post-secondary enrollment options program if the chief administrator of such school notifies the department of education by the first day of April prior to the school year in which the school's students will participate.

The state board of education, after consulting with the board of regents, shall adopt rules governing the program. The rules shall include:

(A) Requirements for school districts, community schools, or participating nonpublic schools to provide information about the program prior to the first day of March of each year to all students enrolled in grades eight through eleven;

(B) A requirement that a student or the student's parent inform the district board of education, the governing authority of a community school, the STEM school chief administrative officer, or the nonpublic school administrator by the thirtieth day of March of the student's intent to participate in the program during the following school year. The rule shall provide that any student who fails to provide the notification by the required date may not participate in the program during the following school year without the written consent of the district superintendent, the governing authority of a community school, the STEM school chief administrative officer, or the nonpublic school administrator.

(C) Requirements that school districts, community schools, and STEM schools provide counseling services to students in grades eight through

eleven and to their parents before the students participate in the program under this chapter to ensure that students and parents are fully aware of the possible risks and consequences of participation. Counseling information shall include without limitation:

- (1) Program eligibility;
- (2) The process for granting academic credits;
- (3) Financial arrangements for tuition, books, materials, and fees;
- (4) Criteria for any transportation aid;
- (5) Available support services;
- (6) Scheduling;
- (7) The consequences of failing or not completing a course in which the student enrolls and the effect of the grade attained in the course being included in the student's grade point average, if applicable;
- (8) The effect of program participation on the student's ability to complete the district's or school's graduation requirements;
- (9) The academic and social responsibilities of students and parents under the program;
- (10) Information about and encouragement to use the counseling services of the college in which the student intends to enroll.
- (11) A list of all institutions of higher education that currently participate in the program or in another dual enrollment program, as defined in section 3313.6013 of the Revised Code, compiled and distributed by the department of education pursuant to division (G) of this section.

(D) A requirement that the student and the student's parent sign a form, provided by the school district or school, stating that they have received the counseling required by division (C) of this section and that they understand the responsibilities they must assume in the program;

(E) The options required by section 3365.04 of the Revised Code;

(F) ~~A requirement that a student may not enroll in any specific college course through the program if the student has taken high school courses in the same subject area as that college course and has failed to attain a cumulative grade point average of at least 3.0 on a 4.0 scale, or the equivalent, in such completed high school courses~~ A requirement that student participation in the program be based solely on a participating college's established placement standards for college-level courses for which credit is awarded.

(G) A requirement that the department of education annually compile a list of all institutions of higher education that currently participate in the program or in another dual enrollment program as defined in section 3313.6013 of the Revised Code and, not later than the thirty-first day of

December of each school year, distribute this list to all school districts, community schools, STEM schools, and chartered nonpublic schools in the state.

Sec. 3365.021. The chief administrator of any nonpublic school notifying the department of education that students of the school will participate in the post-secondary enrollment options program shall provide counseling to students in grades eight through eleven and to their parents before the students participate in the program to ensure that students and parents are fully aware of the possible risks and consequences of participation. Such counseling shall include explaining the fact that funding may be limited and that not all students who wish to participate may be able to do so.

The chief administrator also shall provide students and parents with a list of all institutions of higher education that currently participate in the program or in another dual enrollment program as defined in section 3313.6013 of the Revised Code, compiled and distributed by the department of education pursuant to division (G) of section 3365.02 of the Revised Code.

Sec. 3365.022. (A) Beginning July 1, 2013, a student who has been excused from the compulsory attendance law for the purpose of home instruction under section 3321.04 of the Revised Code, and is the equivalent of a ninth, tenth, eleventh, or twelfth grader may participate in the post-secondary enrollment options program established under this chapter.

(B)(1) If a student meets the criteria established in division (A) of this section and wishes to participate in the post-secondary enrollment options program, the parent or guardian of that student shall notify the department of education by the first day of April prior to the school year in which the student wishes to participate.

(2) For the 2013-2014 school year, the department may accept applications at a later date if that student wishes to participate in the program during the 2013-2014 school year.

(C) Pursuant to rules adopted by the state board of education under section 3365.02 of the Revised Code, payments to a participating college, in which home-instructed students enrolled pursuant to this section, shall be made in the same manner as payments made for participating students from nonpublic secondary schools, pursuant to section 3365.07 of the Revised Code.

Sec. 3365.07. (A) The rules adopted under section 3365.02 of the Revised Code shall specify a method for each of the following:

(1) Determining, with respect to any participant, the percentage of a

full-time educational program constituted by the participant's total educational program. That percentage shall be the participant's full-time equivalency percentage for purposes of the computation required by division (B)(1) of this section.

(2) In the case of a participant who is not enrolled in a participating nonpublic school, determining the percentage of a participant's school day during which the participant is participating in each of the following:

(a) Programs provided by the city, local, or exempted village school district, a community school, or a STEM school;

(b) Programs provided by a joint vocational school district;

(c) Programs provided by a college under division (B) of section 3365.04 of the Revised Code.

The sum of divisions (A)(2)(a) to (c) of this section shall equal one hundred per cent.

(3) In the case of a participant who is not enrolled in a participating nonpublic school, determining the percentage of a participant's enrollment that shall be deemed to be enrollment in a joint vocational school district and the percentage that shall be deemed to be enrollment in a city, local, or exempted village school district. The sum of such percentages shall equal one hundred per cent.

(4) In the case of a participant who is enrolled in a participating nonpublic school, determining the percentage of a participant's school day during which the participant is participating in programs provided by a college under division (B) of section 3365.04 of the Revised Code.

(B) Each July, unless provided otherwise in an alternative funding agreement entered into under rules adopted under section 3365.12 of the Revised Code, the department of education shall pay each college for any participant enrolled in the college in the prior school year under division (B) of section 3365.04 of the Revised Code an amount computed as follows:

(1) Multiply the tuition base by the participant's full-time equivalency percentage and multiply the resulting amount by a percentage equal to the percentage of the participant's school day apportioned to the college under division (A)(2)(c) or (4) of this section, as applicable.

(2) Pay the college the lesser of:

(a) The amount computed under division (B)(1) of this section;

(b) The actual costs that would have been the responsibility of the participant had the participant elected to enroll under division (A) of section 3365.04 of the Revised Code, as verified by the department, of tuition, textbooks, materials, and fees directly related to any courses elected by the participant during the prior school year under division (B) of section

3365.04 of the Revised Code.

(C) The department shall not reimburse ~~any~~ a college for any of the following:

(1) A college course taken by a participant under division (A) of section 3365.04 of the Revised Code;

(2) A remedial college course taken by a participant.

(D) If the participant was not enrolled in a participating nonpublic school, the amount paid under division (B) of this section for each participant shall be subtracted from the school foundation payments made to the participant's school district or, if the participant was enrolled in a community school or a STEM school, from the payments made to the participant's school under section 3314.08 or 3326.33 of the Revised Code. If the participant was enrolled in a joint vocational school district, a portion of the amount shall be subtracted from the payments to the joint vocational school district and a portion shall be subtracted from the payments to the participant's city, local, or exempted village school district. The amount of the payment subtracted from the city, local, or exempted village school district shall be computed as follows:

(1) Add the following:

(a) The percentage of the participant's enrollment in the school district, determined under division (A)(3) of this section; and

(b) Twenty-five per cent times the percentage of the participant's enrollment in the joint vocational school district, determined under division (A)(3) of this section.

(2) Multiply the sum obtained under division (D)(1) of this section by the amount computed under division (B)(2) of this section.

The balance of the payment shall be subtracted from the joint vocational district's school foundation payments.

(E) If the participant was enrolled in a participating nonpublic school, the amount paid under division (B) of this section shall be subtracted from moneys set aside by the general assembly for such purpose from funds appropriated for the purposes of section 3317.06 of the Revised Code.

Sec. 3365.12. The superintendent of public instruction and the chancellor of the Ohio board of regents jointly may adopt rules in accordance with Chapter 119. of the Revised Code permitting a board of education of a school district or joint vocational school district, governing authority of a community school, governing body of a STEM school, or governing authority of a participating nonpublic school to enter into an agreement with a college or university to use an alternate funding formula to calculate, or an alternate method to transmit, the amount the college or

university would be paid for a student participating in a program under this chapter, including the program known as seniors to sophomores.

Rules adopted under this section may include, but need not be limited to, any of the following alternative funding options:

(A) Direct payment of funds necessary to support students participating in a program under this chapter, including the seniors to sophomores program, by the school district, joint vocational school district, community school, STEM school, or any combination thereof, to the college or university in which the student enrolled;

(B) Alternate funding formulas to calculate the amount of money to be paid to colleges for participants;

(C) A negotiated amount to be paid, as agreed by the school district, joint vocational school district, community school, or STEM school and the college or university.

Rules adopted under this section shall prohibit any alternative funding option to include charging a student participating in the program under this chapter any tuition or fees.

Sec. 3501.01. As used in the sections of the Revised Code relating to elections and political communications:

(A) "General election" means the election held on the first Tuesday after the first Monday in each November.

(B) "Regular municipal election" means the election held on the first Tuesday after the first Monday in November in each odd-numbered year.

(C) "Regular state election" means the election held on the first Tuesday after the first Monday in November in each even-numbered year.

(D) "Special election" means any election other than those elections defined in other divisions of this section. A special election may be held only on the first Tuesday after the first Monday in February, May, August, or November, or on the day authorized by a particular municipal or county charter for the holding of a primary election, except that in any year in which a presidential primary election is held, no special election shall be held in February or May, except as authorized by a municipal or county charter, but may be held on the first Tuesday after the first Monday in March.

(E)(1) "Primary" or "primary election" means an election held for the purpose of nominating persons as candidates of political parties for election to offices, and for the purpose of electing persons as members of the controlling committees of political parties and as delegates and alternates to the conventions of political parties. Primary elections shall be held on the first Tuesday after the first Monday in May of each year except in years in

which a presidential primary election is held.

(2) "Presidential primary election" means a primary election as defined by division (E)(1) of this section at which an election is held for the purpose of choosing delegates and alternates to the national conventions of the major political parties pursuant to section 3513.12 of the Revised Code. Unless otherwise specified, presidential primary elections are included in references to primary elections. In years in which a presidential primary election is held, all primary elections shall be held on the first Tuesday after the first Monday in March except as otherwise authorized by a municipal or county charter.

(F) "Political party" means any group of voters meeting the requirements set forth in section 3517.01 of the Revised Code for the formation and existence of a political party.

(1) "Major political party" means any political party organized under the laws of this state whose candidate for governor or nominees for presidential electors received no less than twenty per cent of the total vote cast for such office at the most recent regular state election.

(2) "Intermediate political party" means any political party organized under the laws of this state whose candidate for governor or nominees for presidential electors received less than twenty per cent but not less than ten per cent of the total vote cast for such office at the most recent regular state election.

(3) "Minor political party" means any political party organized under the laws of this state whose candidate for governor or nominees for presidential electors received less than ten per cent but not less than five per cent of the total vote cast for such office at the most recent regular state election or which has filed with the secretary of state, subsequent to any election in which it received less than five per cent of such vote, a petition signed by qualified electors equal in number to at least one per cent of the total vote cast for such office in the last preceding regular state election, except that a newly formed political party shall be known as a minor political party until the time of the first election for governor or president which occurs not less than twelve months subsequent to the formation of such party, after which election the status of such party shall be determined by the vote for the office of governor or president.

(G) "Dominant party in a precinct" or "dominant political party in a precinct" means that political party whose candidate for election to the office of governor at the most recent regular state election at which a governor was elected received more votes than any other person received for election to that office in such precinct at such election.

(H) "Candidate" means any qualified person certified in accordance with the provisions of the Revised Code for placement on the official ballot of a primary, general, or special election to be held in this state, or any qualified person who claims to be a write-in candidate, or who knowingly assents to being represented as a write-in candidate by another at either a primary, general, or special election to be held in this state.

(I) "Independent candidate" means any candidate who claims not to be affiliated with a political party, and whose name has been certified on the office-type ballot at a general or special election through the filing of a statement of candidacy and nominating petition, as prescribed in section 3513.257 of the Revised Code.

(J) "Nonpartisan candidate" means any candidate whose name is required, pursuant to section 3505.04 of the Revised Code, to be listed on the nonpartisan ballot, including all candidates for judicial office, for member of any board of education, for municipal or township offices in which primary elections are not held for nominating candidates by political parties, and for offices of municipal corporations having charters that provide for separate ballots for elections for these offices.

(K) "Party candidate" means any candidate who claims to be a member of a political party, whose name has been certified on the office-type ballot at a general or special election through the filing of a declaration of candidacy and petition of candidate, and who has won the primary election of the candidate's party for the public office the candidate seeks or is selected by party committee in accordance with section 3513.31 of the Revised Code.

(L) "Officer of a political party" includes, but is not limited to, any member, elected or appointed, of a controlling committee, whether representing the territory of the state, a district therein, a county, township, a city, a ward, a precinct, or other territory, of a major, intermediate, or minor political party.

(M) "Question or issue" means any question or issue certified in accordance with the Revised Code for placement on an official ballot at a general or special election to be held in this state.

(N) "Elector" or "qualified elector" means a person having the qualifications provided by law to be entitled to vote.

(O) "Voter" means an elector who votes at an election.

(P) "Voting residence" means that place of residence of an elector which shall determine the precinct in which the elector may vote.

(Q) "Precinct" means a district within a county established by the board of elections of such county within which all qualified electors having a

voting residence therein may vote at the same polling place.

(R) "Polling place" means that place provided for each precinct at which the electors having a voting residence in such precinct may vote.

(S) "Board" or "board of elections" means the board of elections appointed in a county pursuant to section 3501.06 of the Revised Code.

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

(U) "Election officer" or "election official" means any of the following:

(1) Secretary of state;

(2) Employees of the secretary of state serving the division of elections in the capacity of attorney, administrative officer, administrative assistant, elections administrator, office manager, or clerical supervisor;

(3) Director of a board of elections;

(4) Deputy director of a board of elections;

(5) Member of a board of elections;

(6) Employees of a board of elections;

(7) Precinct polling place judges;

(8) Employees appointed by the boards of elections on a temporary or part-time basis.

(V) "Acknowledgment notice" means a notice sent by a board of elections, on a form prescribed by the secretary of state, informing a voter registration applicant or an applicant who wishes to change the applicant's residence or name of the status of the application; the information necessary to complete or update the application, if any; and if the application is complete, the precinct in which the applicant is to vote.

(W) "Confirmation notice" means a notice sent by a board of elections, on a form prescribed by the secretary of state, to a registered elector to confirm the registered elector's current address.

(X) "Designated agency" means an office or agency in the state that provides public assistance or that provides state-funded programs primarily engaged in providing services to persons with disabilities and that is required by the National Voter Registration Act of 1993 to implement a program designed and administered by the secretary of state for registering voters, or any other public or government office or agency that implements a program designed and administered by the secretary of state for registering voters, including the department of job and family services, the program administered under section 3701.132 of the Revised Code by the department of health, the department of ~~mental health~~ mental health and addiction services, the department of developmental disabilities, the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency, and

any other agency the secretary of state designates. "Designated agency" does not include public high schools and vocational schools, public libraries, or the office of a county treasurer.

(Y) "National Voter Registration Act of 1993" means the "National Voter Registration Act of 1993," 107 Stat. 77, 42 U.S.C.A. 1973gg.

(Z) "Voting Rights Act of 1965" means the "Voting Rights Act of 1965," 79 Stat. 437, 42 U.S.C.A. 1973, as amended.

(AA) "Photo identification" means a document that meets each of the following requirements:

(1) It shows the name of the individual to whom it was issued, which shall conform to the name in the poll list or signature pollbook.

(2) It shows the current address of the individual to whom it was issued, which shall conform to the address in the poll list or signature pollbook, except for a driver's license or a state identification card issued under section 4507.50 of the Revised Code, which may show either the current or former address of the individual to whom it was issued, regardless of whether that address conforms to the address in the poll list or signature pollbook.

(3) It shows a photograph of the individual to whom it was issued.

(4) It includes an expiration date that has not passed.

(5) It was issued by the government of the United States or this state.

Sec. 3517.01. (A)(1) A political party within the meaning of Title XXXV of the Revised Code is any group of voters that, at the most recent regular state election, polled for its candidate for governor in the state or nominees for presidential electors at least five per cent of the entire vote cast for that office or that filed with the secretary of state, subsequent to any election in which it received less than five per cent of that vote, a petition signed by qualified electors equal in number to at least one per cent of the total vote for governor or nominees for presidential electors at the most recent election, declaring their intention of organizing a political party, the name of which shall be stated in the declaration, and of participating in the succeeding primary election, held in even-numbered years, that occurs more than one hundred twenty days after the date of filing. No such group of electors shall assume a name or designation that is similar, in the opinion of the secretary of state, to that of an existing political party as to confuse or mislead the voters at an election. If any political party fails to cast five per cent of the total vote cast at an election for the office of governor or president, it shall cease to be a political party.

(2) A campaign committee shall be legally liable for any debts, contracts, or expenditures incurred or executed in its name.

(B) Notwithstanding the definitions found in section 3501.01 of the

Revised Code, as used in this section and sections 3517.08 to 3517.14, 3517.99, and 3517.992 of the Revised Code:

(1) "Campaign committee" means a candidate or a combination of two or more persons authorized by a candidate under section 3517.081 of the Revised Code to receive contributions and make expenditures.

(2) "Campaign treasurer" means an individual appointed by a candidate under section 3517.081 of the Revised Code.

(3) "Candidate" has the same meaning as in division (H) of section 3501.01 of the Revised Code and also includes any person who, at any time before or after an election, receives contributions or makes expenditures or other use of contributions, has given consent for another to receive contributions or make expenditures or other use of contributions, or appoints a campaign treasurer, for the purpose of bringing about the person's nomination or election to public office. When two persons jointly seek the offices of governor and lieutenant governor, "candidate" means the pair of candidates jointly. "Candidate" does not include candidates for election to the offices of member of a county or state central committee, presidential elector, and delegate to a national convention or conference of a political party.

(4) "Continuing association" means an association, other than a campaign committee, political party, legislative campaign fund, political contributing entity, or labor organization, that is intended to be a permanent organization that has a primary purpose other than supporting or opposing specific candidates, political parties, or ballot issues, and that functions on a regular basis throughout the year. "Continuing association" includes organizations that are determined to be not organized for profit under subsection 501 and that are described in subsection 501(c)(3), 501(c)(4), or 501(c)(6) of the Internal Revenue Code.

(5) "Contribution" means a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, or transfer of funds or anything of value, including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom the services are rendered for the personal services of another person, which contribution is made, received, or used for the purpose of influencing the results of an election. Any loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, or transfer of funds or of anything of value, including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any campaign committee, political action committee, legislative campaign fund, political party, political contributing entity, or person other than the person

to whom the services are rendered for the personal services of another person, that is made, received, or used by a state or county political party, other than moneys a state or county political party receives from the Ohio political party fund pursuant to section 3517.17 of the Revised Code and the moneys ~~a state or county political party~~ an entity may receive under sections 3517.101, 3517.1012, and 3517.1013 of the Revised Code, shall be considered to be a "contribution" for the purpose of section 3517.10 of the Revised Code and shall be included on a statement of contributions filed under that section.

"Contribution" does not include any of the following:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person;

(b) Ordinary home hospitality;

(c) The personal expenses of a volunteer paid for by that volunteer campaign worker;

(d) Any gift given to ~~a state or county political party~~ an entity pursuant to section 3517.101 of the Revised Code. ~~As used in division (B)(5)(d) of this section, "political party" means only a major political party;~~

(e) Any contribution as defined in section 3517.1011 of the Revised Code that is made, received, or used to pay the direct costs of producing or airing an electioneering communication;

(f) Any gift given to a state or county political party for the party's restricted fund under division (A)(2) of section 3517.1012 of the Revised Code;

(g) Any gift given to a state political party for deposit in a Levin account pursuant to section 3517.1013 of the Revised Code. As used in this division, "Levin account" has the same meaning as in that section.

(h) Any donation given to a transition fund under section 3517.1014 of the Revised Code.

(6) "Expenditure" means the disbursement or use of a contribution for the purpose of influencing the results of an election or of making a charitable donation under division (G) of section 3517.08 of the Revised Code. Any disbursement or use of a contribution by a state or county political party is an expenditure and shall be considered either to be made for the purpose of influencing the results of an election or to be made as a charitable donation under division (G) of section 3517.08 of the Revised Code and shall be reported on a statement of expenditures filed under section 3517.10 of the Revised Code. During the thirty days preceding a primary or general election, any disbursement to pay the direct costs of producing or airing a broadcast, cable, or satellite communication that refers

to a clearly identified candidate shall be considered to be made for the purpose of influencing the results of that election and shall be reported as an expenditure or as an independent expenditure under section 3517.10 or 3517.105 of the Revised Code, as applicable, except that the information required to be reported regarding contributors for those expenditures or independent expenditures shall be the same as the information required to be reported under divisions (D)(1) and (2) of section 3517.1011 of the Revised Code.

As used in this division, "broadcast, cable, or satellite communication" and "refers to a clearly identified candidate" have the same meanings as in section 3517.1011 of the Revised Code.

(7) "Personal expenses" includes, but is not limited to, ordinary expenses for accommodations, clothing, food, personal motor vehicle or airplane, and home telephone.

(8) "Political action committee" means a combination of two or more persons, the primary or major purpose of which is to support or oppose any candidate, political party, or issue, or to influence the result of any election through express advocacy, and that is not a political party, a campaign committee, a political contributing entity, or a legislative campaign fund. "Political action committee" does not include either of the following:

(a) A continuing association that makes disbursements for the direct costs of producing or airing electioneering communications and that does not engage in express advocacy;

(b) A political club that is formed primarily for social purposes and that consists of one hundred members or less, has officers and periodic meetings, has less than two thousand five hundred dollars in its treasury at all times, and makes an aggregate total contribution of one thousand dollars or less per calendar year.

(9) "Public office" means any state, county, municipal, township, or district office, except an office of a political party, that is filled by an election and the offices of United States senator and representative.

(10) "Anything of value" has the same meaning as in section 1.03 of the Revised Code.

(11) "Beneficiary of a campaign fund" means a candidate, a public official or employee for whose benefit a campaign fund exists, and any other person who has ever been a candidate or public official or employee and for whose benefit a campaign fund exists.

(12) "Campaign fund" means money or other property, including contributions.

(13) "Public official or employee" has the same meaning as in section

102.01 of the Revised Code.

(14) "Caucus" means all of the members of the house of representatives or all of the members of the senate of the general assembly who are members of the same political party.

(15) "Legislative campaign fund" means a fund that is established as an auxiliary of a state political party and associated with one of the houses of the general assembly.

(16) "In-kind contribution" means anything of value other than money that is used to influence the results of an election or is transferred to or used in support of or in opposition to a candidate, campaign committee, legislative campaign fund, political party, political action committee, or political contributing entity and that is made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of the benefited candidate, committee, fund, party, or entity. The financing of the dissemination, distribution, or republication, in whole or part, of any broadcast or of any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's campaign committee, or their authorized agents is an in-kind contribution to the candidate and an expenditure by the candidate.

(17) "Independent expenditure" means an expenditure by a person advocating the election or defeat of an identified candidate or candidates, that is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or candidates or of the campaign committee or agent of the candidate or candidates. As used in division (B)(17) of this section:

(a) "Person" means an individual, partnership, unincorporated business organization or association, political action committee, political contributing entity, separate segregated fund, association, or other organization or group of persons, but not a labor organization or a corporation unless the labor organization or corporation is a political contributing entity.

(b) "Advocating" means any communication containing a message advocating election or defeat.

(c) "Identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(d) "Made in coordination, cooperation, or consultation with, or at the request or suggestion of, any candidate or the campaign committee or agent of the candidate" means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate's campaign committee, or the candidate's agent prior to the publication, distribution, display, or broadcast

of the communication. An expenditure is presumed to be so made when it is any of the following:

(i) Based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's campaign committee or agent, with a view toward having an expenditure made;

(ii) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of the candidate's campaign committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate's campaign committee or agent;

(iii) Except as otherwise provided in division (D) of section 3517.105 of the Revised Code, made by a political party in support of a candidate, unless the expenditure is made by a political party to conduct voter registration or voter education efforts.

(e) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position with the candidate's campaign committee or organization such that it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(18) "Labor organization" means a labor union; an employee organization; a federation of labor unions, groups, locals, or other employee organizations; an auxiliary of a labor union, employee organization, or federation of labor unions, groups, locals, or other employee organizations; or any other bona fide organization in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment.

(19) "Separate segregated fund" means a separate segregated fund established pursuant to the Federal Election Campaign Act.

(20) "Federal Election Campaign Act" means the "Federal Election Campaign Act of 1971," 86 Stat. 11, 2 U.S.C.A. 431, et seq., as amended.

(21) "Restricted fund" means the fund a state or county political party must establish under division (A)(1) of section 3517.1012 of the Revised Code.

(22) "Electioneering communication" has the same meaning as in section 3517.1011 of the Revised Code.

(23) "Express advocacy" means a communication that contains express words advocating the nomination, election, or defeat of a candidate or that

contains express words advocating the adoption or defeat of a question or issue, as determined by a final judgment of a court of competent jurisdiction.

(24) "Political committee" has the same meaning as in section 3517.1011 of the Revised Code.

(25) "Political contributing entity" means any entity, including a corporation or labor organization, that may lawfully make contributions and expenditures and that is not an individual or a political action committee, continuing association, campaign committee, political party, legislative campaign fund, designated state campaign committee, or state candidate fund. For purposes of this division, "lawfully" means not prohibited by any section of the Revised Code, or authorized by a final judgment of a court of competent jurisdiction.

Sec. 3517.10. (A) Except as otherwise provided in this division, every campaign committee, political action committee, legislative campaign fund, political party, and political contributing entity that made or received a contribution or made an expenditure in connection with the nomination or election of any candidate or in connection with any ballot issue or question at any election held or to be held in this state shall file, on a form prescribed under this section or by electronic means of transmission as provided in this section and section 3517.106 of the Revised Code, a full, true, and itemized statement, made under penalty of election falsification, setting forth in detail the contributions and expenditures, not later than four p.m. of the following dates:

(1) The twelfth day before the election to reflect contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the twentieth day before the election;

(2) The thirty-eighth day after the election to reflect the contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the seventh day before the filing of the statement;

(3) The last business day of January of every year to reflect the contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the last day of December of the previous year;

(4) The last business day of July of every year to reflect the contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the last day of June of that year.

A campaign committee shall only be required to file the statements prescribed under divisions (A)(1) and (2) of this section in connection with the nomination or election of the committee's candidate.

The statement required under division (A)(1) of this section shall not be required of any campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity that has received contributions of less than one thousand dollars and has made expenditures of less than one thousand dollars at the close of business on the twentieth day before the election. Those contributions and expenditures shall be reported in the statement required under division (A)(2) of this section.

If an election to select candidates to appear on the general election ballot is held within sixty days before a general election, the campaign committee of a successful candidate in the earlier election may file the statement required by division (A)(1) of this section for the general election instead of the statement required by division (A)(2) of this section for the earlier election if the pregeneral election statement reflects the status of contributions and expenditures for the period twenty days before the earlier election to twenty days before the general election.

If a person becomes a candidate less than twenty days before an election, the candidate's campaign committee is not required to file the statement required by division (A)(1) of this section.

No statement under division (A)(3) of this section shall be required for any year in which a campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity is required to file a postgeneral election statement under division (A)(2) of this section. However, a statement under division (A)(3) of this section may be filed, at the option of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity.

No campaign committee of a candidate for the office of chief justice or justice of the supreme court, and no campaign committee of a candidate for the office of judge of any court in this state, shall be required to file a statement under division (A)(4) of this section.

Except as otherwise provided in this paragraph and in the next paragraph of this section, the only campaign committees required to file a statement under division (A)(4) of this section are the campaign committee of a statewide candidate and the campaign committee of a candidate for county office. The campaign committee of a candidate for any other nonjudicial office is required to file a statement under division (A)(4) of this section if that campaign committee receives, during that period,

contributions exceeding ten thousand dollars.

No statement under division (A)(4) of this section shall be required of a campaign committee, a political action committee, a legislative campaign fund, a political party, or a political contributing entity for any year in which the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity is required to file a postprimary election statement under division (A)(2) of this section. However, a statement under division (A)(4) of this section may be filed at the option of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity.

No statement under division (A)(3) or (4) of this section shall be required if the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity has no contributions that it has received and no expenditures that it has made since the last date reflected in its last previously filed statement. However, the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity shall file a statement to that effect, on a form prescribed under this section and made under penalty of election falsification, on the date required in division (A)(3) or (4) of this section, as applicable.

The campaign committee of a statewide candidate shall file a monthly statement of contributions received during each of the months of July, August, and September in the year of the general election in which the candidate seeks office. The campaign committee of a statewide candidate shall file the monthly statement not later than three business days after the last day of the month covered by the statement. During the period beginning on the nineteenth day before the general election in which a statewide candidate seeks election to office and extending through the day of that general election, each time the campaign committee of the joint candidates for the offices of governor and lieutenant governor or of a candidate for the office of secretary of state, auditor of state, treasurer of state, or attorney general receives a contribution from a contributor that causes the aggregate amount of contributions received from that contributor during that period to equal or exceed ten thousand dollars and each time the campaign committee of a candidate for the office of chief justice or justice of the supreme court receives a contribution from a contributor that causes the aggregate amount of contributions received from that contributor during that period to exceed ten thousand dollars, the campaign committee shall file a two-business-day statement reflecting that contribution. ~~During the period beginning on the nineteenth day before a primary election in which a candidate for statewide~~

~~office seeks nomination to office and extending through the day of that primary election, each time either the campaign committee of a statewide candidate in that primary election that files a notice under division (C)(1) of section 3517.103 of the Revised Code or the campaign committee of a statewide candidate in that primary election to which, in accordance with division (D) of section 3517.103 of the Revised Code, the contribution limitations prescribed in section 3517.102 of the Revised Code no longer apply receives a contribution from a contributor that causes the aggregate amount of contributions received from that contributor during that period to exceed ten thousand dollars, the campaign committee shall file a two-business-day statement reflecting that contribution.~~ Contributions reported on a two-business-day statement required to be filed by a campaign committee of a statewide candidate in a primary election shall also be included in the postprimary election statement required to be filed by that campaign committee under division (A)(2) of this section. A two-business-day statement required by this paragraph shall be filed not later than two business days after receipt of the contribution. The statements required by this paragraph shall be filed in addition to any other statements required by this section.

Subject to the secretary of state having implemented, tested, and verified the successful operation of any system the secretary of state prescribes pursuant to divisions (C)(6)(b) and (D)(6) of this section and division (H)(1) of section 3517.106 of the Revised Code for the filing of campaign finance statements by electronic means of transmission, a campaign committee of a statewide candidate shall file a two-business-day statement under the preceding paragraph by electronic means of transmission if the campaign committee is required to file a pre-election, postelection, or monthly statement of contributions and expenditures by electronic means of transmission under this section or section 3517.106 of the Revised Code.

If a campaign committee or political action committee has no balance on hand and no outstanding obligations and desires to terminate itself, it shall file a statement to that effect, on a form prescribed under this section and made under penalty of election falsification, with the official with whom it files a statement under division (A) of this section after filing a final statement of contributions and a final statement of expenditures, if contributions have been received or expenditures made since the period reflected in its last previously filed statement.

(B) Except as otherwise provided in division (C)(7) of this section, each statement required by division (A) of this section shall contain the following

information:

(1) The full name and address of each campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity, including any treasurer of the committee, fund, party, or entity, filing a contribution and expenditure statement;

(2)(a) In the case of a campaign committee, the candidate's full name and address;

(b) In the case of a political action committee, the registration number assigned to the committee under division (D)(1) of this section.

(3) The date of the election and whether it was or will be a general, primary, or special election;

(4) A statement of contributions received, which shall include the following information:

(a) The month, day, and year of the contribution;

(b)(i) The full name and address of each person, political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity from whom contributions are received and the registration number assigned to the political action committee under division (D)(1) of this section. The requirement of filing the full address does not apply to any statement filed by a state or local committee of a political party, to a finance committee of such committee, or to a committee recognized by a state or local committee as its fund-raising auxiliary. Notwithstanding division (F) of this section, the requirement of filing the full address shall be considered as being met if the address filed is the same address the contributor provided under division (E)(1) of this section.

(ii) If a political action committee, political contributing entity, legislative campaign fund, or political party that is required to file campaign finance statements by electronic means of transmission under section 3517.106 of the Revised Code or a campaign committee of a statewide candidate or candidate for the office of member of the general assembly receives a contribution from an individual that exceeds one hundred dollars, the name of the individual's current employer, if any, or, if the individual is self-employed, the individual's occupation and the name of the individual's business, if any;

(iii) If a campaign committee of a statewide candidate or candidate for the office of member of the general assembly receives a contribution transmitted pursuant to section 3599.031 of the Revised Code from amounts deducted from the wages and salaries of two or more employees that exceeds in the aggregate one hundred dollars during any one filing period under division (A)(1), (2), (3), or (4) of this section, the full name of the

employees' employer and the full name of the labor organization of which the employees are members, if any.

(c) A description of the contribution received, if other than money;

(d) The value in dollars and cents of the contribution;

(e) A separately itemized account of all contributions and expenditures regardless of the amount, except a receipt of a contribution from a person in the sum of twenty-five dollars or less at one social or fund-raising activity and a receipt of a contribution transmitted pursuant to section 3599.031 of the Revised Code from amounts deducted from the wages and salaries of employees if the contribution from the amount deducted from the wages and salary of any one employee is twenty-five dollars or less aggregated in a calendar year. An account of the total contributions from each social or fund-raising activity shall include a description of and the value of each in-kind contribution received at that activity from any person who made one or more such contributions whose aggregate value exceeded two hundred fifty dollars and shall be listed separately, together with the expenses incurred and paid in connection with that activity. A campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity shall keep records of contributions from each person in the amount of twenty-five dollars or less at one social or fund-raising activity and contributions from amounts deducted under section 3599.031 of the Revised Code from the wages and salary of each employee in the amount of twenty-five dollars or less aggregated in a calendar year. No continuing association that is recognized by a state or local committee of a political party as an auxiliary of the party and that makes a contribution from funds derived solely from regular dues paid by members of the auxiliary shall be required to list the name or address of any members who paid those dues.

Contributions that are other income shall be itemized separately from all other contributions. The information required under division (B)(4) of this section shall be provided for all other income itemized. As used in this paragraph, "other income" means a loan, investment income, or interest income.

(f) In the case of a campaign committee of a state elected officer, if a person doing business with the state elected officer in the officer's official capacity makes a contribution to the campaign committee of that officer, the information required under division (B)(4) of this section in regard to that contribution, which shall be filed together with and considered a part of the committee's statement of contributions as required under division (A) of this section but shall be filed on a separate form provided by the secretary of

state. As used in this division:

(i) "State elected officer" has the same meaning as in section 3517.092 of the Revised Code.

(ii) "Person doing business" means a person or an officer of an entity who enters into one or more contracts with a state elected officer or anyone authorized to enter into contracts on behalf of that officer to receive payments for goods or services, if the payments total, in the aggregate, more than five thousand dollars during a calendar year.

(5) A statement of expenditures which shall include the following information:

(a) The month, day, and year of the expenditure;

(b) The full name and address of each person, political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity to whom the expenditure was made and the registration number assigned to the political action committee under division (D)(1) of this section;

(c) The object or purpose for which the expenditure was made;

(d) The amount of each expenditure.

(C)(1) The statement of contributions and expenditures shall be signed by the person completing the form. If a statement of contributions and expenditures is filed by electronic means of transmission pursuant to this section or section 3517.106 of the Revised Code, the electronic signature of the person who executes the statement and transmits the statement by electronic means of transmission, as provided in division (H) of section 3517.106 of the Revised Code, shall be attached to or associated with the statement and shall be binding on all persons and for all purposes under the campaign finance reporting law as if the signature had been handwritten in ink on a printed form.

(2) The person filing the statement, under penalty of election falsification, shall include with it a list of each anonymous contribution, the circumstances under which it was received, and the reason it cannot be attributed to a specific donor.

(3) Each statement of a campaign committee of a candidate who holds public office shall contain a designation of each contributor who is an employee in any unit or department under the candidate's direct supervision and control. In a space provided in the statement, the person filing the statement shall affirm that each such contribution was voluntarily made.

(4) A campaign committee that did not receive contributions or make expenditures in connection with the nomination or election of its candidate shall file a statement to that effect, on a form prescribed under this section

and made under penalty of election falsification, on the date required in division (A)(2) of this section.

(5) The campaign committee of any person who attempts to become a candidate and who, for any reason, does not become certified in accordance with Title XXXV of the Revised Code for placement on the official ballot of a primary, general, or special election to be held in this state, and who, at any time prior to or after an election, receives contributions or makes expenditures, or has given consent for another to receive contributions or make expenditures, for the purpose of bringing about the person's nomination or election to public office, shall file the statement or statements prescribed by this section and a termination statement, if applicable. Division (C)(5) of this section does not apply to any person with respect to an election to the offices of member of a county or state central committee, presidential elector, or delegate to a national convention or conference of a political party.

(6)(a) The statements required to be filed under this section shall specify the balance in the hands of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity and the disposition intended to be made of that balance.

(b) The secretary of state shall prescribe the form for all statements required to be filed under this section and shall furnish the forms to the boards of elections in the several counties. The boards of elections shall supply printed copies of those forms without charge. The secretary of state shall prescribe the appropriate methodology, protocol, and data file structure for statements required or permitted to be filed by electronic means of transmission under division (A) of this section, divisions (E), (F), and (G) of section 3517.106, division (D) of section 3517.1011, division (B) of section 3517.1012, division (C) of section 3517.1013, and divisions (D) and (I) of section 3517.1014 of the Revised Code. Subject to division (A) of this section, divisions (E), (F), and (G) of section 3517.106, division (D) of section 3517.1011, division (B) of section 3517.1012, division (C) of section 3517.1013, and divisions (D) and (I) of section 3517.1014 of the Revised Code, the statements required to be stored on computer by the secretary of state under division (B) of section 3517.106 of the Revised Code shall be filed in whatever format the secretary of state considers necessary to enable the secretary of state to store the information contained in the statements on computer. Any such format shall be of a type and nature that is readily available to whoever is required to file the statements in that format.

(c) The secretary of state shall assess the need for training regarding the

filing of campaign finance statements by electronic means of transmission and regarding associated technologies for candidates, campaign committees, political action committees, legislative campaign funds, political parties, or political contributing entities, for individuals, partnerships, or other entities, for persons making disbursements to pay the direct costs of producing or airing electioneering communications, or for treasurers of transition funds, required or permitted to file statements by electronic means of transmission under this section or section 3517.105, 3517.106, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the Revised Code. If, in the opinion of the secretary of state, training in these areas is necessary, the secretary of state shall arrange for the provision of voluntary training programs for candidates, campaign committees, political action committees, legislative campaign funds, political parties, or political contributing entities, for individuals, partnerships, and other entities, for persons making disbursements to pay the direct costs of producing or airing electioneering communications, or for treasurers of transition funds, as appropriate.

(7) Each monthly statement and each two-business-day statement required by division (A) of this section shall contain the information required by divisions (B)(1) to (4), (C)(2), and, if appropriate, (C)(3) of this section. Each statement shall be signed as required by division (C)(1) of this section.

(D)(1) Prior to receiving a contribution or making an expenditure, every campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity shall appoint a treasurer and shall file, on a form prescribed by the secretary of state, a designation of that appointment, including the full name and address of the treasurer and of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity. That designation shall be filed with the official with whom the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity is required to file statements under section 3517.11 of the Revised Code. The name of a campaign committee shall include at least the last name of the campaign committee's candidate. If two or more candidates are the beneficiaries of a single campaign committee under division (B) of section 3517.081 of the Revised Code, the name of the campaign committee shall include at least the last name of each candidate who is a beneficiary of that campaign committee. The secretary of state shall assign a registration number to each political action committee that files a designation of the appointment of a treasurer under this division if the political action committee is required by division (A)(1) of section 3517.11 of the Revised

Code to file the statements prescribed by this section with the secretary of state.

(2) The treasurer appointed under division (D)(1) of this section shall keep a strict account of all contributions, from whom received and the purpose for which they were disbursed.

(3)(a) Except as otherwise provided in section 3517.108 of the Revised Code, a campaign committee shall deposit all monetary contributions received by the committee into an account separate from a personal or business account of the candidate or campaign committee.

(b) A political action committee shall deposit all monetary contributions received by the committee into an account separate from all other funds.

(c) A state or county political party may establish a state candidate fund that is separate from an account that contains the public moneys received from the Ohio political party fund under section 3517.17 of the Revised Code and from all other funds. A state or county political party may deposit into its state candidate fund any amounts of monetary contributions that are made to or accepted by the political party subject to the applicable limitations, if any, prescribed in section 3517.102 of the Revised Code. A state or county political party shall deposit all other monetary contributions received by the party into one or more accounts that are separate from its state candidate fund and from its account that contains the public moneys received from the Ohio political party fund under section 3517.17 of the Revised Code.

(d) Each state political party shall have only one legislative campaign fund for each house of the general assembly. Each such fund shall be separate from any other funds or accounts of that state party. A legislative campaign fund is authorized to receive contributions and make expenditures for the primary purpose of furthering the election of candidates who are members of that political party to the house of the general assembly with which that legislative campaign fund is associated. Each legislative campaign fund shall be administered and controlled in a manner designated by the caucus. As used in this division, "caucus" has the same meaning as in section 3517.01 of the Revised Code and includes, as an ex officio member, the chairperson of the state political party with which the caucus is associated or that chairperson's designee.

(4) Every expenditure in excess of twenty-five dollars shall be vouched for by a receipted bill, stating the purpose of the expenditure, that shall be filed with the statement of expenditures. A canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of division (D)(4) of this section.

(5) The secretary of state or the board of elections, as the case may be, shall issue a receipt for each statement filed under this section and shall preserve a copy of the receipt for a period of at least six years. All statements filed under this section shall be open to public inspection in the office where they are filed and shall be carefully preserved for a period of at least six years after the year in which they are filed.

(6) The secretary of state, by rule adopted pursuant to section 3517.23 of the Revised Code, shall prescribe both of the following:

(a) The manner of immediately acknowledging, with date and time received, and preserving the receipt of statements that are transmitted by electronic means of transmission to the secretary of state pursuant to this section or section 3517.106, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the Revised Code;

(b) The manner of preserving the contribution and expenditure, contribution and disbursement, deposit and disbursement, gift and disbursement, or donation and disbursement information in the statements described in division (D)(6)(a) of this section. The secretary of state shall preserve the contribution and expenditure, contribution and disbursement, deposit and disbursement, gift and disbursement, or donation and disbursement information in those statements for at least ten years after the year in which they are filed by electronic means of transmission.

(7) The secretary of state, pursuant to division (I) of section 3517.106 of the Revised Code, shall make available online to the public through the internet the contribution and expenditure, contribution and disbursement, deposit and disbursement, gift and disbursement, or donation and disbursement information in all statements, all addenda, amendments, or other corrections to statements, and all amended statements filed with the secretary of state by electronic or other means of transmission under this section, division (B)(2)(b) or (C)(2)(b) of section 3517.105, or section 3517.106, 3517.1011, 3517.1012, 3517.1013, 3517.1014, or 3517.11 of the Revised Code. The secretary of state may remove the information from the internet after a reasonable period of time.

(E)(1) Any person, political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity that makes a contribution in connection with the nomination or election of any candidate or in connection with any ballot issue or question at any election held or to be held in this state shall provide its full name and address to the recipient of the contribution at the time the contribution is made. The political action committee also shall provide the registration number assigned to the committee under division (D)(1) of this section to

the recipient of the contribution at the time the contribution is made.

(2) Any individual who makes a contribution that exceeds one hundred dollars to a political action committee, political contributing entity, legislative campaign fund, or political party or to a campaign committee of a statewide candidate or candidate for the office of member of the general assembly shall provide the name of the individual's current employer, if any, or, if the individual is self-employed, the individual's occupation and the name of the individual's business, if any, to the recipient of the contribution at the time the contribution is made. Sections 3599.39 and 3599.40 of the Revised Code do not apply to division (E)(2) of this section.

(3) If a campaign committee shows that it has exercised its best efforts to obtain, maintain, and submit the information required under divisions (B)(4)(b)(ii) and (iii) of this section, that committee is considered to have met the requirements of those divisions. A campaign committee shall not be considered to have exercised its best efforts unless, in connection with written solicitations, it regularly includes a written request for the information required under division (B)(4)(b)(ii) of this section from the contributor or the information required under division (B)(4)(b)(iii) of this section from whoever transmits the contribution.

(4) Any check that a political action committee uses to make a contribution or an expenditure shall contain the full name and address of the committee and the registration number assigned to the committee under division (D)(1) of this section.

(F) As used in this section:

(1)(a) Except as otherwise provided in division (F)(1) of this section, "address" means all of the following if they exist: apartment number, street, road, or highway name and number, rural delivery route number, city or village, state, and zip code as used in a person's post-office address, but not post-office box.

(b) Except as otherwise provided in division (F)(1) of this section, if an address is required in this section, a post-office box and office, room, or suite number may be included in addition to, but not in lieu of, an apartment, street, road, or highway name and number.

(c) If an address is required in this section, a campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity may use the business or residence address of its treasurer or deputy treasurer. The post-office box number of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity may be used in addition to that address.

(d) For the sole purpose of a campaign committee's reporting of

contributions on a statement of contributions received under division (B)(4) of this section, "address" has one of the following meanings at the option of the campaign committee:

(i) The same meaning as in division (F)(1)(a) of this section;

(ii) All of the following, if they exist: the contributor's post-office box number and city or village, state, and zip code as used in the contributor's post-office address.

(e) As used with regard to the reporting under this section of any expenditure, "address" means all of the following if they exist: apartment number, street, road, or highway name and number, rural delivery route number, city or village, state, and zip code as used in a person's post-office address, or post-office box. If an address concerning any expenditure is required in this section, a campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity may use the business or residence address of its treasurer or deputy treasurer or its post-office box number.

(2) "Statewide candidate" means the joint candidates for the offices of governor and lieutenant governor or a candidate for the office of secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, chief justice of the supreme court, or justice of the supreme court.

(3) "Candidate for county office" means a candidate for the office of county auditor, county treasurer, clerk of the court of common pleas, judge of the court of common pleas, sheriff, county recorder, county engineer, county commissioner, prosecuting attorney, or coroner.

(G) An independent expenditure shall be reported whenever and in the same manner that an expenditure is required to be reported under this section and shall be reported pursuant to division (B)(2)(a) or (C)(2)(a) of section 3517.105 of the Revised Code.

(H)(1) Except as otherwise provided in division (H)(2) of this section, if, during the combined pre-election and postelection reporting periods for an election, a campaign committee has received contributions of five hundred dollars or less and has made expenditures in the total amount of five hundred dollars or less, it may file a statement to that effect, under penalty of election falsification, in lieu of the statement required by division (A)(2) of this section. The statement shall indicate the total amount of contributions received and the total amount of expenditures made during those combined reporting periods.

(2) In the case of a successful candidate at a primary election, if either the total contributions received by or the total expenditures made by the

candidate's campaign committee during the preprimary, postprimary, pregeneral, and postgeneral election periods combined equal more than five hundred dollars, the campaign committee may file the statement under division (H)(1) of this section only for the primary election. The first statement that the campaign committee files in regard to the general election shall reflect all contributions received and all expenditures made during the preprimary and postprimary election periods.

(3) Divisions (H)(1) and (2) of this section do not apply if a campaign committee receives contributions or makes expenditures prior to the first day of January of the year of the election at which the candidate seeks nomination or election to office or if the campaign committee does not file a termination statement with its postprimary election statement in the case of an unsuccessful primary election candidate or with its postgeneral election statement in the case of other candidates.

(I) In the case of a contribution made by a partner of a partnership or an owner or a member of another unincorporated business from any funds of the partnership or other unincorporated business, all of the following apply:

(1) The recipient of the contribution shall report the contribution by listing both the partnership or other unincorporated business and the name of the partner, owner, or member making the contribution.

(2) In reporting the contribution, the recipient of the contribution shall be entitled to conclusively rely upon the information provided by the partnership or other unincorporated business, provided that the information includes one of the following:

(a) The name of each partner, owner, or member as of the date of the contribution or contributions, and a statement that the total contributions are to be allocated equally among all of the partners, owners, or members; or

(b) The name of each partner, owner, or member as of the date of the contribution or contributions who is participating in the contribution or contributions, and a statement that the contribution or contributions are to be allocated to those individuals in accordance with the information provided by the partnership or other unincorporated business to the recipient of the contribution.

(3) For purposes of section 3517.102 of the Revised Code, the contribution shall be considered to have been made by the partner, owner, or member reported under division (I)(1) of this section.

(4) No contribution from a partner of a partnership or an owner or a member of another unincorporated business shall be accepted from any funds of the partnership or other unincorporated business unless the recipient reports the contribution under division (I)(1) of this section

together with the information provided under division (I)(2) of this section.

(5) No partnership or other unincorporated business shall make a contribution or contributions solely in the name of the partnership or other unincorporated business.

(6) As used in division (I) of this section, "partnership or other unincorporated business" includes, but is not limited to, a cooperative, a sole proprietorship, a general partnership, a limited partnership, a limited partnership association, a limited liability partnership, and a limited liability company.

(J) A candidate shall have only one campaign committee at any given time for all of the offices for which the person is a candidate or holds office.

(K)(1) In addition to filing a designation of appointment of a treasurer under division (D)(1) of this section, the campaign committee of any candidate for an elected municipal office that pays an annual amount of compensation of five thousand dollars or less, the campaign committee of any candidate for member of a board of education except member of the state board of education, or the campaign committee of any candidate for township trustee or township fiscal officer may sign, under penalty of election falsification, a certificate attesting that the committee will not accept contributions during an election period that exceed in the aggregate two thousand dollars from all contributors and one hundred dollars from any one individual, and that the campaign committee will not make expenditures during an election period that exceed in the aggregate two thousand dollars.

The certificate shall be on a form prescribed by the secretary of state and shall be filed not later than ten days after the candidate files a declaration of candidacy and petition, a nominating petition, or a declaration of intent to be a write-in candidate.

(2) Except as otherwise provided in division (K)(3) of this section, a campaign committee that files a certificate under division (K)(1) of this section is not required to file the statements required by division (A) of this section.

(3) If, after filing a certificate under division (K)(1) of this section, a campaign committee exceeds any of the limitations described in that division during an election period, the certificate is void and thereafter the campaign committee shall file the statements required by division (A) of this section. If the campaign committee has not previously filed a statement, then on the first statement the campaign committee is required to file under division (A) of this section after the committee's certificate is void, the committee shall report all contributions received and expenditures made from the time the candidate filed the candidate's declaration of candidacy

and petition, nominating petition, or declaration of intent to be a write-in candidate.

(4) As used in division (K) of this section, "election period" means the period of time beginning on the day a person files a declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate through the day of the election at which the person seeks nomination to office if the person is not elected to office, or, if the candidate was nominated in a primary election, the day of the election at which the candidate seeks office.

(L) A political contributing entity that receives contributions from the dues, membership fees, or other assessments of its members or from its officers, shareholders, and employees may report the aggregate amount of contributions received from those contributors and the number of individuals making those contributions, for each filing period under divisions (A)(1), (2), (3), and (4) of this section, rather than reporting information as required under division (B)(4) of this section, including, when applicable, the name of the current employer, if any, of a contributor whose contribution exceeds one hundred dollars or, if such a contributor is self-employed, the contributor's occupation and the name of the contributor's business, if any. Division (B)(4) of this section applies to a political contributing entity with regard to contributions it receives from all other contributors.

Sec. 3517.101. (A) As used in this section:

(1) "Gift" means a gift, subscription, loan, advance, or deposit of money or anything of value, given to ~~a state or county political party~~ an entity described in division (C) of this section, that is specifically designated and used to defray any cost incurred on or after the effective date of this ~~section~~ amendment for any of the construction, renovation, or purchase of any office facility following purposes, and that is not used solely for the purpose of directly influencing the election of any individual candidate in any particular election for any office;

(a) The construction, renovation, purchase, or lease of an office facility and any real property taxes associated with the facility;

(b) Furniture and fixtures to be installed in an office facility;

(c) Equipment and supplies to be used in an office facility, including telecommunications and computer hardware and software;

(d) The operating costs, maintenance, and repair of an office facility, other than personnel costs.

(2) "Address" has the meaning given in division (F) of section 3517.10 of the Revised Code.

(3) "Person" means an individual, partnership, unincorporated business organization or association, political action committee, political contributing entity, separate segregated fund, association, labor organization, corporation, or other organization or group of persons, other than a public utility as defined in section 4905.02 of the Revised Code.

(4) "Political party" means only a major political party.

(B) ~~Any person, including a corporation engaged in business in this state but not including a public utility, may make a gift to a state or county political party~~ an entity described in division (C) of this section if the gift is specifically designated and used to defray any cost incurred on or after the effective date of this ~~section~~ amendment for the ~~construction, renovation, or purchase of any office facility that is not used solely for the purpose of directly influencing the election of any individual candidate in any particular election for any office and, if it purposes described in division (A)(1) of this section, is a~~ A gift of money ~~from a corporation engaged in business in this state, if the gift does~~ shall not exceed ten per cent of the ~~cost of the construction, renovation, or purchase~~ thousand dollars per calendar year, as adjusted under section 3517.104 of the Revised Code. Such gift shall not be considered a contribution or expenditure prohibited by any section of the Revised Code.

(C) Any of the following entities may receive a gift under this section:

(1) A state political party;

(2) A county political party;

(3) A legislative campaign fund.

~~(D)~~(1) Each ~~state or county political party~~ entity that receives a gift pursuant to this section shall file on a form prescribed by the secretary of state, a full, true, and itemized statement describing the gift received and how it was disbursed. The statement shall be made under penalty of election falsification and shall be filed not later than four p.m. of the last day of January of every year to reflect gifts received and disbursed during the immediately preceding calendar year.

(2) Each statement required under division ~~(C)~~(D)(1) of this section shall contain all of the following information:

(a) The full name and address of the ~~state or county political party~~ entity filing the statement, including its treasurer;

(b) A description of each gift received, which shall include:

(i) The month, day, and year on which the gift was received;

(ii) The full name and address of each person from whom or from which the gift was received;

(iii) The nature of the gift, if other than money;

(iv) The value of the gift in dollars and cents.

Each gift received shall be itemized separately regardless of its amount or value.

(c) An itemization of how each gift was disbursed;

(d) The total value of gifts received and gifts disbursed during each reporting period;

(e) The total ~~cost of~~ costs incurred for the construction, renovation, or purchase of any office facility purposes for which a gift is used.

~~(D)(E)~~(1) All monetary gifts and all income from the lease or rental of an office facility for which a gift is used shall be deposited in an account separate from other funds and maintained in that separate account. ~~Except as provided in division (D)(2) of this section, moneys~~ Moneys in the account shall be used only for the ~~construction, renovation, or purchase of an office facility as purposes~~ described in division ~~(B)(A)(1)~~ of this section.

~~(2) Any moneys remaining in an account under division (D)(1) of this section after the construction, renovation, or purchase of an office facility shall be used only for the maintenance and repair of the facility or for the construction, renovation, or purchase of another office facility as described in division (B) of this section and shall not be used for operating costs of the facility or for any other purpose.~~

~~(3) When a state or county political party~~ an entity described in division (C) of this section sells an office facility that was constructed, renovated, or purchased in whole or in part from monetary gifts or sells furniture, fixtures, equipment, or supplies that were purchased in whole or in part from monetary gifts, the ~~party~~ entity shall deposit in the account under division ~~(D)(E)~~(1) of this section an amount that is the same percentage of the total proceeds of the sale as the monetary gifts ~~used in the construction, renovation, or purchase of the facility~~ were of the total cost of ~~that construction, renovation, or purchase~~ those goods or services. Proceeds deposited in the account shall be used only for the ~~construction, renovation, or purchase of another office facility as purposes~~ described in division ~~(B)(A)(1)~~ of this section.

~~(E)~~(F) A state political party or a legislative campaign fund shall file a statement required under this section with the secretary of state and a county political party shall file a statement required under this section with the board of elections of the county in which the party is located.

~~(F)~~(G)(1) No ~~state or county political party~~ entity shall fail to file a statement required to be filed under this section.

(2) No ~~state or county political party~~ entity shall knowingly fail to report, or shall knowingly misrepresent, a gift required to be reported on a

statement required to be filed under this section.

~~(G)(H)~~ No ~~state or county political party~~ entity shall expend or use a gift for a purpose other than ~~to defray any cost incurred on or after the effective date of this section for the construction, renovation, or purchase of an office facility as the purposes~~ described in division ~~(B)(A)(1)~~ of this section ~~or for the maintenance and repair of such a facility as provided in division (D)(2) of this section.~~

~~(H)(I)~~ Prior to receiving any gift under this section, every ~~political party~~ entity shall appoint a treasurer and file, on a form prescribed by the secretary of state, a designation of the appointment, including the full name and address of the ~~political party~~ entity. The designation shall be filed with the official with whom the ~~political party~~ entity is required to file statements under division (E) of this section. The treasurer shall keep a strict account of all gifts required to be reported under this section. The secretary of state or board of elections, as the case may be, shall, if requested, issue a receipt for each statement filed under this section and preserve a record of the filing for at least six years. All such statements shall be open to public inspection in the office where they are filed, and shall be carefully preserved for a period of at least six years after the year in which they are filed.

Sec. 3517.102. (A) Except as otherwise provided in section 3517.103 of the Revised Code, as used in this section and sections 3517.103 and 3517.104 of the Revised Code:

(1) "Candidate" has the same meaning as in section 3517.01 of the Revised Code but includes only candidates for the offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, member of the general assembly, chief justice of the supreme court, and justice of the supreme court.

(2) "Statewide candidate" or "any one statewide candidate" means the joint candidates for the offices of governor and lieutenant governor or a candidate for the office of secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, chief justice of the supreme court, or justice of the supreme court.

(3) "Senate candidate" means a candidate for the office of state senator.

(4) "House candidate" means a candidate for the office of state representative.

(5)(a) "Primary election period" for a candidate begins on the beginning date of the candidate's pre-filing period specified in division (A)(9) of section 3517.109 of the Revised Code and ends on the day of the primary election.

(b) In regard to any candidate, the "general election period" begins on the day after the primary election immediately preceding the general election at which the candidate seeks an office specified in division (A)(1) of this section and ends on the thirty-first day of December following that general election.

(6) "State candidate fund" means the state candidate fund established by a state or county political party under division (D)(3)(c) of section 3517.10 of the Revised Code.

(7) "Postgeneral election statement" means the statement filed under division (A)(2) of section 3517.10 of the Revised Code by the campaign committee of a candidate after the general election in which the candidate ran for office or filed by legislative campaign fund after the general election in an even-numbered year.

(8) "Contribution" means any contribution that is required to be reported in the statement of contributions under section 3517.10 of the Revised Code.

(9)(a) Except as otherwise provided in division (A)(9)(b) of this section ~~and in division (F) of section 3517.103 and division (B)(3)(b) of section 3517.1010 of the Revised Code~~, "designated state campaign committee" means:

(i) In the case of contributions to or from a state political party, a campaign committee of a statewide candidate, statewide officeholder, senate candidate, house candidate, or member of the general assembly.

(ii) In the case of contributions to or from a county political party, a campaign committee of a senate candidate or house candidate whose candidacy is to be submitted to some or all of the electors in that county, or member of the general assembly whose district contains all or part of that county.

(iii) In the case of contributions to or from a legislative campaign fund, a campaign committee of any of the following:

(I) A senate or house candidate who, if elected, will be a member of the same party that established the legislative campaign fund and the same house with which the legislative campaign fund is associated;

(II) A state senator or state representative who is a member of the same party that established the legislative campaign fund and the same house with which the legislative campaign fund is associated.

(b) A campaign committee is no longer a "designated state campaign committee" after the campaign committee's candidate changes the designation of treasurer required to be filed under division (D)(1) of section 3517.10 of the Revised Code to indicate that the person intends to be a candidate for, or becomes a candidate for nomination or election to, any

office that, if elected, would not qualify that candidate's campaign committee as a "designated state campaign committee" under division (A)(9)(a) of this section.

(B)(1)(a) No individual who is seven years of age or older shall make a contribution or contributions aggregating more than:

(i) Ten thousand dollars to the campaign committee of any one statewide candidate in a primary election period or in a general election period;

(ii) Ten thousand dollars to the campaign committee of any one senate candidate in a primary election period or in a general election period;

(iii) Ten thousand dollars to the campaign committee of any one house candidate in a primary election period or in a general election period;

(iv) Ten thousand dollars to a county political party of the county in which the individual's designated Ohio residence is located for the party's state candidate fund in a calendar year;

(v) Fifteen thousand dollars to any one legislative campaign fund in a calendar year;

(vi) Thirty thousand dollars to any one state political party for the party's state candidate fund in a calendar year;

(vii) Ten thousand dollars to any one political action committee in a calendar year;

(viii) Ten thousand dollars to any one political contributing entity in a calendar year.

(b) No individual shall make a contribution or contributions to the state candidate fund of a county political party of any county other than the county in which the individual's designated Ohio residence is located.

(c) No individual who is under seven years of age shall make any contribution.

(2)(a) Subject to division (D)(1) of this section, no political action committee shall make a contribution or contributions aggregating more than:

(i) Ten thousand dollars to the campaign committee of any one statewide candidate in a primary election period or in a general election period;

(ii) Ten thousand dollars to the campaign committee of any one senate candidate in a primary election period or in a general election period;

(iii) Ten thousand dollars to the campaign committee of any one house candidate in a primary election period or in a general election period;

(iv) Fifteen thousand dollars to any one legislative campaign fund in a calendar year;

(v) Thirty thousand dollars to any one state political party for the party's

state candidate fund in a calendar year;

(vi) Ten thousand dollars to another political action committee or to a political contributing entity in a calendar year. This division does not apply to a political action committee that makes a contribution to a political action committee or a political contributing entity affiliated with it. For purposes of this division, a political action committee is affiliated with another political action committee or with a political contributing entity if they are both established, financed, maintained, or controlled by, or if they are, the same corporation, organization, labor organization, continuing association, or other person, including any parent, subsidiary, division, or department of that corporation, organization, labor organization, continuing association, or other person.

(b) No political action committee shall make a contribution or contributions to a county political party for the party's state candidate fund.

(3) No campaign committee shall make a contribution or contributions aggregating more than:

(a) Ten thousand dollars to the campaign committee of any one statewide candidate in a primary election period or in a general election period;

(b) Ten thousand dollars to the campaign committee of any one senate candidate in a primary election period or in a general election period;

(c) Ten thousand dollars to the campaign committee of any one house candidate in a primary election period or in a general election period;

(d) Ten thousand dollars to any one political action committee in a calendar year;

(e) Ten thousand dollars to any one political contributing entity in a calendar year.

(4)(a) Subject to division (D)(3) of this section, no political party shall make a contribution or contributions aggregating more than ten thousand dollars to any one political action committee or to any one political contributing entity in a calendar year.

(b) No county political party shall make a contribution or contributions to another county political party.

(5)(a) Subject to division (B)(5)(b) of this section, no campaign committee, other than a designated state campaign committee, shall make a contribution or contributions aggregating in a calendar year more than:

(i) Thirty thousand dollars to any one state political party for the party's state candidate fund;

(ii) Fifteen thousand dollars to any one legislative campaign fund;

(iii) Ten thousand dollars to any one county political party for the

party's state candidate fund.

(b) No campaign committee shall make a contribution or contributions to a county political party for the party's state candidate fund unless one of the following applies:

(i) The campaign committee's candidate will appear on a ballot in that county.

(ii) The campaign committee's candidate is the holder of an elected public office that represents all or part of the population of that county at the time the contribution is made.

(6)(a) No state candidate fund of a county political party shall make a contribution or contributions, except a contribution or contributions to a designated state campaign committee, in a primary election period or a general election period, aggregating more than:

(i) Two hundred fifty thousand dollars to the campaign committee of any one statewide candidate;

(ii) Ten thousand dollars to the campaign committee of any one senate candidate;

(iii) Ten thousand dollars to the campaign committee of any one house candidate.

(b)(i) No state candidate fund of a state or county political party shall make a transfer or a contribution or transfers or contributions of cash or cash equivalents to a designated state campaign committee in a primary election period or in a general election period aggregating more than:

(I) Five hundred thousand dollars to the campaign committee of any one statewide candidate;

(II) One hundred thousand dollars to the campaign committee of any one senate candidate;

(III) Fifty thousand dollars to the campaign committee of any one house candidate.

(ii) No legislative campaign fund shall make a transfer or a contribution or transfers or contributions of cash or cash equivalents to a designated state campaign committee aggregating more than:

(I) Fifty thousand dollars in a primary election period or one hundred thousand dollars in a general election period to the campaign committee of any one senate candidate;

(II) Twenty-five thousand dollars in a primary election period or fifty thousand dollars in a general election period to the campaign committee of any one house candidate.

(iii) As used in divisions (B)(6)(b) and (C)(6) of this section, "transfer or contribution of cash or cash equivalents" does not include any in-kind

contributions.

(c) A county political party that has no state candidate fund and that is located in a county having a population of less than one hundred fifty thousand may make one or more contributions from other accounts to any one statewide candidate or to any one designated state campaign committee that do not exceed, in the aggregate, two thousand five hundred dollars in any primary election period or general election period. As used in this division, "other accounts" does not include an account that contains the public moneys received from the Ohio political party fund under section 3517.17 of the Revised Code.

(d) No legislative campaign fund shall make a contribution, other than to a designated state campaign committee or to the state candidate fund of a political party.

(7)(a) Subject to division (D)(1) of this section, no political contributing entity shall make a contribution or contributions aggregating more than:

(i) Ten thousand dollars to the campaign committee of any one statewide candidate in a primary election period or in a general election period;

(ii) Ten thousand dollars to the campaign committee of any one senate candidate in a primary election period or in a general election period;

(iii) Ten thousand dollars to the campaign committee of any one house candidate in a primary election period or in a general election period;

(iv) Fifteen thousand dollars to any one legislative campaign fund in a calendar year;

(v) Thirty thousand dollars to any one state political party for the party's state candidate fund in a calendar year;

(vi) Ten thousand dollars to another political contributing entity or to a political action committee in a calendar year. This division does not apply to a political contributing entity that makes a contribution to a political contributing entity or a political action committee affiliated with it. For purposes of this division, a political contributing entity is affiliated with another political contributing entity or with a political action committee if they are both established, financed, maintained, or controlled by, or if they are, the same corporation, organization, labor organization, continuing association, or other person, including any parent, subsidiary, division, or department of that corporation, organization, labor organization, continuing association, or other person.

(b) No political contributing entity shall make a contribution or contributions to a county political party for the party's state candidate fund.

(C)(1)(a) Subject to division (D)(1) of this section, no campaign

committee of a statewide candidate shall do any of the following:

(i) Knowingly accept a contribution or contributions from any individual who is under seven years of age;

(ii) Accept a contribution or contributions aggregating more than ten thousand dollars from any one individual who is seven years of age or older, from any one political action committee, from any one political contributing entity, or from any one other campaign committee in a primary election period or in a general election period;

(iii) Accept a contribution or contributions aggregating more than two hundred fifty thousand dollars from any one or combination of state candidate funds of county political parties in a primary election period or in a general election period.

(b) No campaign committee of a statewide candidate shall accept a contribution or contributions aggregating more than two thousand five hundred dollars in a primary election period or in a general election period from a county political party that has no state candidate fund and that is located in a county having a population of less than one hundred fifty thousand.

(2)(a) Subject to division (D)(1) of this section and except for a designated state campaign committee, no campaign committee of a senate candidate shall do either of the following:

(i) Knowingly accept a contribution or contributions from any individual who is under seven years of age;

(ii) Accept a contribution or contributions aggregating more than ten thousand dollars from any one individual who is seven years of age or older, from any one political action committee, from any one political contributing entity, from any one state candidate fund of a county political party, or from any one other campaign committee in a primary election period or in a general election period.

(b) No campaign committee of a senate candidate shall accept a contribution or contributions aggregating more than two thousand five hundred dollars in a primary election period or in a general election period from a county political party that has no state candidate fund and that is located in a county having a population of less than one hundred fifty thousand.

(3)(a) Subject to division (D)(1) of this section and except for a designated state campaign committee, no campaign committee of a house candidate shall do either of the following:

(i) Knowingly accept a contribution or contributions from any individual who is under seven years of age;

(ii) Accept a contribution or contributions aggregating more than ten thousand dollars from any one individual who is seven years of age or older, from any one political action committee, from any one political contributing entity, from any one state candidate fund of a county political party, or from any one other campaign committee in a primary election period or in a general election period.

(b) No campaign committee of a house candidate shall accept a contribution or contributions aggregating more than two thousand five hundred dollars in a primary election period or in a general election period from a county political party that has no state candidate fund and that is located in a county having a population of less than one hundred fifty thousand.

(4)(a)(i) Subject to division (C)(4)(a)(ii) of this section and except for a designated state campaign committee, no county political party shall knowingly accept a contribution or contributions from any individual who is under seven years of age, or accept a contribution or contributions for the party's state candidate fund aggregating more than ten thousand dollars from any one individual whose designated Ohio residence is located within that county and who is seven years of age or older or from any one campaign committee in a calendar year.

(ii) Subject to division (D)(1) of this section, no county political party shall accept a contribution or contributions for the party's state candidate fund from any individual whose designated Ohio residence is located outside of that county and who is seven years of age or older, from any campaign committee unless the campaign committee's candidate will appear on a ballot in that county or unless the campaign committee's candidate is the holder of an elected public office that represents all or part of the population of that county at the time the contribution is accepted, or from any political action committee or any political contributing entity.

(iii) No county political party shall accept a contribution or contributions from any other county political party.

(b) Subject to division (D)(1) of this section, no state political party shall do either of the following:

(i) Knowingly accept a contribution or contributions from any individual who is under seven years of age;

(ii) Accept a contribution or contributions for the party's state candidate fund aggregating more than thirty thousand dollars from any one individual who is seven years of age or older, from any one political action committee, from any one political contributing entity, or from any one campaign committee, other than a designated state campaign committee, in a calendar

year.

(5) Subject to division (D)(1) of this section, no legislative campaign fund shall do either of the following:

(a) Knowingly accept a contribution or contributions from any individual who is under seven years of age;

(b) Accept a contribution or contributions aggregating more than fifteen thousand dollars from any one individual who is seven years of age or older, from any one political action committee, from any one political contributing entity, or from any one campaign committee, other than a designated state campaign committee, in a calendar year.

(6)(a) No designated state campaign committee shall accept a transfer or contribution of cash or cash equivalents from a state candidate fund of a state political party aggregating in a primary election period or a general election period more than:

(i) Five hundred thousand dollars, in the case of a campaign committee of a statewide candidate;

(ii) One hundred thousand dollars, in the case of a campaign committee of a senate candidate;

(iii) Fifty thousand dollars, in the case of a campaign committee of a house candidate.

(b) No designated state campaign committee shall accept a transfer or contribution of cash or cash equivalents from a legislative campaign fund aggregating more than:

(i) Fifty thousand dollars in a primary election period or one hundred thousand dollars in a general election period, in the case of a campaign committee of a senate candidate;

(ii) Twenty-five thousand dollars in a primary election period or fifty thousand dollars in a general election period, in the case of a campaign committee of a house candidate.

(c) No campaign committee of a candidate for the office of member of the general assembly, including a designated state campaign committee, shall accept a transfer or contribution of cash or cash equivalents from any one or combination of state candidate funds of county political parties aggregating in a primary election period or a general election period more than:

(i) One hundred thousand dollars, in the case of a campaign committee of a senate candidate;

(ii) Fifty thousand dollars, in the case of a campaign committee of a house candidate.

(7)(a) Subject to division (D)(3) of this section, no political action

committee and no political contributing entity shall do either of the following:

(i) Knowingly accept a contribution or contributions from any individual who is under seven years of age;

(ii) Accept a contribution or contributions aggregating more than ten thousand dollars from any one individual who is seven years of age or older, from any one campaign committee, or from any one political party in a calendar year.

(b) Subject to division (D)(1) of this section, no political action committee shall accept a contribution or contributions aggregating more than ten thousand dollars from another political action committee or from a political contributing entity in a calendar year. Subject to division (D)(1) of this section, no political contributing entity shall accept a contribution or contributions aggregating more than ten thousand dollars from another political contributing entity or from a political action committee in a calendar year. This division does not apply to a political action committee or political contributing entity that accepts a contribution from a political action committee or political contributing entity affiliated with it. For purposes of this division, a political action committee is affiliated with another political action committee or with a political contributing entity if they are both established, financed, maintained, or controlled by the same corporation, organization, labor organization, continuing association, or other person, including any parent, subsidiary, division, or department of that corporation, organization, labor organization, continuing association, or other person.

(D)(1)(a) For purposes of the limitations prescribed in division (B)(2) of this section and the limitations prescribed in divisions (C)(1), (2), (3), (4), (5), and (7)(b) of this section, whichever is applicable, all contributions made by and all contributions accepted from political action committees that are established, financed, maintained, or controlled by, or that are, the same corporation, organization, labor organization, continuing association, or other person, including any parent, subsidiary, division, or department of that corporation, organization, labor organization, continuing association, or other person, are considered to have been made by or accepted from a single political action committee.

(b) For purposes of the limitations prescribed in division (B)(7) of this section and the limitations prescribed in divisions (C)(1), (2), (3), (4), (5), and (7)(b) of this section, whichever is applicable, all contributions made by and all contributions accepted from political contributing entities that are established, financed, maintained, or controlled by, or that are, the same

corporation, organization, labor organization, continuing association, or other person, including any parent, subsidiary, division, or department of that corporation, organization, labor organization, continuing association, or other person, are considered to have been made by or accepted from a single political contributing entity.

(2) As used in divisions (B)(1)(a)(vii), (B)(3)(d), (B)(4)(a), and (C)(7) of this section, "political action committee" does not include a political action committee that is organized to support or oppose a ballot issue or question and that makes no contributions to or expenditures on behalf of a political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity. As used in divisions (B)(1)(a)(viii), (B)(3)(e), (B)(4)(a), and (C)(7) of this section, "political contributing entity" does not include a political contributing entity that is organized to support or oppose a ballot issue or question and that makes no contributions to or expenditures on behalf of a political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity.

(3) For purposes of the limitations prescribed in divisions (B)(4) and (C)(7)(a) of this section, all contributions made by and all contributions accepted from a national political party, a state political party, and a county political party are considered to have been made by or accepted from a single political party and shall be combined with each other to determine whether the limitations have been exceeded.

(E)(1) If a legislative campaign fund has kept a total amount of contributions exceeding one hundred fifty thousand dollars at the close of business on the seventh day before the postgeneral election statement is required to be filed under section 3517.10 of the Revised Code, the legislative campaign fund shall comply with division (E)(2) of this section.

(2)(a) Any legislative campaign fund that has kept a total amount of contributions in excess of the amount specified in division (E)(1) of this section at the close of business on the seventh day before the postgeneral election statement is required to be filed under section 3517.10 of the Revised Code shall dispose of the excess amount in the manner prescribed in division (E)(2)(b)(i), (ii), or (iii) of this section not later than ninety days after the day the postgeneral election statement is required to be filed under section 3517.10 of the Revised Code. Any legislative campaign fund that is required to dispose of an excess amount of contributions under this division shall file a statement on the ninetieth day after the postgeneral election statement is required to be filed under section 3517.10 of the Revised Code indicating the total amount of contributions the fund has at the close of

business on the seventh day before the postgeneral election statement is required to be filed under section 3517.10 of the Revised Code and that the excess contributions were disposed of pursuant to this division and division (E)(2)(b) of this section. The statement shall be on a form prescribed by the secretary of state and shall contain any additional information the secretary of state considers necessary.

(b) Any legislative campaign fund that is required to dispose of an excess amount of contributions under division (E)(2) of this section shall dispose of that excess amount by doing any of the following:

(i) Giving the amount to the treasurer of state for deposit into the state treasury to the credit of the Ohio elections commission fund created by division (I) of section 3517.152 of the Revised Code;

(ii) Giving the amount to individuals who made contributions to that legislative campaign fund as a refund of all or part of their contributions;

(iii) Giving the amount to a corporation that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c) of the Internal Revenue Code.

(F)(1) No legislative campaign fund shall fail to file a statement required by division (E) of this section.

(2) No legislative campaign fund shall fail to dispose of excess contributions as required by division (E) of this section.

(G) Nothing in this section shall affect, be used in determining, or supersede a limitation on campaign contributions as provided for in the Federal Election Campaign Act.

Sec. 3517.103. (A)(~~4~~) For purposes of this section:

~~(a)(1)~~ "Statewide candidate" means the joint candidates for the offices of governor and lieutenant governor or a candidate for the office of secretary of state, auditor of state, treasurer of state, attorney general, or member of the state board of education.

~~(b)(i)(2)(a)~~ "Personal funds" means contributions to the campaign committee of a candidate by the candidate ~~or by the candidate's spouse, parents, children, sons in law, daughters in law, brothers, sisters, grandparents, mother in law, father in law, brothers in law, sisters in law, or grandparents by marriage.~~

~~(ii)(b)~~ A loan obtained by, guaranteed by, or for the benefit of a statewide candidate, senate candidate, or house candidate shall be considered "personal funds" subject to the provisions of this section ~~and section 3517.1010 of the Revised Code~~ to the extent that the loan is obtained or guaranteed by the candidate ~~or is for the benefit of the candidate and is obtained or guaranteed by the candidate's spouse, parents, children,~~

~~sons in law, daughters in law, brothers, sisters, grandparents, mother in law, father in law, brothers in law, sisters in law, or grandparents by marriage.~~ A loan that is obtained or guaranteed and that is for the benefit of a statewide candidate, senate candidate, or house candidate shall not be considered "personal funds" for the purposes of this section ~~and section 3517.1010 of the Revised Code~~ but shall be considered to be a "contribution" for the purposes of this chapter if the loan is obtained or guaranteed by anyone other than the candidate ~~or the candidate's spouse, parents, children, sons in law, daughters in law, brothers, sisters, grandparents, mother in law, father in law, brothers in law, sisters in law, or grandparents by marriage.~~

~~(iii)(c)~~ When a debt or other obligation incurred by a committee or by a candidate on behalf of the candidate's committee ~~described in division (C)(1) or (2) of this section~~ is to be paid from "personal funds," those funds are considered to be expended when the debt or other obligation is incurred, regardless of when it is paid.

~~(2) For purposes of this chapter, a candidate is an "opponent" when the candidate has indicated on the candidate's most recently filed designation of treasurer that the candidate seeks the same office at the same primary or general election as another candidate whose campaign committee has filed a personal funds notice required by division (C)(1) or (2) of this section.~~

(B)(1) Except as otherwise provided in division (B)(2) of this section, no statewide candidate or candidate for the office of member of the general assembly shall make an expenditure of personal funds to influence the results of an election for that candidate's nomination or election to office unless the personal funds are first deposited into the campaign fund of that candidate's campaign committee.

(2) A statewide candidate or candidate for the office of member of the general assembly may make an expenditure of personal funds without first depositing those funds into the campaign committee's funds as long as the aggregate total of those expenditures does not exceed five hundred dollars at any time during an election period. After the candidate's campaign committee reimburses the candidate for any direct expenditure of personal funds, the amount that was reimbursed is no longer included in the aggregate total of expenditures of personal funds subject to the five-hundred-dollar limit.

~~(C)(1) If the campaign committee of any statewide candidate has received or expended or expects to expend more than one hundred thousand dollars of personal funds during a primary election period or one hundred fifty thousand dollars of personal funds during a general election period, the~~

~~campaign committee shall file a personal funds notice in the manner provided in division (C)(3) of this section indicating that the committee has received or expended or expects to expend more than that amount. For the purpose of this division, a joint team of candidates for governor and lieutenant governor shall be considered a single candidate and their personal funds shall be combined.~~

~~(2) If the campaign committee of any senate candidate or house candidate has received or expended or expects to expend more than twenty-five thousand dollars of personal funds during a primary election period or twenty-five thousand dollars of personal funds during a general election period, the campaign committee shall file a personal funds notice in the manner provided in division (C)(3) of this section indicating that the committee has received or expended or expects to expend more than that amount.~~

~~(3) The personal funds notice required in divisions (C)(1) and (2) of this section and the declaration of no limits required under division (D)(2) of this section shall be on a form prescribed by the secretary of state. The personal funds notice required in divisions (C)(1) and (2) of this section shall be filed not later than the earlier of the following times:~~

~~(a) One hundred twenty days before a primary election, in the case of personal funds received, expended, or expected to be expended during a primary election period, or not later than one hundred twenty days before a general election, in the case of personal funds received, expended, or expected to be expended during a general election period;~~

~~(b) Two business days after the candidate's campaign committee receives or makes an expenditure of personal funds or the candidate makes an expenditure of personal funds on behalf of the candidate's campaign committee during that election period that exceed, in the aggregate, the amount specified in division (C)(1) or (2) of this section.~~

~~The personal funds notice required under divisions (C)(1) and (2) of this section and the declaration of no limits required under division (D)(2) of this section shall be filed wherever the campaign committee files statements of contributions and expenditures under section 3517.11 of the Revised Code. The board of elections shall send to the secretary of state a copy of any personal funds notice or declaration of no limits filed by the campaign committee of a senate candidate or house candidate under division (C)(3) or (D)(2) of this section.~~

~~(D)(1) Whenever a campaign committee files a notice under division (C)(1) or (2) of this section, and the campaign committee of an opponent files a declaration of no limits pursuant to division (D)(2) of this section~~

~~within thirty days of the filing of the personal funds notice under division (C)(1) or (2) of this section, the contribution limitations prescribed in section 3517.102 of the Revised Code no longer apply to the campaign committee of the candidate's opponent.~~

~~(2) No campaign committee of a candidate described in division (D)(1) of this section shall accept any contribution or contributions from a contributor that exceed the limitations prescribed in section 3517.102 of the Revised Code until the committee files a declaration that the committee will accept contributions that exceed those limitations. This declaration shall be filed not later than thirty days after a candidate's opponent has filed a personal funds notice pursuant to division (C)(1) or (2) of section 3517.103 of the Revised Code, shall be referred to as the "declaration of no limits," and shall list all of the following:~~

~~(a) The amount of cash on hand in the candidate's campaign fund at the end of the day immediately preceding the day on which the candidate's campaign committee files the declaration of no limits;~~

~~(b) The value and description of all campaign assets worth five hundred dollars or more available to the candidate at the end of the day immediately preceding the day on which the candidate's campaign committee files the declaration of no limits.~~

~~(3) A candidate who was not an opponent of a candidate who filed the personal funds notice required under division (C)(3) of this section on the date the personal funds notice was filed may file the declaration of no limits pursuant to division (D)(2) of this section within thirty days after becoming an opponent of the candidate who filed the personal funds notice.~~

~~(4) If the candidate whose campaign committee filed a personal funds notice under division (C)(1) or (2) of this section fails to file a declaration of candidacy for the office listed on the designation of treasurer filed under division (D) of section 3517.10 of the Revised Code or files a declaration of candidacy or nominating petition for that office and dies or withdraws, both of the following apply to the campaign committee of that candidate's opponent if the opponent has filed a declaration of no limits pursuant to division (D) of this section:~~

~~(a) No contribution from a contributor may thereafter be accepted that, when added to the aggregate total of all contributions received by that committee from that contributor during the primary election period or general election period, whichever is applicable, would cause that committee to exceed the contribution limitations prescribed in section 3517.102 of the Revised Code for the applicable election period.~~

~~(b) The statement of primary day finances or the year end statement~~

~~required to be filed under division (E) of section 3517.1010 of the Revised Code shall be filed not later than fourteen days after the date the candidate's opponent fails to file a declaration of candidacy or nominating petition by the appropriate filing deadline, or dies or withdraws. For purposes of calculating permitted funds under division (A)(4) of section 3517.1010 of the Revised Code, the primary or general election period, whichever is applicable, shall be considered to have ended on the filing deadline, in the case of an opponent who fails to file a declaration of candidacy or nominating petition, or on the date of the opponent's death or withdrawal. In such an event, the filing of a statement of primary day finances or year end finances and the disposing of any excess funds as required under division (B) of section 3517.1010 of the Revised Code satisfies the candidate's obligation to file such a statement for that election period.~~

~~(E)(1) No campaign committee shall fail to file a personal funds notice as required under division (C)(1) or (2) of this section.~~

~~(2) No campaign committee shall accept any contribution in excess of the contribution limitations prescribed in section 3517.102 of the Revised Code:~~

~~(a) Unless a declaration of no limits has been filed under division (D)(2) of this section;~~

~~(b) In violation of division (D)(4) of this section once the candidate who filed a personal funds notice under division (C)(3) of this section fails to file a declaration of candidacy or nominating petition or that candidate dies or withdraws:~~

~~(3) No campaign committee that violates division (E)(1) of this section shall expend any personal funds in excess of the amount specified in division (C)(1) or (2) of this section, whichever is appropriate to the committee.~~

~~(4) The candidate of any campaign committee that violates division (E) of this section shall forfeit the candidate's nomination, if the candidate was nominated, or the office to which the candidate was elected, if the candidate was elected to office.~~

~~(F)(1) Whenever a campaign committee files a notice under division (C)(1) or (2) of this section or whenever the contribution limitations prescribed in section 3517.102 of the Revised Code do not apply to a campaign committee under division (D)(1) of this section, that committee is not a designated state campaign committee for the purpose of the limitations prescribed in section 3517.102 of the Revised Code with regard to contributions made by that campaign committee to a legislative campaign fund or to a state candidate fund of a state or county political party.~~

~~(2) Division (F)(1) of this section no longer applies to a campaign committee after both of the following occur:~~

~~(a) The primary or general election period during which the contribution limitations prescribed in section 3517.102 of the Revised Code did not apply after being removed pursuant to division (D) of this section has expired;~~

~~(b) When the campaign committee has disposed of all excess funds and excess aggregate contributions as required under section 3517.1010 of the Revised Code.~~

Sec. 3517.104. (A) In January of each odd-numbered year, the secretary of state, in accordance with this division and division (B) of this section, shall adjust each amount specified in section 3517.102 ~~and~~, in division (B)(4)(e) of section 3517.10, and in division (B) of section 3517.101 of the Revised Code. The adjustment shall be based on the yearly average of the previous two years of the Consumer Price Index for All Urban Consumers or its successive equivalent, as determined by the United States department of labor, bureau of labor statistics, or its successor in responsibility, for all items, Series A. Using the 1996 yearly average as the base year, the secretary of state shall compare the most current average consumer price index with that determined in the preceding odd-numbered year, and shall determine the percentage increase or decrease. The percentage increase or decrease shall be multiplied by the actual dollar figure for each office or entity specified in section 3517.102 of the Revised Code and by each actual dollar figure specified in division (B)(4)(e) of section 3517.10 and in division (B) of section 3517.101 of the Revised Code as determined in the previous odd-numbered year, and the product shall be added to or subtracted from its corresponding actual dollar figure, as necessary, for that previous odd-numbered year.

The resulting amount shall be rounded to the nearest twenty-five dollars if the calculations are made regarding the amounts specified in division (B)(4)(e) of section 3517.10 of the Revised Code.

If the calculations are made regarding the amounts specified in section 3517.101 or 3517.102 of the Revised Code, the resulting amount shall not be rounded. If that resulting amount is less than one hundred dollars, the secretary of state shall retain a record of the resulting amount and the manner in which it was calculated, but shall not make an adjustment unless the resulting amount, when added to the resulting amount calculated in each prior odd-numbered year since the last adjustment was made, equals or exceeds one hundred dollars.

(B)(1) The secretary of state shall calculate the adjustment under division (A) of this section and shall report the calculations and necessary

materials to the auditor of state, on or before the thirty-first day of January of each odd-numbered year. The secretary of state shall base the adjustment on the most current consumer price index that is described in division (A) of this section and that is in effect as of the first day of January of each odd-numbered year.

(2) The calculations made by the secretary of state under divisions (A) and (B)(1) of this section shall be certified by the auditor of state on or before the fifteenth day of February of each odd-numbered year.

(3) On or before the twenty-fifth day of February of each odd-numbered year, the secretary of state shall prepare a report setting forth the maximum contribution limitations under section 3517.102 of the Revised Code, the maximum amounts, if any, of contributions permitted to be kept under that section, ~~and~~ the amounts required under division (B)(4)(e) of section 3517.10 of the Revised Code for reporting contributions and in-kind contributions at social or fund-raising activities and contributions from amounts deducted from an employee's wages and salary, and the maximum office facility gift limitations under section 3517.101 of the Revised Code, as calculated and certified pursuant to divisions (A) and (B)(1) and (2) of this section. The report and all documents relating to the calculations contained in the report are public records. The report shall contain an indication of the period in which the limitations, the maximum contribution or gift amounts, and the reporting amounts apply, a summary of how the limitations, the maximum contribution or gift amounts, and the reporting amounts were calculated, and a statement that the report and all related documents are available for inspection and copying at the office of the secretary of state.

(4) On or before the twenty-fifth day of February of each odd-numbered year, the secretary of state shall transmit the report to the general assembly and shall send the report by mail to the board of elections of each county.

(5) The secretary of state shall send the report by mail to each person who files a declaration of candidacy or nominating petition with the secretary of state for the office of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, chief justice of the supreme court, or justice of the supreme court. The report shall be mailed on or before the tenth day after the filing.

(6) A board of elections shall send the report by mail to each person who files a declaration of candidacy or nominating petition with the board for the office of state representative or state senator. The report shall be mailed on or before the tenth day after the filing.

Sec. 3517.153. (A) Upon the filing of a complaint with the Ohio elections commission, which shall be made by affidavit of any person, on personal knowledge, and subject to the penalties for perjury, or upon the filing of a complaint made by the secretary of state or an official at the board of elections, setting forth a failure to comply with or a violation of any provision in sections 3517.08 to 3517.13, 3517.17, 3517.18, 3517.20 to 3517.22, 3599.03, or 3599.031 of the Revised Code, the commission shall proceed in accordance with sections 3517.154 to 3517.157 of the Revised Code.

(B) The commission shall prescribe the form for complaints made under division (A) of this section. The secretary of state and boards of elections shall furnish the information that the commission requests. The commission or a member of the commission may administer oaths, and the commission may issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and reports. Section 101.42 of the Revised Code governs the issuance of subpoenas insofar as applicable. Upon the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold proceedings in accordance with Chapter 2705. of the Revised Code.

(C) No prosecution shall commence for a violation of a provision in sections 3517.08 to 3517.13, 3517.17, 3517.18, 3517.20 to 3517.22, 3599.03, or 3599.031 of the Revised Code unless a complaint has been filed with the commission under this section and all proceedings of the commission or a panel of the commission, as appropriate, under sections 3517.154 to 3517.157 of the Revised Code are completed.

(D) The commission may recommend legislation and render advisory opinions concerning sections 3517.08, 3517.082, 3517.092, 3517.102, ~~3517.103~~, 3517.105, 3517.1014, 3517.13, 3517.18, 3517.20 to 3517.22, 3599.03, and 3599.031 of the Revised Code for persons over whose acts it has or may have jurisdiction. When the commission renders an advisory opinion relating to a specific set of circumstances involving any of those sections stating that there is no violation of a provision in those sections, the person to whom the opinion is directed or a person who is similarly situated may reasonably rely on the opinion and is immune from criminal prosecution and a civil action, including, without limitation, a civil action for removal from public office or employment, based on facts and circumstances covered by the opinion.

(E) The commission shall establish a web site on which it shall post, at a

minimum, all decisions and advisory opinions issued by the commission and copies of each election law as it is amended by the general assembly. The commission shall update the web site regularly to reflect any changes to those decisions and advisory opinions and any new decisions and advisory opinions.

Sec. 3517.154. (A)(1) The full-time attorney for the Ohio elections commission shall review each complaint filed with the commission under section 3517.153 of the Revised Code, shall determine the nature of the complaint, and, unless division (A)(2)(a) of this section requires that the complaint receive an automatic expedited hearing, shall make a recommendation to the commission for its disposition, in accordance with this section. The attorney shall make the determination and the recommendation, if required, not later than one business day after the complaint is filed.

(2)(a) If the attorney determines that the complaint sets forth a violation of division (B) of section 3517.21 or division (B) of section 3517.22 of the Revised Code and that the complaint is filed during one of the periods of time specified in division (B)(1) of section 3517.156 of the Revised Code, ~~or that the complaint sets forth a violation of section 3517.103 of the Revised Code or a violation described in division (D) of section 3517.1010 of the Revised Code,~~ the complaint shall receive an automatic expedited hearing under section 3517.156 of the Revised Code.

(b) If the attorney determines that the complaint sets forth a failure to comply with or a violation of division (G), (I), (J), (O), (P), or (Q) of section 3517.13, division (A) of section 3517.21, or division (A) of section 3517.22 of the Revised Code and that the complaint is filed during one of the periods of time specified in division (B)(1) of section 3517.156 of the Revised Code, the attorney shall recommend to the commission that the complaint receive an expedited hearing under section 3517.156 of the Revised Code, and the complaint shall receive such a hearing.

(c) If the attorney determines that the complaint sets forth a failure to comply with or a violation of a section of the Revised Code over which the commission has jurisdiction to hear complaints other than the sections described in divisions (A)(2)(a) and (b) of this section, and unless the attorney makes a determination as provided for in division (A)(3) of this section, the attorney shall recommend to the commission that the complaint be submitted to the commission under section 3517.155 of the Revised Code. After the attorney makes that recommendation, the attorney shall notify all parties to the complaint of the attorney's recommendation.

(3)(a) If a complaint sets forth a failure to comply with or a violation of

a section of the Revised Code over which the commission has jurisdiction to hear complaints other than the sections described in divisions (A)(2)(a) and (b) of this section and if the complaint is filed during one of the periods of time specified in division (B)(1) of section 3517.156 of the Revised Code, the attorney may determine that the complaint should receive an expedited hearing under that section. The attorney shall make that determination by considering one or more of the following:

(i) The number of prior failures to comply with or violations of Title XXXV of the Revised Code that the person or entity against whom the complaint has been brought has committed and any prior penalties the commission has imposed on the person or entity;

(ii) If the complaint involves a statement required to be filed under section 3517.10, division (E) of section 3517.102, or section ~~3517.103~~, 3517.105, 3517.107, 3517.108, 3517.109, 3517.1011, 3517.1012, or 3517.1014 of the Revised Code or an addendum required to be filed under section 3517.11 of the Revised Code that is filed late, how late the filing is and how much time has elapsed between the deadline for filing the statement or addendum and the filing of the complaint;

(iii) If the complaint involves contributions and expenditures, contributions and disbursements, deposits and disbursements, gifts and disbursements, or donations and disbursements required to be reported under section 3517.10, division (E) of section 3517.102, or section 3517.105, 3517.107, 3517.108, 3517.109, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the Revised Code that are either not reported or reported late, the number of contributions and expenditures, contributions and disbursements, deposits and disbursements, gifts and disbursements, or donations and disbursements not reported or how late they were reported;

(iv) If the complaint involves contributions required to be reported by a campaign committee under section 3517.10, division (E) of section 3517.102, or section 3517.105, 3517.107, 3517.108, or 3517.109 of the Revised Code that are not reported, whether any of the contributors of the contributions not reported have a personal or professional relationship with the campaign committee's candidate;

(v) If the complaint involves a statement required to be filed under section 3517.10, division (E) of section 3517.102, or section ~~3517.103~~, 3517.105, 3517.107, 3517.108, 3517.109, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the Revised Code that is incomplete, the degree to which it is incomplete;

(vi) If the complaint involves the receipt of contributions in violation of section 3599.03 of the Revised Code, the dollar amount and number of

contributions received in violation of that section;

(vii) If the complaint involves a failure to make the identification or a misstatement of the identification required under section 3517.105 or 3517.20 of the Revised Code, whether the failure or misstatement was purposely made;

(viii) If the complaint sets forth a failure to comply with or a violation of a section of the Revised Code described in division (A)(2)(c) of this section, whether the person or entity against whom the complaint has been made has committed more than one such failure or violation within a reasonable amount of time, or whether the cumulative nature of the failures or violations indicates a systematic disregard for the law.

(b) Prior to making a determination under division (A)(3)(a) of this section that the complaint should receive an expedited hearing under section 3517.156 of the Revised Code, the attorney shall take into consideration the number of panels of the commission that have cases pending before them and the number of cases pending before the panels and shall not make a determination that will place an undue burden on a panel of the commission.

(c) If the attorney determines that the complaint should receive an expedited hearing under section 3517.156 of the Revised Code, the attorney shall recommend to the commission that the complaint receive an expedited hearing, and, if a majority of the members of the commission agrees with the recommendation, the complaint shall receive an expedited hearing under that section.

(4) The attorney may join two or more complaints if the attorney determines that the allegations in each complaint are of the same or similar character, are based on the same act or failure to act, or are based on two or more acts or failures to act constituting parts of a common scheme or plan. If one complaint contains two or more allegations, the attorney may separate the allegations if they are not of the same or similar character, if they are not based on the same act or failure to act, or if they are not based on two or more acts or failures to act constituting parts of a common scheme or plan. If the attorney separates the allegations in a complaint, the attorney may make separate recommendations under division (A)(2) or (3) of this section for each allegation.

(B) Whenever a person or other entity files a complaint with the commission setting forth a failure to comply with or a violation of a section of the Revised Code as described in division (A)(2)(c) of this section and the complaint is filed during one of the periods of time specified in division (B)(1) of section 3517.156 of the Revised Code, the person or entity may request an expedited hearing under that section at the time the complaint is

filed. The attorney for the commission shall inform the members of the commission of that request at the time the attorney makes a recommendation under division (A) of this section. The commission may grant the request for an expedited hearing under this division if it determines that an expedited hearing is practicable.

Sec. 3517.155. (A)(1) Except as otherwise provided in division (B) of this section, the Ohio elections commission shall hold its first hearing on a complaint filed with it, other than a complaint that receives an expedited hearing under section 3517.156 of the Revised Code, not later than ninety business days after the complaint is filed unless the commission has good cause to hold the hearing after that time, in which case it shall hold the hearing not later than one hundred eighty business days after the complaint is filed. At the hearing, the commission shall determine whether or not the failure to act or the violation alleged in the complaint has occurred and shall do only one of the following, except as otherwise provided in division (B) of this section or in division (B) of section 3517.151 of the Revised Code:

- (a) Enter a finding that good cause has been shown not to impose a fine or not to refer the matter to the appropriate prosecutor;
- (b) Impose a fine under section 3517.993 of the Revised Code;
- (c) Refer the matter to the appropriate prosecutor;
- ~~(d) Direct the secretary of state or appropriate board of elections with the authority to certify a candidate to the ballot to remove a candidate's name from the ballot if the candidate is barred from the ballot under division (D) of section 3517.1010 of the Revised Code.~~

(2) As used in division (A) of this section, "appropriate prosecutor" means a prosecutor as defined in section 2935.01 of the Revised Code and either of the following:

- (a) In the case of a failure to comply with or a violation of law involving a campaign committee or the committee's candidate, a political party, a legislative campaign fund, a political action committee, or a political contributing entity, that is required to file a statement of contributions and expenditures with the secretary of state under division (A) of section 3517.11 of the Revised Code, the prosecutor of Franklin county;
- (b) In the case of a failure to comply with or a violation of law involving any other campaign committee or committee's candidate, or any other political party, political action committee, or political contributing entity either of the following as determined by the commission:
 - (i) The prosecutor of Franklin county;
 - (ii) The prosecutor of the county in which the candidacy or ballot question or issue is submitted to the electors or, if it is submitted in more

than one county, the most populous of those counties.

(B) If the commission decides that the evidence is insufficient for it to determine whether or not the failure to act or the violation alleged in the complaint has occurred, the commission, by the affirmative vote of five members, may request that an investigatory attorney investigate the complaint. Upon that request, an investigatory attorney shall make an investigation in order to produce sufficient evidence for the commission to decide the matter. If the commission requests an investigation under this division, for good cause shown by the investigatory attorney, the commission may extend by sixty days the deadline for holding its first hearing on the complaint as required in division (A) of this section.

(C) The commission shall take one of the actions required under division (A) of this section not later than thirty days after the close of all the evidence presented.

(D)(1) The commission shall make any finding of a failure to comply with or a violation of law in regard to a complaint that alleges a violation of ~~division (D) of section 3517.1010~~, division (A) or (B) of section 3517.21, or division (A) or (B) of section 3517.22 of the Revised Code by clear and convincing evidence. The commission shall make any finding of a failure to comply with or a violation of law in regard to any other complaint by a preponderance of the evidence.

(2) If the commission finds a violation of division (B) of section 3517.21 or division (B) of section 3517.22 of the Revised Code, it shall refer the matter to the appropriate prosecutor under division (A)(1)(c) of this section and shall not impose a fine under division (A)(1)(b) of this section or section 3517.993 of the Revised Code.

(E) In an action before the commission or a panel of the commission, if the allegations of the complainant are not proved, and the commission takes the action described in division (A)(1)(a) of this section or a panel of the commission takes the action described in division (C)(1) of section 3517.156 of the Revised Code, the commission or a panel of the commission may find that the complaint is frivolous, and, if the commission or panel so finds, the commission shall order the complainant to pay reasonable attorney's fees and to pay the costs of the commission or panel as determined by a majority of the members of the commission. The costs paid to the commission or panel under this division shall be deposited into the Ohio elections commission fund.

Sec. 3517.20. (A)(1) As used in this section:

(a) "Political publication for or against a candidate" means a notice, placard, advertisement, sample ballot, brochure, flyer, direct mailer, or other

form of general publication that is designed to promote the nomination, election, or defeat of a candidate.

(b) "Political publication for or against an issue" means a notice, placard, advertisement, sample ballot, brochure, flyer, direct mailer, or other form of general publication that is designed to promote the adoption or defeat of a ballot issue or question or to influence the voters in an election.

(c) "Public political advertising" means newspapers, magazines, outdoor advertising facilities, direct mailings, or other similar types of general public political advertising, or flyers, handbills, or other nonperiodical printed matter.

(d) "Statewide candidate" has the same meaning as in section 3517.102 of the Revised Code.

(e) "Legislative candidate" means a candidate for the office of member of the general assembly.

(f) "Local candidate" means a candidate for an elective office of a political subdivision of this state.

(g) "Legislative campaign fund" has the same meaning as in section 3517.01 of the Revised Code.

(h) "Limited political action committee" means a political action committee of fewer than ten members.

(i) "Limited political contributing entity" means a political contributing entity of fewer than ten members.

(j) "Designated amount" means one hundred dollars in the case of a local candidate or a local ballot issue, two hundred fifty dollars in the case of a legislative candidate, or five hundred dollars in the case of a statewide candidate or a statewide ballot issue.

(k) "To issue" includes to print, post, distribute, reproduce for distribution, or cause to be issued, printed, posted, distributed, or reproduced for distribution.

(l) "Telephone bank" means more than five hundred telephone calls of an identical or substantially similar nature within any thirty-day period, whether those telephone calls are made by individual callers or by recording.

(2)(a) No ~~candidate, legislative campaign fund,~~ political party, or other entity, except a political action committee, a political contributing entity, a candidate, a legislative campaign fund, or a campaign committee, shall issue a form of political publication for or against a candidate, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a candidate through public political advertising, unless the name and residence or business address of the candidate or the

chairperson, treasurer, or secretary of the legislative campaign fund, political party, or other entity that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication appears in a conspicuous place on that political publication or is contained within that political communication.

(b) No ~~candidate, legislative campaign fund, or~~ campaign committee shall issue a form of political publication for or against a candidate, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a candidate through public political advertising, unless the name of the ~~campaign committee~~ entity appears in a conspicuous place on that political publication or is contained within that political communication.

(3) No limited political action committee or limited political contributing entity shall do either of the following unless the name and residence or business address of the chairperson, treasurer, or secretary of the limited political action committee or limited political contributing entity involved appears in a conspicuous place in the political publication for or against a candidate described in division (A)(3)(a) of this section or is contained within the political communication described in division (A)(3)(b) of this section:

(a) Issue a form of political publication for or against a candidate that costs in excess of the designated amount or that is issued in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, a political contributing entity with ten or more members, or a limited political action committee or limited political contributing entity that spends in excess of the designated amount on a related or the same or similar political publication for or against a candidate;

(b) Make an expenditure in excess of the designated amount in support of or opposition to a candidate or make an expenditure in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, a political contributing entity with ten or more members, or a limited political action committee or limited political contributing entity that spends in excess of the designated amount in support of or opposition to the same candidate, for the purpose of financing political communications in support of or opposition to that candidate through public political advertising.

(4) No political action committee with ten or more members and no

political contributing entity with ten or more members shall issue a form of political publication for or against a candidate, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a candidate through public political advertising, unless the name and residence or business address of the chairperson, treasurer, or secretary of the political action committee or political contributing entity that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication through public political advertising appears in a conspicuous place in that political publication or is contained within that political communication.

(5)(a) No corporation, labor organization, ~~legislative campaign fund~~, political party, or other entity, except a political action committee, a legislative campaign fund, or a campaign committee, shall issue a form of political publication for or against an issue, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a ballot issue or question through public political advertising, unless the name and residence or business address of the chairperson, treasurer, or secretary of the corporation, labor organization, ~~legislative campaign fund~~, political party, or other entity that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication through public political advertising appears in a conspicuous place in that political publication or is contained within that political communication.

(b) No campaign committee or legislative campaign fund shall issue a form of political publication for or against an issue, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a ballot issue or question through public political advertising, unless the name of the campaign committee or legislative campaign fund appears in a conspicuous place in that political publication or is contained within that political communication.

(6) No limited political action committee shall do either of the following unless the name and residence or business address of the chairperson, treasurer, or secretary of the limited political action committee involved appears in a conspicuous place in the political publication for or against a ballot issue described in division (A)(6)(a) of this section or is contained within the political communication described in division (A)(6)(b) of this section:

(a) Issue a form of political publication for or against a ballot issue that costs in excess of the designated amount or that is issued in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate,

a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, or a limited political action committee that spends in excess of the designated amount for a related or the same or similar political publication for or against an issue;

(b) Make an expenditure in excess of the designated amount in support of or opposition to a ballot issue or make an expenditure in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, or a limited political action committee that spends in excess of the designated amount in support of or opposition to the same ballot issue, for the purpose of financing political communications in support of or opposition to that ballot issue through public political advertising.

(7) No political action committee with ten or more members shall issue a form of political publication for or against an issue, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a ballot issue or question through public political advertising, unless the name and residence or business address of the chairperson, treasurer, or secretary of the political action committee that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication appears in a conspicuous place in that political publication or is contained within that political communication.

(8) The disclaimer "paid political advertisement" is not sufficient to meet the requirements of this section.

(9) If the political publication described in division (A) of this section is issued by the regularly constituted central or executive committee of a political party that is organized as provided in this chapter, it shall be sufficiently identified if it bears the name of the committee and its chairperson or treasurer.

(10) If more than one piece of printed matter or printed political communications are mailed as a single packet, the requirements of division (A) of this section are met if one of the pieces of printed matter or printed political communications in the packet contains the name and residence or business address of the chairperson, treasurer, or secretary of the organization or entity that issues or is responsible for the printed matter or other printed political communications, except that if a campaign committee or legislative campaign fund mails more than one piece of printed matter or printed political communications as a single packet, the requirements of division (A) of this section are met if one of the pieces of printed matter or

printed political communications in the packet contains the name of the campaign committee or legislative campaign fund.

(11) This section does not apply to the transmittal of personal correspondence that is not reproduced by machine for general distribution.

(12) The secretary of state, by rule, may exempt from the requirements of this section, printed matter and certain other kinds of printed communications such as campaign buttons, balloons, pencils, or similar items, the size or nature of which makes it unreasonable to add an identification or disclaimer.

(13) The disclaimer or identification described in division (A) of this section, when paid for by a candidate, legislative campaign fund, or campaign committee, shall be identified by the words "paid for by" followed by the name of the ~~campaign committee and the appropriate officer of the committee, identified by name and title~~ entity. The identification or disclaimer may use reasonable abbreviations for common terms such as "~~treasurer~~" or "committee".

(B)(1) No candidate, campaign committee, legislative campaign fund, political party, political action committee, limited political action committee, political contributing entity, limited political contributing entity, or other entity shall utter or cause to be uttered, over the broadcasting facilities of any radio or television station within this state, any communication that is designed to promote the nomination, election, or defeat of a candidate, or the adoption or defeat of an issue or to influence the voters in an election, unless the speaker identifies the speaker with the speaker's name and residence address or unless the communication identifies the chairperson, treasurer, or secretary of the organization responsible for the communication with the name and residence or business address of that officer, except that communications by radio need not broadcast the residence or business address of the officer. However, a radio station, for a period of at least six months, shall keep the residence or business address on file and divulge it to any person upon request.

No person operating a broadcast station or an organ of printed media shall broadcast or print a paid political communication that does not contain the identification required by this section.

(2) Division (B) of this section does not apply to any communications made on behalf of a radio or television station or network by any employee of such radio or television station or network while acting in the course of the employee's employment.

(3) No candidate or entity described in division (B)(1) of this section shall use or cause to be used a false, fictitious, or fraudulent name or address

in the making or issuing of a publication or communication included within the provisions of this section.

(C) No candidate, campaign committee, legislative campaign fund, political party, political action committee, limited political action committee, political contributing entity, limited political contributing entity, or other person or entity shall conduct a telephone bank for the purpose of promoting the nomination, election, or defeat of a candidate or the adoption or defeat of an issue or to influence the voters in an election, unless the call includes a disclaimer that identifies the name of the candidate, campaign committee, legislative campaign fund, political party, political action committee, limited political action committee, political contributing entity, limited political contributing entity, or other person or entity paying for the telephone bank.

(D) Before a prosecution may commence under this section, a complaint shall be filed with the Ohio elections commission under section 3517.153 of the Revised Code. After the complaint is filed, the commission shall proceed in accordance with sections 3517.154 to 3517.157 of the Revised Code.

Sec. 3517.992. This section establishes penalties only with respect to acts or failures to act that occur on and after August 24, 1995.

(A)(1) A candidate whose campaign committee violates division (A), (B), (C), (D), or (V) of section 3517.13 of the Revised Code, or a treasurer of a campaign committee who violates any of those divisions, shall be fined not more than one hundred dollars for each day of violation.

(2) Whoever violates division (E) or (X)(5) of section 3517.13 or division (E)(1) of section 3517.1014 of the Revised Code shall be fined not more than one hundred dollars for each day of violation.

(B) ~~A political party~~ An entity that violates division ~~(F)~~(G)(1) of section 3517.101 of the Revised Code shall be fined not more than one hundred dollars for each day of violation.

(C) Whoever violates division ~~(F)~~(G)(2) of section 3517.101, division (G) of section 3517.13, or division (E)(2) or (3) of section 3517.1014 of the Revised Code shall be fined not more than ten thousand dollars or, if the offender is a person who was nominated or elected to public office, shall forfeit the nomination or the office to which the offender was elected, or both.

(D) Whoever violates division (F) of section 3517.13 of the Revised Code shall be fined not more than three times the amount contributed.

(E) Whoever violates division (H) of section 3517.13 of the Revised Code shall be fined not more than one hundred dollars.

(F) Whoever violates division (O), (P), or (Q) of section 3517.13 of the

Revised Code is guilty of a misdemeanor of the first degree.

(G) A state or county committee of a political party that violates division (B)(1) of section 3517.18 of the Revised Code shall be fined not more than twice the amount of the improper expenditure.

(H) ~~A state or county political party~~ An entity that violates division ~~(G)~~(H) of section 3517.101 of the Revised Code shall be fined not more than twice the amount of the improper expenditure or use.

(I)(1) Any individual who violates division (B)(1) of section 3517.102 of the Revised Code and knows that the contribution the individual makes violates that division shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(2) Any political action committee that violates division (B)(2) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(3) Any campaign committee that violates division (B)(3) or (5) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(4)(a) Any legislative campaign fund that violates division (B)(6) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount transferred or contributed in excess of the amount permitted by that division, as applicable.

(b) Any state political party, county political party, or state candidate fund of a state political party or county political party that violates division (B)(6) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount transferred or contributed in excess of the amount permitted by that division, as applicable.

(c) Any political contributing entity that violates division (B)(7) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(5) Any political party that violates division (B)(4) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount contributed in excess of the amount permitted by that division.

(6) Notwithstanding divisions (I)(1), (2), (3), (4), and (5) of this section, no violation of division (B) of section 3517.102 of the Revised Code occurs, and the secretary of state shall not refer parties to the Ohio elections commission, if the amount transferred or contributed in excess of the amount permitted by that division meets either of the following conditions:

(a) It is completely refunded within five business days after it is accepted.

(b) It is completely refunded on or before the tenth business day after notification to the recipient of the excess transfer or contribution by the board of elections or the secretary of state that a transfer or contribution in excess of the permitted amount has been received.

(J)(1) Any campaign committee that violates division (C)(1), (2), (3), or (6) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(2)(a) Any county political party that violates division (C)(4)(a)(ii) or (iii) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted.

(b) Any county political party that violates division (C)(4)(a)(i) of section 3517.102 of the Revised Code shall be fined an amount from its state candidate fund equal to three times the amount accepted in excess of the amount permitted by that division.

(c) Any state political party that violates division (C)(4)(b) of section 3517.102 of the Revised Code shall be fined an amount from its state candidate fund equal to three times the amount accepted in excess of the amount permitted by that division.

(3) Any legislative campaign fund that violates division (C)(5) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(4) Any political action committee or political contributing entity that violates division (C)(7) of section 3517.102 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(5) Notwithstanding divisions (J)(1), (2), (3), and (4) of this section, no violation of division (C) of section 3517.102 of the Revised Code occurs, and the secretary of state shall not refer parties to the Ohio elections commission, if the amount transferred or contributed in excess of the amount permitted to be accepted by that division meets either of the following conditions:

(a) It is completely refunded within five business days after its acceptance.

(b) It is completely refunded on or before the tenth business day after notification to the recipient of the excess transfer or contribution by the board of elections or the secretary of state that a transfer or contribution in

excess of the permitted amount has been received.

(K)(1) Any legislative campaign fund that violates division (F)(1) of section 3517.102 of the Revised Code shall be fined twenty-five dollars for each day of violation.

(2) Any legislative campaign fund that violates division (F)(2) of section 3517.102 of the Revised Code shall give to the treasurer of state for deposit into the state treasury to the credit of the Ohio elections commission fund all excess contributions not disposed of as required by division (E) of section 3517.102 of the Revised Code.

(L) Whoever violates section 3517.105 of the Revised Code shall be fined one thousand dollars.

(M)(1) Whoever solicits a contribution in violation of section 3517.092 or violates division (B) of section 3517.09 of the Revised Code is guilty of a misdemeanor of the first degree.

(2) Whoever knowingly accepts a contribution in violation of division (B) or (C) of section 3517.092 of the Revised Code shall be fined an amount equal to three times the amount accepted in violation of either of those divisions and shall return to the contributor any amount so accepted. Whoever unknowingly accepts a contribution in violation of division (B) or (C) of section 3517.092 of the Revised Code shall return to the contributor any amount so accepted.

(N) Whoever violates division (S) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount of funds transferred or three times the value of the assets transferred in violation of that division.

(O) Any campaign committee that accepts a contribution or contributions in violation of section 3517.108 of the Revised Code, uses a contribution in violation of that section, or fails to dispose of excess contributions in violation of that section shall be fined an amount equal to three times the amount accepted, used, or kept in violation of that section.

(P) Any political party, state candidate fund, legislative candidate fund, or campaign committee that violates division (T) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount contributed or accepted in violation of that section.

(Q) A treasurer of a committee or another person who violates division (U) of section 3517.13 of the Revised Code shall be fined not more than two hundred fifty dollars.

(R) Whoever violates division (I) or (J) of section 3517.13 of the Revised Code shall be fined not more than one thousand dollars. Whenever a person is found guilty of violating division (I) or (J) of section 3517.13 of

the Revised Code, the contract awarded in violation of either of those divisions shall be rescinded if its terms have not yet been performed.

(S) A candidate whose campaign committee violates or a treasurer of a campaign committee who violates section 3517.081 of the Revised Code, and a candidate whose campaign committee violates or a treasurer of a campaign committee or another person who violates division (C) of section 3517.10 of the Revised Code, shall be fined not more than five hundred dollars.

(T) A candidate whose campaign committee violates or a treasurer of a committee who violates division (B) of section 3517.09 of the Revised Code, or a candidate whose campaign committee violates or a treasurer of a campaign committee or another person who violates division (C) of section 3517.09 of the Revised Code shall be fined not more than one thousand dollars.

(U) Whoever violates section 3517.20 of the Revised Code shall be fined not more than five hundred dollars.

(V) Whoever violates section 3517.21 or 3517.22 of the Revised Code shall be imprisoned for not more than six months or fined not more than five thousand dollars, or both.

(W) A campaign committee that is required to file a declaration of no limits under division (D)(2) of section 3517.103 of the Revised Code that, before filing that declaration, accepts a contribution or contributions that exceed the limitations prescribed in section 3517.102 of the Revised Code, shall return that contribution or those contributions to the contributor.

(X) Any campaign committee that fails to file the declaration of filing-day finances required by division (F) of section 3517.109 ~~or the declaration of primary day finances or declaration of year-end finances required by division (E) of section 3517.1010~~ of the Revised Code shall be fined twenty-five dollars for each day of violation.

(Y)(1) Any campaign committee that fails to dispose of excess funds or excess aggregate contributions under division (B) of section 3517.109 of the Revised Code in the manner required by division (C) of that section ~~or under division (B) of section 3517.1010 of the Revised Code in the manner required by division (C) of that section~~ shall give to the treasurer of state for deposit into the Ohio elections commission fund created under division (I) of section 3517.152 of the Revised Code all funds not disposed of pursuant to ~~those divisions~~ that division.

(2) Any treasurer of a transition fund that fails to dispose of assets remaining in the transition fund as required under division (H)(1) or (2) of section 3517.1014 of the Revised Code shall give to the treasurer of state for

deposit into the Ohio elections commission fund all assets not disposed of pursuant to that division.

(Z) Any individual, campaign committee, political action committee, political contributing entity, legislative campaign fund, political party, treasurer of a transition fund, or other entity that violates any provision of sections 3517.09 to 3517.12 of the Revised Code for which no penalty is provided for under any other division of this section shall be fined not more than one thousand dollars.

(AA)(1) Whoever knowingly violates division (W)(1) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount contributed, expended, or promised in violation of that division or ten thousand dollars, whichever amount is greater.

(2) Whoever knowingly violates division (W)(2) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount solicited or accepted in violation of that division or ten thousand dollars, whichever amount is greater.

(BB) Whoever knowingly violates division (C) or (D) of section 3517.1011 of the Revised Code shall be fined not more than ten thousand dollars plus not more than one thousand dollars for each day of violation.

(CC)(1) Subject to division (CC)(2) of this section, whoever violates division (H) of section 3517.1011 of the Revised Code shall be fined an amount up to three times the amount disbursed for the direct costs of airing the communication made in violation of that division.

(2) Whoever has been ordered by the Ohio elections commission or by a court of competent jurisdiction to cease making communications in violation of division (H) of section 3517.1011 of the Revised Code who again violates that division shall be fined an amount equal to three times the amount disbursed for the direct costs of airing the communication made in violation of that division.

(DD)(1) Any corporation or labor organization that violates division (X)(3)(a) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount given in excess of the amount permitted by that division.

(2) Any state or county political party that violates division (X)(3)(b) of section 3517.13 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

(EE)(1) Any campaign committee or person who violates division (C)(1)(b) or (c) of section 3517.1014 of the Revised Code shall be fined an amount equal to three times the amount donated in excess of the amount

permitted by that division.

(2) Any officeholder or treasurer of a transition fund who violates division (C)(3)(a) or (b) of section 3517.1014 of the Revised Code shall be fined an amount equal to three times the amount accepted in excess of the amount permitted by that division.

Sec. 3599.03. (A)(1) Except to carry on activities specified in sections 3517.082, 3517.101, and 3517.1011, division (A)(2) of section 3517.1012, division (B) of section 3517.1013, division (C)(1) of section 3517.1014, and section 3599.031 of the Revised Code and except as provided in divisions (D), (E), and (F) of this section, no corporation, no nonprofit corporation, and no labor organization, directly or indirectly, shall pay or use, or offer, advise, consent, or agree to pay or use, the corporation's money or property, or the labor organization's money, including dues, initiation fees, or other assessments paid by members, or property, for or in aid of or opposition to a political party, a candidate for election or nomination to public office, a political action committee including a political action committee of the corporation or labor organization, a legislative campaign fund, or any organization that supports or opposes any such candidate, or for any partisan political purpose, shall violate any law requiring the filing of an affidavit or statement respecting such use of those funds, or shall pay or use the corporation's or labor organization's money for the expenses of a social fund-raising event for its political action committee if an employee's or labor organization member's right to attend such an event is predicated on the employee's or member's contribution to the corporation's or labor organization's political action committee.

(2) Whoever violates division (A)(1) of this section shall be fined not less than five hundred nor more than five thousand dollars.

(B)(1) No officer, stockholder, attorney, or agent of a corporation or nonprofit corporation, no member, including an officer, attorney, or agent, of a labor organization, and no candidate, political party official, or other individual shall knowingly aid, advise, solicit, or receive money or other property in violation of division (A)(1) of this section.

(2) Whoever violates division (B)(1) of this section shall be fined not more than one thousand dollars, or imprisoned not more than one year, or both.

(C) A corporation, a nonprofit corporation, or a labor organization may use its funds or property for or in aid of or opposition to a proposed or certified ballot issue. Such use of funds or property shall be reported on a form prescribed by the secretary of state. Reports of contributions in connection with statewide ballot issues shall be filed with the secretary of

state. Reports of contributions in connection with local issues shall be filed with the board of elections of the most populous county of the district in which the issue is submitted or to be submitted to the electors. Reports made pursuant to this division shall be filed by the times specified in divisions (A)(1) and (2) of section 3517.10 of the Revised Code.

(D)(1) Any gift made pursuant to section 3517.101 of the Revised Code does not constitute a violation of this section or of any other section of the Revised Code.

(2) Any gift made pursuant to division (A)(2) of section 3517.1012 of the Revised Code does not constitute a violation of this section.

(3) Any gift made pursuant to division (B) of section 3517.1013 of the Revised Code does not constitute a violation of this section.

(4) Any donation made pursuant to division (C)(1) of section 3517.1014 of the Revised Code does not constitute a violation of this section.

(E) Any compensation or fees paid by a financial institution to a state political party for services rendered pursuant to division (B) of section 3517.19 of the Revised Code do not constitute a violation of this section or of any other section of the Revised Code.

(F)(1) The use by a nonprofit corporation of its money or property for communicating information for a purpose specified in division (A) of this section is not a violation of that division if the stockholders, members, donors, trustees, or officers of the nonprofit corporation are the predominant recipients of the communication.

(2) The placement of a campaign sign on the property of a corporation, nonprofit corporation, or labor organization is not a use of property in violation of division (A) of this section by that corporation, nonprofit corporation, or labor organization.

(3) The use by a corporation or labor organization of its money or property for communicating information for a purpose specified in division (A) of this section is not a violation of that division if it is not a communication made by mass broadcast such as radio or television or made by advertising in a newspaper of general circulation but is a communication sent exclusively to members, employees, officers, or trustees of that labor organization or shareholders, employees, officers, or directors of that corporation or to members of the immediate families of any such individuals or if the communication intended to be so sent exclusively is unintentionally sent as well to a de minimis number of other individuals.

(G) In addition to the laws listed in division (A) of section 4117.10 of the Revised Code that prevail over conflicting agreements between employee organizations and public employers, this section prevails over any

conflicting provisions of agreements between labor organizations and public employers that are entered into on or after March 31, 2005, pursuant to Chapter 4117. of the Revised Code.

(H) As used in this section, "labor organization" has the same meaning as in section 3517.01 of the Revised Code.

Sec. 3599.45. (A) As used in this section:

"Candidate," "campaign committee," and "contribution" have the same meanings as in section 3517.01 of the Revised Code.

"Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.

~~(B) No candidate for the office of attorney general or county prosecutor or such a candidate's campaign committee shall knowingly accept any contribution from a medicaid provider of services or goods under contract with the department of job and family services pursuant to the medicaid program of Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or from any person having an ownership interest in the medicaid provider.~~

~~As used in this section "candidate," "campaign committee," and "contribution" have the same meaning as in section 3517.01 of the Revised Code.~~

~~(B)(C) Whoever violates this section is guilty of a misdemeanor of the first degree.~~

Sec. 3701.023. (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the director of health pursuant to division (A)(1) of section 3701.021 of the Revised Code, and by the department in the manual of operational procedures and guidelines for the program for medically handicapped children developed pursuant to division (B) of that section. Referrals of potentially eligible children for the program may be submitted to the department on behalf of the child by parents, guardians, public health nurses, or any other interested person. The department of health may designate other agencies to refer applicants to the department of health.

(B) In accordance with the procedures established in rules adopted under division (A)(4) of section 3701.021 of the Revised Code, the department of health shall authorize a provider or providers to provide to any Ohio resident under twenty-one years of age, without charge to the

resident or the resident's family and without restriction as to the economic status of the resident or the resident's family, diagnostic services necessary to determine whether the resident has a medically handicapping or potentially medically handicapping condition.

(C) The department of health shall review the applications of health professionals, hospitals, medical equipment suppliers, and other individuals, groups, or agencies that apply to become providers. The department shall enter into a written agreement with each applicant who is determined, pursuant to the requirements set forth in rules adopted under division (A)(2) of section 3701.021 of the Revised Code, to be eligible to be a provider in accordance with the provider agreement required by the ~~medical assistance~~ medicaid program ~~established under section 5111.01 of the Revised Code~~. No provider shall charge a medically handicapped child or the child's parent or guardian for services authorized by the department under division (B) or (D) of this section.

The department, in accordance with rules adopted under division (A)(3) of section 3701.021 of the Revised Code, may disqualify any provider from further participation in the program for violating any requirement set forth in rules adopted under division (A)(2) of that section. The disqualification shall not take effect until a written notice, specifying the requirement violated and describing the nature of the violation, has been delivered to the provider and the department has afforded the provider an opportunity to appeal the disqualification under division (H) of this section.

(D) The department of health shall evaluate applications from city and general health districts and approved physician providers for authorization to provide treatment services, service coordination, and related goods to children determined to be eligible for the program for medically handicapped children pursuant to division (A) of this section. The department shall authorize necessary treatment services, service coordination, and related goods for each eligible child in accordance with an individual plan of treatment for the child. As an alternative, the department may authorize payment of health insurance premiums on behalf of eligible children when the department determines, in accordance with criteria set forth in rules adopted under division (A)(9) of section 3701.021 of the Revised Code, that payment of the premiums is cost-effective.

(E) The department of health shall pay, from appropriations to the department, any necessary expenses, including but not limited to, expenses for diagnosis, treatment, service coordination, supportive services, transportation, and accessories and their upkeep, provided to medically handicapped children, provided that the provision of the goods or services is

authorized by the department under division (B) or (D) of this section. Money appropriated to the department of health may also be expended for reasonable administrative costs incurred by the program. The department of health also may purchase liability insurance covering the provision of services under the program for medically handicapped children by physicians and other health care professionals.

Payments made to providers by the department of health pursuant to this division for inpatient hospital care, outpatient care, and all other medical assistance furnished to eligible recipients shall be made in accordance with rules adopted by the director of health pursuant to division (A) of section 3701.021 of the Revised Code.

The departments of health and ~~job and family services~~ medicaid shall jointly implement procedures to ensure that duplicate payments are not made under the program for medically handicapped children and the ~~medical assistance~~ medicaid program ~~established under section 5111.01 of the Revised Code~~ and to identify and recover duplicate payments.

(F) At the time of applying for participation in the program for medically handicapped children, a medically handicapped child or the child's parent or guardian shall disclose the identity of any third party against whom the child or the child's parent or guardian has or may have a right of recovery for goods and services provided under division (B) or (D) of this section. The department of health shall require a medically handicapped child who receives services from the program or the child's parent or guardian to apply for all third-party benefits for which the child may be eligible and require the child, parent, or guardian to apply all third-party benefits received to the amount determined under division (E) of this section as the amount payable for goods and services authorized under division (B) or (D) of this section. The department is the payer of last resort and shall pay for authorized goods or services, up to the amount determined under division (E) of this section for the authorized goods or services, only to the extent that payment for the authorized goods or services is not made through third-party benefits. When a third party fails to act on an application or claim for benefits by a medically handicapped child or the child's parent or guardian, the department shall pay for the goods or services only after ninety days have elapsed since the date the child, parents, or guardians made an application or claim for all third-party benefits. Third-party benefits received shall be applied to the amount determined under division (E) of this section. Third-party payments for goods and services not authorized under division (B) or (D) of this section shall not be applied to payment amounts determined under division (E) of this section. Payment made by the

department shall be considered payment in full of the amount determined under division (E) of this section. Medicaid payments for persons eligible for the ~~medical assistance~~ medicaid program ~~established under section 5111.01 of the Revised Code~~ shall be considered payment in full of the amount determined under division (E) of this section.

(G) The department of health shall administer a program to provide services to Ohio residents who are twenty-one or more years of age who have cystic fibrosis and who meet the eligibility requirements established in rules adopted by the director of health pursuant to division (A)(7) of section 3701.021 of the Revised Code, subject to all provisions of this section, but not subject to section 3701.024 of the Revised Code.

(H) The department of health shall provide for appeals, in accordance with rules adopted under section 3701.021 of the Revised Code, of denials of applications for the program for medically handicapped children under division (A) or (D) of this section, disqualification of providers, or amounts paid under division (E) of this section. Appeals under this division are not subject to Chapter 119. of the Revised Code.

The department may designate ombudspersons to assist medically handicapped children or their parents or guardians, upon the request of the children, parents, or guardians, in filing appeals under this division and to serve as children's, parents', or guardians' advocates in matters pertaining to the administration of the program for medically handicapped children and eligibility for program services. The ombudspersons shall receive no compensation but shall be reimbursed by the department, in accordance with rules of the office of budget and management, for their actual and necessary travel expenses incurred in the performance of their duties.

(I) The department of health, and city and general health districts providing service coordination pursuant to division (A)(2) of section 3701.024 of the Revised Code, shall provide service coordination in accordance with the standards set forth in the rules adopted under section 3701.021 of the Revised Code, without charge, and without restriction as to economic status.

(J)(1) The department of health may establish a manufacturer discount program under which a manufacturer of a drug or nutritional formula is permitted to enter into an agreement with the department to provide a discount on the price of the drug or nutritional formula distributed to medically handicapped children participating in the program for medically handicapped children. The program shall be administered in accordance with rules adopted under section 3701.021 of the Revised Code.

(2) If a manufacturer enters into an agreement with the department as

described in division (J)(1) of this section, the manufacturer and the department may negotiate the amount and terms of the discount.

(3) In lieu of establishing a discount program as described in division (J)(1) of this section, the department and a manufacturer of a drug or nutritional formula may discuss a donation of drugs, nutritional formulas, or money by the manufacturer to the department.

Sec. 3701.024. (A)(1) Under a procedure established in rules adopted under section 3701.021 of the Revised Code, the department of health shall determine the amount each county shall provide annually for the program for medically handicapped children, based on a proportion of the county's total general property tax duplicate, not to exceed one-tenth of a mill, and charge the county for any part of expenses incurred under the program for treatment services on behalf of medically handicapped children having legal settlement in the county that is not paid from federal funds or through the ~~medical assistance~~ medicaid program ~~established under section 5111.01 of the Revised Code~~. The department shall not charge the county for expenses exceeding the difference between the amount determined under division (A)(1) of this section and any amounts retained under divisions (A)(2) and (3) of this section.

All amounts collected by the department under division (A)(1) of this section shall be deposited into the state treasury to the credit of the medically handicapped children-county assessment fund, which is hereby created. The fund shall be used by the department to comply with sections 3701.021 to 3701.028 of the Revised Code.

(2) The department, in accordance with rules adopted under section 3701.021 of the Revised Code, may allow each county to retain up to ten per cent of the amount determined under division (A)(1) of this section to provide funds to city or general health districts of the county with which the districts shall provide service coordination, public health nursing, or transportation services for medically handicapped children.

(3) In addition to any amount retained under division (A)(2) of this section, the department, in accordance with rules adopted under section 3701.021 of the Revised Code, may allow counties that it determines have significant numbers of potentially eligible medically handicapped children to retain an amount equal to the difference between:

(a) Twenty-five per cent of the amount determined under division (A)(1) of this section;

(b) Any amount retained under division (A)(2) of this section.

Counties shall use amounts retained under division (A)(3) of this section to provide funds to city or general health districts of the county with which

the districts shall conduct outreach activities to increase participation in the program for medically handicapped children.

(4) Prior to any increase in the millage charged to a county, the director of health shall hold a public hearing on the proposed increase and shall give notice of the hearing to each board of county commissioners that would be affected by the increase at least thirty days prior to the date set for the hearing. Any county commissioner may appear and give testimony at the hearing. Any increase in the millage any county is required to provide for the program for medically handicapped children shall be determined, and notice of the amount of the increase shall be provided to each affected board of county commissioners, no later than the first day of June of the fiscal year next preceding the fiscal year in which the increase will take effect.

(B) Each board of county commissioners shall establish a medically handicapped children's fund and shall appropriate thereto an amount, determined in accordance with division (A)(1) of this section, for the county's share in providing medical, surgical, and other aid to medically handicapped children residing in such county and for the purposes specified in divisions (A)(2) and (3) of this section. Each county shall use money retained under divisions (A)(2) and (3) of this section only for the purposes specified in those divisions.

Sec. 3701.027. The department of health shall administer funds received from the "Maternal and Child Health Block Grant," Title V of the "Social Security Act," 95 Stat. 818 (1981), 42 U.S.C.A. 701, as amended, for programs including the program for medically handicapped children, and to provide technical assistance and consultation to city and general health districts and local health planning organizations in implementing local, community-based, family-centered, coordinated systems of care for medically handicapped children. The department may make grants to persons and other entities for the provision of services with the funds. In addition, the department may use the funds to purchase liability insurance covering the provision of services under the programs by physicians and other health care professionals, and to pay health insurance premiums on behalf of medically handicapped children participating in the program for medically handicapped children when the department determines, in accordance with criteria set forth in rules adopted under division (A)(9) of section 3701.021 of the Revised Code, that payment of the premiums is cost effective.

In determining eligibility for services provided with funds received from the "Maternal and Child Health Block Grant," the department may use the application form established under section ~~5111.013~~ 5163.40 of the Revised

Code. The department may require applicants to furnish their social security numbers. Funds from the "Maternal and Child Health Block Grant" that are administered for the purpose of providing family planning services shall be distributed in accordance with section 3701.033 of the Revised Code.

Sec. 3701.033. (A) This section establishes the order of priority to be followed by the department of health when distributing funds for the purpose of providing family planning services, including funds the department receives through the "Maternal and Child Health Block Grant," Title V of the "Social Security Act," 95 Stat. 818 (1981), 42 U.S.C. 701, as amended, and funds the department receives through Title X of the "Public Health Service Act," 84 Stat. 1504 (1970), 42 U.S.C. 300a, as amended. This section does not apply to grants awarded by the department under section 3701.046 of the Revised Code.

(B) With respect to each period during which funds from a particular source are distributed for the purpose of providing family planning services, the department is subject to both of the following when distributing the funds to applicants seeking those funds:

(1) Foremost priority shall be given to public entities that are operated by state or local government entities and that provide or are able to provide family planning services.

(2) If any funds remain after the department distributes funds to public entities under division (B)(1) of this section, the department may distribute funds to nonpublic entities. If funds are distributed to nonpublic entities, the department shall distribute the funds in the following order of descending priority:

(a) Nonpublic entities that are federally qualified health centers or federally qualified health center look-alikes, both as defined in section 3701.047 of the Revised Code, or community action agencies, as defined in section 122.66 of the Revised Code;

(b) Nonpublic entities that provide comprehensive primary and preventive care services in addition to family planning services;

(c) Nonpublic entities that provide family planning services, but do not provide comprehensive primary and preventive care services.

Sec. 3701.13. The department of health shall have supervision of all matters relating to the preservation of the life and health of the people and have ultimate authority in matters of quarantine and isolation, which it may declare and enforce, when neither exists, and modify, relax, or abolish, when either has been established. The department may approve methods of immunization against the diseases specified in section 3313.671 of the Revised Code for the purpose of carrying out the provisions of that section

and take such actions as are necessary to encourage vaccination against those diseases.

The department may make special or standing orders or rules for preventing the use of fluoroscopes for nonmedical purposes ~~which~~ that emit doses of radiation likely to be harmful to any person, for preventing the spread of contagious or infectious diseases, for governing the receipt and conveyance of remains of deceased persons, and for such other sanitary matters as are best controlled by a general rule. Whenever possible, the department shall work in cooperation with the health commissioner of a general or city health district. ~~‡~~ The department may make and enforce orders in local matters or reassign substantive authority for mandatory programs from a general or city health district to another general or city health district when an emergency exists, or when the board of health of a general or city health district has neglected or refused to act with sufficient promptness or efficiency, or when such board has not been established as provided by sections 3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 3709.12, and 3709.14 of the Revised Code. In such cases, the necessary expense incurred shall be paid by the general health district or city for which the services are rendered.

The department of health may require general or city health districts to enter into agreements for shared services under section 9.482 of the Revised Code. The department shall prepare and offer to boards of health a model contract and memorandum of understanding that are easily adaptable for use by boards of health when entering into shared services agreements. The department also may offer financial and other technical assistance to boards of health to encourage the sharing of services.

As a condition precedent to receiving funding from the department of health, the director of health may require general or city health districts to apply for accreditation by July 1, 2018, and be accredited by July 1, 2020, by an accreditation body approved by the director. The director of health, by July 1, 2016, shall conduct an evaluation of general and city health district preparation for accreditation, including an evaluation of each district's reported public health quality indicators as provided for in section 3701.98 of the Revised Code.

The department may make evaluative studies of the nutritional status of Ohio residents, and of the food and nutrition-related programs operating within the state. Every agency of the state, at the request of the department, shall provide information and otherwise assist in the execution of such studies.

Sec. 3701.139. (A) The hope for a smile program is hereby established

as a collaboration between the department of health and the following entities:

- (1) The Ohio dental association;
- (2) The Ohio dental hygienists association;
- (3) The Ohio state university college of dentistry and the dental hygiene program at that college;
- (4) Case western reserve university school of dental medicine;
- (5) Shawnee state university;
- (6) James A. Rhodes state college;
- (7) Columbus state community college;
- (8) Cuyahoga community college, metropolitan campus;
- (9) Youngstown state university;
- (10) Lorain county community college;
- (11) Lakeland community college;
- (12) University of Cincinnati;
- (13) Sinclair community college;
- (14) Owens community college;
- (15) Stark state college.

The primary objective of the program is to improve the oral health of school-age children, which the general assembly declares to be one of the most unmet health care needs of this state. Services provided under the program shall be targeted at school-age children who are indigent and uninsured, although other children may be served. The advisory council appointed under division (H) of this section may recommend additional populations to be targeted.

(B) With assistance from the director of administrative services and using the state's purchasing power, the director of health shall use money from any one or more of the following sources to purchase or secure the use of, maintain, and operate three buses equipped as mobile dental units: the economic development programs fund created in section 3772.17 of the Revised Code, the hope for a smile program fund created in division (F) of this section, and other public funds.

(C) The director of health shall divide the state into three regions (northern, central, and southern) and assign one bus to each region. Dentists, dental hygienists, and faculty and staff of the dental and dental hygiene programs of this state shall staff each bus and travel to schools in their assigned regions, with priority given to schools attended by high numbers of children in the program's targeted population. Services shall be provided in accordance with Chapter 4715. of the Revised Code.

(D) The director of health shall apply on the program's behalf to the

department of medicaid for a medicaid provider agreement. The director also shall arrange with private insurance companies in this state for the program to be reimbursed for services provided to children who have coverage through those companies.

(E) Service to the program by students of dental and dental hygiene programs whose faculty and staff participate in the program as described in division (C) of this section shall be recognized by the governor and general assembly as a workforce and economic development initiative.

(F) The program may accept grants, donations, and awards. The program may seek reimbursement from the medicaid program for services provided to children who are medicaid recipients and from private insurance companies for services provided to children covered by policies issued by those companies. The program may apply for money allocated by the United States department of labor or other entities for workforce or economic development initiatives.

Any funds received from a source described in this division shall be deposited into the hope for a smile program fund, which is hereby created. Any interest earned on money in the fund shall be credited to the fund.

(G) Dentists and dental hygienists who provide services free of charge under the program may deduct the fair market value of such services in computing Ohio adjusted gross income under section 5747.01 of the Revised Code.

(H) The director of health shall appoint the hope for a smile advisory council to advise the director in the adoption of rules under division (I) of this section. The council's membership shall consist of representatives of the Ohio dental association, the Ohio dental hygienists association, the Ohio state university college of dentistry, the case western reserve university school of dental medicine, the Ohio council of dental hygiene directors, and other members considered appropriate by the director.

(I) In consultation with the advisory council, the director of health shall adopt rules as necessary to implement and administer this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(J) Not later than the first day of July each year, the director of health, with input from the advisory council, shall submit to the governor, president and minority leader of the senate, and the speaker and minority leader of the house of representatives a report on progress the program has made in achieving the objective expressed in division (A) of this section, saving money for the medicaid program and other safety net programs, and promoting workforce and economic development in this state.

Sec. 3701.243. (A) Except as provided in this section or section

3701.248 of the Revised Code, no person or agency of state or local government that acquires the information while providing any health care service or while in the employ of a health care facility or health care provider shall disclose or compel another to disclose any of the following:

- (1) The identity of any individual on whom an HIV test is performed;
- (2) The results of an HIV test in a form that identifies the individual tested;
- (3) The identity of any individual diagnosed as having AIDS or an AIDS-related condition.

(B)(1) Except as provided in divisions (B)(2), (C), (D), and (F) of this section, the results of an HIV test or the identity of an individual on whom an HIV test is performed or who is diagnosed as having AIDS or an AIDS-related condition may be disclosed only to the following:

(a) The individual who was tested or the individual's legal guardian, and the individual's spouse or any sexual partner;

(b) A person to whom disclosure is authorized by a written release, executed by the individual tested or by the individual's legal guardian and specifying to whom disclosure of the test results or diagnosis is authorized and the time period during which the release is to be effective;

(c) The individual's physician;

(d) The department of health or a health commissioner to which reports are made under section 3701.24 of the Revised Code;

(e) A health care facility or provider that procures, processes, distributes, or uses a human body part from a deceased individual, donated for a purpose specified in Chapter 2108. of the Revised Code, and that needs medical information about the deceased individual to ensure that the body part is medically acceptable for its intended purpose;

(f) Health care facility staff committees or accreditation or oversight review organizations conducting program monitoring, program evaluation, or service reviews;

(g) A health care provider, emergency medical services worker, or peace officer who sustained a significant exposure to the body fluids of another individual, if that individual was tested pursuant to division (E)(6) of section 3701.242 of the Revised Code, except that the identity of the individual tested shall not be revealed;

(h) To law enforcement authorities pursuant to a search warrant or a subpoena issued by or at the request of a grand jury, a prosecuting attorney, a city director of law or similar chief legal officer of a municipal corporation, or a village solicitor, in connection with a criminal investigation or prosecution.

(2) The results of an HIV test or a diagnosis of AIDS or an AIDS-related condition may be disclosed to a health care provider, or an authorized agent or employee of a health care facility or a health care provider, if the provider, agent, or employee has a medical need to know the information and is participating in the diagnosis, care, or treatment of the individual on whom the test was performed or who has been diagnosed as having AIDS or an AIDS-related condition.

This division does not impose a standard of disclosure different from the standard for disclosure of all other specific information about a patient to health care providers and facilities. Disclosure may not be requested or made solely for the purpose of identifying an individual who has a positive HIV test result or has been diagnosed as having AIDS or an AIDS-related condition in order to refuse to treat the individual. Referral of an individual to another health care provider or facility based on reasonable professional judgment does not constitute refusal to treat the individual.

(3) Not later than ninety days after November 1, 1989, each health care facility in this state shall establish a protocol to be followed by employees and individuals affiliated with the facility in making disclosures authorized by division (B)(2) of this section. A person employed by or affiliated with a health care facility who determines in accordance with the protocol established by the facility that a disclosure is authorized by division (B)(2) of this section is immune from liability to any person in a civil action for damages for injury, death, or loss to person or property resulting from the disclosure.

(C)(1) Any person or government agency may seek access to or authority to disclose the HIV test records of an individual in accordance with the following provisions:

(a) The person or government agency shall bring an action in a court of common pleas requesting disclosure of or authority to disclose the results of an HIV test of a specific individual, who shall be identified in the complaint by a pseudonym but whose name shall be communicated to the court confidentially, pursuant to a court order restricting the use of the name. The court shall provide the individual with notice and an opportunity to participate in the proceedings if the individual is not named as a party. Proceedings shall be conducted in chambers unless the individual agrees to a hearing in open court.

(b) The court may issue an order granting the plaintiff access to or authority to disclose the test results only if the court finds by clear and convincing evidence that the plaintiff has demonstrated a compelling need for disclosure of the information that cannot be accommodated by other

means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy right of the individual tested and against any disservice to the public interest that might result from the disclosure, such as discrimination against the individual or the deterrence of others from being tested.

(c) If the court issues an order, it shall guard against unauthorized disclosure by specifying the persons who may have access to the information, the purposes for which the information shall be used, and prohibitions against future disclosure.

(2) A person or government agency that considers it necessary to disclose the results of an HIV test of a specific individual in an action in which it is a party may seek authority for the disclosure by filing an in camera motion with the court in which the action is being heard. In hearing the motion, the court shall employ procedures for confidentiality similar to those specified in division (C)(1) of this section. The court shall grant the motion only if it finds by clear and convincing evidence that a compelling need for the disclosure has been demonstrated.

(3) Except for an order issued in a criminal prosecution or an order under division (C)(1) or (2) of this section granting disclosure of the result of an HIV test of a specific individual, a court shall not compel a blood bank, hospital blood center, or blood collection facility to disclose the result of HIV tests performed on the blood of voluntary donors in a way that reveals the identity of any donor.

(4) In a civil action in which the plaintiff seeks to recover damages from an individual defendant based on an allegation that the plaintiff contracted the HIV virus as a result of actions of the defendant, the prohibitions against disclosure in this section do not bar discovery of the results of any HIV test given to the defendant or any diagnosis that the defendant suffers from AIDS or an AIDS-related condition.

(D) The results of an HIV test or the identity of an individual on whom an HIV test is performed or who is diagnosed as having AIDS or an AIDS-related condition may be disclosed to a federal, state, or local government agency, or the official representative of such an agency, for purposes of the ~~medical assistance~~ medicaid program established under ~~section 5111.01 of the Revised Code, the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935) 42 U.S.C.A. 301, as amended,~~ or any other public assistance program.

(E) Any disclosure pursuant to this section shall be in writing and accompanied by a written statement that includes the following or substantially similar language: "This information has been disclosed to you

from confidential records protected from disclosure by state law. You shall make no further disclosure of this information without the specific, written, and informed release of the individual to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is not sufficient for the purpose of the release of HIV test results or diagnoses."

(F) An individual who knows that the individual has received a positive result on an HIV test or has been diagnosed as having AIDS or an AIDS-related condition shall disclose this information to any other person with whom the individual intends to make common use of a hypodermic needle or engage in sexual conduct as defined in section 2907.01 of the Revised Code. An individual's compliance with this division does not prohibit a prosecution of the individual for a violation of division (B) of section 2903.11 of the Revised Code.

(G) Nothing in this section prohibits the introduction of evidence concerning an HIV test of a specific individual in a criminal proceeding.

Sec. 3701.261. (A) As used in this section, "state university" has the same meaning as in section 3345.011 of the Revised Code.

(B) The director of health shall:

(1) Establish a population-based cancer registry, which shall be known as the Ohio cancer incidence surveillance system, to monitor the incidence of various types of malignant diseases in Ohio, make appropriate epidemiologic studies to determine any causal relations of such diseases with occupational, nutritional, environmental, or infectious conditions, and alleviate or eliminate any such conditions;

(2) Advise, consult, cooperate with, and assist, by contract or otherwise, agencies of the state and federal government, agencies of the governments of other states, agencies of political subdivisions of this state, universities, private organizations, corporations, and associations for the purposes of division ~~(A)~~(B)(1) of this section;

(3) Accept and administer grants from the federal government or other sources, public or private, for carrying out any of the functions enumerated in divisions ~~(A)~~(B)(1) and (2) of this section.

~~(B)~~(C) The Ohio cancer incidence surveillance system shall follow a model of cancer data collection as set forth by the survey epidemiology and end results system (SEERS).

(D) The department may, by contract, designate a state university as an agent to implement some or all of this section and section 3701.262 of the Revised Code and the rules adopted under those sections.

Sec. 3701.262. (A) As used in this section ~~and section 3701.263 of the~~

~~Revised Code:~~

(1) "Physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine ~~or~~ and surgery or osteopathic medicine and surgery.

(2) "Dentist" means a person who is licensed under Chapter 4715. of the Revised Code to practice dentistry.

(3) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(4) "Cancer" includes those diseases specified by rule of the director of health under division (B)(2) of this section.

(B) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

(1) Establish the Ohio cancer incidence surveillance system required by section 3701.261 of the Revised Code;

(2) Specify the types of cancer and other tumorous and precancerous diseases to be reported to the department of health under division (D) of this section;

(3) Establish reporting requirements for information concerning diagnosed cancer cases as the director considers necessary to conduct epidemiologic surveys of cancer in this state;

(4) Establish standards that must be met by research projects to be eligible to receive information concerning individual cancer patients from the department of health ~~under division (B) of section 3701.263 of the Revised Code.~~

(C) The department of health shall record in the registry all reports of cancer received by it. In the development and administration of the cancer registry the department may use information compiled by public or private cancer registries and may contract for the collection and analysis of, and research related to, the information recorded under this section.

~~(D)(1)~~ Each physician, dentist, hospital, or person providing diagnostic or treatment services to patients with cancer shall report each case of cancer to the department. Any person required to report pursuant to this section may elect to report to the department through an existing cancer registry if the registry meets the reporting standards established by the director and reports to the department.

(2) No person shall fail to make the cancer reports required by division (D)(1) of this section.

(E) All physicians, dentists, hospitals, or persons providing diagnostic or treatment services to patients with cancer shall grant to the department or its authorized representative access to all records that identify cases of

cancer or establish characteristics of cancer, the treatment of cancer, or the medical status of any identified cancer patient.

(F) The Arthur G. James cancer hospital and Richard J. Solove research institute of the Ohio state university, shall analyze and evaluate the cancer reports collected pursuant to this section. The department shall publish and make available to the public reports summarizing the information collected. Reports shall be made on a calendar year basis and published not later than ninety days after the end of each calendar year.

(G) Furnishing information, including records, reports, statements, notes, memoranda, or other information, to the department of health, either voluntarily or as required by this section, or to a person or governmental entity designated as a medical research project by the department, does not subject a physician, dentist, hospital, or person providing diagnostic or treatment services to patients with cancer to liability in an action for damages or other relief for furnishing the information.

(H) This section does not affect the authority of any person or facility providing diagnostic or treatment services to patients with cancer to maintain facility-based tumor registries, in addition to complying with the reporting requirements of this section.

~~(I) No person shall fail to make the cancer reports required by division (D) of this section.~~

Sec. 3701.264. There is hereby created the Ohio cancer incidence surveillance system advisory board. The board shall consist of the director of health, who shall serve as chair of the board, and one representative, appointed by the governor, from each medical school accredited by the liaison committee on medical education and each osteopathic medical school accredited by the American osteopathic association in Ohio. In addition, the director of health shall appoint up to three additional members of the board. Vacancies on the board shall be filled in the same manner as the initial appointments. Members shall serve without compensation.

The board shall provide oversight of the collection and analysis of data by the Ohio cancer incidence surveillance system to the director of health and the Arthur G. James cancer hospital and Richard J. Solove research institute of the Ohio state university and advise in the implementation of sections 3701.261 ~~to 3701.263~~ and 3701.262 of the Revised Code. The board shall meet and conduct its business as directed by the chair.

~~The board shall report to the finance committees of both houses of the general assembly, not later than March 1, 2001, on the progress made in implementing sections 3701.261 to 3701.263 of the Revised Code.~~

The board is not subject to sections 101.82 to 101.87 of the Revised

Code.

~~Sec. 3701.342. After consultation with the public health standards task force established under section 3701.343 of the Revised Code, the~~ The director of health shall adopt rules establishing minimum standards and optimum achievable standards for boards of health and local health departments. The minimum standards shall assure that boards of health and local health departments provide for:

- (A) Analysis and prevention of communicable disease;
- (B) Analysis of the causes of, and appropriate treatment for, the leading causes of morbidity and mortality;
- (C) The administration and management of the local health department;
- (D) Access to primary health care by medically underserved individuals;
- (E) Environmental health management programs;
- (F) Health promotion services designed to encourage individual and community wellness;

(G) Annual completion of two hours of continuing education by each member of a board of health. The minimum standards shall provide that continuing education credits shall pertain to ethics, public health principles, and a member's responsibilities. Credits may be earned in these topics at pertinent presentations that may occur during regularly scheduled board meetings throughout the calendar year or at other programs available for continuing education credit. The director of health may assist local boards of health of general and city health districts in coordinating approved continuing education programs sponsored by health care licensing boards, commissions, or associations. The minimum standards also shall provide that continuing education credits earned for the purpose of license renewal or certification by licensed health professionals serving on boards of health may be counted to fulfill the two-hour continuing education requirement.

The director shall adopt rules establishing a formula for distribution of state health district subsidy funds to boards of health and local health departments. The formula shall provide no subsidy funds to a board or department unless it meets minimum standards and shall provide higher funding levels for boards and districts that meet optimum achievable standards.

Notwithstanding section 119.03 of the Revised Code, rules adopted under this section shall not take effect unless approved by concurrent resolution of the general assembly.

Sec. 3701.344. As used in this section and sections 3701.345, 3701.346, and 3701.347 of the Revised Code:

- (A) "Private water system" means any water system for the provision of

water for human consumption, if such system has fewer than fifteen service connections and does not regularly serve an average of at least twenty-five individuals daily at least sixty days out of the year. A private water system includes any well, spring, cistern, pond, or hauled water and any equipment for the collection, transportation, filtration, disinfection, treatment, or storage of such water extending from and including the source of the water to the point of discharge from any pressure tank or other storage vessel; to the point of discharge from the water pump where no pressure tank or other storage vessel is present; or, in the case of multiple service connections serving more than one dwelling, to the point of discharge from each service connection. "Private water system" does not include the water service line extending from the point of discharge to a structure.

(B) Notwithstanding section 3701.347 of the Revised Code and subject to division (C) of this section, rules adopted by the director of health regarding private water systems shall provide for the following:

(1) Except as otherwise provided in this division, boards of health of city or general health districts shall be given the exclusive power to establish fees in accordance with section 3709.09 of the Revised Code for administering and enforcing such rules. Such fees shall establish a different rate for administering and enforcing the rules relative to private water systems serving single-family dwelling houses and nonsingle-family dwelling houses. Except for an amount established by the director, pursuant to division (B)(5) of this section, for each new private water system installation, no portion of any fee for administering and enforcing such rules shall be returned to the department of health. If the director of health determines that a board of health of a city or general health district is unable to administer and enforce a private water system program in the district, the director shall administer and enforce such a program in the district and establish fees for such administration and enforcement.

(2) Boards of health of city or general health districts shall be given the exclusive power to determine the number of inspections necessary for determining the safe drinking characteristics of a private water system.

(3) Private water systems contractors, as a condition of doing business in this state, shall annually register with, and comply with surety bonding requirements of, the department of health. No such contractor shall be permitted to register if the contractor fails to comply with all applicable rules adopted by the director and the board of health of the city or general health district. The annual registration fee for private water systems contractors shall be sixty-five dollars. The director, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the annual

registration fee.

(4) Subject to rules adopted by the director, boards of health of city or general health districts shall have the option of determining whether bacteriological examinations shall be performed at approved laboratories of the state or at approved private laboratories.

(5) The director may establish fees for each new private water system installation, which shall be collected by the appropriate board of health and transmitted to the director pursuant to section 3709.092 of the Revised Code.

(6) All fees received by the director of health under divisions (B)(1), (3), and (5) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use in the administration and enforcement of sections 3701.344 to 3701.347 of the Revised Code and the rules pertaining to private water systems adopted under those sections.

(C) To the extent that rules adopted under division (B) of this section require health districts to follow specific procedures or use prescribed forms, no such procedure or form shall be implemented until it is approved by majority vote of an approval board of health commissioners, hereby created. Members of the board shall be the officers of the association of Ohio health commissioners, or any successor organization, and membership on the board shall be coterminous with holding an office of the association. No health district is required to follow a procedure or use a form required by a rule adopted under division (B) of this section without the approval of the board.

(D) A board of health shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

(E) A water system that will be used in agriculture and that does not provide water for human consumption shall not be required to obtain a permit or license issued under, pay any fees assessed or levied under, or comply with any rule adopted under sections 3701.34 to 3701.347 of the Revised Code.

Sec. 3701.507. (A) To assist in implementing sections 3701.503 to 3701.509 of the Revised Code, the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code shall appoint a permanent infant hearing screening subcommittee. The subcommittee shall consist of the following members:

(1) One otolaryngologist;

- (2) One neonatologist;
 - (3) One pediatrician;
 - (4) One neurologist;
 - (5) One hospital administrator;
 - (6) Two or more audiologists who are experienced in infant hearing screening and evaluation;
 - (7) One speech-language pathologist licensed under section 4753.07 of the Revised Code;
 - (8) Two persons who are each a parent of a hearing-impaired child;
 - (9) One geneticist;
 - (10) One epidemiologist;
 - (11) One adult who is deaf or hearing impaired;
 - (12) One representative from an organization for the deaf or hearing impaired;
 - (13) One family advocate;
 - (14) One nurse from a well-baby neonatal nursery;
 - (15) One nurse from a special care neonatal nursery;
 - (16) One teacher of the deaf who works with infants and toddlers;
 - (17) One representative of the health insurance industry;
 - (18) One representative of the bureau for children with medical handicaps;
 - (19) One representative of the department of education;
 - (20) One representative of the Ohio department of ~~job and family services who has responsibilities regarding~~ medicaid;
 - (21) Any other person the advisory council appoints.
- (B) The infant hearing subcommittee shall:
- (1) Consult with the director of health regarding the administration of sections 3701.503 to 3701.509 of the Revised Code;
 - (2) Advise and make recommendations regarding proposed rules prior to their adoption by the director under section 3701.508 of the Revised Code;
 - (3) Consult with the director of health and advise and make recommendations regarding program development and implementation under sections 3701.503 to 3701.509 of the Revised Code, including all of the following:
 - (a) Establishment under section 3701.504 of the Revised Code of the statewide hearing screening, tracking, and early intervention program to identify newborn and infant hearing impairment;
 - (b) Identification of locations where hearing evaluations may be conducted;

(c) Recommendations for methods and techniques of hearing screening and hearing evaluation;

(d) Referral, data recording and compilation, and procedures to encourage follow-up hearing care;

(e) Maintenance of a register of newborns and infants who do not pass the hearing screening;

(f) Preparation of the information required by section 3701.506 of the Revised Code.

Sec. 3701.74. (A) As used in this section and section 3701.741 of the Revised Code:

(1) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.

(2) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.

(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(4) "Health care practitioner" means all of the following:

(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;

(b) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(c) An optometrist licensed under Chapter 4725. of the Revised Code;

(d) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;

(e) A pharmacist licensed under Chapter 4729. of the Revised Code;

(f) A physician;

(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;

(h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;

(i) A psychologist licensed under Chapter 4732. of the Revised Code;

(j) A chiropractor;

(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;

(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;

(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;

(o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;

(p) A dietitian licensed under Chapter 4759. of the Revised Code;

(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;

(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.

(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility ~~or intermediate care facility for the mentally retarded~~, as those terms are defined in section ~~5111.20~~ 5165.01 of the Revised Code; ~~a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended,~~ as defined in section 5165.01 of the Revised Code; and an intermediate care facility for individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code.

(8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.

(9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for

doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative.

(10) "Patient" means either of the following:

(a) An individual who received health care treatment from a health care provider;

(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section.

(11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, or any other person not named in this division.

(12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(13) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(14) "Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record.

(B) A patient, a patient's personal representative or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care provider a written request signed by the patient, personal representative, or authorized person dated not more than one year before the date on which it is submitted. The request shall indicate whether the copy is to be sent to the requestor, physician or chiropractor, or held for the requestor at the office of the health care provider. Within a reasonable time after receiving a request that meets the requirements of this division and includes sufficient information to identify the record requested, a health care provider that has the patient's medical records shall permit the patient to examine the record during regular business hours without charge or, on request, shall provide a copy of the record in accordance with section 3701.741 of the Revised Code, except that if a physician or chiropractor who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the health care provider shall provide the record to a physician

or chiropractor designated by the patient. The health care provider shall take reasonable steps to establish the identity of the person making the request to examine or obtain a copy of the patient's record.

(C) If a health care provider fails to furnish a medical record as required by division (B) of this section, the patient, personal representative, or authorized person who requested the record may bring a civil action to enforce the patient's right of access to the record.

(D)(1) This section does not apply to medical records whose release is covered by section 173.20 or 3721.13 of the Revised Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records," or by 42 C.F.R. 483.10.

(2) Nothing in this section is intended to supersede the confidentiality provisions of sections 2305.24, 2305.25, 2305.251, and 2305.252 of the Revised Code.

Sec. 3701.741. (A) Each health care provider and medical records company shall provide copies of medical records in accordance with this section.

(B) Except as provided in divisions (C) and (E) of this section, a health care provider or medical records company that receives a request for a copy of a patient's medical record shall charge not more than the amounts set forth in this section.

(1) If the request is made by the patient or the patient's personal representative, total costs for copies and all services related to those copies shall not exceed the sum of the following:

(a) Except as provided in division (B)(1)(b) of this section, with respect to data recorded on paper or electronically, the following amounts adjusted in accordance with section 3701.742 of the Revised Code:

(i) Two dollars and seventy-four cents per page for the first ten pages;

(ii) Fifty-seven cents per page for pages eleven through fifty;

(iii) Twenty-three cents per page for pages fifty-one and higher;

(b) With respect to data resulting from an x-ray, magnetic resonance imaging (MRI), or computed axial tomography (CAT) scan and recorded on paper or film, one dollar and eighty-seven cents per page;

(c) The actual cost of any related postage incurred by the health care provider or medical records company.

(2) If the request is made other than by the patient or the patient's personal representative, total costs for copies and all services related to those copies shall not exceed the sum of the following:

(a) An initial fee of sixteen dollars and eighty-four cents adjusted in accordance with section 3701.742 of the Revised Code, which shall

compensate for the records search;

(b) Except as provided in division (B)(2)(c) of this section, with respect to data recorded on paper or electronically, the following amounts adjusted in accordance with section 3701.742 of the Revised Code:

- (i) One dollar and eleven cents per page for the first ten pages;
- (ii) Fifty-seven cents per page for pages eleven through fifty;
- (iii) Twenty-three cents per page for pages fifty-one and higher.

(c) With respect to data resulting from an x-ray, magnetic resonance imaging (MRI), or computed axial tomography (CAT) scan and recorded on paper or film, one dollar and eighty-seven cents per page;

(d) The actual cost of any related postage incurred by the health care provider or medical records company.

(C)(1) On request, a health care provider or medical records company shall provide one copy of the patient's medical record and one copy of any records regarding treatment performed subsequent to the original request, not including copies of records already provided, without charge to the following:

(a) The bureau of workers' compensation, in accordance with Chapters 4121. and 4123. of the Revised Code and the rules adopted under those chapters;

(b) The industrial commission, in accordance with Chapters 4121. and 4123. of the Revised Code and the rules adopted under those chapters;

(c) The department of ~~job and family services~~ medicaid or a county department of job and family services, in accordance with Chapters ~~5101. 5160., 5161., 5162., 5163., 5164., 5165., 5166., and 5111. 5167.~~ of the Revised Code and the rules adopted under those chapters;

(d) The attorney general, in accordance with sections 2743.51 to 2743.72 of the Revised Code and any rules that may be adopted under those sections;

(e) A patient, patient's personal representative, or authorized person if the medical record is necessary to support a claim under Title II or Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401 and 1381, as amended, and the request is accompanied by documentation that a claim has been filed.

(2) Nothing in division (C)(1) of this section requires a health care provider or medical records company to provide a copy without charge to any person or entity not listed in division (C)(1) of this section.

(D) Division (C) of this section shall not be construed to supersede any rule of the bureau of workers' compensation, the industrial commission, or the department of ~~job and family services~~ medicaid.

(E) A health care provider or medical records company may enter into a contract with either of the following for the copying of medical records at a fee other than as provided in division (B) of this section:

(1) A patient, a patient's personal representative, or an authorized person;

(2) An insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state or health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code.

(F) This section does not apply to medical records the copying of which is covered by section 173.20 of the Revised Code or by 42 C.F.R. 483.10.

Sec. 3701.742. ~~Not later than January 31, 2006, the~~ The amounts specified in division (B) of section 3701.741 of the Revised Code ~~and, not later than the first day of January of each year thereafter, shall be adjusted annually in accordance with this section. These amounts plus any amounts previously computed by annual adjustments made under this section, shall be increased or decreased by the average percentage of increase or decrease in the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics, for the twelve-calendar-month period prior to the immediately preceding first day of January~~ calendar year over the calendar year immediately preceding twelve-calendar-month period that year, as reported by the bureau. The director of health shall make this determination and adjust the amounts accordingly. The director shall provide a list of the adjusted amounts to any party upon request and the department of health shall make the a list of the adjusted amounts available to the public on its the internet web site maintained by the department of health.

Sec. 3701.78. (A) There is hereby created the commission on minority health, consisting of twenty-one members. The governor shall appoint to the commission nine members from among health researchers, health planners, and health professionals. The governor also shall appoint two members who are representatives of the lupus awareness and education program. The speaker of the house of representatives shall appoint to the commission two members of the house of representatives, not more than one of whom is a member of the same political party, and the president of the senate shall appoint to the commission two members of the senate, not more than one of whom is a member of the same political party. The following shall be members of the commission: the directors of health, mental health mental health and addiction services, developmental disabilities, alcohol and drug addiction services, and job and family services, or their designees; the

medicaid director, or the director's designee; and the superintendent of public instruction, or the superintendent's designee, shall be members of the commission. The

The commission shall elect a chairperson from among its members. ~~Of~~

Of the members appointed by the governor, five shall be appointed to initial terms of one year, and four shall be appointed to initial terms of two years. Thereafter, all members appointed by the governor shall be appointed to terms of two years. All members of the commission appointed by the speaker of the house of representatives or the president of the senate shall be nonvoting members of the commission and be appointed within thirty days after the commencement of the first regular session of each general assembly, and shall serve until the expiration of the session of the general assembly during which they were appointed. ~~Members~~

Members of the commission shall serve without compensation, but shall be reimbursed for the actual and necessary expenses they incur in the performance of their official duties.

(B) The commission shall promote health and the prevention of disease among members of minority groups. Each year the commission shall distribute grants from available funds to community-based health groups to be used to promote health and the prevention of disease among members of minority groups. As used in this division, "minority group" means any of the following economically disadvantaged groups: Blacks, American Indians, Hispanics, and Orientals. The commission shall adopt and maintain rules pursuant to Chapter 119. of the Revised Code to provide for the distribution of these grants. No group shall qualify to receive a grant from the commission unless it receives at least twenty per cent of its funds from sources other than grants distributed under this section.

(C) The commission may appoint such employees as it considers necessary to carry out its duties under this section. The department of health shall provide office space for the commission.

(D) The commission shall meet at the call of its chairperson to conduct its official business. A majority of the voting members of the commission constitute a quorum. The votes of at least eight voting members of the commission are necessary for the commission to take any official action or to approve the distribution of grants under this section.

Sec. 3701.83. (A) There is hereby created in the state treasury the general operations fund. Moneys in the fund shall be used for the purposes specified in sections 3701.04, 3701.344, 3702.20, 3710.15, 3711.16, 3717.45, 3718.06, 3721.02, 3721.022, 3729.07, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 3748.13, 3749.04, 3749.07, 4747.04, ~~4751.04~~, and

4769.09 of the Revised Code.

(B) The alcohol testing program fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce the alcohol testing and permit program authorized by section 3701.143 of the Revised Code.

The fund shall receive transfers from the liquor control fund created under section 4301.12 of the Revised Code. All investment earnings of the alcohol testing program fund shall be credited to the fund.

Sec. 3701.832. There is created in the state treasury the department of health medicaid fund. All funds the department of health receives for the purpose of paying the expenses the department incurs under the medicaid program shall be deposited into the fund. The department shall use the money in the fund to pay the expenses the department incurs under the medicaid program.

Sec. 3701.881. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment with a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual or is referred to a home health agency by an employment service for such a position.

(2) "Community-based long-term care agency provider" ~~has the same meaning~~ means a provider as defined in section 173.39 of the Revised Code.

(3) "Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code.

(4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

~~(4)~~(5) "Direct care" means any of the following:

(a) Any service identified in divisions (A)~~(7)~~(8)(a) to (f) of this section that is provided in a patient's place of residence used as the patient's home;

(b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient;

(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care.

~~(5)~~(6) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

~~(6)~~(7) "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct

care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service.

~~(7)~~(8) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, hospice care program, or pediatric respite care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:

- (a) Skilled nursing care;
- (b) Physical therapy;
- (c) Speech-language pathology;
- (d) Occupational therapy;
- (e) Medical social services;
- (f) Home health aide services.

~~(8)~~(9) "Home health aide services" means any of the following services provided by an employee of a home health agency:

- (a) Hands-on bathing or assistance with a tub bath or shower;
- (b) Assistance with dressing, ambulation, and toileting;
- (c) Catheter care but not insertion;
- (d) Meal preparation and feeding.

~~(9)~~(10) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.

~~(10)~~(11) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.

~~(11)~~(12) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

~~(12)~~(13) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.

~~(13)~~(14) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.

~~(14)~~(15) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.

~~(15)~~(16) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.

~~(16)~~(17) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.

~~(17)~~(18) "Waiver agency" has the same meaning as in section ~~5111.033~~ 5164.342 of the Revised Code.

(B) No home health agency shall employ an applicant or continue to employ an employee in a position that involves providing direct care to an

individual if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the home health agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing direct care to an individual.

(2) After the applicant or employee is provided, pursuant to division (E)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) Except as provided by division (F) of this section, the chief administrator of a home health agency shall inform each applicant of both of the following at the time of the applicant's initial application for employment or referral to the home health agency by an employment service for a position that involves providing direct care to an individual:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the home health agency is prohibited by division (B)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(D) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a

home health agency shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a home health agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to conduct a database review of an applicant or employee if division (F) of this section applies. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to ~~section 1128 of the "Social Security Act," 94 Stat. 2619 (1980)~~ sections 1128 and 1156, 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. and 1320c-5, as amended;

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(E)(1) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a home health agency shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant. If rules adopted under this section so require, the chief administrator of a home health agency shall request the superintendent to conduct a criminal records check of an employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to request the criminal records check of the applicant or the employee if division (F) of this section applies or the home

health agency is prohibited by division (B)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing direct care to an individual. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check. Even if an applicant or employee for whom a criminal records check request is required by this section presents proof that the applicant or employee has been a resident of this state for that five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The chief administrator shall do all of the following:

(a) Provide to each applicant and employee for whom a criminal records check request is required by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and standard impression sheet from each applicant and employee;

(c) Forward the completed form and standard impression sheet to the superintendent at the time the chief administrator requests the criminal records check.

(3) A home health agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the agency requests under this section. A home health agency may charge an applicant a fee not exceeding the amount the agency pays to the bureau under this section if both of the following apply:

(a) The home health agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(b) The medicaid program ~~established under Chapter 5111. of the Revised Code~~ does not reimburse the home health agency for the fee it pays to the bureau under this section.

(F) Divisions (C) to (E) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions that involve providing direct care to an individual and both of the following apply:

(1) The chief administrator of the home health agency receives from the employment service confirmation that a review of the databases listed in division (D) of this section was conducted with regard to the applicant or employee.

(2) The chief administrator of the home health agency receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding the following:

(a) In the case of an applicant, the date of the applicant's referral by the employment service to the home health agency;

(b) In the case of an employee, the date by which the home health agency would otherwise have to request a criminal records check of the employee under division (E) of this section.

(G)(1) A home health agency may employ conditionally an applicant for whom a criminal records check request is required by this section before obtaining the results of the criminal records check if the agency is not prohibited by division (B) of this section from employing the applicant in a position that involves providing direct care to an individual and either of the following applies:

(a) The chief administrator of the home health agency requests the criminal records check in accordance with division (E) of this section not later than five business days after the applicant begins conditional employment.

(b) The applicant is referred to the home health agency by an employment service, the employment service or the applicant provides the chief administrator of the agency a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following:

(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant;

(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a

disqualifying offense;

(iii) That the employment service has not received the results of the criminal records check as of the date set forth on the letter;

(iv) That the employment service promptly will send a copy of the results of the criminal records check to the chief administrator of the home health agency when the employment service receives the results.

(2) If a home health agency employs an applicant conditionally pursuant to division (G)(1)(b) of this section, the employment service, on its receipt of the results of the criminal records check, promptly shall send a copy of the results to the chief administrator of the agency.

(3) A home health agency that employs an applicant conditionally pursuant to division (G)(1)(a) or (b) of this section shall terminate the applicant's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the home health agency shall terminate the applicant's employment unless circumstances specified in rules adopted under this section that permit the agency to employ the applicant exist and the agency chooses to employ the applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the home health agency about the applicant's criminal record.

(H) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The home health agency requesting the criminal records check or its representative;

(3) The administrator of any other facility, agency, or program that provides direct care to individuals that is owned or operated by the same entity that owns or operates the home health agency that requested the criminal records check;

- (4) The employment service that requested the criminal records check;
- (5) The director of health and the staff of the department of health who monitor a home health agency's compliance with this section;
- (6) The director of aging or the director's designee if either of the following apply:
 - (a) In the case of a criminal records check requested by a home health agency, the home health agency also is a community-based long-term care agency provider or community-based long-term care subcontractor;
 - (b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a home health agency that also is a community-based long-term care agency provider or community-based long-term care subcontractor.
- (7) The medicaid ~~director of job and family services~~ and the staff of the department of ~~job and family services~~ medicaid who are involved in the administration of the medicaid program if either of the following apply:
 - (a) In the case of a criminal records check requested by a home health agency, the home health agency also is a waiver agency;
 - (b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a home health agency that also is a waiver agency.
- (8) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:
 - (a) A denial of employment of the applicant or employee;
 - (b) Employment or unemployment benefits of the applicant or employee;
 - (c) A civil or criminal action regarding the medicaid program.
- (I) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an applicant or employee who a home health agency employs in a position that involves providing direct care to an individual, all of the following shall apply:
 - (1) If the home health agency employed the applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the agency shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate.
 - (2) If the home health agency employed the applicant in good faith on a conditional basis pursuant to division (G) of this section, the agency shall not be found negligent solely because it employed the applicant prior to

receiving the report of a criminal records check requested under this section.

(3) If the home health agency in good faith employed the applicant or employee according to the personal character standards established in rules adopted under this section, the agency shall not be found negligent solely because the applicant or employee had been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(J) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The procedures for conducting database reviews under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a home health agency is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

(d) Circumstances under which a home health agency may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets personal character standards.

Sec. 3701.921. There is hereby established the patient centered medical home education program in the department of health. For the purpose of advancing education in the patient centered medical home model of care, the director of health may implement and administer the program pursuant to sections 3701.922 to 3701.929 of the Revised Code. The patient centered medical home model of care is an enhanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole

person comprehensive and coordinate patient centered care.

To the extent that funds are available, the program shall include the patient centered medical home education pilot project and may include any other ~~pilot~~ projects the director establishes pursuant to division (A)(3) of section 3701.922 of the Revised Code.

Sec. 3701.922. (A) The director of health may do any of the following to implement and administer the patient centered medical home education program:

(1) Develop and implement programs of education or training on the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care that are intended to address the multifaceted needs of patients and provide whole person comprehensive and coordinated patient centered care;

(2) Advise, consult, cooperate with, and assist, by contract or other arrangement, government agencies or institutions or private organizations, corporations, or associations in the development and promotion of programs pertaining to the evaluation and implementation of the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care;

(3) Establish ~~pilot~~ projects that ~~do any of the following:~~

~~(a) Evaluate or implement the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care;~~

~~(b) Provide~~ provide education or training on the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care.

(4) Seek and administer state funds or grants from other sources to carry out any functions of the patient centered medical home education program.

Any funds or grants received by the director for purposes of the program shall be used for the program.

(B) The director may adopt rules as necessary to implement and administer the patient centered medical home education program, including rules that define what constitutes a "patient centered medical home" for purposes of an entity authorized to provide care coordination services. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 3701.94. There is hereby established the patient centered medical home program in the department of health. The patient centered medical home model of care is an advanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole person comprehensive and coordinated patient centered care.

Sec. 3701.941. (A) As part of the patient centered medical home

program established under section 3701.94 of the Revised Code, the department of health shall establish a voluntary patient centered medical home certification program.

(B) Each primary care practice, that seeks a patient centered medical home certificate shall submit an application on a form prepared by the department. The department may require an application fee and annual renewal fee as determined by the department. If the department establishes a fee under this section, the fee shall be in an amount that is sufficient to cover the cost of any on-site evaluations conducted by the department or an entity under contract with the department pursuant to section 3701.942 of the Revised Code.

(C) A practice certified under this section shall do all of the following:

(1) Meet any standards developed by national independent accrediting and medical home organizations, as determined by the department;

(2) Develop a systematic follow-up procedure for patients, including the use of health information technology and patient registries;

(3) Implement and maintain health information technology that meets the requirements of 42 U.S.C. 300jj;

(4) Comply with the reporting requirements of section 3701.942 of the Revised Code;

(5) Meet any process, outcome, and quality standards specified by the department of health;

(6) Meet any other requirements established by the department.

(D) The department shall seek to do all of the following through the certification of patient centered medical homes:

(1) Expand, enhance, and encourage the use of primary care providers, including primary care physicians, advanced practice registered nurses, and physician assistants, as personal clinicians;

(2) Develop a focus on delivering high-quality, efficient, and effective health care services;

(3) Encourage patient centered care and the provision of care that is appropriate for a patient's race, ethnicity, and language;

(4) Encourage the education and active participation of patients and patients' families or legal guardians, as appropriate, in decision making and care plan development;

(5) Provide patients with consistent, ongoing contact with a personal clinician or team of clinical professionals to ensure continuous and appropriate care;

(6) Ensure that patient centered medical homes develop and maintain appropriate comprehensive care plans for patients with complex or chronic

conditions, including an assessment of health risks and chronic conditions:

(7) Ensure that patient centered medical homes plan for transition of care from youth to adult to senior;

(8) Enable and encourage use of a range of qualified health care professionals, including dedicated care coordinators, in a manner that enables those professionals to practice to the fullest extent of their professional licenses.

Sec. 3701.942. (A) Each certified patient centered medical home shall report health care quality and performance information to the department of health, including any data necessary for monitoring compliance with certification standards and for evaluating the impact of patient centered medical homes on health care quality, cost, and outcomes.

(B) The department may contract with a private entity to evaluate the effectiveness of certified patient centered medical homes. The department may provide the entity with data collected under division (A) of this section.

(C) The department may contract with national independent accrediting and medical home organizations to provide on-site evaluation of primary care practices and verification of data collected under division (A) of this section.

(D) Data collected under this section is not a public record under section 149.43 of the Revised Code.

Sec. 3701.943. (A) The department of health shall submit a report to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly, evaluating the patient centered medical home program not later than three years after rules adopted pursuant to section 3701.944 of the Revised Code first become effective. The department shall submit a second report not later than five years after those rules first become effective.

(B) The reports submitted under division (A) of this section shall include all of the following:

(1) The number of patients receiving primary care services from certified patient centered medical homes and the number and characteristics of those patients with complex or chronic conditions. To the extent available, information regarding the income, race, ethnicity, and language of patients shall be included in the reports;

(2) The number and geographic distribution of certified patient centered medical homes;

(3) Performance of and quality of care measures implemented by certified patient centered medical homes;

(4) Preventive care measures implemented by certified patient centered medical homes;

(5) Payment arrangements of certified patient centered medical homes;

(6) Costs related to implementation of the patient centered medical home program and payment of care coordination fees;

(7) The estimated effect of certified patient centered medical homes on health disparities;

(8) The estimated savings from establishing the patient centered medical home program, as those savings apply to the fee for service, managed care, and state-based purchasing sectors.

Sec. 3701.944. The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

(A) Considering the goals set forth in section 3701.941 of the Revised Code, establish standards and procedures for certifying a primary care practice as a patient centered medical home;

(B) Specify the types of medical practices that constitute primary care practices for the purpose of certifying patient centered medical homes;

(C) Specify the health care quality and performance information that certified patient centered medical homes must report to the department pursuant to section 3701.942 of the Revised Code.

Sec. 3701.96. As used in this section, "board of health" means a board of health of a city or general health district or an authority having the duties of a board of health under section 3709.05 of the Revised Code.

If a zoonotic disease program is administered by the department of health, the director of health may charge a board of health a fee for each service the program provides to the board. The fee amount shall be determined by the director and be commensurate with the department's cost to provide the service. The board shall pay the fee associated with a service at the time the service is provided.

Sec. 3701.98. Not later than July 1, 2014, the director of health shall establish both of the following by rule adopted under Chapter 119. of the Revised Code:

(A) A standardized process by which all general and city health districts shall collect and report to the director information regarding public health quality indicators.

(B) A policy and procedures for the sharing of health data reported under this section with payers, providers, general and city health districts, and public health professionals.

The rules shall identify the public health quality indicators that are to be a priority for general and city health districts and the information to be collected and reported regarding those indicators. The director of health shall work in conjunction with the association of county health

commissioners in identifying the public health quality indicators.

Sec. 3701.99. (A) Whoever violates division (C) of section 3701.23, division (C) of section 3701.232, division (C) of section 3701.24, division (B) of section 3701.25, division ~~(H)(D)(2)~~ of section 3701.262, ~~division (D) of section 3701.263~~, or sections 3701.46 to 3701.55 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section 3701.82 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 3701.352 or 3701.81 of the Revised Code is guilty of a misdemeanor of the second degree.

Sec. 3702.30. (A) As used in this section:

(1) "Ambulatory surgical facility" means a facility, whether or not part of the same organization as a hospital, that is located in a building distinct from another in which inpatient care is provided, and to which any of the following apply:

(a) Outpatient surgery is routinely performed in the facility, and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists.

(b) Anesthesia is administered in the facility by an anesthesiologist or certified registered nurse anesthetist, and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists.

(c) The facility applies to be certified by the United States centers for medicare and medicaid services as an ambulatory surgical center for purposes of reimbursement under Part B of the medicare program, Part B of Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(d) The facility applies to be certified by a national accrediting body approved by the centers for medicare and medicaid services for purposes of deemed compliance with the conditions for participating in the medicare program as an ambulatory surgical center.

(e) The facility bills or receives from any third-party payer, governmental health care program, or other person or government entity any ambulatory surgical facility fee that is billed or paid in addition to any fee for professional services.

(f) The facility is held out to any person or government entity as an ambulatory surgical facility or similar facility by means of signage, advertising, or other promotional efforts.

"Ambulatory surgical facility" does not include a hospital emergency

department.

(2) "Ambulatory surgical facility fee" means a fee for certain overhead costs associated with providing surgical services in an outpatient setting. A fee is an ambulatory surgical facility fee only if it directly or indirectly pays for costs associated with any of the following:

(a) Use of operating and recovery rooms, preparation areas, and waiting rooms and lounges for patients and relatives;

(b) Administrative functions, record keeping, housekeeping, utilities, and rent;

(c) Services provided by nurses, orderlies, technical personnel, and others involved in patient care related to providing surgery.

"Ambulatory surgical facility fee" does not include any additional payment in excess of a professional fee that is provided to encourage physicians, podiatrists, and dentists to perform certain surgical procedures in their office or their group practice's office rather than a health care facility, if the purpose of the additional fee is to compensate for additional cost incurred in performing office-based surgery.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care facility" means any of the following:

(a) An ambulatory surgical facility;

(b) A freestanding dialysis center;

(c) A freestanding inpatient rehabilitation facility;

(d) A freestanding birthing center;

(e) A freestanding radiation therapy center;

(f) A freestanding or mobile diagnostic imaging center.

(5) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

(B) By rule adopted in accordance with sections 3702.12 and 3702.13 of the Revised Code, the director of health shall establish quality standards for health care facilities. The standards may incorporate accreditation standards or other quality standards established by any entity recognized by the director.

In the case of an ambulatory surgical facility, the standards shall require the ambulatory surgical facility to maintain an infection control program. The purposes of the program are to minimize infections and communicable diseases and facilitate a functional and sanitary environment consistent with standards of professional practice. To achieve these purposes, ambulatory surgical facility staff managing the program shall create and administer a plan designed to prevent, identify, and manage infections and communicable

diseases; ensure that the program is directed by a qualified professional trained in infection control; ensure that the program is an integral part of the ambulatory surgical facility's quality assessment and performance improvement program; and implement in an expeditious manner corrective and preventive measures that result in improvement.

(C) Every ambulatory surgical facility shall require that each physician who practices at the facility comply with all relevant provisions in the Revised Code that relate to the obtaining of informed consent from a patient.

(D) The director shall issue a license to each health care facility that makes application for a license and demonstrates to the director that it meets the quality standards established by the rules adopted under division (B) of this section and satisfies the informed consent compliance requirements specified in division (C) of this section.

(E)(1) Except as provided in division (H) of this section and in section 3702.301 of the Revised Code, no health care facility shall operate without a license issued under this section.

(2) If the department of health finds that a physician who practices at a health care facility is not complying with any provision of the Revised Code related to the obtaining of informed consent from a patient, the department shall report its finding to the state medical board, the physician, and the health care facility.

(3) This division does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a health care facility and in favor of a patient who allegedly sustains harm as a result of the failure of the patient's physician to obtain informed consent from the patient prior to performing a procedure on or otherwise caring for the patient in the health care facility.

(F) The rules adopted under division (B) of this section shall include all of the following:

(1) Provisions governing application for, renewal, suspension, and revocation of a license under this section;

(2) Provisions governing orders issued pursuant to section 3702.32 of the Revised Code for a health care facility to cease its operations or to prohibit certain types of services provided by a health care facility;

(3) Provisions governing the imposition under section 3702.32 of the Revised Code of civil penalties for violations of this section or the rules adopted under this section, including a scale for determining the amount of the penalties;

(4) Provisions specifying the form inspectors must use when conducting inspections of ambulatory surgical facilities.

(G) An ambulatory surgical facility that performs or induces abortions shall comply with section 3701.791 of the Revised Code.

(H) The following entities are not required to obtain a license as a freestanding diagnostic imaging center issued under this section:

(1) A hospital registered under section 3701.07 of the Revised Code that provides diagnostic imaging;

(2) An entity that is reviewed as part of a hospital accreditation or certification program and that provides diagnostic imaging;

(3) An ambulatory surgical facility that provides diagnostic imaging in conjunction with or during any portion of a surgical procedure.

Sec. 3702.302. In the case of an ambulatory surgical facility not certified by the centers for medicare and medicaid services as an ambulatory surgical center, the director of health shall conduct an inspection of the facility each time the facility submits an application for license renewal. The director shall not renew the license unless all of the following conditions are met:

(A) The inspector conducting the inspection completes each item on the following, as applicable:

(1) Until the director adopts rules under division (F) of section 3702.30 of the Revised Code, the form approved by the director on the effective date of this section:

(2) The form specified by the director pursuant to rules adopted under division (F) of section 3702.30 of the Revised Code.

(B) The inspection demonstrates that the ambulatory surgical facility complies with all quality standards established by the director in rules adopted under division (B) of section 3702.30 of the Revised Code.

(C) The director determines that the most recent version of the updated written transfer agreement filed in accordance with division (B) of section 3702.303 of the Revised Code is satisfactory, unless the director has granted a variance from the written transfer agreement requirement as permitted by section 3702.304 of the Revised Code.

Sec. 3702.303. (A) Except as provided in division (C) of this section, an ambulatory surgical facility shall have a written transfer agreement with a local hospital that specifies an effective procedure for the safe and immediate transfer of patients from the facility to the hospital when medical care beyond the care that can be provided at the ambulatory surgical facility is necessary, including when emergency situations occur or medical complications arise. A copy of the agreement shall be filed with the director of health.

(B) An ambulatory surgical facility shall update a written transfer

agreement every two years and file a copy of the updated agreement with the director.

(C) The requirement for a written transfer agreement between an ambulatory surgical facility and a hospital does not apply if either of the following is the case:

(1) The facility is a provider-based entity, as defined in 42 C.F.R. 413.65(a)(2), of a hospital and the facility's policies and procedures to address situations when care beyond the care that can be provided at the ambulatory surgical facility are approved by the governing body of the facility's parent hospital and implemented;

(2) The director of health has, pursuant to the procedure specified in section 3702.304 of the Revised Code, granted the facility a variance from the requirement.

Sec. 3702.304. (A) The director of health may grant a variance from the written transfer agreement requirement of section 3702.303 of the Revised Code if the ambulatory surgical facility submits to the director a complete variance application, prescribed by the director, and the director determines after reviewing the application that the facility is capable of achieving the purpose of a written transfer agreement in the absence of one. The director's determination is final.

(B) A variance application is complete for purposes of division (A) of this section if it contains or includes as attachments all of the following:

(1) A statement explaining why application of the requirement would cause the facility undue hardship and why the variance will not jeopardize the health and safety of any patient;

(2) A letter, contract, or memorandum of understanding signed by the facility and one or more consulting physicians who have admitting privileges at a minimum of one local hospital, memorializing the physician or physicians' agreement to provide back-up coverage when medical care beyond the level the facility can provide is necessary;

(3) For each consulting physician described in division (B)(2) of this section:

(a) A signed statement in which the physician attests that the physician is familiar with the facility and its operations, and agrees to provide notice to the facility of any changes in the physician's ability to provide back-up coverage;

(b) The estimated travel time from the physician's main residence or office to each local hospital where the physician has admitting privileges;

(c) Written verification that the facility has a record of the name, telephone numbers, and practice specialties of the physician;

(d) Written verification from the state medical board that the physician possesses a valid certificate to practice medicine and surgery or osteopathic medicine and surgery issued under Chapter 4731. of the Revised Code;

(e) Documented verification that each hospital at which the physician has admitting privileges has been informed in writing by the physician that the physician is a consulting physician for the ambulatory surgical facility and has agreed to provide back-up coverage for the facility when medical care beyond the care the facility can provide is necessary.

(4) A copy of the facility's operating procedures or protocols that, at a minimum, do all of the following:

(a) Address how back-up coverage by consulting physicians is to occur, including how back-up coverage is to occur when consulting physicians are temporarily unavailable;

(b) Specify that each consulting physician is required to notify the facility, without delay, when the physician is unable to expeditiously admit patients to a local hospital and provide for continuity of patient care;

(c) Specify that a patient's medical record maintained by the facility must be transferred contemporaneously with the patient when the patient is transferred from the facility to a hospital.

(5) Any other information the director considers necessary.

(C) The director's decision to grant, refuse, or rescind a variance is final.

(D) The director shall consider each application for a variance independently without regard to any decision the director may have made on a prior occasion to grant or deny a variance to that ambulatory surgical facility or any other facility.

Sec. 3702.305. The director of health may impose conditions on any variance the director has granted under section 3702.304 of the Revised Code. The director may, at any time, rescind the variance for any reason, including a determination by the director that the facility is failing to meet one or more of the conditions or no longer adequately protects public health and safety. The director's decision to rescind a variance is final.

Sec. 3702.306. A variance the director of health grants under section 3702.304 of the Revised Code is effective for the period of time specified by the director, except that it shall not be effective beyond the date the ambulatory surgical facility's license expires. If a variance is to expire on the date the facility's license expires, the facility may submit to the director an application for a new variance with its next license renewal application.

Sec. 3702.307. An ambulatory surgical facility shall notify the director of health when any of the following occurs:

(A) The facility modifies any provision of its most recent written

transfer agreement filed with the director under section 3702.303 of the Revised Code. Notification under these circumstances shall occur not later than the business day after the modification is finalized. As used in this division, "business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(B) The facility modifies its operating procedures or protocols described in division (B)(4) of section 3702.304 of the Revised Code. Notification under these circumstances shall occur not later than forty-eight hours after the modification is made.

(C) The ambulatory surgical facility becomes aware of an event, including disciplinary action by the state medical board pursuant to section 4731.22 of the Revised Code, that may affect a consulting physician's certificate to practice medicine and surgery or osteopathic medicine and surgery or the physician's ability to admit patients to a hospital identified in a variance application, as described in division (B)(3)(e) of section 3702.304 of the Revised Code. Notification under these circumstances shall occur not later than one week after the facility becomes aware of the event's occurrence.

Sec. 3702.308. If any provision in sections 3702.302 to 3702.307 of the Revised Code is enjoined, the injunction does not affect any remaining provision of those sections, any provision of section 3702.30 of the Revised Code, or any provision of the rules adopted under that section.

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the Revised Code:

(A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.

(C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity.

(D) "Service area" means the current and projected primary and secondary service areas to which the long-term care facility is, or will be, providing long-term care services.

(E) "Primary service area" means the geographic region, usually comprised of the Ohio zip code in which the long-term care facility is located and contiguous zip codes, from which approximately seventy-five to eighty per cent of the facility's residents currently originate or are expected to originate.

(F) "Secondary service area" means the geographic region, usually comprised of Ohio zip codes not included in the primary service area, excluding isolated exceptions, from which the facility's remaining residents currently originate or are expected to originate.

(G) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (I) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701.; or 4123.; ~~or 5111.~~ of the Revised Code, the medicaid program, or any self-insurance plan.

(H) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

(I) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

(J) "Existing long-term care facility" means either of the following:

(1) A long-term care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, is staffed and equipped to provide long-term care services, and is actively providing long-term care services;

(2) A long-term care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or that has beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds and has provided long-term care services for at least three hundred sixty-five consecutive days within the twenty-four months immediately preceding the date a certificate of need application is filed with the director of health.

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

(L) "Political subdivision" means a municipal corporation, township, county, school district, and all other bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches.

(M) "Affected person" means:

(1) An applicant for a certificate of need, including an applicant whose application was reviewed comparatively with the application in question;

(2) The person that requested the reviewability ruling in question;

(3) Any person that resides or regularly uses long-term care facilities within the service area served or to be served by the long-term care services that would be provided under the certificate of need or reviewability ruling in question;

(4) Any long-term care facility that is located in the service area where the long-term care services would be provided under the certificate of need or reviewability ruling in question;

(5) Third-party payers that reimburse long-term care facilities for services in the service area where the long-term care services would be provided under the certificate of need or reviewability ruling in question.

(N) "Long-term care facility" means any of the following:

(1) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";

(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.

(O) "Long-term care bed" or "bed" means a bed that is categorized as one of the following:

(1) A bed that is located in a facility that is a nursing home licensed under section 3721.02 of the Revised Code or a facility licensed by a political subdivision certified under section 3721.09 of the Revised Code and is included in the authorized maximum licensed capacity of the facility;

(2) A bed that is located in the portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility under the medicare program or a nursing facility under the medicaid program and is included in the authorized maximum certified capacity of that portion of the facility;

(3) A bed that is registered under section 3701.07 of the Revised Code

as a skilled nursing bed, a long-term care bed, or a special skilled nursing bed;

(4) A bed in a county home or county nursing home that has been certified under section 5155.38 of the Revised Code as having been in operation on July 1, 1993, and is eligible for licensure as a nursing home bed;

(5) A bed held as an approved bed under a certificate of need approved by the director.

A bed cannot simultaneously be both a bed described in division (O)(1), (2), (3), or (4) of this section and a bed described in division (O)(5) of this section.

(P) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity.

(Q) "County nursing home" has the same meaning as in section 5155.31 of the Revised Code.

(R) "Principal participant" means both of the following:

(1) A person who has an ownership or controlling interest of at least five per cent in an applicant, in a long-term care facility that is the subject of an application for a certificate of need, or in the owner or operator of the applicant or such a facility;

(2) An officer, director, trustee, or general partner of an applicant, of a long-term care facility that is the subject of an application for a certificate of need, or of the owner or operator of the applicant or such a facility.

(S) "Actual harm but not immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of deficiencies resulting in actual harm that is not immediate jeopardy or represents widespread deficiencies resulting in actual harm that is not immediate jeopardy.

(T) "Immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of deficiencies resulting in immediate jeopardy to resident health or safety or represents widespread deficiencies resulting in immediate jeopardy to resident health or safety.

(U) "Existing bed" or "existing long-term care bed" means a bed from an existing long-term care facility, a bed described in division (O)(5) of this section, or a bed correctly reported as a long-term care bed pursuant to section 5155.38 of the Revised Code.

Sec. 3702.521. (A) Reviews of applications for certificates of need to recategorize hospital beds to skilled nursing beds shall be conducted in accordance with this division and rules adopted by the director of health.

(1) No hospital recategorizing beds shall apply for a certificate of need for more than twenty skilled nursing beds.

(2) No beds for which a certificate of need is requested under this division shall be reviewed under or counted in any formula developed under rules adopted by the director for the purpose of determining the number of long-term care beds that may be needed within the state.

(3) No beds shall be approved under this division unless the hospital certifies and demonstrates in the application that the beds will be dedicated to patients with a length of stay of no more than thirty days.

(4) No beds shall be approved under this division unless the hospital can satisfactorily demonstrate in the application that it is routinely unable to place the patients planned for the beds in accessible skilled nursing facilities.

(5) In developing rules to implement this division, the director shall give special attention to the required documentation of the need for such beds, including the efforts made by the hospital to place patients in suitable skilled nursing facilities, and special attention to the appropriate size of units with such beds given the historical pattern of the applicant hospital's documented difficulty in placing skilled nursing patients.

(B) For assistance in monitoring the use of hospital beds recategorized as skilled nursing beds after August 5, 1989, the director shall adopt rules specifying appropriate quarterly procedures for reporting to the department of health.

(C) A patient may stay in a hospital bed that, after August 5, 1989, has been recategorized as a skilled nursing bed for more than thirty days if the hospital is able to demonstrate that it made a good faith effort to place the patient in an accessible skilled nursing facility acceptable to the patient within the thirty-day period, but was unable to do so.

(D) No hospital bed recategorized after August 5, 1989, as a skilled nursing bed shall be covered by a provider agreement under the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code.

(E) Nothing in this section requires a hospital to place a patient in any nursing home if the patient does not wish to be placed in the nursing home. Nothing in this section limits the ability of a hospital to file a certificate of need application for the addition of long-term care beds that meet the definition of "home" in section 3721.01 of the Revised Code. Nothing in this section limits the ability of the director to grant certificates of need necessary for hospitals to engage in demonstration projects authorized by the federal government for the purpose of enhancing long-term quality of

care and cost containment. Nothing in this section limits the ability of hospitals to develop swing bed programs in accordance with federal regulations.

No hospital that is granted a certificate of need after August 5, 1989, to recategorize hospital beds as skilled nursing beds is subject to sections 3721.01 to 3721.09 of the Revised Code. If the portion of the hospital in which the recategorized beds are located is certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, that portion of the hospital is subject to sections 3721.10 to 3721.17 and sections 3721.21 to 3721.34 of the Revised Code. If the beds are registered pursuant to section 3701.07 of the Revised Code as long-term care beds, the beds are subject to sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised Code.

Sec. 3702.55. A person that the director of health determines has violated section 3702.53 of the Revised Code shall cease conducting the activity that constitutes the violation or utilizing the facility resulting from the violation not later than thirty days after the person receives the notice mailed under section 3702.532 of the Revised Code or, if the person appeals the director's determination under section 3702.60 of the Revised Code, thirty days after the person receives an order upholding the director's determination that is not subject to further appeal.

If any person determined to have violated section 3702.53 of the Revised Code fails to cease conducting an activity or using a facility as required by this section or if the person continues to seek payment or reimbursement for services rendered or costs incurred in conducting the activity as prohibited by section 3702.56 of the Revised Code, in addition to the penalties imposed under section 3702.54 or 3702.541 of the Revised Code:

(A) The director of health may refuse to include any beds involved in the activity in the bed capacity of a hospital for purposes of registration under section 3701.07 of the Revised Code;

(B) The director of health may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a hospice care program under section 3712.04 of the Revised Code; a nursing home, residential care facility, or home for the aging under section 3721.02 of the Revised Code; or any beds within any of those facilities that are involved in the activity;

(C) A political subdivision certified under section 3721.09 of the Revised Code may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a nursing home, residential care facility, or home for the aging, or any beds within any of those facilities that are

involved in the activity;

(D) The director of ~~mental health~~ mental health and addiction services may refuse to license under section ~~5119.20~~ 5119.33 of the Revised Code, or may revoke a license or reduce bed capacity previously granted to, a hospital receiving mentally ill persons or beds within such a hospital that are involved in the activity;

(E) The department of ~~job and family services~~ medicaid may refuse to enter into a provider agreement that includes a facility, beds, or services that result from the activity.

Sec. 3702.62. Sections 3702.51 to 3702.61 of the Revised Code do not apply to any part of a long-term care facility's campus that is certified as an intermediate care facility for ~~the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 343 (1965), 42 U.S.C. 1396 et seq., as amended~~ individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code.

Sec. 3702.74. (A) A primary care physician who has signed a letter of intent under section 3702.73 of the Revised Code and the director of health may enter into a contract for the physician's participation in the physician loan repayment program. The physician's employer or other funding source may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for at least two years;

(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to do all of the following:

(a) Provide primary care services for a minimum of forty hours per week, of which at least twenty-one hours will be spent providing patient care in an outpatient or ambulatory setting;

(b) Provide primary care services without regard to a patient's ability to pay;

(c) Meet the ~~conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the department of job and family services requirements for participation in the a~~ medicaid program established under Chapter 5111. of the Revised Code ~~provider agreement and enter into a contract~~ the agreement with the department of medicaid to provide primary care services to medicaid recipients of ~~the medical assistance program.~~

(3) The department of health agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs

the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the primary care physician for expenses described in section 3702.75 of the Revised Code;

(4) The primary care physician agrees to pay the department of health an amount established by rules adopted under section 3702.79 of the Revised Code if the physician fails to complete the service obligation agreed to under division (B)(1) of this section.

(C) The contract may include any other terms agreed upon by the parties.

Sec. 3702.91. (A) An individual who has signed a letter of intent under section 3702.90 of the Revised Code may enter into a contract with the director of health for participation in the dentist loan repayment program. The dentist's employer or other funding source may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The individual agrees to provide dental services in the dental health resource shortage area identified in the letter of intent for at least two years.

(2) When providing dental services in the dental health resource shortage area, the individual agrees to do all of the following:

(a) Provide dental services for a minimum of forty hours per week;

(b) Provide dental services without regard to a patient's ability to pay;

(c) Meet the ~~conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the department of job and family services requirements for participation in the a medicaid program established under Chapter 5111. of the Revised Code~~ provider agreement and enter into a ~~contract~~ the agreement with the department of medicaid to provide dental services to medicaid recipients.

(3) The department of health agrees, as provided in section 3702.85 of the Revised Code, to repay, so long as the individual performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the individual for expenses described in section 3702.85 of the Revised Code.

(4) The individual agrees to pay the department of health an amount established by rules adopted under section 3702.86 of the Revised Code, if the individual fails to complete the service obligation agreed to under division (B)(1) of this section.

(C) The contract may include any other terms agreed upon by the parties.

(D) Not later than the thirty-first day of January of each year, the

department of health shall mail to each individual to whom or on whose behalf repayment is made under the dentist loan repayment program a statement showing the amount of principal and interest repaid by the department pursuant to the contract in the preceding year. The statement shall be sent by ordinary mail with address correction and forwarding requested in the manner prescribed by the United States postal service.

Sec. 3704.144. (A) Gifts, grants, and contributions for the purpose of adding pollution control equipment to diesel-powered school buses and converting diesel-powered school buses to alternative fuels, including contributions that are made pursuant to the settlement of an administrative action or civil action that is brought at the request of the director of environmental protection pursuant to Chapter 3704., 3714., 3734., 6109., or 6111. of the Revised Code, shall be credited to the clean diesel school bus fund, which is hereby created in the state treasury. The director shall use money credited to the fund to make grants to school districts in the state and to county boards of developmental disabilities for the purpose of adding pollution control equipment to diesel-powered school buses and converting diesel-powered school buses to alternative fuels by means of certified engine configurations and verified technologies that are consistent with the requirements of section 793 and any regulations adopted under that section and to pay the environmental protection agency's costs incurred in administering this section. In addition, the director may use money credited to the fund to make grants to school districts and to county boards of developmental disabilities for the purpose of maintaining pollution control equipment that is installed on diesel-powered school buses ~~and to pay the additional cost incurred by a school district or a county board for using ultra low sulfur diesel fuel instead of diesel fuel for the operation of diesel-powered school buses.~~

(B) In making grants under this section, the director shall give priority to school districts and to county boards of developmental disabilities that are located in a county that is designated as nonattainment by the United States environmental protection agency for the fine particulate national ambient air quality standard under the federal Clean Air Act. In addition, the director may give a higher priority to a school district or a county board of developmental disabilities that employs additional measures that reduce air pollution from the district's or the county board's school bus fleet.

(C) The director shall adopt rules establishing procedures and requirements that are necessary to implement this section, including procedures and requirements governing applications for grants.

(D) As used in this section:

(1) "Alternative fuel" has the same meaning as in section 125.831 of the Revised Code.

(2) "Certified engine configuration" and "section 793" have the same meanings as in section 122.861 of the Revised Code.

(3) "Verified technology" means a pollution control technology, including retrofit technology and auxiliary power unit, that has been verified by the administrator of the United States environmental protection agency or the California air resources board.

Sec. 3706.01. As used in this chapter:

(A) "Governmental agency" means a department, division, or other unit of state government, a municipal corporation, county, township, and other political subdivision, or any other public corporation or agency having the power to acquire, construct, or operate air quality facilities, the United States or any agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(B) "Person" means any individual, firm, partnership, association, or corporation, or any combination thereof.

(C) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, noise, vapor, heat, radioactivity, radiation, or odorous substance, or any combination thereof.

(D) "Air pollution" means the presence in the ambient air of one or more air contaminants in sufficient quantity and of such characteristics and duration as to injure human health or welfare, plant or animal life, or property, or that unreasonably interferes with the comfortable enjoyment of life or property.

(E) "Ambient air" means that portion of the atmosphere outside of buildings and other enclosures, stacks, or ducts that surrounds human, plant, or animal life, or property.

(F) "Emission" means the release into the outdoor atmosphere of an air contaminant.

(G) "Air quality facility" means any of the following:

(1) Any method, modification or replacement of property, process, device, structure, or equipment that removes, reduces, prevents, contains, alters, conveys, stores, disperses, or disposes of air contaminants or substances containing air contaminants, or that renders less noxious or reduces the concentration of air contaminants in the ambient air, including, without limitation, facilities and expenditures that qualify as air pollution control facilities under section 103 (C)(4)(F) of the Internal Revenue Code of 1954, as amended, and regulations adopted thereunder;

(2) Motor vehicle inspection stations operated in accordance with, and

any equipment used for motor vehicle inspections conducted under, section 3704.14 of the Revised Code and rules adopted under it;

(3) Ethanol or other biofuel facilities, including any equipment used at the ethanol or other biofuel facility for the production of ethanol or other biofuels;

(4) Any property or portion thereof used for the collection, storage, treatment, utilization, processing, or final disposal of a by-product or solid waste resulting from any method, process, device, structure, or equipment that removes, reduces, prevents, contains, alters, conveys, stores, disperses, or disposes of air contaminants, or that renders less noxious or reduces the concentration of air contaminants in the ambient air;

(5) Any property, device, or equipment that promotes the reduction of emissions of air contaminants into the ambient air through improvements in the efficiency of energy utilization or energy conservation;

(6) Any coal research and development project conducted under Chapter 1555. of the Revised Code;

(7) As determined by the director of the Ohio coal development office, any property or portion thereof that is used for the collection, storage, treatment, utilization, processing, or final disposal of a by-product resulting from a coal research and development project as defined in section 1555.01 of the Revised Code or from the use of clean coal technology, excluding any property or portion thereof that is used primarily for other subsequent commercial purposes;

(8) Any property or portion thereof that is part of the FutureGen project of the United States department of energy or related to the siting of the FutureGen project;

(9) Any property, device, or equipment that promotes the reduction of emissions of air contaminants into the ambient air through the generation of clean, renewable energy with renewable energy resources or advanced energy resources as defined in section 3706.25 of the Revised Code;

(10) Any property, device, structure or equipment necessary for the manufacture and production of equipment described as an air quality facility under this chapter;

(11) Any property, device, or equipment related to the recharging or refueling of vehicles that promotes the reduction of emissions of air contaminants into the ambient air through the use of an alternative fuel as defined in section 125.831 of the Revised Code or the use of a renewable energy resource as defined in section 3706.25 of the Revised Code.

"Air quality facility" further includes any property or system to be used in whole or in part for any of the purposes in divisions (G)(1) to ~~(10)~~(11) of

this section, whether another purpose is also served, and any property or system incidental to or that has to do with, or the end purpose of which is, any of the foregoing. Air quality facilities that are defined in this division for industry, commerce, distribution, or research, including public utility companies, are hereby determined to be those that qualify as facilities for the control of air pollution and thermal pollution related to air under Section 13 of Article VIII, Ohio Constitution.

(H) "Project" or "air quality project" means any air quality facility, including undivided or other interests therein, acquired or to be acquired or constructed or to be constructed by the Ohio air quality development authority under this chapter, or acquired or to be acquired or constructed or to be constructed by a governmental agency or person with all or a part of the cost thereof being paid from a loan or grant from the authority under this chapter or otherwise paid from the proceeds of air quality revenue bonds, including all buildings and facilities that the authority determines necessary for the operation of the project, together with all property, rights, easements, and interests that may be required for the operation of the project.

(I) "Cost" as applied to an air quality project means the cost of acquisition and construction, the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office and sub-offices of the authority, the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements for such access roads, the cost of public utility and common carrier relocation or duplication, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of construction, engineering, expenses of research and development with respect to air quality facilities, the cost of any commodity contract, including fees and expenses related thereto, legal expenses, plans, specifications, surveys, studies, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing such project, administrative expense, and such other expense as may be necessary or incident to the acquisition or construction of the project, the financing of such acquisition or construction, including the amount authorized in the resolution of the authority providing for the issuance of air quality revenue bonds to be paid into any special

funds from the proceeds of such bonds, and the financing of the placing of such project in operation. Any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, preparation of plans and specifications, and other engineering services, or any other cost described above, in connection with the acquisition or construction of a project may be regarded as a part of the cost of that project and may be reimbursed out of the proceeds of air quality revenue bonds as authorized by this chapter.

(J) "Owner" includes an individual, copartnership, association, or corporation having any title or interest in any property, rights, easements, or interests authorized to be acquired by this chapter.

(K) "Revenues" means all rentals and other charges received by the authority for the use or services of any air quality project, any gift or grant received with respect to any air quality project, any moneys received with respect to the lease, sublease, sale, including installment sale or conditional sale, or other disposition of an air quality project, moneys received in repayment of and for interest on any loans made by the authority to a person or governmental agency, whether from the United States or any department, administration, or agency thereof, or otherwise, proceeds of such bonds to the extent that use thereof for payment of principal of, premium, if any, or interest on the bonds is authorized by the authority, amounts received or otherwise derived from a commodity contract or from the sale of the related commodity under such a contract, proceeds from any insurance, condemnation, or guaranty pertaining to a project or property mortgaged to secure bonds or pertaining to the financing of the project, and income and profit from the investment of the proceeds of air quality revenue bonds or of any revenues.

(L) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(M) "Public utility facilities" includes tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances of any public utility.

(N) "Construction," unless the context indicates a different meaning or intent, includes reconstruction, enlargement, improvement, or providing furnishings or equipment.

(O) "Air quality revenue bonds," unless the context indicates a different meaning or intent, includes air quality revenue notes, air quality revenue renewal notes, and air quality revenue refunding bonds, except that notes issued in anticipation of the issuance of bonds shall have a maximum

maturity of five years as provided in section 3706.05 of the Revised Code and notes or renewal notes issued as the definitive obligation may be issued maturing at such time or times with a maximum maturity of forty years from the date of issuance of the original note.

(P) "Solid waste" means any garbage; refuse; sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but not including solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges that are point sources subject to permits under section 402 of the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 880, 33 U.S.C.A. 1342, as amended, or source, special nuclear, or byproduct material as defined by the "Atomic Energy Act of 1954," 68 Stat. 921, 42 U.S.C.A. 2011, as amended.

(Q) "Sludge" means any solid, semisolid, or liquid waste, other than a recyclable by-product, generated from a municipal, commercial, or industrial waste water treatment plant, water supply plant, or air pollution control facility or any other such wastes having similar characteristics and effects.

(R) "Ethanol or other biofuel facility" means a plant at which ethanol or other biofuel is produced.

(S) "Ethanol" means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal, grains, cheese whey, and sugar beets; forest products; or other renewable or biomass resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable or biomass resources, that meets all of the specifications in the American society for testing and materials (ASTM) specification D 4806-88 and is denatured as specified in Parts 20 and 21 of Title 27 of the Code of Federal Regulations.

(T) "Biofuel" means any fuel that is made from cellulosic biomass resources, including renewable organic matter, crop waste residue, wood, aquatic plants and other crops, animal waste, solid waste, or sludge, and that is used for the production of energy for transportation or other purposes.

(U) "FutureGen project" means the buildings, equipment, and real property and functionally related buildings, equipment, and real property, including related research projects that support the development and operation of the buildings, equipment, and real property, designated by the

United States department of energy and the FutureGen industrial alliance, inc., as the coal-fueled, zero-emissions power plant designed to prove the technical and economic feasibility of producing electricity and hydrogen from coal and nearly eliminating carbon dioxide emissions through capture and permanent storage.

(V) "Commodity contract" means a contract or series of contracts entered into in connection with the acquisition or construction of air quality facilities for the purchase or sale of a commodity that is eligible for prepayment with the proceeds of federally tax exempt bonds under sections 103, 141, and 148 of the Internal Revenue Code of 1986, as amended, and regulations adopted under it.

Sec. 3707.511. (A) As used in this section, ~~"physician":~~

"Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

"Chiropractor" means a person licensed under Chapter 4734. of the Revised Code to practice chiropractic.

(B) A youth sports organization shall provide to the parent, guardian, or other person having care or charge of an individual who wishes to practice for or compete in an athletic activity organized by a youth sports organization the concussion and head injury information sheet required by section 3707.52 of the Revised Code. The organization shall provide the information sheet annually for each sport or other category of athletic activity for or in which the individual practices or competes.

(C)(1) No individual shall act as a coach or referee for a youth sports organization unless the individual holds a pupil-activity program permit issued under section 3319.303 of the Revised Code for coaching interscholastic athletics or presents evidence that the individual has successfully completed, within the previous three years, a training program in recognizing the symptoms of concussions and head injuries to which the department of health has provided a link on its internet web site under section 3707.52 of the Revised Code.

(2) The youth sports organization for which the individual intends to act as a coach or referee shall inform the individual of the requirement described in division (C)(1) of this section.

(D) If an individual practicing for or competing in an athletic event organized by a youth sports organization exhibits signs, symptoms, or behaviors consistent with having sustained a concussion or head injury while participating in the practice or competition, the individual shall be removed from the practice or competition by one of the following:

(1) The individual who is serving as the individual's coach during that practice or competition;

(2) An individual who is serving as a referee during that practice or competition;

(3) An official of the youth sports organization who is supervising that practice or competition.

(E)(1) If an individual is removed from practice or competition under division (D) of this section, the coach, referee, or official who removed the individual shall not allow the individual, on the same day the individual is removed, to return to that practice or competition or to participate in any other practice or competition for which the coach, referee, or official is responsible. Thereafter, the coach, referee, or official shall not allow the student to return to that practice or competition or to participate in any other practice or competition for which the coach, referee, or official is responsible until both of the following conditions are satisfied:

(a) The individual's condition is assessed by ~~either~~ any of the following:

(i) A physician;

(ii) A chiropractor;

(iii) Any other licensed health care provider the youth sports organization, pursuant to division (E)(2) of this section, authorizes to assess an individual who has been removed from practice or competition under division (D) of this section.

(b) The individual receives written clearance that it is safe for the individual to return to practice or competition from a physician, chiropractor, or ~~from~~ another licensed health care provider authorized pursuant to division (E)(2) of this section to grant the clearance.

(2) A youth sports organization may authorize a licensed health care provider who is not a physician or a chiropractor to make an assessment or grant a clearance for purposes of division (E)(1) of this section only if the provider is acting in accordance with one of the following, as applicable to the provider's authority to practice in this state:

(a) In consultation with a physician;

(b) Pursuant to the referral of a physician;

(c) In collaboration with a physician;

(d) Under the supervision of a physician.

(3) A physician, chiropractor, or other licensed health care provider who makes an assessment or grants a clearance for purposes of division (E)(1) of this section may be a volunteer.

(F)(1) A youth sports organization or official, employee, or volunteer of a youth sports organization, including a coach or referee, is not liable in

damages in a civil action for injury, death, or loss to person or property allegedly arising from providing services or performing duties under this section, unless the act or omission constitutes willful or wanton misconduct.

(2) This section does not eliminate, limit, or reduce any other immunity or defense that a public entity, public official, or public employee may be entitled to under Chapter 2744. or any other provision of the Revised Code or under the common law of this state.

Sec. 3709.01. The state shall be divided into health districts. Each city constitutes a health district and shall be known as a "city health district."

The townships and villages in each county shall be combined into a health district and shall be known as a "general health district."

As provided for in sections 3709.051, 3709.07, ~~3709.071~~, and 3709.10 of the Revised Code, there may be a union of two or more ~~contiguous~~ general health districts, ~~not to exceed five~~, a union of two or more ~~contiguous~~ city health districts to form a single city health district, or a union of a general health district and one or more city health districts located within or partially within such general health district.

Sec. 3709.051. Two or more ~~contiguous~~ city health districts may be united to form a single city health district by a majority affirmative vote of the legislative authority of each city affected by the union.

If at least three per cent of the qualified electors residing within each of two or more ~~contiguous~~ city health districts sign a petition proposing a union into a single city health district, an election shall be held as provided in this section to determine whether a single city health district shall be formed. The petition for union may specify regarding the board of health of the new district:

- (A) The qualifications for membership;
- (B) The term of office;
- (C) The number of members or a method by which the number may be determined from time to time;
- (D) The method of appointment.

Such petition shall be filed with the boards of county commissioners of the respective counties affected, subject to approval of the director of health, and such boards shall promptly certify the text of the proposal to the boards of election for the purpose of having the proposal placed on the ballot at the next general election occurring more than ninety days after such certification. The election procedures provided in Chapter 3505. of the Revised Code for questions and issues shall apply to the election. If a majority of the electors voting on the proposal in each of the health districts affected vote in favor thereof, the union of such districts into a single city

health district shall be established on the second succeeding first day of January.

Sec. 3709.10. When it is proposed that two or more ~~contiguous~~ general health districts, ~~not to exceed five~~, unite in the formation of one general health district, the district advisory council of each general health district shall meet and vote on the question of union. An affirmative majority vote of the district advisory council shall be required for approval. When the district advisory councils have voted affirmatively on the question, they shall meet in joint session and shall elect a board of health for the combined districts. Each original general health district shall be entitled to at least one member on the board of health of the combined districts.

When such union is completed, ~~such~~ the district shall constitute a general health district and shall be governed in the manner provided for general health districts. When two or more general health districts unite to form one district, the office of the board of health shall be located at the county seat of the county selected by the joint board of district advisory councils.

When two or more general health districts have been combined into a single district, the county auditor of the county selected by the joint board of district advisory councils as the location of the central office of the board of health shall be the auditor of such district and the county treasurer of such county shall be the custodian of the health funds of such district. When the budget of such combined general health district is a matter for consideration, the members of the budget commissions of the counties constituting the district shall sit as a joint board for considering and acting on such budget.

Sec. 3712.051. (A) As used in this division, "person" does not include a member of an interdisciplinary team, as defined in section 3712.01 of the Revised Code, or any individual who is employed by a person or public agency licensed under section 3712.041 of the Revised Code.

Except as provided in division (B) of this section, no person or public agency, other than a person or public agency licensed pursuant to section 3712.041 of the Revised Code, shall hold itself out as providing a pediatric respite care program, or provide a pediatric respite care program, or use the term "pediatric respite care program" or any term containing "pediatric respite care" to describe or refer to a health program, facility, or agency.

(B) Division (A) of this section does not apply to any of the following:

- (1) A hospital;
- (2) A nursing home or residential care facility, as those terms are defined in section 3721.01 of the Revised Code;
- (3) A home health agency, if it provides services under contract with a

person or public agency providing a pediatric respite care program licensed under section 3712.041 of the Revised Code;

(4) A regional, state, or national nonprofit organization whose members are providers of pediatric respite care programs, individuals interested in pediatric respite care programs, or both, as long as the organization does not provide or represent that it provides pediatric respite care programs;

(5) A person or government entity certified under section 5123.161 of the Revised Code as a supported living provider;

(6) A residential facility licensed under section 5123.19 of the Revised Code;

(7) A respite care home certified under section 5126.05 of the Revised Code;

(8) A person providing respite care under a family support services program established under section 5126.11 of the Revised Code;

(9) A person or government entity providing respite care under a medicaid waiver component that the department of developmental disabilities administers pursuant to section ~~5111.871~~ 5166.21 of the Revised Code.

(C) The department of health shall petition the court of common pleas of any county in which a person or public agency, without a license granted under section 3712.041 of the Revised Code, is holding itself out as providing a pediatric respite care program, is providing a pediatric respite care program, or is representing a health program, facility, or agency as a pediatric respite care program, for an order enjoining that person or public agency from conducting those activities without a license. The court has jurisdiction to grant injunctive relief upon a showing that the respondent named in the petition is conducting those activities without a license.

Any person or public agency may request the department to petition the court for injunctive relief under this division, and the department shall do so if it determines that the person or public agency named in the request is violating division (A) of this section.

Sec. 3712.07. (A) As used in this section, "terminal care facility for the homeless" means a facility that provides accommodations to homeless individuals who are terminally ill.

(B) A person or public agency licensed under this chapter to provide a hospice care program may enter into an agreement with a terminal care facility for the homeless under which hospice care program services may be provided to individuals residing at the facility, if all of the following apply:

(1) Each resident of the facility has been diagnosed by a physician as having a terminal condition and an anticipated life expectancy of six months

or less;

(2) No resident of the facility has a relative or other person willing or capable of providing the care necessary to cope with ~~his~~ the resident's terminal illness or is financially capable of hiring a person to provide such care;

(3) Each resident of the facility is under the direct care of a physician;

(4) No resident of the facility requires the staff of the facility to administer medication by injection;

(5) The facility does not receive any remuneration, directly or indirectly, from the residents;

(6) The facility does not receive any remuneration, directly or indirectly, from the ~~medical assistance~~ medicaid program ~~established under section 5111.01 of the Revised Code~~ or the medicare program ~~established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~

(7) The facility meets all applicable state and federal health and safety standards, including standards for fire prevention, maintenance of safe and sanitary conditions, and proper preparation and storage of foods.

(C) Hospice care program services may be provided at a terminal care facility for the homeless only by the personnel of the person or public agency that has entered into an agreement with the facility under this section.

(D) A terminal care facility for the homeless that has entered into an agreement under this section may assist its residents with the self-administration of medication if the medication has been prescribed by a physician and is not administered by injection. In the event that a resident has entered the final stages of dying and is no longer mentally alert, the facility may administer medication to that resident if the medication has been prescribed by a physician and is not administered by injection. Determinations of whether an individual has entered the final stages of dying and is no longer mentally alert shall be based on directions from the personnel who provide hospice care program services at the facility.

Sec. 3712.09. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment with a hospice care program or pediatric respite care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult or pediatric respite care patient. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

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

(B)(1) Except as provided in division (I) of this section, the chief administrator of a hospice care program or pediatric respite care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section and subject to division (C)(2) of this section, no hospice care program or pediatric respite care program shall employ a person in a position that involves providing direct care to an older adult or pediatric respite care patient if the person has been convicted of or pleaded guilty to any of the following:

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

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

(2)(a) A hospice care program or pediatric respite care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a hospice care program or pediatric respite care program may employ conditionally an applicant who has been referred to the hospice care program or pediatric respite care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults or pediatric respite care patients and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) A hospice care program or pediatric respite care program that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the program shall terminate the individual's employment unless the program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section

4141.29 of the Revised Code if the individual makes any attempt to deceive the program about the individual's criminal record.

(D)(1) Each hospice care program or pediatric respite care program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A hospice care program or pediatric respite care program may charge an applicant a fee not exceeding the amount the program pays under division (D)(1) of this section. A program may collect a fee only if both of the following apply:

(a) The program notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The ~~medical assistance~~ medicaid program established under ~~Chapter 5111. of the Revised Code~~ does not reimburse the program the fee it pays under division (D)(1) of this section.

(E) The report of a criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults or pediatric respite care patients that is owned or operated by the same entity that owns or operates the hospice care program or pediatric respite care program;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section.

(F) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a hospice care program or pediatric respite care program may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the director.

(G) The chief administrator of a hospice care program or pediatric respite care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult or pediatric respite care patient, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who a hospice care program or pediatric respite care program employs in a position that involves providing direct care to older adults or pediatric respite care patients, all of the following shall apply:

(1) If the program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the program shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of a hospice care program or pediatric respite care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults or pediatric respite care patients and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or

described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the hospice care program or pediatric respite care program chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a hospice care program or pediatric respite care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults or pediatric respite care patients and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the hospice care program or pediatric respite care program. If a hospice care program or pediatric respite care program employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the hospice care program or pediatric respite care program, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. 3713.06. (A) Any person required to register under division (A) of section 3713.02 of the Revised Code who imports bedding or stuffed toys into this state for retail sale or use in this state and any person required to register under division (A) of section 3713.02 of the Revised Code who manufactures bedding or stuffed toys in this state for retail sale or use in this state shall submit a report to the superintendent of industrial compliance, in a form and manner prescribed by the superintendent. The form shall be submitted once ~~every six months~~ per year and shall show the total number of items of bedding or stuffed toys imported into this state or manufactured in this state. Each report shall be accompanied by a fee of four cents for each

item of bedding or stuffed toy imported into this state or manufactured in this state.

(B) Every importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, and every mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, and auction house shall retain records, designated by the superintendent in rule, for the time period established in rule.

(C) Every importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, and every mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, and auction house shall make sufficient investigation of its records to ensure that the information reported to the superintendent under division (A) of this section is accurate.

Sec. 3714.03. (A) As used in this section:

(1) "Aquifer system" means one or more geologic units or formations that are wholly or partially saturated with water and are capable of storing, transmitting, and yielding significant amounts of water to wells or springs.

(2) "Category 3 wetland" means a wetland that supports superior habitat or hydrological or recreational functions as determined by an appropriate wetland evaluation methodology acceptable to the director of environmental protection. "Category 3 wetland" includes a wetland with high levels of diversity, a high proportion of native species, and high functional values and includes, but is not limited to, a wetland that contains or provides habitat for threatened or endangered species. "Category 3 wetland" may include high quality forested wetlands, including old growth forested wetlands, mature forested riparian wetlands, vernal pools, bogs, fens, and wetlands that are scarce regionally.

(3) "Natural area" means either of the following:

(a) An area designated by the director of natural resources as a wild, scenic, or recreational river under section 1547.81 of the Revised Code;

(b) An area designated by the United States department of the interior as a national wild, scenic, or recreational river.

(4) "Occupied dwelling" means a residential dwelling and also includes a place of worship as defined in section 5104.01 of the Revised Code, a child day-care center as defined in that section, a hospital as defined in section 3727.01 of the Revised Code, a nursing home as defined in that section, a school, and a restaurant or other eating establishment. "Occupied dwelling" does not include a dwelling owned or controlled by the owner or operator of a construction and demolition debris facility to which the siting criteria established under this section are being applied.

(5) "Residential dwelling" means a building used or intended to be used

in whole or in part as a personal residence by the owner, part-time owner, or lessee of the building or any person authorized by the owner, part-time owner, or lessee to use the building as a personal residence.

(B) Neither the director of environmental protection nor any board of health shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when any portion of the facility is proposed to be located in either of the following locations:

(1) Within the boundaries of a one-hundred-year flood plain, as those boundaries are shown on the applicable maps prepared under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, unless the owner or operator has obtained an exemption from division (B)(1) of this section in accordance with section 3714.04 of the Revised Code. If no such maps have been prepared, the boundaries of a one-hundred-year flood plain shall be determined by the applicant for a permit based upon standard methodologies set forth in "urban hydrology for small watersheds" (soil conservation service technical release number 55) and section 4 of the "national engineering hydrology handbook" of the soil conservation service of the United States department of agriculture.

(2) Within the boundaries of a sole source aquifer designated by the administrator of the United States environmental protection agency under the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.

(C) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the horizontal limits of construction and demolition debris placement at the new facility are proposed to be located in any of the following locations:

(1) Within one hundred feet of a perennial stream as defined by the United States geological survey seven and one-half minute quadrangle map or a category 3 wetland;

(2) Within one hundred feet of the facility's property line;

(3)(a) Except as provided in division (C)(3)(b) of this section, within five hundred feet of a residential or public water supply well.

(b) Division (C)(3)(a) of this section does not apply to a residential well under any of the circumstances specified in divisions (C)(3)(b)(i) to (iii) of this section as follows:

(i) The well is controlled by the owner or operator of the construction and demolition debris facility.

(ii) The well is hydrologically separated from the horizontal limits of

construction and demolition debris placement.

(iii) The well is at least three hundred feet upgradient from the horizontal limits of construction and demolition debris placement and division (D) of this section does not prohibit the issuance of the permit to install.

(4) Within five hundred feet of a park created or operated pursuant to section 301.26, 511.18, 755.08, 1545.04, or 1545.041 of the Revised Code, a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, a national recreation area, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any area located in this state that is recommended by the secretary for study for potential inclusion in the national park system in accordance with "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended;

(5) Within five hundred feet of a natural area, any area established by the department of natural resources as a state wildlife area under Chapter 1531. of the Revised Code and rules adopted under it, any area that is formally dedicated as a nature preserve under section 1517.05 of the Revised Code, or any area designated by the United States department of the interior as a national wildlife refuge;

(6) Within five hundred feet of a lake or reservoir of one acre or more that is hydrogeologically connected to ground water. For purposes of division (C)(6) of this section, a lake or reservoir does not include a body of water constructed and used for purposes of surface water drainage or sediment control.

(7) Within five hundred feet of a state forest purchased or otherwise acquired under Chapter 1503. of the Revised Code;

~~(8) Within five hundred feet of land that is placed on the state registry of historic landmarks under section 149.55 of the Revised Code;~~

~~(9) Within five hundred feet of an occupied dwelling unless written permission is given by the owner of the dwelling.~~

(D) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the limits of construction and demolition debris placement at the new facility are proposed to have an isolation distance of less than five feet from the uppermost aquifer system that consists of material that has a maximum hydraulic conductivity of 1×10^{-5} cm/sec and all of the geologic material comprising the isolation distance

has a hydraulic conductivity equivalent to or less than 1×10^{-6} cm/sec.

(E) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the road that is designated by the owner or operator as the main hauling road at the facility to and from the limits of construction and demolition debris placement is proposed to be located within five hundred feet of an occupied dwelling unless written permission is given by the owner of the occupied dwelling.

(F) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility unless the new facility will have all of the following:

(1) Access roads that shall be constructed in a manner that allows use in all weather conditions and will withstand the anticipated degree of use and minimize erosion and generation of dust;

(2) Surface water drainage and sediment controls that are required by the director;

(3) If the facility is proposed to be located in an area in which an applicable zoning resolution allows residential construction, vegetated earthen berms or an equivalent barrier with a minimum height of six feet separating the facility from adjoining property.

(G)(1) The siting criteria established in this section shall be applied to an application for a permit to install at the time that the application is submitted to the director or a board of health, as applicable. Circumstances related to the siting criteria that change after the application is submitted shall not be considered in approving or disapproving the application.

(2) The siting criteria established in this section by this amendment do not apply to an expansion of a construction and demolition debris facility that was in operation prior to December 22, 2005, onto property within the property boundaries identified in the application for the initial license for that facility or any subsequent license issued for that facility up to and including the license issued for that facility for calendar year 2005. The siting criteria established in this section prior to December 22, 2005, apply to such an expansion.

Sec. 3714.07. (A)(1) For the purpose of assisting boards of health and the environmental protection agency in administering and enforcing this chapter and rules adopted under it, there is hereby levied a fee of thirty cents per cubic yard or sixty cents per ton, as applicable, on both of the following:

(a) The disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid

waste facility that is licensed under Chapter 3734. of the Revised Code;

(b) The disposal of asbestos or asbestos-containing materials or products at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code.

(2) The owner or operator of a construction and demolition debris facility or a solid waste facility shall determine if cubic yards or tons will be used as the unit of measurement. If basing the fee on cubic yards, the owner or operator shall utilize either the maximum cubic yard capacity of the container, or the hauling volume of the vehicle, that transports the construction and demolition debris to the facility or the cubic yards actually logged for disposal by the owner or operator in accordance with rules adopted under section 3714.02 of the Revised Code. If basing the fee on tonnage, the owner or operator shall use certified scales to determine the tonnage of construction and demolition debris that is disposed of.

(3) The owner or operator of a construction and demolition debris facility or a solid waste facility shall calculate the amount of money generated from the fee levied under division (A)(1) of this section and shall hold that amount as a trustee for the health district having jurisdiction over the facility, if that district is on the approved list under section 3714.09 of the Revised Code, or for the state. The owner or operator shall prepare and file with the appropriate board of health or the director of environmental protection monthly returns indicating the total volume or weight, as applicable, of construction and demolition debris and asbestos or asbestos-containing materials or products disposed of at the facility and the total amount of money generated during that month from the fee levied under division (A)(1) of this section on the disposal of construction and demolition debris and asbestos or asbestos-containing materials or products. Not later than thirty days after the last day of the month to which the return applies, the owner or operator shall mail to the board of health or the director the return for that month together with the amount of money calculated under division (A)(3) of this section on the disposal of construction and demolition debris and asbestos or asbestos-containing materials or products during that month or may submit the return and money electronically in a manner approved by the director. The owner or operator may request, in writing, an extension of not more than thirty days after the last day of the month to which the return applies. A request for extension may be denied. If the owner or operator submits the money late, the owner or operator shall pay a penalty of ten per cent of the amount of the money due for each month that it is late.

(4) Of the money that is submitted by a construction and demolition debris facility or a solid waste facility on a per cubic yard or per ton basis under this section, a board of health shall transmit three cents per cubic yard or six cents per ton, as applicable, to the director not later than forty-five days after the receipt of the money. The money retained by a board of health under this section shall be paid into a special fund, which is hereby created in each health district, and used solely ~~to~~ for the following purposes:

(a) To administer and enforce this chapter and rules adopted under it;

(b) To abate abandoned accumulations of construction and demolition debris as provided in section 3714.074 of the Revised Code.

The director shall transmit all money received under this section to the treasurer of state to be credited to the construction and demolition debris facility oversight fund, which is hereby created in the state treasury. The fund shall be administered by the director, and money credited to the fund shall be used exclusively for the administration and enforcement of this chapter and rules adopted under it.

(B) The board of health of a health district or the director may enter into an agreement with the owner or operator of a construction and demolition debris facility or a solid waste facility for the quarterly payment of money generated from the disposal fee as calculated in division (A)(3) of this section. The board of health shall notify the director of any such agreement. Not later than forty-five days after receipt of the quarterly payment, the board of health shall transmit the amount established in division (A)(4) of this section to the director. The money retained by the board of health shall be deposited in the special fund of the district as required under that division. Upon receipt of the money from a board of health, the director shall transmit the money to the treasurer of state to be credited to the construction and demolition debris facility oversight fund.

(C) If a construction and demolition debris facility or a solid waste facility is located within the territorial boundaries of a municipal corporation or the unincorporated area of a township, the municipal corporation or township may appropriate up to four cents per cubic yard or up to eight cents per ton of the disposal fee required to be paid by the facility under division (A)(1) of this section for the same purposes that a municipal corporation or township may levy a fee under division (C) of section 3734.57 of the Revised Code.

The legislative authority of the municipal corporation or township may appropriate the money from the fee by enacting an ordinance or adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the legislative authority shall mail a certified copy of the ordinance or

resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the ordinance or resolution and not later than forty-five days after receipt of money generated from the fee, the board or the director, as applicable, shall transmit to the treasurer or other appropriate officer of the municipal corporation or clerk of the township that portion of the money generated from the disposal fee by the owner or operator of the facility that is required by the ordinance or resolution to be paid to that municipal corporation or township.

Money received by the treasurer or other appropriate officer of a municipal corporation under this division shall be paid into the general fund of the municipal corporation. Money received by the clerk of a township under this division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the clerk of the township, as appropriate, shall maintain separate records of the money received under this division.

The legislative authority of a municipal corporation or township may cease appropriating money under this division by repealing the ordinance or resolution that was enacted or adopted under this division.

The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements for prorating the amount of the fee that may be appropriated under this division by a municipal corporation or township in which only a portion of a construction and demolition debris facility is located within the territorial boundaries of the municipal corporation or township.

(D) The board of county commissioners of a county in which a construction and demolition debris facility or a solid waste facility is located may appropriate up to three cents per cubic yard or up to six cents per ton of the disposal fee required to be paid by the facility under division (A)(1) of this section for the same purposes that a solid waste management district may levy a fee under division (B) of section 3734.57 of the Revised Code.

The board of county commissioners may appropriate the money from the fee by adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the board of county commissioners shall mail a certified copy of the resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director.

Upon receipt of the copy of the resolution and not later than forty-five days after receipt of money generated from the fee, the board of health or the director, as applicable, shall transmit to the treasurer of the county that portion of the money generated from the disposal fee by the owner or operator of the facility that is required by the resolution to be paid to that county.

Money received by a county treasurer under this division shall be paid into the general fund of the county. The county treasurer shall maintain separate records of the money received under this division.

A board of county commissioners may cease appropriating money under this division by repealing the resolution that was adopted under this division.

(E)(1) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if there is no construction and demolition debris facility licensed under this chapter within thirty-five miles of the solid waste facility as determined by a facility's property boundaries.

(2) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris and asbestos or asbestos-containing materials or products that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.

(3) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(a) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(b) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in

legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

Sec. 3714.074. (A) A board of health may use money in the board's special fund created in section 3714.07 of the Revised Code for the purpose specified in division (B) of this section if both of the following apply:

(1) It is the end of the fiscal year.

(2) The board determines that it has more money in the fund than is necessary for the board to administer and enforce this chapter and rules adopted under it for the following fiscal year.

(B) A board of health may use excess money as described in division (A) of this section to abate abandoned accumulations of construction and demolition debris at a location for which a license has not been issued pursuant to section 3714.05 of the Revised Code if the board has reason to believe that there is a substantial threat to public health or safety or the environment and all of the following apply to the property on which the accumulations are located:

(1) The construction and demolition debris was placed on the property under either of the following circumstances:

(a) After the owner of the property acquired title to it;

(b) Before the owner of the property acquired title to it if the owner acquired title to the property by bequest or devise.

(2) The owner of the property did not have knowledge that the construction and demolition debris was being placed on the property, or the owner posted on the property signs prohibiting dumping or took other action to prevent the placing of construction and demolition debris on the property.

(3) The owner of the property did not participate in or consent to the placement of the construction and demolition debris on the property.

(4) The owner of the property did not receive any financial benefit from the placement of the construction and demolition debris on the property or from having the construction and demolition debris on the property.

(5) Title to the property was not transferred to the owner of that property for the purpose of avoiding liability for violations of this chapter or rules adopted under it.

(6) The person responsible for the placement of the construction and demolition debris on the property, in placing the construction and demolition debris on the property, was not acting as an agent for the owner of the property.

Sec. 3717.08. (A) The director of agriculture and director of health shall strive to increase consumer confidence in the state's food supply by promoting food safety awareness and education. The efforts of the director

of agriculture and director of health shall be made, when appropriate and available, through partnerships with representatives of retail food establishments, representatives of food service operations, and representatives of the academic community, including ~~the Ohio state university~~ OSU extension service.

(B) As part of their promotion of food safety awareness, the director of agriculture and the director of health shall do the following:

(1) Develop training programs regarding the Ohio uniform food safety code. The directors may offer the training programs separately but shall coordinate the content of the programs to the greatest extent practicable. The training programs shall be made available to the employees of the department of agriculture, employees of the department of health, representatives of boards of health and the health officials employed by the boards, representatives of retail food establishments, and representatives of food service operations.

(2) Co-sponsor a biennial statewide food safety conference. Additional statewide food safety conferences may be held as considered appropriate by the director of agriculture and director of health.

Sec. 3718.06. (A) A board of health shall establish fees in accordance with section 3709.09 of the Revised Code for the purpose of carrying out its duties under this chapter and rules adopted under it, including fees for installation permits, operation permits, and alteration permits issued by the board. All fees so established and collected by the board shall be deposited in a special fund of the district to be used exclusively by the board in carrying out those duties.

(B) In accordance with Chapter 119. of the Revised Code, the director of health may establish by rule a fee to be collected from applicants for installation permits and alteration permits issued under rules adopted under this chapter. The director of health shall use not more than ~~seventy-five~~ ninety per cent of the proceeds from that fee for administering and enforcing this chapter and the rules adopted under it by the director. The director shall use not less than ~~twenty-five~~ ten per cent of the proceeds from that fee to establish a program in cooperation with boards of health to fund installation and evaluation of sewage treatment system new technology pilot projects through grants or other agreements. In the selection of pilot projects, the director shall consult with the sewage treatment system technical advisory committee. A board of health shall collect and transmit the fee to the director pursuant to section 3709.092 of the Revised Code.

Sec. 3719.61. Nothing in the laws dealing with drugs of abuse shall be construed to prohibit treatment of narcotic drug dependent persons by the

continuing maintenance of their dependence through the administration of methadone in accordance with the rules adopted by the department of ~~alcohol and drug addiction services~~ mental health and addiction services under section ~~3793.11~~ 5119.39 of the Revised Code, when all of the following apply:

(A) The likelihood that any person undergoing maintenance treatment will be cured of dependence on narcotic drugs is remote, the treatment is prescribed for the purpose of alleviating or controlling the patient's drug dependence, and the patient's prognosis while undergoing treatment is at least a partial improvement in the patient's asocial or antisocial behavior patterns;

(B) In the case of an inpatient in a hospital or clinic, the amount of the maintenance drug dispensed at any one time does not exceed the quantity necessary for a single dose, and the dose is administered to the patient immediately;

(C) In the case of an outpatient, the amount of the maintenance drug dispensed at any one time shall be determined by the patient's treatment provider taking into account the patient's progress in the treatment program and the patient's needs for gainful employment, education, and responsible homemaking, except that in no event shall the dosage be greater than the amount permitted by federal law and rules adopted by the department pursuant to section ~~3793.11~~ 5119.39 of the Revised Code;

(D) The drug is not dispensed in any case to replace or supplement any part of a supply of the drug previously dispensed, or when there is reasonable cause to believe it will be used or disposed of unlawfully;

(E) The drug is dispensed through a program licensed and operated in accordance with section ~~3793.11~~ 5119.39 of the Revised Code.

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 3721.99 of the Revised Code:

(1)(a) "Home" means an institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, home for the aging, and a veterans' home operated under Chapter 5907. of the Revised Code.

(b) "Home" also means both of the following:

(i) Any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate

of need, other than a certificate to recategorize hospital beds as described in section 3702.521 of the Revised Code or division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989;

(ii) A county home or district home that is or has been licensed as a residential care facility.

(c) "Home" does not mean any of the following:

(i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;

(ii) A residential facility as defined in section ~~5119.22~~ 5119.34 of the Revised Code;

(iii) A residential facility as defined in section 5123.19 of the Revised Code;

(iv) ~~An alcohol or drug~~ A community addiction program services provider as defined in section ~~3793.01~~ 5119.01 of the Revised Code;

(v) A facility licensed to provide methadone treatment under section ~~3793.11~~ 5119.39 of the Revised Code;

(vi) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code;

(vii) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(viii) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;

(ix) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program ~~established under Title XVIII of the "Social Security Act"~~ or the ~~medical assistance~~ medicaid program ~~established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act,"~~ if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

(x) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent,

grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

(a) Irrigations, catheterizations, application of dressings, and supervision of special diets;

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(5)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by section 3721.011 of the Revised Code is licensed as a nursing home.

(9) "County home" and "district home" mean a county home or district home operated under Chapter 5155. of the Revised Code.

(B) The director of health may further classify homes. For the purposes of this chapter, any residence, institution, hotel, congregate housing project, or similar facility that meets the definition of a home under this section is such a home regardless of how the facility holds itself out to the public.

(C) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(D) Nothing in division (A)(4) of this section shall be construed to permit skilled nursing care to be imposed on an individual who does not require skilled nursing care.

Nothing in division (A)(5) of this section shall be construed to permit personal care services to be imposed on an individual who is capable of performing the activity in question without assistance.

(E) Division (A)(1)(c)(ix) of this section does not prohibit a facility, infirmary, or other entity described in that division from seeking licensure under sections 3721.01 to 3721.09 of the Revised Code or certification under Title XVIII or XIX of the "Social Security Act." However, such a facility, infirmary, or entity that applies for licensure or certification must meet the requirements of those sections or titles and the rules adopted under

them and obtain a certificate of need from the director of health under section 3702.52 of the Revised Code.

(F) Nothing in this chapter, or rules adopted pursuant to it, shall be construed as authorizing the supervision, regulation, or control of the spiritual care or treatment of residents or patients in any home who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

Sec. 3721.011. (A) In addition to providing accommodations, supervision, and personal care services to its residents, a residential care facility may do the following:

(1) Provide the following skilled nursing care to its residents:

(a) Supervision of special diets;

(b) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code;

(c) Subject to division (B)(1) of this section, administration of medication.

(2) Subject to division (C) of this section, provide other skilled nursing care on a part-time, intermittent basis for not more than a total of one hundred twenty days in a twelve-month period;

(3) Provide skilled nursing care for more than one hundred twenty days in a twelve-month period to a resident when the requirements of division (D) of this section are met.

A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the limits established by this section.

(B)(1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal physician has determined in writing that the individual is capable of self-administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C. 1395, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is qualified to perform medication administration. Medication may be administered in a residential care facility only by the following persons authorized by law to administer medication:

(a) A registered nurse licensed under Chapter 4723. of the Revised Code;

(b) A licensed practical nurse licensed under Chapter 4723. of the

Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(c) A medication aide certified under Chapter 4723. of the Revised Code;

(d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following:

(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(C) Except as provided in division (D) of this section, a residential care facility may admit or retain individuals who require skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication, only if the care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period. In accordance with Chapter 119. of the Revised Code, the director of health shall adopt rules specifying what constitutes the need for skilled nursing care on a part-time, intermittent basis. The director shall adopt rules that are consistent with rules pertaining to home health care adopted by the medicaid director of ~~job and family services~~ for the medicaid program ~~established under Chapter 5111. of the Revised Code~~. Skilled nursing care provided pursuant to this division may be provided by a home health agency certified ~~under Title XVIII of the "Social Security Act for participation in the medicare program,"~~ a hospice care program licensed under Chapter 3712. of the Revised Code, or a

member of the staff of a residential care facility who is qualified to perform skilled nursing care.

A residential care facility that provides skilled nursing care pursuant to this division shall do both of the following:

(1) Evaluate each resident receiving the skilled nursing care at least once every seven days to determine whether the resident should be transferred to a nursing home;

(2) Meet the skilled nursing care needs of each resident receiving the care.

(D)(1) A residential care facility may admit or retain an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following:

(a) The individual or individual's sponsor;

(b) The individual's personal physician;

(c) Unless the individual's personal physician oversees the skilled nursing care, the provider of the skilled nursing care;

(d) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code.

(2) The agreement required by division (D)(1) of this section shall include all of the following provisions:

(a) That the individual will be provided skilled nursing care in the facility only if a determination has been made that the individual's needs can be met at the facility;

(b) That the individual will be retained in the facility only if periodic redeterminations are made that the individual's needs are being met at the facility;

(c) That the redeterminations will be made according to a schedule specified in the agreement;

(d) If the individual is a hospice patient, that the individual has been given an opportunity to choose the hospice care program that best meets the individual's needs;

(e) Unless the individual is a hospice patient, that the individual's personal physician has determined that the skilled nursing care the individual needs is routine.

(E) Notwithstanding any other provision of this chapter, a residential care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.

Sec. 3721.02. (A) As used in this section, "residential facility" means a

residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

(C) A single facility may be licensed both as a nursing home pursuant to this chapter and as a residential facility pursuant to section ~~5119.22~~ 5119.34 of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as a residential facility.

(D) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a rest home shall be considered as another group.

(2) The home is both a nursing home and a residential facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit

licensed as an adult care facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(E)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or part thereof of a home's licensed capacity:

- (a) For state fiscal year 2010, two hundred twenty dollars;
- (b) For state fiscal year 2011, two hundred seventy dollars;
- (c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

(F)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code.

(2) Nothing in division (E)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.022. (A) As used in this section:

(1) "Nursing facility" has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised Code.

(2) "Deficiency" and "survey" have the same meanings as in section ~~5111.35~~ 5165.60 of the Revised Code.

(3) "Title XIX" and "Title XVIII" have the same meanings as in section 5165.01 of the Revised Code.

(B) The department of health is hereby designated the state agency responsible for establishing and maintaining health standards and serving as the state survey agency for the purposes of ~~Titles~~ Title XVIII and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. The department shall carry out these functions in accordance with the regulations, guidelines, and procedures issued under ~~Titles~~ Title XVIII and Title XIX by the United States secretary of health and human services and with sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. The director of health shall enter into agreements with regard to these functions with the department of ~~job and family services~~ medicaid and the United States department of health and human services. The director may also enter into agreements with the department of ~~job and family services~~ medicaid under which the department of health is designated to perform functions under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code.

The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement the survey and certification requirements for skilled nursing facilities and nursing facilities established by the United States secretary of health and human services under ~~Titles~~ Title XVIII and Title XIX of the "Social Security Act," and the survey requirements established under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. The rules shall include an informal process by which a facility may obtain up to two reviews of any deficiencies that have been cited on a statement of deficiencies made by the department of health under 42 C.F.R. Part 488 and cause the facility to be in noncompliance as defined in 42 C.F.R. 488.301. The first review shall be conducted by an employee of the department who did not participate in and was not otherwise involved in any way with the survey. A facility that is not satisfied with the results of a first review may receive a second review on payment of a fee to the department. The amount of the fee shall be specified in rules adopted under this section. The fee shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use in the implementation of this section.

The second review shall be conducted by either of the following as selected by the facility: a hearing officer employed by the department or a hearing officer included on a list the department shall provide the facility. A final determination that any deficiency citation is unjustified shall be reflected clearly in all records relating to the survey.

The director need not adopt as rules any of the regulations, guidelines, or procedures issued under ~~Titles~~ Title XVIII and Title XIX of the "Social Security Act" by the United States secretary of health and human services.

Sec. 3721.024. As used in this section, "nursing facility" has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised Code.

The department of health may establish a program of recognition of nursing facilities that provide the highest quality care to residents who are medicaid recipients of ~~medical assistance under Chapter 5111. of the Revised Code~~. The program may be funded with public funds appropriated by the general assembly for the purpose of the program or any funds appropriated for nursing home licensure.

Sec. 3721.027. (A) As used in this section, "survey" has the same meaning as in section 5165.60 of the Revised Code.

(B) The department of health shall investigate within ten working days after referral, in accordance with procedures and criteria to be established by the department of health and the department of aging, any unresolved complaint that the office of the state long-term care ~~ombudsperson~~ ombudsman has investigated and found to be valid and refers to the department of health. This requirement does not supersede federal requirements for survey agency complaint investigations.

Sec. 3721.042. The director of health may not deny a nursing home license to a facility seeking a license under this chapter as a nursing home on the grounds that the facility does not satisfy a requirement established in rules adopted under section 3721.04 of the Revised Code regarding the toilet rooms and dining and recreational areas of nursing homes if all of the following requirements are met:

(A) The facility seeks a license under this chapter because it is a county home or district home being sold under section 5155.31 of the Revised Code to a person who may not operate the facility without a nursing home license under this chapter.

(B) The requirement would not have applied to the facility had the facility been a nursing home first licensed under this chapter before October 20, 2001.

(C) The facility was a nursing facility, as defined in section ~~5111.20~~ 5165.01 of the Revised Code, on the date immediately preceding the date

the facility is sold to the person seeking the license.

Sec. 3721.071. The buildings in which a home is housed shall be equipped with both an automatic fire extinguishing system and fire alarm system. Such systems shall conform to standards set forth in the regulations of the board of building standards and the state fire marshal.

The time for compliance with the requirements imposed by this section shall be January 1, 1975, except that the date for compliance with the automatic fire extinguishing requirements is extended to January 1, 1976, provided the buildings of the home are otherwise in compliance with fire safety laws and regulations and:

(A) The home within thirty days after August 4, 1975, files a written plan with the state fire marshal's office that:

(1) Outlines the interim safety procedures which shall be carried out to reduce the possibility of a fire;

(2) Provides evidence that the home has entered into an agreement for a fire safety inspection to be conducted not less than monthly by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer;

(3) Provides verification that the home has entered into a valid contract for the installation of an automatic fire extinguishing system or fire alarm system, or both, as required to comply with this section;

(4) Includes a statement regarding the expected date for the completion of the fire extinguishing system or fire alarm system, or both.

(B) Inspections by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer are initiated no later than sixty days after August 4, 1975, and are conducted no less than monthly thereafter, and reports of the consultant, fire department, or fire prevention officer identifying existing hazards and recommended corrective actions are submitted to the state fire marshal, the division of industrial compliance in the department of commerce, and the department of health.

It is the express intent of the general assembly that the department of ~~job and family services~~ medicaid shall terminate ~~payments under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended,~~ ~~to~~ the medicaid provider agreements of those homes ~~which~~ that do not comply with the requirements of this section for the submission of a written fire safety plan and the deadline for entering into contracts for the installation of systems.

Sec. 3721.072. (A) As used in this section:

(1) "Advance care planning" means providing an opportunity to discuss the goals that may be met through the care provided by a nursing home.

(2) "Overhead paging" means sending audible announcements through an electronic sound amplification and distribution system throughout part or all of a nursing home to staff, residents, residents' families, or others.

(B) Beginning July 1, 2013, each nursing home shall participate every two years in at least one of the quality improvement projects included on the list made available by the department of aging under the nursing home quality initiative established under section 173.60 of the Revised Code.

(C) Beginning July 1, 2015, each nursing home shall participate in advance care planning with each resident or the resident's sponsor if the resident is unable to participate. For each resident, the advance care planning shall be provided on admission to the nursing home or, in the case of an individual residing in a nursing home on July 1, 2015, as soon as practicable. Thereafter, for each resident, the advance care planning shall be provided quarterly each year.

(D) Beginning July 1, 2015, each nursing home shall prohibit the use of overhead paging within the nursing home, except that the nursing home may permit the use of overhead paging for matters of urgent public safety or urgent clinical operations. The nursing home shall develop a written policy regarding its use of overhead paging and make the policy available to staff, residents, and residents' families.

Sec. 3721.08. (A) As used in this section, "real and present danger" means imminent danger of serious physical or life-threatening harm to one or more occupants of a home.

(B) The director of health may petition the court of common pleas of the county in which the home is located for an order enjoining any person from operating a home without a license or enjoining a county home or district home that has had its license revoked from continuing to operate. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a home without a license or that the county home or district home named in the petition is operating despite the revocation of its license. The court shall have jurisdiction to grant such injunctive relief against the operation of a home without a valid license regardless of whether the home meets essential licensing requirements.

(C) Unless the department of ~~job and family services~~ medicaid or contracting agency has taken action under section ~~5111.51~~ 5165.77 of the Revised Code to appoint a temporary manager or seek injunctive relief, if, in the judgment of the director of health, real and present danger exists at any

home, the director may petition the court of common pleas of the county in which the home is located for such injunctive relief as is necessary to close the home, transfer one or more occupants to other homes or other appropriate care settings, or otherwise eliminate the real and present danger. The court shall have the jurisdiction to grant such injunctive relief upon a showing that there is real and present danger.

(D)(1) If the director determines that real and present danger exists at a home and elects not to immediately seek injunctive relief under division (C) of this section, the director may give written notice of proposed action to the home. The notice shall specify all of the following:

(a) The nature of the conditions giving rise to the real and present danger;

(b) The measures that the director determines the home must take to respond to the conditions;

(c) The date on which the director intends to seek injunctive relief under division (C) of this section if the director determines that real and present danger exists at the home.

(2) If the home notifies the director, within the time specified pursuant to division (D)(1)(c) of this section, that it believes the conditions giving rise to the real and present danger have been substantially corrected, the director shall conduct an inspection to determine whether real and present danger exists. If the director determines on the basis of the inspection that real and present danger exists, the director may petition under division (C) of this section for injunctive relief.

(E)(1) If in the judgment of the director of health conditions exist at a home that will give rise to real and present danger if not corrected, the director shall give written notice of proposed action to the home. The notice shall specify all of the following:

(a) The nature of the conditions giving rise to the director's judgment;

(b) The measures that the director determines the home must take to respond to the conditions;

(c) The date, which shall be no less than ten days after the notice is delivered, on which the director intends to seek injunctive relief under division (C) of this section if the conditions are not substantially corrected and the director determines that a real and present danger exists.

(2) If the home notifies the director, within the period of time specified pursuant to division (E)(1)(c) of this section, that the conditions giving rise to the director's determination have been substantially corrected, the director shall conduct an inspection. If the director determines on the basis of the inspection that the conditions have not been corrected and a real and present

danger exists, the director may petition under division (C) of this section for injunctive relief.

(F)(1) A court that grants injunctive relief under division (C) of this section may also appoint a special master who, subject to division (F)(2) of this section, shall have such powers and authority over the home and length of appointment as the court considers necessary. Subject to division (F)(2) of this section, the salary of a special master and any costs incurred by a special master shall be the obligation of the home.

(2) No special master shall enter into any employment contract on behalf of a home, or purchase with the home's funds any capital goods totaling more than ten thousand dollars, unless the special master has obtained approval for the contract or purchase from the home's operator or the court.

(G) If the director takes action under division (C), (D), or (E) of this section, the director may also appoint employees of the department of health to conduct on-site monitoring of the home. Appointment of monitors is not subject to appeal under Chapter 119. or any other section of the Revised Code. No employee of a home for which monitors are appointed, no person employed by the home within the previous two years, and no person who currently has a consulting contract with the department or a home, shall be appointed under this division. Every monitor shall have the professional qualifications necessary to monitor correction of the conditions that give rise to or, in the director's judgment, will give rise to real and present danger. The number of monitors present at a home at any given time shall not exceed one for every fifty residents, or fraction thereof.

(H) On finding that the real and present danger for which injunctive relief was granted under division (C) of this section has been eliminated and that the home's operator has demonstrated the capacity to prevent the real and present danger from recurring, the court shall terminate its jurisdiction over the home and return control and management of the home to the operator. If the real and present danger cannot be eliminated practicably within a reasonable time following appointment of a special master, the court may order the special master to close the home and transfer all residents to other homes or other appropriate care settings.

(I) The director of health shall give notice of proposed action under divisions (D) and (E) of this section to both of the following:

(1) The home's administrator;

(2) If the home is operated by an organization described in subsection 501(c)(3) and tax exempt under subsection 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, the board of

trustees of the organization; or, if the home is not operated by such an organization, the owner of the home.

Notices shall be delivered by certified mail or hand delivery. If notices are mailed, they shall be addressed to the persons specified in divisions (I)(1) and (2) of this section, as indicated in the department of health's records. If they are hand delivered, they shall be delivered to persons who would reasonably appear to the average prudent person to have authority to accept them.

(J) If ownership of a home is assigned or transferred to a different person, the new owner is responsible and liable for compliance with any notice of proposed action or order issued under this section prior to the effective date of the assignment or transfer.

Sec. 3721.10. As used in sections 3721.10 to 3721.18 of the Revised Code:

(A) "Home" means all of the following:

(1) A home as defined in section 3721.01 of the Revised Code;

(2) Any facility or part of a facility not defined as a home under section 3721.01 of the Revised Code that is ~~certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395 and 1396, as amended, or as a~~ nursing facility, both as defined in section ~~5111.20~~ 5165.01 of the Revised Code;

(3) A county home or district home operated pursuant to Chapter 5155. of the Revised Code.

(B) "Resident" means a resident or a patient of a home.

(C) "Administrator" means all of the following:

(1) With respect to a home as defined in section 3721.01 of the Revised Code, a nursing home administrator as defined in section 4751.01 of the Revised Code;

(2) With respect to a facility or part of a facility not defined as a home in section 3721.01 of the Revised Code that is authorized to provide skilled nursing facility or nursing facility services, the administrator of the facility or part of a facility;

(3) With respect to a county home or district home, the superintendent appointed under Chapter 5155. of the Revised Code.

(D) "Sponsor" means an adult relative, friend, or guardian of a resident who has an interest or responsibility in the resident's welfare.

(E) "Residents' rights advocate" means:

(1) An employee or representative of any state or local government entity that has a responsibility regarding residents and that has registered with the department of health under division (B) of section 3701.07 of the

Revised Code;

(2) An employee or representative of any private nonprofit corporation or association that qualifies for tax-exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and that has registered with the department of health under division (B) of section 3701.07 of the Revised Code and whose purposes include educating and counseling residents, assisting residents in resolving problems and complaints concerning their care and treatment, and assisting them in securing adequate services to meet their needs;

(3) A member of the general assembly.

(F) "Physical restraint" means, but is not limited to, any article, device, or garment that interferes with the free movement of the resident and that the resident is unable to remove easily, a geriatric chair, or a locked room door.

(G) "Chemical restraint" means any medication bearing the American hospital formulary service therapeutic class ~~4.00~~ 4:00, 28:16:08, 28:24:08, or 28:24:92 that alters the functioning of the central nervous system in a manner that limits physical and cognitive functioning to the degree that the resident cannot attain the resident's highest practicable physical, mental, and psychosocial well-being.

(H) "Ancillary service" means, but is not limited to, podiatry, dental, hearing, vision, physical therapy, occupational therapy, speech therapy, and psychological and social services.

(I) "Facility" means a facility, or part of a facility, certified as a nursing facility or skilled nursing facility ~~under Title XVIII or Title XIX of the "Social Security Act, both as defined in section 5165.01 of the Revised Code."~~ "Facility" does not include an intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities, as defined in section ~~5111.20~~ 5124.01 of the Revised Code.

~~(J) "Medicare" means the program established by Title XVIII of the "Social Security Act."~~

~~(K) "Medicaid" means the program established by Title XIX of the "Social Security Act" and Chapter 5111. of the Revised Code.~~

Sec. 3721.12. (A) The administrator of a home shall:

(1) With the advice of residents, their sponsors, or both, establish and review at least annually, written policies regarding the applicability and implementation of residents' rights under sections 3721.10 to 3721.17 of the Revised Code, the responsibilities of residents regarding the rights, and the home's grievance procedure established under division (A)(2) of this section. The administrator is responsible for the development of, and

adherence to, procedures implementing the policies.

(2) Establish a grievance committee for review of complaints by residents. The grievance committee shall be comprised of the home's staff and residents, sponsors, or outside representatives in a ratio of not more than one staff member to every two residents, sponsors, or outside representatives.

(3) Furnish to each resident and sponsor prior to or at the time of admission, and to each member of the home's staff, at least one of each of the following:

(a) A copy of the rights established under sections 3721.10 to 3721.17 of the Revised Code;

(b) A written explanation of the provisions of sections 3721.16 to 3721.162 of the Revised Code;

(c) A copy of the home's policies and procedures established under this section;

(d) A copy of the home's rules;

(e) A copy of the addresses and telephone numbers of the board of health of the health district of the county in which the home is located, the county department of job and family services of the county in which the home is located, the state departments of health and ~~job and family services~~ medicaid, the state and local offices of the department of aging, and any Ohio nursing home ~~ombudsman~~ ombudsman program.

(B) Written acknowledgment of the receipt of copies of the materials listed in this section shall be made part of the resident's record and the staff member's personnel record.

(C) The administrator shall post all of the following prominently within the home:

(1) A copy of the rights of residents as listed in division (A) of section 3721.13 of the Revised Code;

(2) A copy of the home's rules and its policies and procedures regarding the rights and responsibilities of residents;

(3) A notice that a copy of this chapter, rules of the department of health applicable to the home, and federal regulations adopted under the medicare and medicaid programs, and the materials required to be available in the home under section 3721.021 of the Revised Code, are available for inspection in the home at reasonable hours;

(4) A list of residents' rights advocates;

(5) A notice that the following are available in a place readily accessible to residents:

(a) If the home is licensed under section 3721.02 of the Revised Code, a

copy of the most recent licensure inspection report prepared for the home under that section;

(b) If the home is a facility, a copy of the most recent statement of deficiencies issued to the home under section ~~5111.42~~ 5165.68 of the Revised Code.

(D) The administrator of a home may, with the advice of residents, their sponsors, or both, establish written policies regarding the applicability and administration of any additional residents' rights beyond those set forth in sections 3721.10 to 3721.17 of the Revised Code, and the responsibilities of residents regarding the rights. Policies established under this division shall be reviewed, and procedures developed and adhered to as in division (A)(1) of this section.

Sec. 3721.121. (A) As used in this section:

(1) "Adult day-care program" means a program operated pursuant to rules adopted by the director of health under section 3721.04 of the Revised Code and provided by and on the same site as homes licensed under this chapter.

(2) "Applicant" means a person who is under final consideration for employment with a home or adult day-care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Community-based long-term care services provider" means a provider as defined in section 173.39 of the Revised Code.

~~(4)~~ "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

~~(4)~~~~(5)~~ "Home" means a home as defined in section 3721.10 of the Revised Code.

~~(5)~~~~(6)~~ "Older adult" means a person age sixty or older.

(B)(1) Except as provided in division (I) of this section, the chief administrator of a home or adult day-care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall

request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section and subject to division (C)(2) of this section, no home or adult day-care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

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

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

(2)(a) A home or an adult day-care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal

records check regarding the individual, provided that the home or program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home or adult day-care program may employ conditionally an applicant who has been referred to the home or adult day-care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) A home or adult day-care program that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the home or program shall terminate the individual's employment unless the home or program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the home or program about the individual's criminal record.

(D)(1) Each home or adult day-care program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D)(1) of this section. A home or program may collect a fee only if both of the following apply:

(a) The home or program notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The ~~medical assistance~~ medicaid program established under ~~Chapter 5111. of the Revised Code~~ does not reimburse the home or program the fee

it pays under division (D)(1) of this section.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the home or program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home or program;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section;

(6) The board of nursing for purposes of accepting and processing an application for a medication aide certificate issued under Chapter 4723. of the Revised Code;

(7) The director of aging or the director's designee if the criminal records check is requested by the chief administrator of a home that is also a community-based long-term care services provider.

(F) In accordance with section 3721.11 of the Revised Code, the director of health shall adopt rules to implement this section. The rules shall specify circumstances under which a home or adult day-care program may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the director.

(G) The chief administrator of a home or adult day-care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who a home or adult day-care program employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the home or program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the home or program shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the home or program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the home or program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the home or program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the home or program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home or adult day-care program chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief

administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home or adult day-care program. If a home or adult day-care program employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home or adult day-care program, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. 3721.13. (A) The rights of residents of a home shall include, but are not limited to, the following:

(1) The right to a safe and clean living environment pursuant to the medicare and medicaid programs and applicable state laws and rules adopted by the director of health;

(2) The right to be free from physical, verbal, mental, and emotional abuse and to be treated at all times with courtesy, respect, and full recognition of dignity and individuality;

(3) Upon admission and thereafter, the right to adequate and appropriate medical treatment and nursing care and to other ancillary services that comprise necessary and appropriate care consistent with the program for which the resident contracted. This care shall be provided without regard to considerations such as race, color, religion, national origin, age, or source of payment for care.

(4) The right to have all reasonable requests and inquiries responded to promptly;

(5) The right to have clothes and bed sheets changed as the need arises, to ensure the resident's comfort or sanitation;

(6) The right to obtain from the home, upon request, the name and any specialty of any physician or other person responsible for the resident's care or for the coordination of care;

(7) The right, upon request, to be assigned, within the capacity of the

home to make the assignment, to the staff physician of the resident's choice, and the right, in accordance with the rules and written policies and procedures of the home, to select as the attending physician a physician who is not on the staff of the home. If the cost of a physician's services is to be met under a federally supported program, the physician shall meet the federal laws and regulations governing such services.

(8) The right to participate in decisions that affect the resident's life, including the right to communicate with the physician and employees of the home in planning the resident's treatment or care and to obtain from the attending physician complete and current information concerning medical condition, prognosis, and treatment plan, in terms the resident can reasonably be expected to understand; the right of access to all information in the resident's medical record; and the right to give or withhold informed consent for treatment after the consequences of that choice have been carefully explained. When the attending physician finds that it is not medically advisable to give the information to the resident, the information shall be made available to the resident's sponsor on the resident's behalf, if the sponsor has a legal interest or is authorized by the resident to receive the information. The home is not liable for a violation of this division if the violation is found to be the result of an act or omission on the part of a physician selected by the resident who is not otherwise affiliated with the home.

(9) The right to withhold payment for physician visitation if the physician did not visit the resident;

(10) The right to confidential treatment of personal and medical records, and the right to approve or refuse the release of these records to any individual outside the home, except in case of transfer to another home, hospital, or health care system, as required by law or rule, or as required by a third-party payment contract;

(11) The right to privacy during medical examination or treatment and in the care of personal or bodily needs;

(12) The right to refuse, without jeopardizing access to appropriate medical care, to serve as a medical research subject;

(13) The right to be free from physical or chemical restraints or prolonged isolation except to the minimum extent necessary to protect the resident from injury to self, others, or to property and except as authorized in writing by the attending physician for a specified and limited period of time and documented in the resident's medical record. Prior to authorizing the use of a physical or chemical restraint on any resident, the attending physician shall make a personal examination of the resident and an

individualized determination of the need to use the restraint on that resident.

Physical or chemical restraints or isolation may be used in an emergency situation without authorization of the attending physician only to protect the resident from injury to self or others. Use of the physical or chemical restraints or isolation shall not be continued for more than twelve hours after the onset of the emergency without personal examination and authorization by the attending physician. The attending physician or a staff physician may authorize continued use of physical or chemical restraints for a period not to exceed thirty days, and at the end of this period and any subsequent period may extend the authorization for an additional period of not more than thirty days. The use of physical or chemical restraints shall not be continued without a personal examination of the resident and the written authorization of the attending physician stating the reasons for continuing the restraint.

If physical or chemical restraints are used under this division, the home shall ensure that the restrained resident receives a proper diet. In no event shall physical or chemical restraints or isolation be used for punishment, incentive, or convenience.

(14) The right to the pharmacist of the resident's choice and the right to receive pharmaceutical supplies and services at reasonable prices not exceeding applicable and normally accepted prices for comparably packaged pharmaceutical supplies and services within the community;

(15) The right to exercise all civil rights, unless the resident has been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code and has not been restored to legal capacity, as well as the right to the cooperation of the home's administrator in making arrangements for the exercise of the right to vote;

(16) The right of access to opportunities that enable the resident, at the resident's own expense or at the expense of a third-party payer, to achieve the resident's fullest potential, including educational, vocational, social, recreational, and habilitation programs;

(17) The right to consume a reasonable amount of alcoholic beverages at the resident's own expense, unless not medically advisable as documented in the resident's medical record by the attending physician or unless contradictory to written admission policies;

(18) The right to use tobacco at the resident's own expense under the home's safety rules and under applicable laws and rules of the state, unless not medically advisable as documented in the resident's medical record by the attending physician or unless contradictory to written admission policies;

(19) The right to retire and rise in accordance with the resident's

reasonable requests, if the resident does not disturb others or the posted meal schedules and upon the home's request remains in a supervised area, unless not medically advisable as documented by the attending physician;

(20) The right to observe religious obligations and participate in religious activities; the right to maintain individual and cultural identity; and the right to meet with and participate in activities of social and community groups at the resident's or the group's initiative;

(21) The right upon reasonable request to private and unrestricted communications with the resident's family, social worker, and any other person, unless not medically advisable as documented in the resident's medical record by the attending physician, except that communications with public officials or with the resident's attorney or physician shall not be restricted. Private and unrestricted communications shall include, but are not limited to, the right to:

- (a) Receive, send, and mail sealed, unopened correspondence;
- (b) Reasonable access to a telephone for private communications;
- (c) Private visits at any reasonable hour.

(22) The right to assured privacy for visits by the spouse, or if both are residents of the same home, the right to share a room within the capacity of the home, unless not medically advisable as documented in the resident's medical record by the attending physician;

(23) The right upon reasonable request to have room doors closed and to have them not opened without knocking, except in the case of an emergency or unless not medically advisable as documented in the resident's medical record by the attending physician;

(24) The right to retain and use personal clothing and a reasonable amount of possessions, in a reasonably secure manner, unless to do so would infringe on the rights of other residents or would not be medically advisable as documented in the resident's medical record by the attending physician;

(25) The right to be fully informed, prior to or at the time of admission and during the resident's stay, in writing, of the basic rate charged by the home, of services available in the home, and of any additional charges related to such services, including charges for services not covered under the medicare or medicaid program. The basic rate shall not be changed unless thirty days' notice is given to the resident or, if the resident is unable to understand this information, to the resident's sponsor.

(26) The right of the resident and person paying for the care to examine and receive a bill at least monthly for the resident's care from the home that itemizes charges not included in the basic rates;

(27)(a) The right to be free from financial exploitation;

(b) The right to manage the resident's own personal financial affairs, or, if the resident has delegated this responsibility in writing to the home, to receive upon written request at least a quarterly accounting statement of financial transactions made on the resident's behalf. The statement shall include:

(i) A complete record of all funds, personal property, or possessions of a resident from any source whatsoever, that have been deposited for safekeeping with the home for use by the resident or the resident's sponsor;

(ii) A listing of all deposits and withdrawals transacted, which shall be substantiated by receipts which shall be available for inspection and copying by the resident or sponsor.

(28) The right of the resident to be allowed unrestricted access to the resident's property on deposit at reasonable hours, unless requests for access to property on deposit are so persistent, continuous, and unreasonable that they constitute a nuisance;

(29) The right to receive reasonable notice before the resident's room or roommate is changed, including an explanation of the reason for either change.

(30) The right not to be transferred or discharged from the home unless the transfer is necessary because of one of the following:

(a) The welfare and needs of the resident cannot be met in the home.

(b) The resident's health has improved sufficiently so that the resident no longer needs the services provided by the home.

(c) The safety of individuals in the home is endangered.

(d) The health of individuals in the home would otherwise be endangered.

(e) The resident has failed, after reasonable and appropriate notice, to pay or to have the medicare or medicaid program pay on the resident's behalf, for the care provided by the home. A resident shall not be considered to have failed to have the resident's care paid for if the resident has applied for medicaid, unless both of the following are the case:

(i) The resident's application, or a substantially similar previous application, has been denied ~~by the county department of job and family services.~~

(ii) If the resident appealed the denial ~~pursuant to division (C) of section 5101.35 of the Revised Code, the director of job and family services has upheld the denial was upheld.~~

(f) The home's license has been revoked, the home is being closed pursuant to section 3721.08, sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89,

or section 5155.31 of the Revised Code, or the home otherwise ceases to operate.

(g) The resident is a recipient of medicaid, and the home's participation in the medicaid program is involuntarily terminated or denied.

(h) The resident is a beneficiary under the medicare program, and the home's participation in the medicare program is involuntarily terminated or denied.

(31) The right to voice grievances and recommend changes in policies and services to the home's staff, to employees of the department of health, or to other persons not associated with the operation of the home, of the resident's choice, free from restraint, interference, coercion, discrimination, or reprisal. This right includes access to a residents' rights advocate, and the right to be a member of, to be active in, and to associate with persons who are active in organizations of relatives and friends of nursing home residents and other organizations engaged in assisting residents.

(32) The right to have any significant change in the resident's health status reported to the resident's sponsor. As soon as such a change is known to the home's staff, the home shall make a reasonable effort to notify the sponsor within twelve hours.

(B) A sponsor may act on a resident's behalf to assure that the home does not deny the residents' rights under sections 3721.10 to 3721.17 of the Revised Code.

(C) Any attempted waiver of the rights listed in division (A) of this section is void.

Sec. 3721.14. To assist in the implementation of the rights granted in division (A) of section 3721.13 of the Revised Code, each home shall provide:

(A) Appropriate staff training to implement each resident's rights under division (A) of section 3721.13 of the Revised Code, including, but not limited to, explaining:

(1) The resident's rights and the staff's responsibility in the implementation of the rights;

(2) The staff's obligation to provide all residents who have similar needs with comparable service.

(B) Arrangements for a resident's needed ancillary services;

(C) Protected areas outside the home for residents to enjoy outdoor activity, within the capacity of the facility, consistent with applicable laws and rules;

(D) Adequate indoor space, which need not be dedicated to that purpose, for families of residents to meet privately with families of other

residents;

(E) Access to the following persons to enter the home during reasonable hours, except where such access would interfere with resident care or the privacy of residents:

(1) Employees of the department of health, department of ~~mental health~~ mental health and addiction services, department of developmental disabilities, department of aging, department of job and family services, and county departments of job and family services;

(2) Prospective residents and their sponsors;

(3) A resident's sponsors;

(4) Residents' rights advocates;

(5) A resident's attorney;

(6) A minister, priest, rabbi, or other person ministering to a resident's religious needs.

(F) In writing, a description of the home's grievance procedures.

Sec. 3721.15. (A) Authorization from a resident or a sponsor with a power of attorney for a home to manage the resident's financial affairs shall be in writing and shall be attested to by a witness who is not connected in any manner whatsoever with the home or its administrator. The home shall maintain accounts pursuant to division (A)(27) of section 3721.13 of the Revised Code. Upon the resident's transfer, discharge, or death, the account shall be closed and a final accounting made. All remaining funds shall be returned to the resident or resident's sponsor, except in the case of death, when all remaining funds shall be transferred or used in accordance with section ~~5441.113~~ 5162.22 of the Revised Code.

(B) A home that manages a resident's financial affairs shall deposit the resident's funds in excess of one ~~hundred thousand~~ hundred thousand dollars, and may deposit the resident's funds that are one ~~hundred thousand~~ hundred thousand dollars or less, in an interest-bearing account separate from any of the home's operating accounts. Interest earned on the resident's funds shall be credited to the resident's account. A resident's funds that are one ~~hundred thousand~~ hundred thousand dollars or less and have not been deposited in an interest-bearing account may be deposited in a noninterest-bearing account or petty cash fund.

(C) Each resident whose financial affairs are managed by a home shall be promptly notified by the home when the total of the amount of funds in the resident's accounts and the petty cash fund plus other nonexempt resources reaches two hundred dollars less than the maximum amount permitted a recipient of medicaid. The notice shall include an explanation of the potential effect on the resident's eligibility for medicaid if the amount in the resident's accounts and the petty cash fund, plus the value of other

nonexempt resources, exceeds the maximum assets a medicaid recipient may retain.

(D) Each home that manages the financial affairs of residents shall purchase a surety bond or otherwise provide assurance satisfactory to the director of health, or, in the case of a home that participates in the medicaid program, to the medicaid director ~~of job and family services~~, to assure the security of all residents' funds managed by the home.

Sec. 3721.16. For each resident of a home, notice of a proposed transfer or discharge shall be in accordance with this section.

(A)(1) The administrator of a home shall notify a resident in writing, and the resident's sponsor in writing by certified mail, return receipt requested, in advance of any proposed transfer or discharge from the home. The administrator shall send a copy of the notice to the state department of health. The notice shall be provided at least thirty days in advance of the proposed transfer or discharge, unless any of the following applies:

(a) The resident's health has improved sufficiently to allow a more immediate discharge or transfer to a less skilled level of care;

(b) The resident has resided in the home less than thirty days;

(c) An emergency arises in which the safety of individuals in the home is endangered;

(d) An emergency arises in which the health of individuals in the home would otherwise be endangered;

(e) An emergency arises in which the resident's urgent medical needs necessitate a more immediate transfer or discharge.

In any of the circumstances described in divisions (A)(1)(a) to (e) of this section, the notice shall be provided as many days in advance of the proposed transfer or discharge as is practicable.

(2) The notice required under division (A)(1) of this section shall include all of the following:

(a) The reasons for the proposed transfer or discharge;

(b) The proposed date the resident is to be transferred or discharged;

(c) Subject to division (A)(3) of this section, a proposed location to which the resident may relocate and a notice that the resident and resident's sponsor may choose another location to which the resident will relocate;

(d) Notice of the right of the resident and the resident's sponsor to an impartial hearing at the home on the proposed transfer or discharge, and of the manner in which and the time within which the resident or sponsor may request a hearing pursuant to section 3721.161 of the Revised Code;

(e) A statement that the resident will not be transferred or discharged before the date specified in the notice unless the home and the resident or, if

the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date;

(f) The address of the legal services office of the department of health;

(g) The name, address, and telephone number of a representative of the state long-term care ~~ombudsperson~~ ombudsman program and, if the resident or patient has a developmental disability or mental illness, the name, address, and telephone number of the Ohio protection and advocacy system.

(3) The proposed location to which a resident may relocate as specified pursuant to division (A)(2)(c) of this section in the proposed transfer or discharge notice shall be capable of meeting the resident's health-care and safety needs. The proposed location for relocation need not have accepted the resident at the time the notice is issued to the resident and resident's sponsor.

(B) No home shall transfer or discharge a resident before the date specified in the notice required by division (A) of this section unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date.

(C) Transfer or discharge actions shall be documented in the resident's medical record by the home if there is a medical basis for the action.

(D) A resident or resident's sponsor may challenge a transfer or discharge by requesting an impartial hearing pursuant to section 3721.161 of the Revised Code, unless the transfer or discharge is required because of one of the following reasons:

(1) The home's license has been revoked under this chapter;

(2) The home is being closed pursuant to section 3721.08, sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89, or section 5155.31 of the Revised Code;

(3) The resident is a recipient of medicaid and the home's participation in the medicaid program has been involuntarily terminated or denied by the federal government;

(4) The resident is a beneficiary under the medicare program and the home's certification under the medicare program has been involuntarily terminated or denied by the federal government.

(E) If a resident is transferred or discharged pursuant to this section, the home from which the resident is being transferred or discharged shall provide the resident with adequate preparation prior to the transfer or discharge to ensure a safe and orderly transfer or discharge from the home, and the home or alternative setting to which the resident is to be transferred or discharged shall have accepted the resident for transfer or discharge.

(F) At the time of a transfer or discharge of a resident who is a recipient

of medicaid from a home to a hospital or for therapeutic leave, the home shall provide notice in writing to the resident and in writing by certified mail, return receipt requested, to the resident's sponsor, specifying the number of days, if any, during which the resident will be permitted under the medicaid program to return and resume residence in the home and specifying the medicaid program's coverage of the days during which the resident is absent from the home. An individual who is absent from a home for more than the number of days specified in the notice and continues to require the services provided by the facility shall be given priority for the first available bed in a semi-private room.

Sec. 3721.17. (A) Any resident who believes that the resident's rights under sections 3721.10 to 3721.17 of the Revised Code have been violated may file a grievance under procedures adopted pursuant to division (A)(2) of section 3721.12 of the Revised Code.

When the grievance committee determines a violation of sections 3721.10 to 3721.17 of the Revised Code has occurred, it shall notify the administrator of the home. If the violation cannot be corrected within ten days, or if ten days have elapsed without correction of the violation, the grievance committee shall refer the matter to the department of health.

(B) Any person who believes that a resident's rights under sections 3721.10 to 3721.17 of the Revised Code have been violated may report or cause reports to be made of the information directly to the department of health. No person who files a report is liable for civil damages resulting from the report.

(C)(1) Within thirty days of receiving a complaint under this section, the department of health shall investigate any complaint referred to it by a home's grievance committee and any complaint from any source that alleges that the home provided substantially less than adequate care or treatment, or substantially unsafe conditions, or, within seven days of receiving a complaint, refer it to the attorney general, if the attorney general agrees to investigate within thirty days.

(2) Within thirty days of receiving a complaint under this section, the department of health may investigate any alleged violation of sections 3721.10 to 3721.17 of the Revised Code, or of rules, policies, or procedures adopted pursuant to those sections, not covered by division (C)(1) of this section, or it may, within seven days of receiving a complaint, refer the complaint to the grievance committee at the home where the alleged violation occurred, or to the attorney general if the attorney general agrees to investigate within thirty days.

(D) If, after an investigation, the department of health finds probable

cause to believe that a violation of sections 3721.10 to 3721.17 of the Revised Code, or of rules, policies, or procedures adopted pursuant to those sections, has occurred at a home that is certified under the medicare or medicaid program, it shall cite one or more findings or deficiencies under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. If the home is not so certified, the department shall hold an adjudicative hearing within thirty days under Chapter 119. of the Revised Code.

(E) Upon a finding at an adjudicative hearing under division (D) of this section that a violation of sections 3721.10 to 3721.17 of the Revised Code, or of rules, policies, or procedures adopted pursuant thereto, has occurred, the department of health shall make an order for compliance, set a reasonable time for compliance, and assess a fine pursuant to division (F) of this section. The fine shall be paid to the general revenue fund only if compliance with the order is not shown to have been made within the reasonable time set in the order. The department of health may issue an order prohibiting the continuation of any violation of sections 3721.10 to 3721.17 of the Revised Code.

Findings at the hearings conducted under this section may be appealed pursuant to Chapter 119. of the Revised Code, except that an appeal may be made to the court of common pleas of the county in which the home is located.

The department of health shall initiate proceedings in court to collect any fine assessed under this section that is unpaid thirty days after the violator's final appeal is exhausted.

(F) Any home found, pursuant to an adjudication hearing under division (D) of this section, to have violated sections 3721.10 to 3721.17 of the Revised Code, or rules, policies, or procedures adopted pursuant to those sections may be fined not less than one hundred nor more than five hundred dollars for a first offense. For each subsequent offense, the home may be fined not less than two hundred nor more than one thousand dollars.

A violation of sections 3721.10 to 3721.17 of the Revised Code is a separate offense for each day of the violation and for each resident who claims the violation.

(G) No home or employee of a home shall retaliate against any person who:

(1) Exercises any right set forth in sections 3721.10 to 3721.17 of the Revised Code, including, but not limited to, filing a complaint with the home's grievance committee or reporting an alleged violation to the department of health;

(2) Appears as a witness in any hearing conducted under this section or

section 3721.162 of the Revised Code;

(3) Files a civil action alleging a violation of sections 3721.10 to 3721.17 of the Revised Code, or notifies a county prosecuting attorney or the attorney general of a possible violation of sections 3721.10 to 3721.17 of the Revised Code.

If, under the procedures outlined in this section, a home or its employee is found to have retaliated, the violator may be fined up to one thousand dollars.

(H) When legal action is indicated, any evidence of criminal activity found in an investigation under division (C) of this section shall be given to the prosecuting attorney in the county in which the home is located for investigation.

(I)(1)(a) Any resident whose rights under sections 3721.10 to 3721.17 of the Revised Code are violated has a cause of action against any person or home committing the violation.

(b) An action under division (I)(1)(a) of this section may be commenced by the resident or by the resident's legal guardian or other legally authorized representative on behalf of the resident or the resident's estate. If the resident or the resident's legal guardian or other legally authorized representative is unable to commence an action under that division on behalf of the resident, the following persons in the following order of priority have the right to and may commence an action under that division on behalf of the resident or the resident's estate:

- (i) The resident's spouse;
- (ii) The resident's parent or adult child;
- (iii) The resident's guardian if the resident is a minor child;
- (iv) The resident's brother or sister;
- (v) The resident's niece, nephew, aunt, or uncle.

(c) Notwithstanding any law as to priority of persons entitled to commence an action, if more than one eligible person within the same level of priority seeks to commence an action on behalf of a resident or the resident's estate, the court shall determine, in the best interest of the resident or the resident's estate, the individual to commence the action. A court's determination under this division as to the person to commence an action on behalf of a resident or the resident's estate shall bar another person from commencing the action on behalf of the resident or the resident's estate.

(d) The result of an action commenced pursuant to division (I)(1)(a) of this section by a person authorized under division (I)(1)(b) of this section shall bind the resident or the resident's estate that is the subject of the action.

(e) A cause of action under division (I)(1)(a) of this section shall accrue,

and the statute of limitations applicable to that cause of action shall begin to run, based upon the violation of a resident's rights under sections 3721.10 to 3721.17 of the Revised Code, regardless of the party commencing the action on behalf of the resident or the resident's estate as authorized under divisions (I)(1)(b) and (c) of this section.

(2)(a) The plaintiff in an action filed under division (I)(1) of this section may obtain injunctive relief against the violation of the resident's rights. The plaintiff also may recover compensatory damages based upon a showing, by a preponderance of the evidence, that the violation of the resident's rights resulted from a negligent act or omission of the person or home and that the violation was the proximate cause of the resident's injury, death, or loss to person or property.

(b) If compensatory damages are awarded for a violation of the resident's rights, section 2315.21 of the Revised Code shall apply to an award of punitive or exemplary damages for the violation.

(c) The court, in a case in which only injunctive relief is granted, may award to the prevailing party reasonable attorney's fees limited to the work reasonably performed.

(3) Division (I)(2) (b) of this section shall be considered to be purely remedial in operation and shall be applied in a remedial manner in any civil action in which this section is relevant, whether the action is pending in court or commenced on or after July 9, 1998.

(4) Within thirty days after the filing of a complaint in an action for damages brought against a home under division (I)(1)(a) of this section by or on behalf of a resident or former resident of the home, the plaintiff or plaintiff's counsel shall send written notice of the filing of the complaint to the department of ~~job and family services~~ medicaid if the department has a right of recovery under section ~~5101.58~~ 5160.37 of the Revised Code against the liability of the home for the cost of ~~medical~~ medicaid services ~~and care~~ arising out of injury, disease, or disability of the resident or former resident.

Sec. 3721.19. (A) As used in this section:

(1) "Home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code;

(2) "Provider agreement" has the same meaning as in section 5165.01 of the Revised Code.

(3) "Sponsor" and "residents' rights advocate" have the same meanings as in section 3721.10 of the Revised Code.

A home licensed under this chapter that is not a party to a provider agreement, ~~as defined in section 5111.20 of the Revised Code~~, shall provide

each prospective resident, before admission, with the following information, orally and in a separate written notice on which is printed in a conspicuous manner: "This home is not a participant in the ~~medical assistance~~ medicaid program administered by the Ohio department of ~~job and family services~~ medicaid. Consequently, you may be discharged from this home if you are unable to pay for the services provided by this home."

If the prospective resident has a sponsor whose identity is made known to the home, the home shall also inform the sponsor, before admission of the resident, of the home's status relative to the ~~medical assistance~~ medicaid program. Written acknowledgement of the receipt of the information shall be provided by the resident and, if the prospective resident has a sponsor who has been identified to the home, by the sponsor. The written acknowledgement shall be made part of the resident's record by the home.

No home shall terminate its ~~status as a provider under the medicaid program agreement~~ unless it has complied with section ~~5111.66~~ 5165.50 of the Revised Code and, at least ninety days prior to such termination, provided written notice to the residents of the home and their sponsors of such action. This requirement shall not apply in cases where the department of ~~job and family services~~ medicaid terminates a home's provider agreement or provider status.

(B) A home licensed under this chapter as a residential care facility shall provide notice to each prospective resident or the individual's sponsor of the services offered by the facility and the types of skilled nursing care that the facility may provide. A residential care facility that, pursuant to section 3721.012 of the Revised Code, has a policy of entering into risk agreements with residents or their sponsors shall provide each prospective resident or the individual's sponsor a written explanation of the policy and the provisions that may be contained in a risk agreement. At the time the information is provided, the facility shall obtain a statement signed by the individual receiving the information acknowledging that the individual received the information. The facility shall maintain on file the individual's signed statement.

(C) A resident has a cause of action against a home for breach of any duty imposed by this section. The action may be commenced by the resident, or on the resident's behalf by the resident's sponsor or a residents' rights advocate, by the filing of a civil action in the court of common pleas of the county in which the home is located, or in the court of common pleas of Franklin county.

If the court finds that a breach of any duty imposed by this section has occurred, the court shall enjoin the home from discharging the resident from

the home until arrangements satisfactory to the court are made for the orderly transfer of the resident to another mode of health care including, but not limited to, another home, and may award the resident and a person or public agency that brings an action on behalf of a resident reasonable attorney's fees. If a home discharges a resident to whom or to whose sponsor information concerning its status relative to the ~~medical assistance~~ medicaid program was not provided as required under this section, the court shall grant any appropriate relief including, but not limited to, actual damages, reasonable attorney's fees, and costs.

Sec. 3727.01. (A) As used in this section, "health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the following:

(1) Provides or otherwise makes available to enrolled participants health care services including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive service, and out-of-area coverage;

(2) Is compensated, except for copayments, for the provision of basic health care services to enrolled participants by a payment that is paid on a periodic basis without regard to the date the health care services are provided and that is fixed without regard to the frequency, extent, or kind of health service actually provided;

(3) Provides physician services primarily in either of the following ways:

(a) Directly through physicians who are either employees or partners of the organization;

(b) Through arrangements with individual physicians or one or more groups of physicians organized on a group-practice or individual-practice basis.

(B) As used in this chapter:

(1) "Children's hospital" means any of the following:

(a) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of

annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(c) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (B)(1)(a) of this section.

(2) "Hospital" means an institution classified as a hospital under section 3701.07 of the Revised Code in which are provided to inpatients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care for a continuous period longer than twenty-four hours or a hospital operated by a health maintenance organization. "Hospital" does not include a facility licensed under Chapter 3721. of the Revised Code, a health care facility operated by the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities, a health maintenance organization that does not operate a hospital, the office of any private licensed health care professional, whether organized for individual or group practice, or a clinic that provides ambulatory patient services and where patients are not regularly admitted as inpatients. "Hospital" also does not include an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(3) "Joint commission" means the commission formerly known as the joint commission on accreditation of healthcare organizations or the joint commission on accreditation of hospitals.

Sec. 3727.60. (A) As used in this section:

(1) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.

(2) "Nontherapeutic abortion" has the same meaning as in section 9.04 of the Revised Code.

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

(4) "Public hospital" means a hospital registered with the department of health under section 3701.07 of the Revised Code that is owned, leased, or controlled by this state or any agency, institution, instrumentality, or

political subdivision of this state. "Public hospital" includes any state university hospital, state medical college hospital, joint hospital, or public hospital agency.

(5) "Written transfer agreement" means an agreement described in section 3702.303 of the Revised Code.

(B) No public hospital shall do either of the following:

(1) Enter into a written transfer agreement with an ambulatory surgical facility in which nontherapeutic abortions are performed or induced;

(2) Authorize a physician who has been granted staff membership or professional privileges at the public hospital to use that membership or those privileges as a substitution for, or alternative to, a written transfer agreement for purposes of a variance application described in section 3702.304 of the Revised Code that is submitted to the director of health by an ambulatory surgical facility in which nontherapeutic abortions are performed or induced.

Sec. 3734.01. As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

(B) "Director" means the director of environmental protection.

(C) "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code.

(D) "Agency" means the environmental protection agency.

(E) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include any material that is an infectious waste or a hazardous waste.

(F) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes or hazardous waste into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage or treatment or, if the solid

wastes consist of scrap tires, the disposition or placement constitutes a beneficial use or occurs at a scrap tire recovery facility licensed under section 3734.81 of the Revised Code.

(G) "Person" includes the state, any political subdivision and other state or local body, the United States and any agency or instrumentality thereof, and any legal entity defined as a person under section 1.59 of the Revised Code.

(H) "Open burning" means the burning of solid wastes in an open area or burning of solid wastes in a type of chamber or vessel that is not approved or authorized in rules adopted by the director under section 3734.02 of the Revised Code or, if the solid wastes consist of scrap tires, in rules adopted under division (V) of this section or section 3734.73 of the Revised Code, or the burning of treated or untreated infectious wastes in an open area or in a type of chamber or vessel that is not approved in rules adopted by the director under section 3734.021 of the Revised Code.

(I) "Open dumping" means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage, monocell, monofill, or recovery facility under section 3734.81 of the Revised Code; the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C)(2) to (5), (7), or (10) of section 3734.85 of the Revised Code; the depositing of untreated infectious wastes into a body or stream of water or onto the surface of the ground; or the depositing of treated infectious wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.

(J) "Hazardous waste" means any waste or combination of wastes in solid, liquid, semisolid, or contained gaseous form that in the determination of the director, because of its quantity, concentration, or physical or chemical characteristics, may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;

(2) Pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of, or otherwise managed.

"Hazardous waste" includes any substance identified by regulation as hazardous waste under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and does not include

any substance that is subject to the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended.

(K) "Treat" or "treatment," when used in connection with hazardous waste, means any method, technique, or process designed to change the physical, chemical, or biological characteristics or composition of any hazardous waste; to neutralize the waste; to recover energy or material resources from the waste; to render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, or amenable for recovery, storage, further treatment, or disposal; or to reduce the volume of the waste. When used in connection with infectious wastes, "treat" or "treatment" means any method, technique, or process that renders the wastes noninfectious so that it is no longer an infectious waste and is no longer an infectious substance as defined in applicable federal law, including, without limitation, steam sterilization and incineration, and, in the instance of wastes identified in division (R)(7) of this section, to substantially reduce or eliminate the potential for the wastes to cause lacerations or puncture wounds.

(L) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(M) "Storage," when used in connection with hazardous waste, means the holding of hazardous waste for a temporary period in such a manner that it remains retrievable and substantially unchanged physically and chemically and, at the end of the period, is treated; disposed of; stored elsewhere; or reused, recycled, or reclaimed in a beneficial manner. When used in connection with solid wastes that consist of scrap tires, "storage" means the holding of scrap tires for a temporary period in such a manner that they remain retrievable and, at the end of that period, are beneficially used; stored elsewhere; placed in a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code; processed at a scrap tire recovery facility licensed under that section or a solid waste incineration or energy recovery facility subject to regulation under this chapter; or transported to a scrap tire monocell, monofill, or recovery facility, any other solid waste facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state and is operating in compliance with the laws of the state in which the facility is located.

(N) "Facility" means any site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other

methods of disposal of solid wastes or, if the solid wastes consist of scrap tires, for the collection, storage, or processing of the solid wastes; for the transfer of solid wastes; for the treatment of infectious wastes; or for the storage, treatment, or disposal of hazardous waste.

(O) "Closure" means the time at which a hazardous waste facility will no longer accept hazardous waste for treatment, storage, or disposal, the time at which a solid waste facility will no longer accept solid wastes for transfer or disposal or, if the solid wastes consist of scrap tires, for storage or processing, or the effective date of an order revoking the permit for a hazardous waste facility or the registration certificate, permit, or license for a solid waste facility, as applicable. "Closure" includes measures performed to protect public health or safety, to prevent air or water pollution, or to make the facility suitable for other uses, if any, including, but not limited to, the removal of processing residues resulting from solid wastes that consist of scrap tires; the establishment and maintenance of a suitable cover of soil and vegetation over cells in which hazardous waste or solid wastes are buried; minimization of erosion, the infiltration of surface water into such cells, the production of leachate, and the accumulation and runoff of contaminated surface water; the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff, except as otherwise provided in this division; the final construction of air and water quality monitoring facilities, except as otherwise provided in this division; the final construction of methane gas extraction and treatment systems; or the removal and proper disposal of hazardous waste or solid wastes from a facility when necessary to protect public health or safety or to abate or prevent air or water pollution. With regard to a solid waste facility that is a scrap tire facility, "closure" includes the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff and the final construction of air and water quality monitoring facilities only if those actions are determined to be necessary.

(P) "Premises" means either of the following:

- (1) Geographically contiguous property owned by a generator;
- (2) Noncontiguous property that is owned by a generator and connected by a right-of-way that the generator controls and to which the public does not have access. Two or more pieces of property that are geographically contiguous and divided by public or private right-of-way or rights-of-way are a single premises.

(Q) "Post-closure" means that period of time following closure during which a hazardous waste facility is required to be monitored and maintained under this chapter and rules adopted under it, including, without limitation,

operation and maintenance of methane gas extraction and treatment systems, or the period of time after closure during which a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code is required to be monitored and maintained under this chapter and rules adopted under it.

(R) "Infectious wastes" means any wastes or combination of wastes that include cultures and stocks of infectious agents and associated biologicals, human blood and blood products, and substances that were or are likely to have been exposed to or contaminated with or are likely to transmit an infectious agent or zoonotic agent, including all of the following:

- (1) Laboratory wastes;
- (2) Pathological wastes;
- (3) Animal blood and blood products;
- (4) Animal carcasses and parts;

(5) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents. Such waste materials from the rooms of humans do not include any wastes of patients who have been placed on blood and body fluid precautions under the universal precaution system established by the centers for disease control in the public health service of the United States department of health and human services, except to the extent specific wastes generated under the universal precautions system have been identified as infectious wastes by rules adopted under division (R)(7) of this section.

(6) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals;

(7) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that the director of health, by rules adopted in accordance with Chapter 119. of the Revised Code, identifies as infectious wastes after determining that the wastes present a substantial threat to human health when improperly managed because they are contaminated with, or are likely to be contaminated with, infectious agents.

As used in this division, "blood products" does not include patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids unless those wastes are soiled to the extent that the generator of the wastes determines that they should be managed as infectious wastes.

(S) "Infectious agent" means a type of microorganism, pathogen, virus,

or proteinaceous infectious particle that can cause or significantly contribute to disease in or death of human beings.

(T) "Zoonotic agent" means a type of microorganism, pathogen, or virus that causes disease in vertebrate animals, is transmissible to human beings, and can cause or significantly contribute to disease in or death of human beings.

(U) "Solid waste transfer facility" means any site, location, tract of land, installation, or building that is used or intended to be used primarily for the purpose of transferring solid wastes that were generated off the premises of the facility from vehicles or containers into other vehicles for transportation to a solid waste disposal facility. "Solid waste transfer facility" does not include any facility that consists solely of portable containers that have an aggregate volume of fifty cubic yards or less nor any facility where legitimate recycling activities are conducted.

(V) "Beneficially use" ~~means~~ includes:

(1) With regard to scrap tires, to use a scrap tire in a manner that results in a commodity for sale or exchange or in any other manner authorized as a beneficial use in rules adopted by the director in accordance with Chapter 119. of the Revised Code;

(2) With regard to material from a horizontal well that has come in contact with a refined oil-based substance and that is not technologically enhanced naturally occurring radioactive material, to use the material in any manner authorized as a beneficial use in rules adopted by the director under section 3734.125 of the Revised Code.

(W) "Commercial car," "commercial tractor," "farm machinery," "motor bus," "vehicles," "motor vehicle," and "semitrailer" have the same meanings as in section 4501.01 of the Revised Code.

(X) "Construction equipment" means road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work, or in mining or producing or processing aggregates, and not designed for or used in general highway transportation.

(Y) "Motor vehicle salvage dealer" has the same meaning as in section 4738.01 of the Revised Code.

(Z) "Scrap tire" means an unwanted or discarded tire.

(AA) "Scrap tire collection facility" means any facility that meets all of the following qualifications:

(1) The facility is used for the receipt and storage of whole scrap tires from the public prior to their transportation to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to

regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(2) The facility exclusively stores scrap tires in portable containers.

(3) The aggregate storage of the portable containers in which the scrap tires are stored does not exceed five thousand cubic feet.

(BB) "Scrap tire monocell facility" means an individual site within a solid waste landfill that is used exclusively for the environmentally sound storage or disposal of whole scrap tires or scrap tires that have been shredded, chipped, or otherwise mechanically processed.

(CC) "Scrap tire monofill facility" means an engineered facility used or intended to be used exclusively for the storage or disposal of scrap tires, including at least facilities for the submergence of whole scrap tires in a body of water.

(DD) "Scrap tire recovery facility" means any facility, or portion thereof, for the processing of scrap tires for the purpose of extracting or producing usable products, materials, or energy from the scrap tires through a controlled combustion process, mechanical process, or chemical process. "Scrap tire recovery facility" includes any facility that uses the controlled combustion of scrap tires in a manufacturing process to produce process heat or steam or any facility that produces usable heat or electric power through the controlled combustion of scrap tires in combination with another fuel, but does not include any solid waste incineration or energy recovery facility that is designed, constructed, and used for the primary purpose of incinerating mixed municipal solid wastes and that burns scrap tires in conjunction with mixed municipal solid wastes, or any tire retreading business, tire manufacturing finishing center, or tire adjustment center having on the premises of the business a single, covered scrap tire storage area at which not more than four thousand scrap tires are stored.

(EE) "Scrap tire storage facility" means any facility where whole scrap tires are stored prior to their transportation to a scrap tire monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires,

that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(FF) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and, as a result of that use, is contaminated by physical or chemical impurities. "Used oil" includes only those substances identified as used oil by the United States environmental protection agency under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 U.S.C.A. 6901a, as amended.

(GG) "Accumulated speculatively" has the same meaning as in rules adopted by the director under section 3734.12 of the Revised Code.

(HH) "Horizontal well" has the same meaning as in section 1509.01 of the Revised Code.

(II) "Technologically enhanced naturally occurring radioactive material" has the same meaning as in section 3748.01 of the Revised Code.

Sec. 3734.02. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing solid waste facilities and the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities will be located, maintained, and operated, and will undergo closure and post-closure care, in a sanitary manner so as not to create a nuisance, cause or contribute to water pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 257.3-8, as amended. The rules may include, without limitation, financial assurance requirements for closure and post-closure care and corrective action and requirements for taking corrective action in the event of the surface or subsurface discharge or migration of explosive gases or leachate from a solid waste facility, or of ground water contamination resulting from the transfer or disposal of solid wastes at a facility, beyond the boundaries of any area within a facility that is operating or is undergoing closure or post-closure care where solid wastes were disposed of or are being disposed of. The rules shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating solid waste facilities. The director, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules governing the issuance, modification, revocation, suspension, or denial of variances from the director's solid waste rules, including, without limitation, rules adopted under this chapter governing the management of scrap tires.

Variances shall be issued, modified, revoked, suspended, or rescinded in accordance with this division, rules adopted under it, and Chapter 3745. of

the Revised Code. The director may order the person to whom a variance is issued to take such action within such time as the director may determine to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the public health or safety or the environment. Applications for variances shall contain such detail plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the director may require. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment. In granting any variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions. The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail or by another type of mail accompanied by a receipt and shall publish at least one notice of the hearing in a newspaper with general circulation in the county where the hearing is to be held. The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances and a current schedule of pending variance hearings. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing. Within ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal of a variance within six months of the date upon which the director receives a complete application with all pertinent information and data required. No variance shall be issued, revoked, modified, or denied until the director has considered the relative interests of the applicant, other persons and property affected by the variance, and the general public. Any variance granted under this division shall be for a period specified by the director and may be renewed from time to time on such terms and for such periods as the director determines to be appropriate. No application shall be denied and no variance shall be revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder

by certified mail or by another type of mail accompanied by a receipt.

(B) The director shall prescribe and furnish the forms necessary to administer and enforce this chapter. The director may cooperate with and enter into agreements with other state, local, or federal agencies to carry out the purposes of this chapter. The director may exercise all incidental powers necessary to carry out the purposes of this chapter.

The director may use moneys in the infectious waste management fund created in section 3734.021 of the Revised Code exclusively for administering and enforcing the provisions of this chapter governing the management of infectious wastes.

(C) Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

No person shall continue to operate a solid waste facility for which the director has denied a permit for which an application was required under division (A)(3) of section 3734.05 of the Revised Code, or for which the director has disapproved plans and specifications required to be filed by an order issued under division (A)(5) of that section, after the date prescribed for commencement of closure of the facility in the order issued under division (A)(6) of section 3734.05 of the Revised Code denying the permit application or approval.

On and after the effective date of the rules adopted under division (A) of this section and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, no person shall establish a new, or modify an existing, solid waste transfer facility without first submitting an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the director and receiving a permit issued by the director.

No person shall establish a new compost facility or continue to operate an existing compost facility that accepts exclusively source separated yard wastes without submitting a completed registration for the facility to the director in accordance with rules adopted under divisions (A) and (N)(3) of this section.

This division does not apply to a generator of infectious wastes that does any of the following:

(1) Treats, by methods, techniques, and practices established by rules adopted under division (B)(2)(a) of section 3734.021 of the Revised Code, any of the following:

(a) Infectious wastes that are generated on any premises that are owned or operated by the generator;

(b) Infectious wastes that are generated by a generator who has staff privileges at a hospital as defined in section 3727.01 of the Revised Code;

(c) Infectious wastes that are generated in providing care to a patient by an emergency medical services organization as defined in section 4765.01 of the Revised Code.

(2) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(3) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.

(E)(1) As used in this division:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of

hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a quarterly basis with the first quarterly payment each year being due on the anniversary of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits. The annual permit fee shall be determined for each permit holder by the director in accordance with the following schedule:

TYPE OF BASIC MANAGEMENT UNIT	TYPE OF FACILITY	FEE
Storage facility using: Containers	On-site, off-site, and satellite	\$ 500

Tanks	On-site, off-site, and satellite	500
Waste pile	On-site, off-site, and satellite	3,000
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Disposal facility using: Deep well injection	On-site and satellite	15,000
	Off-site	25,000
Landfill	On-site and satellite	25,000
	Off-site	40,000
Land application	On-site and satellite	2,500
	Off-site	5,000
Surface impoundment	On-site and satellite	10,000
	Off-site	20,000
Treatment facility using: Tanks	On-site, off-site, and satellite	700
	Surface impoundment	8,000
Incinerator	On-site and satellite	5,000
	Off-site	10,000
Other forms of treatment	On-site, off-site, and satellite	1,000

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any permit holder that would apply to a hazardous waste management unit for which a permit has been issued, but for which

construction has not yet commenced. Once construction has commenced, the director shall require the payment of a part of the appropriate fee indicated by the schedule that bears the same relationship to the total fee that the number of days remaining until the next anniversary date at which payment of the annual permit fee is due bears to three hundred sixty-five.

The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe procedures for collecting the annual permit fee established by this division and may prescribe other requirements necessary to carry out this division.

(3) The prohibition against establishing or operating a hazardous waste facility without a hazardous waste facility installation and operation permit does not apply to either of the following:

(a) A facility that is operating in accordance with a permit renewal issued under division (H) of section 3734.05 of the Revised Code, a revision issued under division (I) of that section as it existed prior to August 20, 1996, or a modification issued by the director under division (I) of that section on and after August 20, 1996;

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in division (E)(3)(a) or (b) of this section, division (I)(7) of section 3734.05 of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

(1) A hazardous waste facility operating under a permit issued in accordance with this chapter;

(2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976,"

90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(3) A facility in another nation operating in accordance with the laws of that nation;

(4) A facility holding a permit issued pursuant to Title I of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended;

(5) A hazardous waste facility as described in division (E)(3)(a) or (b) of this section.

(G) The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, infectious wastes, or hazardous waste, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

(H) No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was operated without prior authorization from the director, who shall establish the procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code.

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair,

replacement, or maintenance work, the public utility shall notify the director or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair, replacement, or maintenance activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

(I) No owner or operator of a hazardous waste facility, in the operation of the facility, shall cause, permit, or allow the emission therefrom of any particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substance that, in the opinion of the director, unreasonably interferes with the comfortable enjoyment of life or property by persons living or working in the vicinity of the facility, or that is injurious to public health. Any such action is hereby declared to be a public nuisance.

(J) Notwithstanding any other provision of this chapter, in the event the director finds an imminent and substantial danger to public health or safety or the environment that creates an emergency situation requiring the immediate treatment, storage, or disposal of hazardous waste, the director may issue a temporary emergency permit to allow the treatment, storage, or disposal of the hazardous waste at a facility that is not otherwise authorized by a hazardous waste facility installation and operation permit to treat, store, or dispose of the waste. The emergency permit shall not exceed ninety days in duration and shall not be renewed. The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code governing the issuance, modification, revocation, and denial of emergency permits.

(K) Except for infectious wastes generated by a person who produces fewer than fifty pounds of infectious wastes at a premises during any one month, no owner or operator of a sanitary landfill shall knowingly accept for disposal, or dispose of, any infectious wastes that have not been treated to render them noninfectious.

(L) The director, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend, suspend, or rescind, rules having uniform application throughout the state establishing a training and certification program that shall be required for employees of boards of health who are responsible for enforcing the solid waste and infectious waste provisions of this chapter and rules adopted under them and for persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities. The rules shall provide all of the following, without limitation:

(1) The program shall be administered by the director and shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

(2) The course shall be offered on an annual basis;

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially;

(4) Persons who successfully complete the course shall be certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

(6)(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.

No person shall fail to obtain the certification required under this division.

(M) The director shall not issue a permit under section 3734.05 of the Revised Code to establish a solid waste facility, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of

"The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the facility or proposed facility will not degrade any of the natural or cultural resources of the park or recreation area. The director shall not issue a variance under division (A) of this section and rules adopted under it, or issue an exemption order under division (G) of this section, that would authorize any such establishment or expansion of a solid waste facility within the boundaries of any such park or recreation area, state park purchase area, or candidate area, other than a solid waste facility exclusively for the disposal of solid wastes generated within the park or recreation area when the director determines that the facility will not degrade any of the natural or cultural resources of the park or recreation area.

(N)(1) The rules adopted under division (A) of this section, other than those governing variances, do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections 3734.70 to 3734.73 of the Revised Code, as applicable.

(2) Division (C) of this section does not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The establishment and modification of those facilities are subject to sections 3734.75 to 3734.78 and section 3734.81 of the Revised Code, as applicable.

(3) The director may adopt, amend, suspend, or rescind rules under division (A) of this section creating an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility in lieu of the requirement that a person seeking to establish, operate, or modify a solid waste compost facility apply for and receive a permit under division (C) of this section and section 3734.05 of the Revised Code and a license under division (A)(1) of that section. The rules may include requirements governing, without limitation, the classification of solid waste compost facilities, the submittal of operating records for solid waste compost facilities, and the creation of a registration or notification system in lieu of the issuance of permits and licenses for solid waste compost facilities. The rules shall specify the applicability of divisions (A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised Code to a solid waste compost facility.

(O)(1) As used in this division, "secondary aluminum waste" means waste material or byproducts, when disposed of, containing aluminum generated from secondary aluminum smelting operations and consisting of dross, salt cake, baghouse dust associated with aluminum recycling furnace

operations, or dry-milled wastes.

(2) The owner or operator of a sanitary landfill shall not dispose of municipal solid waste that has been commingled with secondary aluminum waste.

(3) The owner or operator of a sanitary landfill may dispose of secondary aluminum waste, but only in a monocell or monofill that has been permitted for that purpose in accordance with this chapter and rules adopted under it.

(P)(1) As used in divisions (P) and (Q) of this section:

(a) "Natural background" means two picocuries per gram or the actual number of picocuries per gram as measured at an individual solid waste facility, subject to verification by the director of health.

(b) "Drilling operation" includes a production operation as defined in section 1509.01 of the Revised Code.

(2) The owner or operator of a solid waste facility shall not accept for transfer or disposal technologically enhanced naturally occurring radioactive material if that material contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(3) The owner or operator of a solid waste facility may receive and process for purposes other than transfer or disposal technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background, provided that the owner or operator has obtained and maintains all other necessary authorizations, including any authorization required by rules adopted by the director of health under section 3748.04 of the Revised Code.

(4) The director of environmental protection may adopt rules in accordance with Chapter 119. of the Revised Code governing the receipt, acceptance, processing, handling, management, and disposal by solid waste facilities of material that contains or is contaminated with radioactive material, including, without limitation, technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations less than five picocuries per gram above natural background. Rules adopted by the director may include at a minimum both of the following:

(a) Requirements in accordance with which the owner or operator of a

solid waste facility must monitor leachate and ground water for radium-226, radium-228, and other radionuclides:

(b) Requirements in accordance with which the owner or operator of a solid waste facility must develop procedures to ensure that technologically enhanced naturally occurring radioactive material accepted at the facility neither contains nor is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(Q) Notwithstanding any other provision of this section, the owner or operator of a solid waste facility shall not receive, accept, process, handle, manage, or dispose of technologically enhanced naturally occurring radioactive material associated with drilling operations without first obtaining representative analytical results to determine compliance with divisions (P)(2) and (3) of this section and rules adopted under it.

Sec. 3734.125. The director of environmental protection may adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements governing the beneficial use of material from a horizontal well that has come in contact with a refined oil-based substance and that is not technologically enhanced naturally occurring radioactive material.

Sec. 3734.28. Except as otherwise provided in sections 3734.281 and 3734.282 of the Revised Code, moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, et seq., as amended, including moneys recovered under division (B)(1) of this section, shall be paid into the state treasury to the credit of the hazardous waste clean-up fund, which is hereby created. In addition, both of the following shall be credited to the fund:

(A) Moneys recovered for costs paid from the fund for activities described in divisions (A)(1) and (2) of section 3745.12 of the Revised Code;

(B) Natural resource damage assessment costs recovered under any of the following:

(1) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, et seq., as amended;

(2) The "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701, et seq., as amended;

(3) ~~The Federal Water Pollution Control Act as defined in section 6111.01 of the Revised Code~~ "Clean Water Act of 1977," 91 Stat. 1566, 33 U.S.C. 1321, et seq., as amended;

(4) Any other applicable federal or state law.

The environmental protection agency shall use the moneys in the fund for the purposes set forth in division (D) of section 3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, divisions (A)(1) and (2) of section 3745.12, and Chapter 3746. of the Revised Code, including any related enforcement expenses and administrative expenses of any related closure or corrective action program. In addition, the agency shall use the moneys in the fund to pay the state's long-term operation and maintenance costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended. If those moneys are reimbursed by grants or other moneys from the United States or any other person, the moneys shall be placed in the fund and not in the general revenue fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the responsibilities of the environmental protection agency for which money may be expended from the fund.

Sec. 3734.57. (A) The following fees are hereby levied on the transfer or disposal of solid wastes in this state:

(1) One dollar per ton through June 30, ~~2014~~ 2016, ~~one-half~~ thirty per cent of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section 3734.18 of the Revised Code and ~~one-half~~ seventy per cent of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste clean-up fund created in section 3734.28 of the Revised Code;

(2) An additional one dollar per ton through June 30, ~~2014~~ 2016, the proceeds of which shall be deposited in the state treasury to the credit of the solid waste fund, which is hereby created. The environmental protection agency shall use money in the solid waste fund to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, providing compliance assistance to small businesses, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code.

(3) An additional two dollars and fifty cents per ton through June 30,

~~2014~~ 2016, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code;

(4) An additional twenty-five cents per ton through June 30, ~~2013~~ 2016, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code.

In the case of solid wastes that are taken to a solid waste transfer facility located in this state prior to being transported for disposal at a solid waste disposal facility located in this state or outside of this state, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return or may submit the return and fees electronically in a

manner approved by the director. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, and if the request and evidence submitted with the request indicate that a refund or credit is warranted, the director shall grant a refund to the owner or operator or shall permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be

granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be paid by the customer or a political subdivision to the owner or operator of a solid waste transfer or disposal facility. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment regardless of whether the contract was entered prior to or after October 16, 2009. For those purposes, "customer" means a person who contracts with, or utilizes the solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions

(B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. A solid waste management district that levies fees under this division on the basis of cubic yards shall do so in accordance with division (A) of this section.

The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section.

Prior to the approval of the solid waste management plan of a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or

disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid waste management plan has been ratified under division (B) of section 3734.55 of the Revised Code.

The committee may amend the schedule of fees levied pursuant to a resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may repeal the fees levied pursuant to such a resolution by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one

involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended

plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township

is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are generated from the combustion of coal, or from the combustion of primarily coal, regardless of whether the disposal facility is located on the premises where the wastes are generated;

(c) Are asbestos or asbestos-containing materials or products disposed of at a construction and demolition debris facility that is licensed under Chapter 3714. of the Revised Code or at a solid waste facility that is licensed under this chapter.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall

be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (B) and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under division (D)(8) of this

section shall include a determination that the amount of the fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the fiscal officer of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the fiscal officer of the township under that division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the township fiscal officer, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the

following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of

section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations and the fiscal officers of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section.

Sec. 3734.901. (A)(1) For the purpose of providing revenue to defray the cost of administering and enforcing the scrap tire provisions of this chapter, rules adopted under those provisions, and terms and conditions of orders, variances, and licenses issued under those provisions; to abate accumulations of scrap tires; to make grants supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes and to support scrap tire amnesty and cleanup events; to make loans to promote the recycling or recovery of energy from scrap tires; and to defray the costs of administering and enforcing sections 3734.90 to 3734.9014 of the Revised Code, a fee of fifty cents per tire is hereby levied on the sale of tires. The proceeds of the fee shall be deposited in the state treasury to the credit of the scrap tire management fund created in section 3734.82 of the Revised Code. The fee is levied from the first day of the calendar month that begins next after thirty days from October 29, 1993, through June 30, ~~2013~~ 2016.

(2) Beginning on July 1, 2011, and ending on June 30, ~~2013~~ 2016, there is hereby levied an additional fee of fifty cents per tire on the sale of tires the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code.

(B) Only one sale of the same article shall be used in computing the amount of the fee due.

Sec. 3734.907. (A) Any person required to pay the fee imposed by section 3734.901 of the Revised Code is personally liable for the fee. The tax commissioner may make an assessment, based upon any information in the commissioner's possession, against any person who fails to file a return or pay any fee, interest, or additional charge as required by sections 3734.90 to 3734.9014 of the Revised Code. The commissioner shall give the person assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) When the information in the possession of the tax commissioner indicates that a person liable for the fee imposed by section 3734.901 of the Revised Code has not paid the full amount of fee due, the commissioner may audit a representative sample of the person's business and may issue an assessment based on the audit.

(C) A penalty of up to fifteen per cent may be added to all amounts assessed under this section. The commissioner may adopt rules providing for the imposition and remission of the penalties.

(D) Unless the person assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the person assessed or that person's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the person assessed to the treasurer of state. The petition shall indicate the objections of the person assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(E) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person assessed resides or in which the person's business is conducted. If the person assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the person assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state tire fee," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of the fee due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until the day the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the fee and may be collected by the issuance of an assessment under this section.

(F) If the tax commissioner believes that collection of the fee will be jeopardized unless proceedings to collect or secure collection of the fee are

instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the fee. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (E) of this section. Notice of the jeopardy assessment shall be served on the person assessed or the person's legal representative, as provided in section 5703.37 of the Revised Code, within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (D) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(G) All money collected by the tax commissioner under this section shall be paid to the treasurer of state as revenue arising from the fee imposed by section 3734.901 of the Revised Code.

Sec. 3735.58. (A) The director of ~~mental health~~ mental health and addiction services, the director of developmental disabilities, or the director of rehabilitation and correction may enter into contracts for the sale of land not needed by their departments and under their jurisdiction or supervision to metropolitan housing authorities for use by such an authority for a housing project or projects. Such contract may contain such conditions and terms as are, in the discretion of the directors, in the best interests of the state and the welfare of the residents of the state.

(B) The director may, upon receipt of a request from a metropolitan housing authority, request the approval of the governor to sell and convey land not needed by the director's department and under the director's jurisdiction or supervision to an authority, subject to such terms and conditions consistent with the public interest and welfare of the residents of the state as the director considers necessary. The governor, with the approval of the controlling board, may approve the request. Such property shall be appraised at its fair market value before it is conveyed. The director of administrative services shall cause it to be appraised by three disinterested persons and shall determine the fee which each appraiser shall receive, not to exceed fifty dollars. All appraisal fees shall be paid by the authority which shall deposit with the director one hundred fifty dollars before the appraisal is made. If the deposit exceeds the appraisal fee, the balance shall be returned to the authority. The appraisal value, when approved by the director, is the purchase price. If the purchase price is not paid within ninety days after notice to the authority of the approved

appraisal value, the director shall withdraw approval of the appraisal value and no deed shall be delivered to the authority without the written approval of the director of the purchase price. If the purchase price is paid within ninety days, a deed shall be prepared and recorded pursuant to section 5301.13 of the Revised Code.

(C) Moneys received from sales of land to a metropolitan housing authority shall be placed in the state treasury in special funds, to be used for such purposes of the department of ~~mental health~~ mental health and addiction services, the department of developmental disabilities, or the department of rehabilitation and correction as is appropriate.

Sec. 3735.661. (A) For the purpose of determining the "first two amendments" referenced in division (B) of Section 3 of Am. Sub. S.B. 19 of the 120th general assembly, an amendment means any modification to an ordinance or resolution adopted under section 3735.66 of the Revised Code that does any of the following:

(1) Expands the geographic size of a community reinvestment area;

(2) Increases a property's or category of property's exempted percentage of assessed valuation, notwithstanding the requirements of section 3735.66 of the Revised Code as that section existed on July 21, 1994. Division (A)(2) of this section does not authorize a municipal corporation or county to increase a property's or category of property's exempted percentage of assessed valuation pursuant to that section.

(3) Increases the term of any tax exemption or category of tax exemptions;

(4) Extends the duration of a community reinvestment area;

(5) Changes eligibility requirements for receiving tax exemptions.

(B) For the purpose of determining the "first two amendments" in division (B) of Section 3 of Am. Sub. S.B. 19 of the 120th general assembly, an amendment does not include any modification to an ordinance or resolution adopted under section 3735.66 of the Revised Code that does any of the following:

(1) Restricts the availability of tax exemptions, including any of the following:

(a) Removes area from or decreases the geographic size of a community reinvestment area;

(b) Decreases a property's or category of property's exempted percentage of assessed valuation, notwithstanding the requirements of section 3735.66 of the Revised Code as that section existed on July 21, 1994. Division (B)(1)(b) of this section does not authorize a municipal corporation or county to decrease a property's or category of property's

exempted percentage of assessed valuation pursuant to that section.

(c) Decreases the term of any tax exemption or category of exemption;

(d) Shortens the period of time after which the granting of tax exemptions may be terminated.

(2) Recognizes or confirms the continuing existence of a community reinvestment area, including by providing a date after which the area may be terminated;

(3) Recognizes or confirms a previously granted tax exemption;

(4) Clarifies ambiguities or corrects defects in previously enacted ordinances or resolutions;

(5) Makes modifications that are procedural or administrative, including changing the designation of a housing officer, the process for approving or appealing a tax exemption, or the amount of any application fee, or modifying a community reinvestment area housing council created under section 3735.69 of the Revised Code or a tax incentive review council under section 5709.85 of the Revised Code.

Sec. 3737.02. (A) The fire marshal may collect fees to cover the costs of performing inspections and other duties that the fire marshal is authorized or required by law to perform. Except as provided in division (B) of this section, all fees collected by the fire marshal shall be deposited to the credit of the fire marshal's fund.

(B) All of the following shall be credited to the underground storage tank administration fund, which is hereby created in the state treasury:

(1) Fees collected under sections 3737.88 and 3737.881 of the Revised Code for operation of the underground storage tank and underground storage tank installer certification programs, moneys;

(2) Moneys recovered under section 3737.89 of the Revised Code for the state's costs of undertaking corrective or enforcement actions under that section or section 3737.882 of the Revised Code, and fines;

(3) Fines and penalties collected under section 3737.882 of the Revised Code shall be credited to the underground storage tank administration fund, which is hereby created in the state treasury. All;

(4) Amounts repaid for underground storage tank revolving loans under section 3737.883 of the Revised Code.

(C) All interest earned on moneys credited to the underground storage tank administration fund shall be credited to the fund. Moneys credited to the underground storage tank administration fund shall be used by the fire marshal for implementation and enforcement of underground storage tank, corrective action, and installer certification programs under sections 3737.88 to 3737.89 of the Revised Code. Only moneys described in divisions (B)(3)

and (4) of this section may be used by the fire marshal to make underground storage tank revolving loans under section 3737.883 of the Revised Code, and no other moneys may be used to make those loans.

~~(C)~~(D) The fire marshal shall take all actions necessary to obtain any federal funding available to carry out the fire marshal's responsibilities under sections 3737.88 to 3737.89 of the Revised Code and federal laws regarding the cleaning up of releases of petroleum, as "release" is defined in section 3737.87 of the Revised Code, including, without limitation, any federal funds that are available to reimburse the state for the costs of undertaking corrective actions for such releases of petroleum. The state may, when appropriate, return to the United States any federal funds recovered under sections 3737.882 and 3737.89 of the Revised Code.

Sec. 3737.83. The fire marshal shall, as part of the state fire code, adopt rules to:

(A) Establish minimum standards of performance for fire protection equipment and fire fighting equipment;

(B) Establish minimum standards of training, fix minimum qualifications, and require certificates for all persons who engage in the business for profit of installing, testing, repairing, or maintaining fire protection equipment;

(C) Provide for the issuance of certificates required under division (B) of this section and establish the fees to be charged for such certificates. A certificate shall be granted, renewed, or revoked according to rules the fire marshal shall adopt.

(D) Establish minimum standards of flammability for consumer goods in any case where the federal government or any department or agency thereof has established, or may from time to time establish standards of flammability for consumer goods. The standards established by the fire marshal shall be identical to the minimum federal standards.

In any case where the federal government or any department or agency thereof, establishes standards of flammability for consumer goods subsequent to the adoption of a flammability standard by the fire marshal, standards previously adopted by the fire marshal shall not continue in effect to the extent such standards are not identical to the minimum federal standards.

With respect to the adoption of minimum standards of flammability, this division shall supersede any authority granted a political subdivision by any other section of the Revised Code.

(E) Establish minimum standards pursuant to section 5104.05 of the Revised Code for fire prevention and fire safety in child day-care centers

and in type A family day-care homes, as defined in section 5104.01 of the Revised Code.

(F) Establish minimum standards for fire prevention and safety in a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults. The fire marshal shall adopt the rules under this division in consultation with the director of ~~mental health~~ mental health and addiction services and interested parties designated by the director of ~~mental health~~ mental health and addiction services.

Sec. 3737.841. As used in this section and section 3737.842 of the Revised Code:

(A) "Public occupancy" means all of the following:

(1) Any state correctional institution as defined in section 2967.01 of the Revised Code and any county, multicounty, municipal, or municipal-county jail or workhouse;

(2) Any hospital as defined in section 3727.01 of the Revised Code, any hospital licensed by the department of ~~mental health~~ mental health and addiction services under section ~~5119.20~~ 5119.33 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department of ~~mental health~~ mental health and addiction services under Chapter 5119. of the Revised Code;

(3) Any nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code and any residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;

(4) Any child day-care center and any type A family day-care home as defined in section 5104.01 of the Revised Code;

(5) Any public auditorium or stadium;

(6) Public assembly areas of hotels and motels containing more than ten articles of seating furniture.

(B) "Sell" includes sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess for sale, or dispose of in any other commercial manner.

(C) Except as provided in division (D) of this section, "seating furniture" means any article of furniture, including children's furniture, that can be used as a support for an individual, or an individual's limbs or feet, when sitting or resting in an upright or reclining position and that either:

(1) Is made with loose or attached cushions or pillows;

(2) Is stuffed or filled in whole or in part with any filling material;

(3) Is or can be stuffed or filled in whole or in part with any substance or material, concealed by fabric or any other covering.

"Seating furniture" includes the cushions or pillows belonging to or forming a part of the furniture, the structural unit, and the filling material and its container or covering.

(D) "Seating furniture" does not include, except if intended for use by children or in facilities designed for the care or treatment of humans, any of the following:

(1) Cushions or pads intended solely for outdoor use;

(2) Any article with a smooth surface that contains no more than one-half inch of filling material, if that article does not have an upholstered horizontal surface meeting an upholstered vertical surface;

(3) Any article manufactured solely for recreational use or physical fitness purposes, including weight-lifting benches, gymnasium mats or pads, and sidehorses.

(E) "Filling material" means cotton, wool, kapok, feathers, down, hair, liquid, or any other natural or artificial material or substance that is used or can be used as stuffing in seating furniture.

Sec. 3737.88. (A)(1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases of petroleum from underground storage tanks established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the programs, the fire marshal may adopt, amend, and rescind such rules, conduct such inspections, require annual registration of underground storage tanks, issue such citations and orders to enforce those rules, enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and perform such other duties, as are consistent with those programs. The fire marshal, by rule, may delegate the authority to conduct inspections of underground storage tanks to certified fire safety inspectors.

(2) In the place of any rules regarding release containment and release detection for underground storage tanks adopted under division (A)(1) of this section, the fire marshal, by rule, shall designate areas as being sensitive for the protection of human health and the environment and adopt alternative rules regarding release containment and release detection methods for new and upgraded underground storage tank systems located in those areas. In designating such areas, the fire marshal shall take into consideration such factors as soil conditions, hydrogeology, water use, and the location of public and private water supplies. Not later than July 11, 1990, the fire marshal shall file the rules required under this division with

the secretary of state, director of the legislative service commission, and joint committee on agency rule review in accordance with divisions (B) and (H) of section 119.03 of the Revised Code.

(3) Notwithstanding sections 3737.87 to 3737.89 of the Revised Code, a person who is not a responsible person, as determined by the fire marshal pursuant to this chapter, may conduct a voluntary action in accordance with Chapter 3746. of the Revised Code and rules adopted under it for either of the following:

(a) A class C release;

(b) A release, other than a class C release, that is subject to the rules adopted by the fire marshal under division (B) of section 3737.882 of the Revised Code pertaining to a corrective action, provided that both of the following apply:

(i) The voluntary action also addresses hazardous substances or petroleum that is not subject to the rules adopted under division (B) of section 3737.882 of the Revised Code pertaining to a corrective action.

(ii) The fire marshal has not issued an administrative order concerning the release or referred the release to the attorney general for enforcement.

The director of environmental protection, pursuant to section 3746.12 of the Revised Code, may issue a covenant not to sue to any person who properly completes a voluntary action with respect to any such release in accordance with Chapter 3746. of the Revised Code and rules adopted under it.

(B) Before adopting any rule under this section or section 3737.881 or 3737.882 of the Revised Code, the fire marshal shall file written notice of the proposed rule with the chairperson of the state fire council, and, within sixty days after notice is filed, the council may file responses to or comments on and may recommend alternative or supplementary rules to the fire marshal. At the end of the sixty-day period or upon the filing of responses, comments, or recommendations by the council, the fire marshal may adopt the rule filed with the council or any alternative or supplementary rule recommended by the council.

(C) The state fire council may recommend courses of action to be taken by the fire marshal in carrying out the fire marshal's duties under this section. The council shall file its recommendations in the office of the fire marshal, and, within sixty days after the recommendations are filed, the fire marshal shall file with the chairperson of the council comments on, and proposed action in response to, the recommendations.

(D) For the purpose of sections 3737.87 to 3737.89 of the Revised Code, the fire marshal shall adopt, and may amend and rescind, rules

identifying or listing hazardous substances. The rules shall be consistent with and equivalent in scope, coverage, and content to regulations identifying or listing hazardous substances adopted under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, except that the fire marshal shall not identify or list as a hazardous substance any hazardous waste identified or listed in rules adopted under division (A) of section 3734.12 of the Revised Code.

(E) Except as provided in division (A)(3) of this section, the fire marshal shall have exclusive jurisdiction to regulate the storage, treatment, and disposal of petroleum contaminated soil generated from corrective actions undertaken in response to releases of petroleum from underground storage tank systems. The fire marshal may adopt, amend, or rescind such rules as the fire marshal considers to be necessary or appropriate to regulate the storage, treatment, or disposal of petroleum contaminated soil so generated.

(F) The fire marshal shall adopt, amend, and rescind rules under sections 3737.88 to ~~3737.882~~ 3737.883 of the Revised Code in accordance with Chapter 119. of the Revised Code.

Sec. 3737.882. (A) If, after an examination or inspection, the fire marshal or an assistant fire marshal finds that a release of petroleum is suspected, the fire marshal shall take such action as the fire marshal considers necessary to ensure that a suspected release is confirmed or disproved and, if the occurrence of a release is confirmed, to correct the release. These actions may include one or more of the following:

(1) Issuance of a citation and order requiring the responsible person to undertake, in a manner consistent with the requirements of section 9003 of the "Resource Conservation and Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, as amended, applicable regulations adopted thereunder, and rules adopted under division (B) of this section, such actions as are necessary to protect human health and the environment, including, without limitation, the investigation of a suspected release;

(2) Requesting the attorney general to bring a civil action for appropriate relief, including a temporary restraining order or preliminary or permanent injunction, in the court of common pleas of the county in which a suspected release is located or in which the release occurred, to obtain the corrective action necessary to protect human health and the environment. In granting any such relief, the court shall ensure that the terms of the temporary restraining order or injunction are sufficient to provide comprehensive corrective action to protect human health and the

environment.

(3) Entry onto premises and undertaking corrective action with respect to a release of petroleum if, in the fire marshal's judgment, such action is necessary to protect human health and the environment. Any corrective action undertaken by the fire marshal or assistant fire marshal under division (A)(3) of this section shall be consistent with the requirements of sections 9003 and 9005 of the "Resource Conservation and Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, and 98 Stat. 3284, 42 U.S.C.A. 6991e, respectively, as amended, applicable regulations adopted thereunder, and rules adopted under division (B) of this section.

(B) The fire marshal shall adopt, and may amend and rescind, such rules as the fire marshal considers necessary to establish standards for corrective actions for suspected and confirmed releases of petroleum and standards for the recovery of costs incurred for undertaking corrective or enforcement actions with respect to such releases. The rules also shall include requirements for financial responsibility for the cost of corrective actions for and compensation of bodily injury and property damage incurred by third parties that are caused by releases of petroleum. Rules regarding financial responsibility shall, without limitation, require responsible persons to provide evidence that the parties guaranteeing payment of the deductible amount established under division (E) or (F) of section 3737.91 of the Revised Code are, at a minimum, secondarily liable for all corrective action and third-party liability costs incurred within the scope of the deductible amount. The rules shall be consistent with sections 9003 and 9005 of the "Resource Conservation and Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, and 98 Stat. 3284, 42 U.S.C.A. 6991e, respectively, as amended, and applicable regulations adopted thereunder.

(C)(1) No person shall violate or fail to comply with a rule adopted under division (A) of section 3737.88 of the Revised Code or division (B) of this section, and no person shall violate or fail to comply with the terms of any order issued under division (A) of section 3737.88 of the Revised Code or division (A)(1) of this section.

(2) Whoever violates division (C)(1) of this section or division (F) of section 3737.881 of the Revised Code shall pay a civil penalty of not more than ten thousand dollars for each day that the violation continues. The fire marshal may, by order, assess a civil penalty under this division, or the fire marshal may request the attorney general to bring a civil action for imposition of the civil penalty in the court of common pleas of the county in which the violation occurred. If the fire marshal determines that a responsible person is in violation of division (C)(1) of this section or

division (F) of section 3737.881 of the Revised Code, the fire marshal may request the attorney general to bring a civil action for appropriate relief, including a temporary restraining order or preliminary or permanent injunction, in the court of common pleas of the county in which the underground storage tank or, in the case of a violation of division (F)(3) of section 3737.881 of the Revised Code, the training program that is the subject of the violation is located. The court shall issue a temporary restraining order or an injunction upon a demonstration that a violation of division (C)(1) of this section or division (F) of section 3737.881 of the Revised Code has occurred or is occurring.

Any action brought by the attorney general under this division is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions.

Nothing in section 3737.883 of the Revised Code limits the powers of the fire marshal or the attorney general under this division.

(D) Orders issued under division (A) of section 3737.88 of the Revised Code and divisions (A)(1) and (C) of this section, and appeals thereof, are subject to and governed by Chapter 3745. of the Revised Code. Such orders shall be issued without the necessity for issuance of a proposed action under that chapter. For purposes of appeals of any such orders, the term "director" as used in Chapter 3745. of the Revised Code includes the fire marshal and an assistant fire marshal.

(E) Any restrictions on the use of real property for the purpose of the achievement by an owner or operator of applicable standards pursuant to rules adopted under division (B) of this section shall be contained in a deed or in another instrument that is signed and acknowledged by the property owner in the same manner as a deed or an environmental covenant that is entered into in accordance with sections 5301.80 to 5301.92 of the Revised Code. The deed, other instrument containing the restrictions, or environmental covenant shall be filed and recorded in the office of the county recorder of the county in which the property is located. Pursuant to Chapter 5309. of the Revised Code, if the use restrictions or environmental covenant are connected with registered land, as defined in section 5309.01 of the Revised Code, the restrictions or environmental covenant shall be entered as a memorial on the page of the register where the title of the owner is registered.

(F) Any restrictions on the use of real property for the purpose of the achievement by a person that is not a responsible person, or by a person undertaking a voluntary action of applicable standards pursuant to rules adopted under division (B) of this section shall be contained in an

environmental covenant that is entered into in accordance with sections 5301.80 to 5301.92 of the Revised Code. The environmental covenant shall be filed and recorded in the office of the county recorder of the county in which the property is located. Pursuant to Chapter 5309. of the Revised Code, if the environmental covenant is connected with registered land, as defined in section 5309.01 of the Revised Code, the environmental covenant shall be entered as a memorial on the page of the register where the title of the owner is registered.

Sec. 3737.883. (A) As used in this section, "political subdivision" has the same meaning as in section 2744.01 of the Revised Code, but includes a community improvement corporation as that term is defined in section 1724.01 of the Revised Code.

(B)(1) A political subdivision may do any of the following for an underground storage tank located within its territorial boundaries if the political subdivision is the tank owner but not the operator:

(a) Initiate, continue, or properly complete the closure in place or removal of an underground storage tank system;

(b) Initiate, continue, or properly complete an assessment of the site of an underground storage tank or the site of an underground storage tank system;

(c) Initiate, continue, or properly complete a corrective action.

(2) A political subdivision may take any of the actions described in divisions (B)(1)(a) to (c) of this section for the site of a previously existing release to which all of the following apply:

(a) The political subdivision is not the responsible person.

(b) The release has not received a no-further-action determination from the state fire marshal.

(c) The site of the release is located within the political subdivision's territorial boundaries.

(d) The responsible person is not identifiable or the state fire marshal determines that an identified responsible person is unable to pay the costs of the action to be taken by the political subdivision.

(C) The state fire marshal or the state fire marshal's designee shall administer an underground storage tank revolving loan program under which the state fire marshal issues loans to assist with the costs of actions taken under divisions (B)(1) and (2) of this section. The state fire marshal shall issue a loan under the program to a political subdivision that meets the application requirements of division (D) of this section and agrees to written terms and conditions of the loan with the state fire marshal.

(D) A political subdivision shall apply to the state fire marshal for a loan

under this section on a form prescribed by the state fire marshal. In the application, the political subdivision shall do all of the following:

(1) Describe the action for which it is requesting a loan;

(2) State the requested loan amount;

(3) Explain how the political subdivision plans to spend, of its own funds, in undertaking the action for which the loan is requested, an amount equal to at least five per cent of the requested loan amount;

(4) Provide any other information requested by the state fire marshal.

(E) The state fire marshal shall consult with the director of development services before issuing any loan under this section.

(F) A loan issued under this section shall not carry interest. No loan issued under this section shall have a term of more than ten years. The political subdivision shall repay a loan issued under this section to the state fire marshal.

(G) If, at any time after the expenditure of loan funds by a political subdivision under division (B)(2) of this section, the state fire marshal or any law enforcement agency identifies the responsible person or determines, for any reason, that the previously identified responsible person was or is able to pay the costs of the action for which the loan was issued, the political subdivision may bring any appropriate proceedings against the responsible person to recover the costs incurred by the political subdivision. The proceedings may be brought in either the court of common pleas having jurisdiction where the underground storage tank is located or the court of common pleas of Franklin county.

(H)(1) The state fire marshal shall adopt and may amend and rescind rules as necessary for the administration and operation of the underground storage tank revolving loan program. The rules may do any of the following:

(a) Further define the entities considered "political subdivisions" eligible to receive loans;

(b) Establish qualifying criteria for loan recipients;

(c) Establish criteria for awarding loans, loan amounts, loan payment terms, and permissible expenditures of loan funds, including methods that the state fire marshal may use to verify the proper use of loan funds or to obtain reimbursement for or the return of improperly used loan funds.

(2) The state fire marshal may adopt and may amend and rescind rules for the issuance of emergency underground storage tank revolving loans to qualifying entities during a natural disaster or another similar event as defined in the rules.

Sec. ~~3737.883~~ 3737.884. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state fire marshal shall comply with

sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate issued pursuant to section 3737.34, 3737.65, 3737.83, or 3737.881 of the Revised Code.

Sec. 3742.30. Each child at risk of lead poisoning shall undergo a blood lead screening test to determine whether the child has lead poisoning. The at-risk children shall undergo the test at times determined by rules the director of health shall adopt in accordance with Chapter 119. of the Revised Code that are consistent with the guidelines established by the centers for disease control and prevention in the public health service of the United States department of health and human services. The rules shall specify which children are at risk of lead poisoning.

Neither this section nor the rules adopted under it affect the coverage of blood lead screening tests by any publicly funded health program, including the medicaid program ~~established by Chapter 5111. of the Revised Code.~~ Neither this section nor the rules adopted under it apply to a child if a parent of the child objects to the test on the grounds that the test conflicts with the parent's religious tenets and practices.

Sec. 3742.31. (A) The director of health shall establish, promote, and maintain a child lead poisoning prevention program. The program shall provide statewide coordination of screening, diagnosis, and treatment services for children under age six, including both of the following:

(1) Collecting the social security numbers of all children screened, diagnosed, or treated as part of the program's case management system;

(2) Disclosing to the ~~office of medical assistance in the~~ department of ~~job and family services~~ medicaid on at least an annual basis the identity and lead screening test results of each child screened pursuant to section 3742.30 of the Revised Code. The director shall collect and disseminate information relating to child lead poisoning and controlling lead hazards.

(B) The director of health shall operate the child lead poisoning prevention program in accordance with rules adopted under section 3742.50 of the Revised Code. The director may enter into an interagency agreement with one or more other state agencies to perform one or more of the program's duties. The director shall supervise and direct an agency's performance of such a duty.

Sec. 3742.32. (A) The director of health shall appoint an advisory council to assist in the ongoing development and implementation of the child lead poisoning prevention program created under section 3742.31 of the Revised Code. The advisory council shall consist of the following members:

(1) A representative of the ~~office of medical assistance in the~~ department of ~~job and family services~~ medicaid;

(2) A representative of the bureau of child care in the department of job and family services;

(3) A representative of the department of environmental protection;

(4) A representative of the department of education;

(5) A representative of the ~~department of development~~ services agency;

(6) A representative of the Ohio apartment owner's association;

(7) A representative of the Ohio help end lead poisoning coalition;

(8) A representative of the Ohio environmental health association;

(9) An Ohio representative of the national paint and coatings association.

(B) The advisory council shall do both of the following:

(1) Provide the director with advice regarding the policies the child lead poisoning prevention program should emphasize, preferred methods of financing the program, and any other matter relevant to the program's operation;

(2) Submit a report of the state's activities to the governor, president of the senate, and speaker of the house of representatives on or before the first day of March each year.

(C) The advisory council is not subject to sections 101.82 to 101.87 of the Revised Code.

Sec. 3742.51. (A) There is hereby created in the state treasury the lead poisoning prevention fund. The fund shall include all moneys appropriated to the department of health for the administration and enforcement of sections 3742.31 to 3742.50 of the Revised Code and the rules adopted under those sections. Any grants, contributions, or other moneys collected by the department for purposes of preventing lead poisoning shall be deposited in the state treasury to the credit of the fund.

(B) Moneys in the fund shall be used solely for the purposes of the child lead poisoning prevention program established under section 3742.31 of the Revised Code, including providing financial assistance to individuals who are unable to pay for the following:

(1) Costs associated with obtaining lead tests and lead poisoning treatment for children under six years of age who are not covered by private medical insurance or are underinsured, are not eligible for the medicaid program ~~established under Chapter 5111. of the Revised Code~~ or any other government health program, and do not have access to another source of funds to cover the cost of lead tests and any indicated treatments;

(2) Costs associated with having lead abatement performed or having

the preventive treatments specified in section 3742.41 of the Revised Code performed.

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in this division. For the purposes of this division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(1) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(2) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(3) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under this division do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(C)(1) The fees assessed under division (B) of this section are for the purpose of providing funding for the Title V permit program.

(2) The fees assessed under division (B) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions

from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

(3) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (B) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 10	\$ 100

10 or more, but less than 50	200
50 or more, but less than 100	300
100 or more	700

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, ~~2014~~ 2016, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
Less than 10	\$ 170
10 or more, but less than 20	340
20 or more, but less than 30	670
30 or more, but less than 40	1,010
40 or more, but less than 50	1,340
50 or more, but less than 60	1,680
60 or more, but less than 70	2,010
70 or more, but less than 80	2,350
80 or more, but less than 90	2,680
90 or more, but less than 100	3,020
100 or more	3,350

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may

require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (B) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division (B) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

Input capacity (maximum) (million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	\$ 200
10 or more, but less than 100	400
100 or more, but less than 300	1000
300 or more, but less than 500	2250
500 or more, but less than 1000	3750
1000 or more, but less than 5000	6000
5000 or more	9000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

Generating capacity (mega watts)	Permit to install
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0 or more, but less than 10	\$ 25
10 or more, but less than 25	150
25 or more, but less than 50	300
50 or more, but less than 100	500
100 or more, but less than 250	1000
250 or more	2000

(3) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	\$ 100
101 to 500	500
501 to 2000	1000
2001 to 20,000	1500
more than 20,000	3750

(4)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
1001 to 5000	500
5001 to 10,000	750
10,001 to 50,000	1000
more than 50,000	1250

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate electricity shall be assessed a fee established in division (F)(2) of this section.

(b) Notwithstanding division (F)(4)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)(4)(c) of this section for a process used in any of the following industries, as identified by the applicable two-digit, three-digit, or four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1987, as revised:

- Major group 10, metal mining;
- Major group 12, coal mining;
- Major group 14, mining and quarrying of nonmetallic minerals;
- Industry group 204, grain mill products;

- 2873 Nitrogen fertilizers;
- 2874 Phosphatic fertilizers;
- 3281 Cut stone and stone products;
- 3295 Minerals and earth, ground or otherwise treated;
- 4221 Grain elevators (storage only);
- 5159 Farm related raw materials;
- 5261 Retail nurseries and lawn and garden supply stores.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(4)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 10,000	\$ 200
10,001 to 50,000	400
50,001 to 100,000	500
100,001 to 200,000	600
200,001 to 400,000	750
400,001 or more	900

(5) Storage tanks

Gallons (maximum useful capacity)	Permit to install
0 to 20,000	\$ 100
20,001 to 40,000	150
40,001 to 100,000	250
100,001 to 500,000	400
500,001 or greater	750

(6) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility (includes all units at the facility)	Permit to install \$ 100
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(7) Dry cleaning facilities

For each dry cleaning facility (includes all units at the facility)	Permit to install \$ 100
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(8) Registration status

For each source covered by registration status	Permit to install \$ 75
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(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee
Each notification	\$75
Asbestos removal	\$3/unit
Asbestos cleanup	\$4/cubic yard

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K)(1) Money received under division (B) of this section shall be deposited in the state treasury to the credit of the Title V clean air fund created in section 3704.035 of the Revised Code. Annually, fifty cents per

ton of each fee assessed under division (B) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division shall be transferred using an interstate transfer voucher to the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. In addition, annually, the amount of money necessary for the operation of the office of ombudsperson as determined under division (B) of that section shall be transferred to the state treasury to the credit of the small business ombudsperson fund created by that section.

(2) Money received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the non-Title V clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) or (c) of this section, a person issued a water discharge permit or renewal of a water discharge permit pursuant to Chapter 6111. of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee
0 to 1000	\$ 0
1,001 to 5000	100
5,001 to 50,000	200
50,001 to 100,000	300
100,001 to 300,000	525
over 300,000	750

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2014~~ 2016, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2014~~ 2016, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2014~~ 2016, and five thousand

dollars on and after July 1, ~~2014~~ 2016. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2012~~ 2014, and January 30, ~~2013~~ 2015, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this

section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2012 <u>2014</u> , and January 30, 2013 <u>2015</u>
5,000 to 49,999	\$ 200
50,000 to 100,000	500
100,001 to 250,000	1,050
250,001 to 1,000,000	2,600
1,000,001 to 5,000,000	5,200
5,000,001 to 10,000,000	10,350
10,000,001 to 20,000,000	15,550
20,000,001 to 50,000,000	25,900
50,000,001 to 100,000,000	41,400
100,000,001 or more	62,100

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2012 <u>2014</u> , and January 30, 2013 <u>2015</u>
5,000 to 49,999	\$ 250
50,000 to 250,000	1,200
250,001 to 1,000,000	2,950
1,000,001 to 5,000,000	5,850
5,000,001 to 10,000,000	8,800

10,000,001 to 20,000,000	11,700
20,000,001 to 100,000,000	14,050
100,000,001 to 250,000,000	16,400
250,000,001 or more	18,700

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2012~~ 2014, and not later than January 30, ~~2013~~ 2015. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2012~~ 2014, and not later than January 30, ~~2013~~ 2015. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(7) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(8) As used in division (L) of this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number

assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~2014~~ 2016, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in ~~division~~ divisions (M)(4) and (5) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2014~~ 2016, the fee is:

Number of service connections	Fee amount
Not more than 49	\$ 112
50 to 99	176
Number of service connections	Average cost per connection
100 to 2,499	\$ 1.92
2,500 to 4,999	1.48
5,000 to 7,499	1.42
7,500 to 9,999	1.34
10,000 to 14,999	1.16
15,000 to 24,999	1.10
25,000 to 49,999	1.04
50,000 to 99,999	.92
100,000 to 149,999	.86
150,000 to 199,999	.80
200,000 or more	.76

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the

assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2014~~ 2016, the fee is:

Population served	Fee amount
Fewer than 150	\$ 112
150 to 299	176
300 to 749	384
750 to 1,499	628
1,500 to 2,999	1,268
3,000 to 7,499	2,816
7,500 to 14,999	5,510
15,000 to 22,499	9,048
22,500 to 29,999	12,430
30,000 or more	16,820

As used in division (M)(2) of this section, "population served" means the total number of individuals having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2014~~ 2016, the fee is:

Number of wells or sources, other than surface water, supplying system	Fee amount
1	\$112
2	112
3	176
4	278
5	568
System designated as using a surface water source	792

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources

that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(5) An applicant for an initial license who is proposing to operate a new public water supply system shall submit a fee that equals a prorated amount of the appropriate fee for the remainder of the licensing year.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, ~~2014~~ 2016, and fifteen thousand dollars on and after July 1, ~~2014~~ 2016. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~2014~~ 2016, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological	
MMO-MUG	\$2,000
MF	2,100
MMO-MUG and MF	2,550
organic chemical	5,400
trace metals	5,400
standard chemistry	2,800
limited chemistry	1,550

On and after July 1, ~~2014~~ 2016, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650
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organic chemicals	3,500
trace metals	3,500
standard chemistry	1,800
limited chemistry	1,000

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2014~~ 2016, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director to take an examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code that is administered by the director, at the time the application is submitted, shall pay a fee in accordance with the following schedule through November 30, ~~2014~~ 2016:

Class A operator	\$ 80
Class I operator	105
Class II operator	120
Class III operator	130
Class IV operator	145

On and after December 1, ~~2014~~ 2016, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	\$ 50
Class I operator	70
Class II operator	80
Class III operator	90
Class IV operator	100

Any person applying to the director for certification as an operator of a water supply system or wastewater system who has passed an examination administered by an examination provider approved by the director shall pay a certification fee of forty-five dollars.

A person shall pay a biennial certification renewal fee for each

applicable class of certification in accordance with the following schedule:

Class A operator	\$25
Class I operator	35
Class II operator	45
Class III operator	55
Class IV operator	65

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following schedule:

Class A operator	\$45
Class I operator	55
Class II operator	65
Class III operator	75
Class IV operator	85

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

Any person applying to be a water supply system or wastewater treatment system examination provider shall pay an application fee of five hundred dollars. Any person approved by the director as a water supply system or wastewater treatment system examination provider shall pay an annual fee that is equal to ten per cent of the fees that the provider assesses and collects for administering water supply system or wastewater treatment system certification examinations in this state for the calendar year. The fee shall be paid not later than forty-five days after the end of a calendar year.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor

vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, ~~2014~~ 2016, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, ~~2014~~ 2016. Except as provided in division (S)(3) of this section,

through June 30, ~~2014~~ 2016, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, ~~2014~~ 2016, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application.

In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code and under division (S)(3) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle

salvage dealer licensed under Chapter 4738. of the Revised Code.

(3) A person applying for coverage under a national pollutant discharge elimination system general discharge permit for household sewage treatment systems shall pay the following fees:

(a) A nonrefundable fee of two hundred dollars at the time of application for initial permit coverage;

(b) A nonrefundable fee of one hundred dollars at the time of application for a renewal of permit coverage.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary to carry out this section.

(U) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit to install, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review on the payment by the person receiving the issuance or review of, in

addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which a fee is prescribed in division (L)(1)(b) of this section.

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

- (e) Emission and ambient monitoring;
- (f) Modeling, analyses, or demonstrations;
- (g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(3) "Organic compound" means any chemical compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another

sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge resulting from an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (Y) of this section.

(3) No sewage sludge facility required to pay the annual sludge fee shall be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (Y)(5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or any other disposal method not specified in division (Y)(3)(a) or (b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge or a sewage sludge facility that treats sewage sludge and transfers the sewage sludge to an incineration facility for disposal, the incineration facility, and not the entity generating the sewage sludge or the sewage sludge facility treating the sewage sludge, shall pay the annual sludge fee for the tons of sewage sludge that are transferred. However, the entity or facility generating or treating the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (Y) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund exceeded six hundred thousand dollars in either fiscal

year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will not exceed six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);

(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;

(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3745.113. (A) A person that applies for a state isolated wetland permit under Chapter 6111. of the Revised Code and rules adopted under it shall pay an application fee of two hundred dollars at the time of application.

In addition, that person shall pay, at the time of application, a review fee of five hundred dollars per acre of the wetlands to be impacted.

However, the review fee shall not exceed five thousand dollars per application. In addition, if an application is denied, the director of

environmental protection shall refund to the applicant one-half of the amount of the review fee paid by the applicant under division (A) of this section.

(B) If a person conducts any activities for which an individual state isolated wetland permit is required under Chapter 6111. of the Revised Code and rules adopted under it without first obtaining such a permit, the person shall pay twice the amount of the application and review fees that the person otherwise would have been required to pay under division (A) of this section, not to exceed ten thousand dollars.

(C) All moneys collected under this section shall be deposited in the state treasury to the credit of the ~~dredge and fill~~ surface water protection fund created in section ~~6111.029~~ 6111.038 of the Revised Code.

(D) Fees established under this section shall not apply to any agency or department of the state or to any county, township, or municipal corporation in this state.

Sec. 3745.72. (A) The owner or operator of a facility or property who conducts an environmental audit of the facility or property and promptly and voluntarily discloses information contained in or derived from an audit report that is based on the audit and concerns an alleged violation of environmental laws to the director of the state agency that has jurisdiction over the alleged violation is immune from any administrative and civil penalties for the specific violation disclosed, except that where the disclosed violation has resulted in significant economic benefit to the owner or operator of the facility or property, there is no immunity for the economic benefit component of the administrative and civil penalties for that violation. An owner or operator asserting entitlement to such immunity has the burden of proving that entitlement by a preponderance of the evidence.

(B) For the purposes of this section, a disclosure of information is voluntary with respect to an alleged violation of environmental laws only if all of the following apply:

(1) The disclosure is made promptly after the information is obtained through the environmental audit by the owner or operator who conducts the environmental audit.

(2) A reasonable, good faith effort is made to achieve compliance as quickly as practicable with environmental laws applicable to the information disclosed.

(3) Compliance with environmental laws applicable to the information disclosed is achieved as quickly as practicable or within such period as is reasonably ordered by the director of the state agency that has jurisdiction over the alleged violation.

(4) The owner or operator cooperates with the director of the state agency that has jurisdiction over the alleged violation in investigating the cause, nature, extent, and effects of the noncompliance.

(5) The disclosure is not required by law, prior litigation, or an order by a court or a government agency.

(6) The owner or operator who makes the disclosure does not know or have reason to know that a government agency charged with enforcing environmental laws has commenced an investigation or enforcement action that concerns a violation of such laws involving the activity.

(C) For the purposes of this section, a disclosure shall be in writing, dated, and hand delivered or sent by certified mail to the director of the state agency that has jurisdiction over the alleged violation, and shall contain all of the following in a printed letter attached to the front of the disclosure:

(1) The name, address, and telephone number of the owner or operator making the disclosure;

(2) The name, title, address, and telephone number of one or more persons associated with the owner or operator who may be contacted regarding the disclosure;

(3) A brief summary of the alleged violation of environmental laws, including, without limitation, the nature, date, and location of the alleged violation to the extent that the information is known by the owner or operator;

(4) A statement that the information is part of an environmental audit report and is being disclosed under section 3745.72 of the Revised Code in order to obtain the immunity provided by that section.

(D) This section does not provide immunity from the payment of damages for harm to persons, property, or the environment; the payment of reasonable costs incurred by a government agency in responding to a disclosure; or responsibility for the remediation or cleanup of environmental harm under environmental laws.

(E) The immunity provided by this section does not apply under any of the following circumstances:

(1) Within the three-year period prior to disclosure, the owner or operator of a facility or property has committed significant violations that constitute a pattern of continuous or repeated violations of environmental laws, environmental related settlement agreements, or environmental related judicial orders and that arose from separate and distinct events. For the purposes of division (E)(1) of this section, a pattern of continuous or repeated violations also may be demonstrated by multiple settlement agreements related to substantially the same alleged significant violations

that occurred within the three-year period immediately prior to the voluntary disclosure. Determination of whether a person has a pattern of continuous or repeated violations under division (E)(1) of this section shall be based on the compliance history of the property or specific facility at issue.

(2) With respect to a specific violation, the violation resulted in serious harm or in imminent and substantial endangerment to human health or the environment.

(3) With respect to a specific violation, the violation is of a specific requirement of an administrative or judicial order.

(F) The immunity provided by this section applies only to disclosures made concerning environmental audits initiated after March 13, 1997, ~~and completed before January 1, 2014,~~ in accordance with the time frames specified in division (A) of section 3745.70 of the Revised Code.

(G) The immunity provided by this section applies to a person who makes a good faith disclosure to a state agency under this section even though another state agency is determined to have jurisdiction over an alleged violation of environmental laws indicated in the disclosure.

(H) Each state agency that receives a disclosure under this section promptly shall record receipt of the disclosure, determine whether it has jurisdiction over the alleged violation of environmental laws indicated in the disclosure, and, if it does not have such jurisdiction, deliver the disclosure documents to the director of a state agency that has jurisdiction over the alleged violation. If a disclosure indicates alleged violations of environmental laws that are under the jurisdiction of more than one state agency, the state agency that first receives the disclosure and has jurisdiction over any of the alleged violations promptly shall notify the director of each state agency that has jurisdiction over any of such alleged violations. The director of each state agency that receives a disclosure under this section, or is notified by another state agency that the director's agency has jurisdiction over an alleged violation of environmental laws indicated in the disclosure, promptly shall deliver written notice of that fact by certified mail to the owner or operator who made the disclosure. The notice shall identify the state agency that sends the notice; state the name, title, address, and telephone number of a person in the agency whom the owner or operator may contact regarding the disclosure; and state the name, address, and telephone number of the director of any other state agency notified about the disclosure because that agency has jurisdiction over an alleged violation of environmental laws indicated in the disclosure.

Sec. 3748.01. As used in this chapter:

(A) "Byproduct material" means either of the following:

(1) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to radiation incident to the process of producing or utilizing special nuclear material;

(2) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

(B) "Certified radiation expert" means an individual who has complied with all of the following:

(1) Applied to the director of health for certification as a radiation expert under section 3748.12 of the Revised Code;

(2) Met minimum education and experience requirements established in rules adopted under division (C) of section 3748.04 of the Revised Code;

(3) Been granted a certificate as a radiation expert by the director under section 3748.12 of the Revised Code.

(C) "Closure" or "site closure" refers to a facility for the disposal of low-level radioactive waste or a byproduct material site, as "byproduct material" is defined in division (A)(2) of this section, and means all activities performed at a licensed operation, such as stabilization and contouring, to ensure that the site where the operation occurred is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following the termination of the licensed operation.

(D) "Decommissioning" means to safely remove any licensed operation from service and reduce residual radioactivity to a level that permits release of the licensee's property for unrestricted use. With regard to a facility for the disposal of low-level radioactive waste or a byproduct material site, as "byproduct material" is defined in division (A)(2) of this section, "decommissioning" does not include the reduction of residual radioactivity to a level that permits release of the facility for unrestricted use.

(E) "Director of health" includes a designee or authorized representative of the director.

(F) "Disposal," with regard to low-level radioactive waste, means the permanent isolation of that waste in accordance with requirements established by the United States nuclear regulatory commission or the licensing agreement state.

(G) "Disposal site" means that portion of a facility that is used for the disposal of low-level radioactive waste and that consists of disposal units and a buffer zone. "Disposal unit" means a discrete portion of such a facility into which low-level radioactive waste is placed for disposal.

(H)(1) Except as provided in division (H)(2) of this section, "facility" means the state, any political subdivision, person, public or private

institution, or group, or any unit of one of those entities, but does not include the federal government or any of its agencies.

(2) For the purposes of the disposal of low-level radioactive waste, "facility" has the same meaning as in section 3747.01 of the Revised Code.

(I) "Handle" means receive, possess, use, store, transfer, install, service, or dispose of sources of radiation unless possession is solely for the purpose of transportation.

(J) "Handler" means a facility that handles sources of radiation unless possession is solely for the purpose of transportation.

(K) "Inspection" means an official review, examination, or observation, including, without limitation, tests, surveys, and monitoring, that is used to determine compliance with rules, orders, requirements, and conditions of the department of health and that is conducted by the director of health.

(L) "Low-level radioactive waste" has the same meaning as in section 3747.01 of the Revised Code with regard to the disposal of low-level radioactive waste. In regard to regulatory control at locations other than a disposal facility, "low-level radioactive waste" has the same meaning as in 42 U.S.C.A. 2021b.

(M) "Quality assurance program" means a program providing for verification by written procedures such as testing, auditing, and inspection to ensure that deficiencies, deviations, defective equipment, or unsafe practices, or a combination thereof, relating to the use, disposal, management, or manufacture of radiation sources are identified, promptly corrected, and reported to the appropriate regulatory authorities.

(N) "Radiation" means ionizing and nonionizing radiation.

(1) "Ionizing radiation" means gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles, but does not include sound or radio waves or visible, infrared, or ultraviolet light.

(2) "Nonionizing radiation" means any electromagnetic radiation, other than ionizing electromagnetic radiation, or any sonic, ultrasonic, or infrasonic wave.

(O) "Radioactive material" means any solid, liquid, or gaseous material that emits ionizing radiation spontaneously. "Radioactive material" includes accelerator-produced and naturally occurring materials and byproduct, source, and special nuclear material.

(P) "Radiation-generating equipment" means any manufactured product or device, or component of such a product or device, or any machine or system that during operation can generate or emit radiation, except those that emit radiation only from radioactive material. "Radiation-generating

equipment" does not include either of the following:

(1) Diathermy machines;

(2) Microwave ovens, including food service microwave ovens used for commercial and industrial uses, television receivers, electric lamps, and other household appliances and products that generate very low levels of radiation.

(Q) "Source material" means uranium, thorium, or any combination thereof in any physical or chemical form, or any ores that contain by weight at least one-twentieth of one per cent of uranium, thorium, or any combination thereof. "Source material" does not include special nuclear material.

(R) "Source of radiation" means radioactive material or radiation-generating equipment.

(S) "Special nuclear material" means either of the following:

(1) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the United States nuclear regulatory commission determines to be special nuclear material, but does not include source material pursuant to section 51 of the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2071."

(2) Except for any source material, any material artificially enriched by any of the materials identified in division (S)(1) of this section.

(T) "Storage" means the retention of radioactive materials, including low-level radioactive waste, prior to disposal in a manner that allows for surveillance, control, and subsequent retrieval.

(U) "Medical practitioner" means a person who is authorized pursuant to Chapter 4715. of the Revised Code to practice dentistry; pursuant to Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery; or pursuant to Chapter 4734. of the Revised Code to practice chiropractic.

(V) "Medical-practitioner group" means a corporation, partnership, or other business entity, other than a hospital as defined in section 3727.01 of the Revised Code, consisting of medical practitioners.

(W) "Naturally occurring radioactive material" means material that contains any nuclide that is radioactive in its natural physical state. "Naturally occurring radioactive material" does not include source material, byproduct material, or special nuclear material.

(X) "Technologically enhanced naturally occurring radioactive material" means naturally occurring radioactive material with radionuclide concentrations that are increased by or as a result of past or present human activities. "Technologically enhanced naturally occurring radioactive

material" does not include drill cuttings, natural background radiation, byproduct material, or source material.

(Y) "Drill cuttings" means the soil, rock fragments, and pulverized material that are removed from a borehole and that may include a de minimus amount of fluid that results from a drilling process.

Sec. 3748.04. The director of health, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend or rescind rules doing all of the following:

(A) Listing types of radioactive material for which licensure by its handler is required and types of radiation-generating equipment for which registration by its handler is required, and establishing requirements governing them. Rules adopted under division (A) of this section shall be compatible with applicable federal regulations and shall establish all of the following, without limitation:

(1) Requirements governing both of the following:

(a) The licensing and inspection of handlers of radioactive material. Standards established in rules adopted under division (A)(1)(a) of this section regarding byproduct material or any activity that results in the production of that material, to the extent practicable, shall be equivalent to or more stringent than applicable standards established by the United States nuclear regulatory commission.

(b) The registration and inspection of handlers of radiation-generating equipment. Standards established in rules adopted under division (A)(1)(b) of this section, to the extent practicable, shall be equivalent to applicable standards established by the food and drug administration in the United States department of health and human services.

(2) Identification of and requirements governing possession and use of specifically licensed and generally licensed quantities of radioactive material as either sealed sources or unsealed sources;

(3) A procedure for the issuance of and the frequency of renewal of the licenses of handlers of radioactive material, other than a license for a facility for the disposal of low-level radioactive waste, and of the certificates of registration of handlers of radiation-generating equipment;

(4) Procedures for suspending and revoking the licenses of handlers of radioactive material and the certificates of registration of handlers of radiation-generating equipment;

(5) Criteria to be used by the director of health in amending the license of a handler of radioactive material or the certificate of registration of a handler of radiation-generating equipment subsequent to its issuance;

(6) Criteria for achieving and maintaining compliance with this chapter

and rules adopted under it by licensees and registrants;

(7) Criteria governing environmental monitoring of licensed and registered activities to assess compliance with this chapter and rules adopted under it;

(8) Fees for both of the following:

(a) The licensing of handlers, other than facilities for the disposal of low-level radioactive waste, of radioactive material;

(b) The registration of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment.

(9) A fee schedule for both of the following that includes fees for reviews, conducted during an inspection, of shielding plans or the adequacy of shielding:

(a) The inspection of handlers of radioactive material;

(b) The inspection of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment.

(B)(1) Identifying sources of radiation, circumstances of possession, use, or disposal of sources of radiation, and levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;

(2) Establishing requirements for the achievement and maintenance of compliance with standards for the receipt, possession, use, storage, installation, transfer, servicing, and disposal of sources of radiation to prevent levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;

(3) Requiring the maintenance of records on the receipt, use, storage, transfer, and disposal of radioactive material, including technologically enhanced naturally occurring radioactive material, and on the radiological safety aspects of the use and maintenance of radiation-generating equipment. The rules adopted under division (B)(3) of this section shall not require maintenance of records regarding naturally occurring radioactive material.

In adopting rules under divisions (A) and (B) of this section, the director shall use standards no less stringent than the "suggested state regulations for control of radiation" prepared by the conference of radiation control program directors, inc., and regulations adopted by the United States nuclear regulatory commission, the United States environmental protection agency, and the United States department of health and human services and shall consider reports of the national council on radiation protection and measurement and the relevant standards of the American national standards

institute.

(C) Establishing fees, procedures, and requirements for certification as a radiation expert, including all of the following, without limitation:

- (1) Minimum training and experience requirements;
- (2) Procedures for applying for certification;
- (3) Procedures for review of applications and issuance of certificates;
- (4) Procedures for suspending and revoking certification.

(D) Establishing a schedule for inspection of sources of radiation and their shielding and surroundings;

(E) Establishing the responsibilities of a radiation expert;

(F) Establishing criteria for quality assurance programs for licensees of radioactive material and registrants of radiation-generating equipment;

(G) Establishing fees to be paid by any facility that, on September 8, 1995, holds a license from the United States nuclear regulatory commission in order to provide moneys necessary for the transfer of licensing and other regulatory authority from the commission to the state pursuant to section 3748.03 of the Revised Code. Rules adopted under this division shall stipulate that fees so established do not apply to any functions dealing specifically with a facility for the disposal of low-level radioactive waste. Fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(H) Establishing fees to be collected annually from generators of low-level radioactive waste, which shall be based upon the volume and radioactivity of the waste generated and the costs of administering low-level radioactive waste management activities under this chapter and rules adopted under it. All fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. Any fee required under this division that remains unpaid on the ninety-first day after the original invoice date shall be assessed an additional amount equal to ten per cent of the original fee.

(I) Establishing requirements governing closure, decontamination, decommissioning, reclamation, and long-term surveillance and care of a facility licensed under this chapter and rules adopted under it. Rules adopted under division (I) of this section shall include, without limitation, all of the following:

- (1) Standards and procedures to ensure that a licensee prepares a

decommissioning funding plan that provides an adequate financial guaranty to permit the completion of all requirements governing the closure, decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with a licensed activity;

(2) For licensed activities where radioactive material that will require surveillance or care is likely to remain at the site after the licensed activities cease, as indicated in the application for the license submitted under section 3748.07 of the Revised Code, standards and procedures to ensure that the licensee prepares an additional decommissioning funding plan for long-term surveillance and care, before termination of the license, that provides an additional adequate financial guaranty as necessary to provide for that surveillance and care;

(3) For the purposes of the decommissioning funding plans required in rules adopted under divisions (I)(1) and (2) of this section, the types of acceptable financial guaranties, which shall include bonds issued by fidelity or surety companies authorized to do business in the state, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, trust funds, escrow accounts, or other similar types of arrangements, but shall not include any arrangement that constitutes self-insurance;

(4) A requirement that the decommissioning funding plans required in rules adopted under divisions (I)(1) and (2) of this section contain financial guaranties in amounts sufficient to ensure compliance with any standards established by the United States nuclear regulatory commission, or by the state if it has become an agreement state pursuant to section 3748.03 of the Revised Code, pertaining to closure, decontamination, decommissioning, reclamation, and long-term surveillance and care of licensed activities and sites of licensees.

Standards established in rules adopted under division (I) of this section regarding any activity that resulted in the production of byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, to the extent practicable, shall be equivalent to or more stringent than standards established by the United States nuclear regulatory commission for sites at which ores were processed primarily for their source material content and at which byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, is deposited.

(J) Establishing criteria governing inspections of a facility for the disposal of low-level radioactive waste, including, without limitation, the establishment of a resident inspector program at such a facility;

(K) Establishing requirements and procedures governing the filing of complaints under section 3748.16 of the Revised Code, including, without

limitation, those governing intervention in a hearing held under division (B)(3) of that section;

(L) Establishing requirements governing technologically enhanced naturally occurring radioactive material. Rules adopted under this division shall not apply to naturally occurring radioactive material.

Sec. 3769.08. (A) Any person holding a permit to conduct a horse-racing meeting may provide a place in the race meeting grounds or enclosure at which the permit holder may conduct and supervise the pari-mutuel system of wagering by patrons of legal age on the live racing programs and simulcast racing programs conducted by the permit holder.

The pari-mutuel method of wagering upon the live racing programs and simulcast racing programs held at or conducted within such race track, and at the time of such horse-racing meeting, or at other times authorized by the state racing commission, shall not be unlawful. No other place, except that provided and designated by the permit holder and except as provided in section 3769.26 of the Revised Code, nor any other method or system of betting or wagering on live racing programs and simulcast racing programs, except the pari-mutuel system, shall be used or permitted by the permit holder; nor, except as provided in section 3769.089 or 3769.26 of the Revised Code, shall the pari-mutuel system of wagering be conducted by the permit holder on any races except the races at the race track, grounds, or enclosure for which the person holds a permit. Each permit holder may retain as a commission an amount not to exceed eighteen per cent of the total of all moneys wagered on live racing programs and simulcast racing programs.

The pari-mutuel wagering authorized by this section is subject to sections 3769.25 to 3769.28 of the Revised Code.

(B) At the close of each racing day, each permit holder authorized to conduct thoroughbred racing, out of the amount retained on that day by the permit holder, shall pay ~~by check, draft, or money order to the tax commissioner~~ in the manner prescribed under section 3769.103 of the Revised Code, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs on that day and shall separately compute and pay ~~by check, draft, or money order to the tax commissioner~~ in the manner prescribed under section 3769.103 of the Revised Code, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

- (1) One per cent of the first two hundred thousand dollars wagered, or any part of that amount;
- (2) Two per cent of the next one hundred thousand dollars wagered, or

any part of that amount;

(3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(4) Four per cent of all sums over four hundred thousand dollars wagered.

Except as otherwise provided in section 3769.089 of the Revised Code, each permit holder authorized to conduct thoroughbred racing shall use for purse money a sum equal to fifty per cent of the pari-mutuel revenues retained by the permit holder as a commission after payment of the state tax. This fifty per cent payment shall be in addition to the purse distribution from breakage specified in this section.

Subject to division (M) of this section, from the moneys paid to the tax commissioner by thoroughbred racing permit holders, one-half of one per cent of the total of all moneys so wagered on a racing day shall be paid into the Ohio fairs fund created by section 3769.082 of the Revised Code, one and one-eighth per cent of the total of all moneys so wagered on a racing day shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code, and one-quarter of one per cent of the total of all moneys wagered on a racing day by each permit holder shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code. The required payment to the state racing commission operating fund does not apply to county and independent fairs and agricultural societies. The remaining moneys may be retained by the permit holder, except as provided in this section with respect to the odd cents redistribution. Amounts paid into the nursing home franchise permit fee fund pursuant to this section and section 3769.26 of the Revised Code shall be used solely for the support of the PASSPORT program as determined in appropriations made by the general assembly. If the PASSPORT program is abolished, the amount that would have been paid to the nursing home franchise permit fee fund under this chapter shall be paid to the general revenue fund of the state. As used in this chapter, "PASSPORT program" ~~means the PASSPORT program created under~~ has the same meaning as in section ~~173.40~~ 173.51 of the Revised Code.

The total amount paid to the Ohio thoroughbred race fund under this section and division (A) of section 3769.087 of the Revised Code shall not exceed by more than six per cent the total amount paid to this fund under this section and division (A) of that section during the immediately preceding calendar year.

Each year, the total amount calculated for payment into the Ohio fairs fund under this division, division (C) of this section, and division (A) of

section 3769.087 of the Revised Code shall be an amount calculated using the percentages specified in this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code.

A permit holder may contract with a thoroughbred horsemen's organization for the organization to act as a representative of all thoroughbred owners and trainers participating in a horse-racing meeting conducted by the permit holder. A "thoroughbred horsemen's organization" is any corporation or association that represents, through membership or otherwise, more than one-half of the aggregate of all thoroughbred owners and trainers who were licensed and actively participated in racing within this state during the preceding calendar year. Except as otherwise provided in this paragraph, any moneys received by a thoroughbred horsemen's organization shall be used exclusively for the benefit of thoroughbred owners and trainers racing in this state through the administrative purposes of the organization, benevolent activities on behalf of the horsemen, promotion of the horsemen's rights and interests, and promotion of equine research. A thoroughbred horsemen's organization may expend not more than an aggregate of five per cent of its annual gross receipts, or a larger amount as approved by the organization, for dues, assessments, and other payments to all other local, national, or international organizations having as their primary purposes the promotion of thoroughbred horse racing, thoroughbred horsemen's rights, and equine research.

(C) Except as otherwise provided in division (B) of this section, at the close of each racing day, each permit holder authorized to conduct harness or quarter horse racing, out of the amount retained that day by the permit holder, shall pay ~~by check, draft, or money order to the tax commissioner~~ in the manner prescribed under section 3769.103 of the Revised Code, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs and shall separately compute and pay ~~by check, draft, or money order to the tax commissioner~~ in the manner prescribed under section 3769.103 of the Revised Code, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

- (1) One per cent of the first two hundred thousand dollars wagered, or any part of that amount;
- (2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (4) Four per cent of all sums over four hundred thousand dollars

wagered.

Except as otherwise provided in division (B) and subject to division (M) of this section, from the moneys paid to the tax commissioner by permit holders authorized to conduct harness or quarter horse racing, one-half of one per cent of all moneys wagered on that racing day shall be paid into the Ohio fairs fund; from the moneys paid to the tax commissioner by permit holders authorized to conduct harness racing, five-eighths of one per cent of all moneys wagered on that racing day shall be paid into the Ohio standardbred development fund; and from the moneys paid to the tax commissioner by permit holders authorized to conduct quarter horse racing, five-eighths of one per cent of all moneys wagered on that racing day shall be paid into the Ohio quarter horse development fund.

(D) In addition, subject to division (M) of this section, beginning on January 1, 1996, from the money paid to the tax commissioner as a tax under this section and division (A) of section 3769.087 of the Revised Code by harness horse permit holders, one-half of one per cent of the amount wagered on a racing day shall be paid into the Ohio standardbred development fund. Beginning January 1, 1998, the payment to the Ohio standardbred development fund required under this division does not apply to county agricultural societies or independent agricultural societies.

The total amount paid to the Ohio standardbred development fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code and the total amount paid to the Ohio quarter horse development fund under this division and division (A) of that section shall not exceed by more than six per cent the total amount paid into the fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code in the immediately preceding calendar year.

(E) Subject to division (M) of this section, from the money paid as a tax under this chapter by harness and quarter horse permit holders, one-quarter of one per cent of the total of all moneys wagered on a racing day by each permit holder shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code. This division does not apply to county and independent fairs and agricultural societies.

(F) Except as otherwise provided in section 3769.089 of the Revised Code, each permit holder authorized to conduct harness racing shall pay to the harness horsemen's purse pool a sum equal to fifty per cent of the pari-mutuel revenues retained by the permit holder as a commission after payment of the state tax. This fifty per cent payment is to be in addition to the purse distribution from breakage specified in this section.

(G) In addition, each permit holder authorized to conduct harness racing shall be allowed to retain the odd cents of all redistribution to be made on all mutual contributions exceeding a sum equal to the next lowest multiple of ten.

Forty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for purse money for Ohio sired, bred, and owned colts, for purse money for Ohio bred horses, and for increased purse money for horse races. Upon the formation of the corporation described in section 3769.21 of the Revised Code to establish a harness horsemen's health and retirement fund, twenty-five per cent of that portion of that total sum of odd cents shall be paid at the close of each racing day by the permit holder to that corporation to establish and fund the health and retirement fund. Until that corporation is formed, that twenty-five per cent shall be paid at the close of each racing day by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county in which the permit holder operates race meetings. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(H) In addition, each permit holder authorized to conduct thoroughbred racing shall be allowed to retain the odd cents of all redistribution to be made on all mutual contributions exceeding a sum equal to the next lowest multiple of ten. Twenty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for increased purse money for horse races. Upon the formation of the corporation described in section 3769.21 of the Revised Code to establish a thoroughbred horsemen's health and retirement fund, forty-five per cent of that portion of that total sum of odd cents shall be paid at the close of each racing day by the permit holder to that corporation to establish and fund the health and retirement fund. Until that corporation is formed, that forty-five per cent shall be paid by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county in which the permit holder operates race meetings, at the close of each racing day. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(I) In addition, each permit holder authorized to conduct quarter horse racing shall be allowed to retain the odd cents of all redistribution to be made on all mutual contributions exceeding a sum equal to the next lowest multiple of ten, subject to a tax of twenty-five per cent on that portion of the total sum of such odd cents that is in excess of two thousand dollars during a calendar year, which tax shall be paid at the close of each racing day by the permit holder to the tax commissioner or the tax commissioner's agent in the

county seat of the county within which the permit holder operates race meetings. Forty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for increased purse money for horse races. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(J)(1) To encourage the improvement of racing facilities for the benefit of the public, breeders, and horse owners, and to increase the revenue to the state from the increase in pari-mutuel wagering resulting from those improvements, the taxes paid by a permit holder to the state as provided for in this chapter shall be reduced by three-fourths of one per cent of the total amount wagered for those permit holders who make capital improvements to existing race tracks or construct new race tracks. The percentage of the reduction that may be taken each racing day shall equal seventy-five per cent of the taxes levied under divisions (B) and (C) of this section and section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code, as applicable, divided by the calculated amount each fund should receive under divisions (B) and (C) of this section and section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code and the reduction provided for in this division. If the resulting percentage is less than one, that percentage shall be multiplied by the amount of the reduction provided for in this division. Otherwise, the permit holder shall receive the full reduction provided for in this division. The amount of the allowable reduction not received shall be carried forward and applied against future tax liability. After any reductions expire, any reduction carried forward shall be treated as a reduction as provided for in this division.

If more than one permit holder is authorized to conduct racing at the facility that is being built or improved, the cost of the new race track or capital improvement shall be allocated between or among all the permit holders in the ratio that the permit holders' number of racing days bears to the total number of racing days conducted at the facility.

A reduction for a new race track or a capital improvement shall start from the day racing is first conducted following the date actual construction of the new race track or each capital improvement is completed and the construction cost has been approved by the racing commission, unless otherwise provided in this section. A reduction for a new race track or a capital improvement shall continue for a period of twenty-five years for new race tracks and for fifteen years for capital improvements if the construction of the capital improvement or new race track commenced prior to March 29, 1988, and for a period of ten years for new race tracks or capital

improvements if the construction of the capital improvement or new race track commenced on or after March 29, 1988, but before June 6, 2001, or until the total tax reduction reaches seventy per cent of the approved cost of the new race track or capital improvement, as allocated to each permit holder, whichever occurs first. A reduction for a new race track or a capital improvement approved after June 6, 2001, shall continue until the total tax reduction reaches one hundred per cent of the approved cost of the new race track or capital improvement, as allocated to each permit holder.

A reduction granted for a new race track or a capital improvement, the application for which was approved by the racing commission after March 29, 1988, but before June 6, 2001, shall not commence nor shall the ten-year period begin to run until all prior tax reductions with respect to the same race track have ended. The total tax reduction because of capital improvements shall not during any one year exceed for all permit holders using any one track three-fourths of one per cent of the total amount wagered, regardless of the number of capital improvements made. Several capital improvements to a race track may be consolidated in an application if the racing commission approved the application prior to March 29, 1988. No permit holder may receive a tax reduction for a capital improvement approved by the racing commission on or after March 29, 1988, at a race track until all tax reductions have ended for all prior capital improvements approved by the racing commission under this section or section 3769.20 of the Revised Code at that race track. If there are two or more permit holders operating meetings at the same track, they may consolidate their applications. The racing commission shall notify the tax commissioner when the reduction of tax begins and when it ends.

Each fiscal year the racing commission shall submit a report to the tax commissioner, the office of budget and management, and the legislative service commission. The report shall identify each capital improvement project undertaken under this division and in progress at each race track, indicate the total cost of each project, state the tax reduction that resulted from each project during the immediately preceding fiscal year, estimate the tax reduction that will result from each project during the current fiscal year, state the total tax reduction that resulted from all such projects at all race tracks during the immediately preceding fiscal year, and estimate the total tax reduction that will result from all such projects at all race tracks during the current fiscal year.

(2) In order to qualify for the reduction in tax, a permit holder shall apply to the racing commission in such form as the commission may require and shall provide full details of the new race track or capital improvement,

including a schedule for its construction and completion, and set forth the costs and expenses incurred in connection with it. The racing commission shall not approve an application unless the permit holder shows that a contract for the new race track or capital improvement has been let under an unrestricted competitive bidding procedure, unless the contract is exempted by the controlling board because of its unusual nature. In determining whether to approve an application, the racing commission shall consider whether the new race track or capital improvement will promote the safety, convenience, and comfort of the racing public and horse owners and generally tend towards the improvement of racing in this state.

(3) If a new race track or capital improvement is approved by the racing commission and construction has started, the tax reduction may be authorized by the commission upon presentation of copies of paid bills in excess of one hundred thousand dollars or ten per cent of the approved cost, whichever is greater. After the initial authorization, the permit holder shall present copies of paid bills. If the permit holder is in substantial compliance with the schedule for construction and completion of the new race track or capital improvement, the racing commission may authorize the continuation of the tax reduction upon the presentation of the additional paid bills. The total amount of the tax reduction authorized shall not exceed the percentage of the approved cost of the new race track or capital improvement specified in division (J)(1) of this section. The racing commission may terminate any tax reduction immediately if a permit holder fails to complete the new race track or capital improvement, or to substantially comply with the schedule for construction and completion of the new race track or capital improvement. If a permit holder fails to complete a new race track or capital improvement, the racing commission shall order the permit holder to repay to the state the total amount of tax reduced. The normal tax paid by the permit holder shall be increased by three-fourths of one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced.

(4) As used in this section:

(a) "Capital improvement" means an addition, replacement, or remodeling of a structural unit of a race track facility costing at least one hundred thousand dollars, including, but not limited to, the construction of barns used exclusively for the race track facility, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator equipment and appurtenances to that equipment purchased by the track, new access roads, new parking areas, the complete reconstruction, reshaping, and leveling of the racing surface and appurtenances, the installation of permanent new

heating or air conditioning, roof replacement or restoration, installations of a permanent nature forming a part of the track structure, and construction of buildings that are located on a permit holder's premises. "Capital improvement" does not include the cost of replacement of equipment that is not permanently installed, ordinary repairs, painting, and maintenance required to keep a race track facility in ordinary operating condition.

(b) "New race track" includes the reconstruction of a race track damaged by fire or other cause that has been declared by the racing commission, as a result of the damage, to be an inadequate facility for the safe operation of horse racing.

(c) "Approved cost" includes all debt service and interest costs that are associated with a capital improvement or new race track and that the racing commission approves for a tax reduction under division (J) of this section.

(5) The racing commission shall not approve an application for a tax reduction under this section if it has reasonable cause to believe that the actions or negligence of the permit holder substantially contributed to the damage suffered by the track due to fire or other cause. The racing commission shall obtain any data or information available from a fire marshal, law enforcement official, or insurance company concerning any fire or other damage suffered by a track, prior to approving an application for a tax reduction.

(6) The approved cost to which a tax reduction applies shall be determined by generally accepted accounting principles and verified by an audit of the permit holder's records upon completion of the project by the racing commission, or by an independent certified public accountant selected by the permit holder and approved by the commission.

(K) No other license or excise tax or fee, except as provided in sections 3769.01 to 3769.14 of the Revised Code, shall be assessed or collected from such licensee by any county, township, district, municipal corporation, or other body having power to assess or collect a tax or fee. That portion of the tax paid under this section by permit holders for racing conducted at and during the course of an agricultural exposition or fair, and that portion of the tax that would have been paid by eligible permit holders into the nursing home franchise permit fee fund as a result of racing conducted at and during the course of an agricultural exposition or fair, shall be deposited into the state treasury to the credit of the horse racing tax fund, which is hereby created for the use of the agricultural societies of the several counties in which the taxes originate. The state racing commission shall determine eligible permit holders for purposes of the preceding sentence, taking into account the breed of horse, the racing dates, the geographic proximity to the

fair, and the best interests of Ohio racing. On the first day of any month on which there is money in the fund, the tax commissioner shall provide for payment to the treasurer of each agricultural society the amount of the taxes collected under this section upon racing conducted at and during the course of any exposition or fair conducted by the society.

(L) From the tax paid under this section by harness track permit holders, the tax commissioner shall pay into the Ohio thoroughbred race fund a sum equal to a percentage of the amount wagered upon which the tax is paid. The percentage shall be determined by the tax commissioner and shall be rounded to the nearest one-hundredth. The percentage shall be such that, when multiplied by the amount wagered upon which tax was paid by the harness track permit holders in the most recent year for which final figures are available, it results in a sum that substantially equals the same amount of tax paid by the tax commissioner during that year into the Ohio fairs fund from taxes paid by thoroughbred permit holders. This division does not apply to county and independent fairs and agricultural societies.

(M) Twenty-five per cent of the taxes levied on thoroughbred racing permit holders, harness racing permit holders, and quarter horse racing permit holders under this section, division (A) of section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code shall be paid into the nursing home franchise permit fee fund. The tax commissioner shall pay any money remaining, after the payment into the nursing home franchise permit fee fund and the reductions provided for in division (J) of this section and in section 3769.20 of the Revised Code, into the Ohio fairs fund, Ohio thoroughbred race fund, Ohio standardbred development fund, Ohio quarter horse fund, and state racing commission operating fund as prescribed in this section and division (A) of section 3769.087 of the Revised Code. The tax commissioner shall thereafter use and apply the balance of the money paid as a tax by any permit holder to cover any shortage in the accounts of such funds resulting from an insufficient payment as a tax by any other permit holder. ~~The Subject to section 3769.101 of the Revised Code, the~~ moneys received by the tax commissioner shall be deposited ~~weekly~~ monthly and paid by the tax commissioner into the funds to cover the total aggregate amount due from all permit holders to the funds, as calculated under this section and division (A) of section 3769.087 of the Revised Code, as applicable. If, after the payment into the nursing home franchise permit fee fund, sufficient funds are not available from the tax deposited by the tax commissioner to pay the required amounts into the Ohio fairs fund, Ohio standardbred development fund, Ohio thoroughbred race fund, Ohio quarter horse fund, and the state

racing commission operating fund, the tax commissioner shall prorate on a proportional basis the amount paid to each of the funds. Any shortage to the funds as a result of a proration shall be applied against future deposits for the same calendar year when funds are available. After this application, the tax commissioner shall pay any remaining money paid as a tax by all permit holders into the nursing home franchise permit fee fund. This division does not apply to permit holders conducting racing at the course of an agricultural exposition or fair as described in division (K) of this section.

Sec. 3769.087. (A) In addition to the commission of eighteen per cent retained by each permit holder as provided in section 3769.08 of the Revised Code, each permit holder shall retain an additional amount equal to four per cent of the total of all moneys wagered on each racing day on all wagering pools other than win, place, and show, of which amount retained an amount equal to three per cent of the total of all moneys wagered on each racing day on those pools shall be paid ~~by check, draft, or money order to the tax commissioner~~ in the manner prescribed under section 3769.103 of the Revised Code, as a tax. Subject to the restrictions contained in divisions (B), (C), and (M) of section 3769.08 of the Revised Code, from such additional moneys paid to the tax commissioner:

(1) Four-sixths shall be allocated to fund distribution as provided in division (M) of section 3769.08 of the Revised Code.

(2) One-twelfth shall be paid into the Ohio fairs fund created by section 3769.082 of the Revised Code.

(3) One-twelfth of the additional moneys paid to the tax commissioner by thoroughbred racing permit holders shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code.

(4) One-twelfth of the additional moneys paid to the tax commissioner by harness horse racing permit holders shall be paid to the Ohio standardbred development fund created by section 3769.085 of the Revised Code.

(5) One-twelfth of the additional moneys paid to the tax commissioner by quarter horse racing permit holders shall be paid to the Ohio quarter horse development fund created by section 3769.086 of the Revised Code.

(6) One-sixth shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code.

The remaining one per cent that is retained of the total of all moneys wagered on each racing day on all pools other than win, place, and show, shall be retained by racing permit holders, and, except as otherwise provided in section 3769.089 of the Revised Code, racing permit holders shall use one-half for purse money and retain one-half.

(B) In addition to the commission of eighteen per cent retained by each permit holder as provided in section 3769.08 of the Revised Code and the additional amount retained by each permit holder as provided in division (A) of this section, each permit holder shall retain an additional amount equal to one-half of one per cent of the total of all moneys wagered on each racing day on all wagering pools other than win, place, and show. The additional amount retained under this division shall be paid ~~by check, draft, or money order to the tax commissioner~~ in the manner prescribed under section 3769.103 of the Revised Code, as a tax. The tax commissioner shall pay the amount of the tax received under this division to the state racing commission operating fund created by section 3769.03 of the Revised Code.

(C) Unless otherwise agreed to by the video lottery sales agent and the applicable horsemen's association recognized by the state racing commission to represent such persons, within ninety days after the effective date of this amendment for video lottery sales agents operating as such on the effective date of this amendment or within six months after the date a video lottery sales agent begins operating as such for video lottery sales agents not operating as such on the effective date of this amendment, the state racing commission ~~may~~ shall direct through rule that a percentage of the lottery sales agent's commission as determined by the state lottery commission for conducting video lottery terminal gaming on behalf of the state be paid to the state racing commission for the benefit of breeding and racing in this state. The percentage so determined shall not be less than nine per cent or more than eleven per cent of the video lottery terminal income, and shall be a sliding scale based upon capital expenditures necessary to build the video lottery sales agent's facility. The aggregate of one hundred per cent of video lottery terminal income minus the lottery sales agent's commission percentage as determined by the state lottery commission plus the percentage of the lottery sale agent's commission, as determined by the state racing commission or otherwise agreed to by the video lottery sales agent and the applicable horsemen's association recognized by the state racing commission to represent such persons, for the benefit of breeding and racing in this state shall not exceed forty-five per cent of the video lottery terminal income. In addition, beginning July 1, 2013, the state lottery commission shall adopt a rule to require the lottery sales agent conducting video lottery terminal gaming on behalf of the state to disperse to the state lottery commission one-half of one per cent of such a lottery sales agent's commission for the purpose of providing funding support to appropriate state agencies for programs that provide for gambling addiction and other related addiction services. The state lottery commission's rule also may

require the lottery sales agent conducting video lottery terminal gaming on behalf of the state to disperse to the state lottery commission an additional amount up to one-half of one per cent of such a lottery sales agent's commission for that purpose.

Sec. 3769.088. (A)(1) If any permit holder required by this chapter to pay the taxes levied by sections 3769.08, 3769.087, 3769.26, and 3769.28 of the Revised Code fails to pay the taxes as required, the tax commissioner may make an assessment against the permit holder based upon any information in the commissioner's possession.

(2) If a permit holder required to remit taxes or file a report electronically in the manner prescribed under section 3769.103 of the Revised Code fails to do so, the tax commissioner may impose an additional penalty of fifty dollars or ten per cent of the tax due as shown on the report, whichever is greater.

(3) A penalty of up to fifteen per cent may be added to the amount of every assessment made under this section. ~~The~~

(4) The commissioner may adopt rules providing for the imposition and remission of penalties added to assessments made under this section.

(5) The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the party assessed to the commissioner. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the place, track, or enclosure for which the permit was issued is located or the county in which the party assessed resides or has its principal place of business. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office

of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state horse racing tax," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until the day the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the tax commissioner under this section shall be treated as revenue arising from the taxes imposed by sections 3769.08, 3769.087, 3769.26, and 3769.28 of the Revised Code.

Sec. 3769.089. (A) As used in this chapter:

(1) "Racing day" means any day authorized under a permit holder's permit on which, at a simulcast host, either a live racing program is conducted as authorized under section 3769.07 of the Revised Code or a simulcast racing program is conducted as authorized under this section.

(2) "Live racing day" means a racing day on which a live racing program is conducted by the permit holder along with simulcasts of all other available racing programs from within this state and simulcast racing programs from outside this state as authorized under this section.

(3) "Live racing program" means a racing program consisting of no fewer than seven live horse races at thoroughbred tracks and nine live races at standardbred tracks and additional horse races simulcast from other facilities located either inside or outside this state, in which not more than two horse races on which pari-mutuel wagering is conducted are simulcast from facilities located outside this state. If only one racing meeting of a particular breed of horse is being held, no fewer than nine live horse races

shall be held on a live racing day. If, during the course of a racing meeting at a standardbred track, the racing secretary of the permit holder determines that there is an insufficient number of entries to have a full field of eight horses for each of nine races on a live racing program, then the racing secretary of the permit holder, after consultation with the Ohio harness horsemen's association, may reduce the number of live races on that live racing program, as the racing secretary may determine. The racing secretary shall not reduce the live racing program to less than seven live races. If during the course of a meeting at a thoroughbred track, the racing secretary of a permit holder determines that there is an insufficient number of entries to have a full field of eight horses for each of nine races on a live racing program, then the racing secretary of the permit holder, with the consent of the thoroughbred horsemen's association, may reduce the number of live races on that live racing program, as the racing secretary may determine. The racing secretary shall not reduce the live racing program to less than seven live races. No more than seventeen races on which pari-mutuel wagering is conducted, including both live races and races simulcast from other facilities located either inside or outside this state, shall be part of a live racing program.

(4) "Simulcast host" means a track or enclosure in this state where, on a racing day, a permit holder is doing one or both of the following:

(a) Conducting a live racing program and offering this program for simulcasting to one or more simulcast guests and satellite facilities in this state;

(b) Receiving a simulcast racing program for simulcasting to one or more simulcast guests and satellite facilities in this state.

(5) "Simulcast guest" means any track or enclosure that is receiving from a simulcast host, on a day other than a racing day, a live racing program or a simulcast racing program.

(6) "Simulcast racing program" means all simulcasts of horse races to a simulcast host or simulcast guest on a racing day or on any other day on which pari-mutuel wagering is conducted, but does not include any simulcast horse races from inside or outside this state that are included in a simulcast host's live racing program.

(7) "Satellite facility" has the same meaning as in section 3769.25 of the Revised Code.

(8) "Collection and settlement agent" has the same meaning as in section 3769.0810 of the Revised Code.

(9) "Special racing event" means individual races in live racing programs or simulcast racing programs, and simulcast racing programs on

special event days under division (C) of this section, conducted at facilities located outside this state for which the track, racing association, or state regulatory agency conducting such races charges a simulcast host a fee for the privilege of receiving a simulcast of such races into this state that is higher than the customary and regular fee charged for simulcast races because of the status or popularity of such races.

(B)(1)(a) The state racing commission shall, upon request by any permit holder, permit electronically televised simulcasts of horse races at the permit holder's track or enclosure on racing days authorized by the permit holder's permit. Except as provided in division (B) of this section, the commission shall not permit the simulcast of any simulcast racing program conducted at tracks or facilities located outside this state unless the out-of-state simulcast racing program is available at the same signal rate to all permit holders, whether serving as simulcast hosts or simulcast guests, and all satellite facilities, in this state open and operating on that day. A permit holder or satellite facility may inform the commission that it waives the right to receive the simulcast of a simulcast racing program or a race in a simulcast racing program on that day and in this event the simulcast racing program or simulcast race shall be available to all other simulcast hosts, simulcast guests, and satellite facilities open and operating in this state on that day.

(b) In order for a permit holder to offer simulcasts of horse races conducted at facilities located outside this state, the permit holder shall have conducted live racing programs during the immediately preceding calendar year on a number of days that is not less than the number of regular live racing days it conducted in calendar year 1991, not including additional racing days conducted in calendar year 1991 by the permit holder at a winterized facility under a permit issued under section 3769.07 of the Revised Code, as certified by the commission. In satisfying the foregoing requirement for live racing days during the immediately preceding calendar year, a permit holder may include the number of days on which live racing programs were conducted under a permit issued under section 3769.07 of the Revised Code for additional racing days at a winterized facility. In addition, in order for a permit holder to offer simulcasts of horse races conducted at facilities located outside this state, the permit holder shall offer all simulcasts of horse races conducted in this state made available to it.

In order for a permit holder to offer simulcasts of races conducted at race tracks located outside this state at the same time and during the hours in which the live races of a live racing program are being conducted at its track, a permit holder conducting a thoroughbred live racing program shall obtain the consent of the thoroughbred horsemens association and a permit

holder conducting a harness live racing program shall obtain the consent of the Ohio harness horsemen's association. The consent of the horsemen's organization shall not be unreasonably withheld, and shall be consistent with the interest of preserving live racing in this state. If a horsemen's organization withholds its consent, the permit holder may file an objection with the commission, which shall promptly consider the objection and determine whether the horsemen's organization's action in withholding consent is without substantial merit and, if the commission so determines, shall authorize the permit holder to simulcast the simulcast racing programs. The determination of the commission is final. A permit holder, as a simulcast host, may offer simulcast racing programs at its track or enclosure of races conducted at tracks and facilities located outside this state prior to the commencement of, and following the conclusion of, its live races without obtaining the consent of a horsemen's organization under this division.

(c) Division (B)(1)(b) of this section remains in effect for each permit holder until the calendar year after that permit holder first receives a commission as a lottery sales agent for conducting video lottery terminal gaming on behalf of the state.

(2) Notwithstanding section 3769.07 of the Revised Code and unless otherwise agreed to by the applicable horsemen's association and the permit holder, beginning in the calendar year after the permit holder first receives video lottery terminal income, one of the following applies as determined on a yearly basis:

(a) If eleven per cent of the gross gaming revenue from video lottery terminals at the permit holder's facilities (either existing or relocated) in the previous calendar year exceeds fifteen million dollars, a permit holder shall conduct a minimum of one hundred twenty-five live racing days.

(b) If eleven per cent of the gross gaming revenue from video lottery terminals at the permit holder's facilities (either existing or relocated) in the previous calendar year exceeds eleven million dollars, but is less than or equal to fifteen million dollars, a permit holder shall conduct a minimum of one hundred live racing days or the number of racing days applied for by the permit holder in calendar year 2012, whichever is greater.

(c) If eleven per cent of the gross gaming revenue from video lottery terminals at the permit holder's facilities (either existing or relocated) in the previous calendar year is less than or equal to eleven million dollars, a permit holder shall conduct a minimum of seventy-five racing days or the number of racing days applied for by the permit holder for calendar year 2012, whichever is greater.

In no case shall the minimum number of racing days for any permit holder exceed one hundred twenty-five racing days or the maximum number of racing days for any permit holder exceed two hundred ten racing days.

(3) For the purposes of division (B)(2) of this section, for live racing conducted at a track with more than one permit, the minimum and maximum live racing days shall apply to those permits collectively and not as a single permit.

(4) In addition to the required live racing days, a permit holder shall simulcast a simulcast racing program on a minimum of three hundred sixty days each calendar year. The permit holder shall simulcast all simulcast racing programs conducted in this state and made available to the permit holder and simulcast racing programs conducted outside this state.

(5) The commission may make exception to the required minimum number of live racing days or simulcast racing program days in instances of natural disaster or other unexpected circumstances as defined by the commission, in its sole discretion. For any calendar year, the horsemen's association at each track may negotiate an agreement with the permit holder for that track to reduce the number of live racing days at that track to less than the minimum live racing days required by division (B)(2)(a), (b), or (c) of this section, as applicable, or to increase the number of live racing days at that track to a number that is greater than the maximum live racing days permitted by division (B)(2)(c) of this section, subject to the approval of the commission. These negotiations shall not reduce the number of live racing days to less than fifty days per calendar year.

(6) To satisfy the requirement of live racing days, a permit holder may include the number of days on which live racing programs were conducted under a permit issued under section 3769.07 of the Revised Code for racing days authorized at a winterized facility.

(C) The commission shall allocate to each track one racing day for each permit holder during each calendar year for the conduct of a live racing program on which a permit holder may conduct as few as one live horse race, with the remainder of the horse races on that racing day on which pari-mutuel wagering is conducted as part of the live racing program being simulcast from other tracks and facilities located either inside or outside this state. In addition, the commission may allocate to each permit holder racing days on which it may as part of a live racing program simulcast more than two horse races from facilities located outside this state if the horse races involve a national wagering pool and pari-mutuel wagering is conducted on the national wagering pool, but on such a racing day there shall in no event be more than two horse races simulcast from facilities located outside this

state included in a live racing program on which separate pari-mutuel wagering is conducted. As used in this division, "national wagering pool" means an interstate or intrastate common pari-mutuel wagering pool involving two or more selections covering two or more horse races conducted at tracks located inside or outside this state.

In emergency situations, the commission may authorize a live racing day at a track in which all horse races on that racing day on which pari-mutuel wagering is conducted are simulcast from tracks and facilities located either inside or outside this state with the consent of the thoroughbred horsemen's association for a track conducting a thoroughbred live racing program and with the consent of the Ohio harness horsemen's association for a track conducting a harness live racing program. If a horsemen's organization withholds its consent, the permit holder may file an objection with the commission, which shall promptly consider the objection and determine whether the horsemen's organization's action in withholding consent is without substantial merit and, if the commission so determines, shall authorize the permit holder to simulcast the simulcast racing programs. The determination of the commission is final.

(D) On any day that a racing day has been applied for at any track in this state, each track in this state may operate as either a simulcast host or a simulcast guest and may conduct, with the approval of the state racing commission, pari-mutuel wagering on all simulcasts of races conducted inside this state made available to it plus all simulcasts of races conducted at facilities located outside this state as determined by the simulcast hosts. Except as otherwise provided in this section, any simulcast host or simulcast guest may receive and conduct simulcast racing programs that feature any breed of horse at any time of day, as authorized by the commission. Those persons holding state fair, county fair, or other fair permits shall not receive a simulcast racing program on which pari-mutuel wagering is conducted, except that a holder of a permit issued under section 3769.07 of the Revised Code that has been authorized by the commission to conduct races of the state fair, a county fair, or other fair at a commercial track may receive and conduct simulcast racing programs as a simulcast host or simulcast guest at the same time in conjunction with the live racing program of the state fair, county fair, or other fair permit holder conducted at its track.

The simulcast hosts, with the approval of the state racing commission, shall determine which simulcast racing programs offered by race tracks located outside this state will be simulcast at their tracks and at all simulcast hosts, simulcast guests, and satellite facilities in this state that are open and operating during the hours that the simulcast hosts are operating. Simulcast

guests and satellite facilities shall receive all approved simulcast racing programs offered by simulcast hosts. In addition, a simulcast host and simulcast guest, with the approval of the commission, may also receive simulcast horse races and simulcast racing programs not agreed to by simulcast hosts.

A simulcast host that normally operates during the day only may serve as a simulcast host for only day-simulcast racing programs, which include all simulcast racing programs that commence at a track located outside this state on or before four p.m. A simulcast host that normally operates during the evening only may serve as a simulcast host for only evening-simulcast racing programs, which include all simulcast racing programs that commence at a track located outside this state on or after three p.m. A simulcast host that normally operates during the evening, but that under its permit conducts live racing programs during the day, may serve as a simulcast host for day-simulcast racing programs. A permit holder that is offering at its track simulcast racing programs that commence at a track located outside this state on or before four p.m. and simulcast racing programs that commence at a track located outside this state on or after three p.m. may serve as a simulcast host for both the day-simulcast racing program and the evening-simulcast racing program only if no other permit holder is serving as a simulcast host for the other simulcast racing programs. The times listed in this and the immediately following paragraphs are standard time as described in section 1.04 of the Revised Code and in the "Uniform Time Act of 1966," 80 Stat. 107, 15 U.S.C. 260 to 265.

If a simulcast host is conducting a racing program that features thoroughbred or quarter horses on the same day that another simulcast host is conducting a live racing program that features harness horses at a track located in the same county as, or within twenty miles of, the track of the first simulcast host, the first simulcast host shall not conduct pari-mutuel wagering on simulcast racing programs that commence after four p.m. on that day and the second simulcast host shall not conduct wagering on simulcast racing programs that commence before three p.m. on that day.

A simulcast host that is conducting a live racing program and is simulcasting that program to other simulcast hosts and simulcast guests in this state shall receive from each simulcast host and each simulcast guest receiving the simulcast an intrastate simulcast fee of one and three-eighths per cent of the amounts wagered on such simulcast racing program at its facilities. The simulcast hosts and simulcast guests receiving such simulcast racing program shall pay the intrastate simulcast fee to the collection and settlement agent, and the fee shall be disbursed by the agent, at the time and

in the manner provided in section 3769.0810 of the Revised Code.

(E)(1) The moneys wagered on simulcast racing programs on a racing day shall be separated from the moneys wagered on the live racing program on that racing day. From the moneys wagered on the simulcast races, each permit holder may retain as a commission the percentage of the amount wagered as specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable, and shall pay, ~~by check, draft, or money order to the state tax commissioner~~ in the manner prescribed under section 3769.103 of the Revised Code, as a tax, the tax specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable. From the tax collected, the tax commissioner shall make the distributions to the respective funds, and in the proper amounts, as required by sections 3769.08 and 3769.087 of the Revised Code, as applicable. Except as provided in division (E)(2) of this section, from the amount remaining after the payment of state taxes on the moneys wagered on live racing programs and on the moneys wagered on simulcast racing programs, a permit holder shall retain an amount equal to two and three-eighths per cent of the amount wagered on live racing programs and on intrastate and interstate simulcast racing programs simulcast at its track and on the amount wagered on the live racing programs and simulcast racing programs at a satellite facility allocated to it under section 3769.26 of the Revised Code, as a fee to pay for those costs associated with the reception and transmission of simulcasts and the administrative cost of the conduct of live racing programs and simulcast racing programs. From the remaining balance, one-half shall be retained by the permit holder for purses. On a day when a permit holder conducts a live racing program, all purse money generated from wagering on live racing programs and on simulcast racing programs at its track shall be used for that permit holder's purse account. On a day when a permit holder operates as a simulcast host with no live racing program, or operates as a simulcast guest, all purse money generated from wagering on intrastate and interstate simulcast racing programs shall be paid to the state racing commission for deposit into the Ohio combined simulcast horse racing purse fund created under this section. In addition, on a day when a permit holder serves as a simulcast host for a satellite facility, all purse money generated from amounts wagered at the satellite facility allocated to the permit holder under section 3769.26 of the Revised Code shall be paid to the commission for deposit into the Ohio simulcast horse racing purse fund.

(2) If there are not four satellite facilities in operation in this state within one year after September 19, 1996, or if there are not seven satellite facilities in operation in this state within two years after September 19,

1996, or if there are not ten satellite facilities in operation in this state within three years after September 19, 1996, then in any such event the amount to be retained as a fee by the permit holder under division (E)(1) of this section shall be one and seven-eighths per cent until such time as the number of satellite facilities specified in division (E)(2) of this section are in operation. For good cause shown, the thoroughbred horsemens association and Ohio harness horsemens association may waive the requirements of division (E)(2) of this section or extend the date for compliance as to any year by filing a written notification with the state racing commission.

(3) If a simulcast racing program simulcast by a simulcast host at its track or enclosure and to other simulcast hosts, simulcast guests, and satellite facilities in this state is a special racing event, the permit holder offering the special racing event and other simulcast hosts, simulcast guests, and satellite facilities receiving the special racing event shall not retain the fee provided under division (E)(1) or (2) of this section but shall retain from the moneys wagered on the special racing event an amount equal to the fee charged by the track, racing association, or state regulatory agency simulcasting the special racing event to the simulcast host. From the remaining balance, one-half shall be retained by the permit holder for purses in the manner provided in division (E)(1) of this section.

A permit holder proposing to simulcast a special racing event as a simulcast host shall advise its horsemen's organization of the proposed schedule of the special racing event and obtain its consent to this schedule. The consent of the horsemen's organization shall not be unreasonably withheld and shall be consistent with the interest of preserving live racing in this state. If the horsemen's organization withholds its consent, the permit holder may file an objection with the state racing commission, which shall promptly consider the objection and determine whether the organization's action in withholding consent is without substantial merit and, if the commission so determines, shall authorize the permit holder to simulcast the special racing event. The determination of the commission is final.

(F) There is hereby created in the state treasury the Ohio combined simulcast horse racing purse fund, to consist of moneys paid into it by permit holders pursuant to division (E) of this section and by satellite facilities pursuant to division (F) of section 3769.26 of the Revised Code. Moneys to the credit of the fund, including interest earned thereon, may be used by the commission for the costs of administering this division and the balance shall be distributed among permit holders no less frequently than monthly to each permit holder's purse account on order of the commission.

For each calendar year, permit holders at each track shall receive a share

of each distribution of the Ohio combined simulcast horse racing purse fund in the same percentage, rounded to the nearest one-hundredth of the amount of each distribution, as the average total amount wagered at the track on racing days at which live racing programs were conducted, including the amount allocated to the track under section 3769.26 of the Revised Code for live races, during the five calendar years immediately preceding the year for which the distribution is made bears to the average annual total amount wagered at all tracks in the state operating under permits issued by the state racing commission under section 3769.07, 3769.071, or 3769.072 of the Revised Code on all racing days at which live racing programs were conducted, including the amount allocated to the tracks under section 3769.26 of the Revised Code for live races, during the five calendar years immediately preceding the year for which the distribution is made. By the thirty-first day of January of each year the commission shall calculate the share of the permit holders at each track for that year, shall enter the share percentages in its official records, and shall notify all permit holders of the share percentages of all tracks for that calendar year.

The permit holders at each track, with the approval of the commission, shall allocate their share of the fund as distributed to the purse account of each permit holder for each race meeting.

The commission shall cause to be kept accurate records of its administration of the fund, including all administrative expenses incurred by it and charged to the fund, and of distributions to permit holders. These records are public records available for inspection at any time during the regular business hours of the commission by any permit holder or horsemen's organization, by an authorized agent of the permit holder or horsemen's organization, or by any other person.

(G) Upon the approval of the commission, a permit holder conducting live racing programs may transmit electronically televised simulcasts of horse races conducted at the permit holder's track to racing associations, tracks, and facilities located outside this state for the conduct of pari-mutuel wagering thereon, at the times, on the terms, and for the fee agreed upon by the permit holder and the receiving racing association, track, or facility. From the fees paid to the permit holder for such simulcasts, a permit holder shall retain for the costs of administration a fee in an amount equal to one per cent of the amount wagered on the races simulcast by the permit holder. From the remaining balance of the fee, one-half shall be retained by the permit holder for purses, except that notwithstanding the fee arrangement between the permit holder and the receiving racing association, track, or facility, the permit holder shall deposit into its purse account not less than an

amount equal to three-fourths of one per cent of the amount wagered at racing associations, tracks, and facilities located outside the state on the races simulcast by the permit holder.

All televised simulcasts of horse races conducted in this state to racing associations, tracks, and facilities located outside this state shall comply with the "Interstate Horse Racing Act of 1978," 92 Stat. 1811, 15 U.S.C.A. 3001 to 3007. The consent of the horsemen's organization at the track of the permit holder applying to the commission to simulcast horse races conducted at the permit holder's track to racing associations, tracks, and facilities located outside this state shall be consistent with the interest of preserving live racing.

(H)(1) The state racing commission may authorize any permit holder that is authorized to conduct live horse racing on racing days and that conducts pari-mutuel wagering on simulcasts of horse races under this section that are conducted at race tracks either inside or outside this state to conduct, supervise, and participate in interstate and intrastate common pari-mutuel wagering pools on those races in the manner provided in division (H) of this section. Except as otherwise expressly provided in division (H) of this section or in the rules of the state racing commission, the provisions of this chapter that govern pari-mutuel wagering apply to interstate or intrastate common pari-mutuel wagering pools.

(2) Subject to the approval of the state racing commission, the types of wagering, calculation of the commission retained by the permit holder, tax rates, distribution of winnings, and rules of racing in effect for pari-mutuel wagering pools at the host track may govern wagers placed at a receiving track in this state and merged into an interstate or intrastate common pari-mutuel wagering pool. Breakage from interstate or intrastate common pari-mutuel wagering pools shall be calculated in accordance with the rules that govern the host track and shall be distributed among the tracks participating in the interstate or intrastate common wagering pool in a manner agreed to by the participating tracks and the host track. An interstate common pari-mutuel wagering pool formed under division (H)(3) of this section is subject to that division rather than to division (H)(2) of this section.

(3) Subject to the approval of the state racing commission, an interstate common pari-mutuel wagering pool may be formed between a permit holder and one or more receiving tracks located in states other than the state in which the host track is located. The commission may approve types of wagering, calculation of the commission retained by the permit holder, tax rates, distribution of winnings, rules of racing, and calculation of breakage

for such an interstate common pari-mutuel wagering pool that differ from those that would otherwise be applied in this state under this chapter but that are consistent for all tracks participating in the interstate common pari-mutuel wagering pool formed under division (H)(3) of this section.

(4) As used in division (H) of this section:

(a) "Host track" means a track where live horse races are conducted and offered for simulcasting to receiving tracks.

(b) "Receiving track" means a track where simulcasts of races from a host track are displayed and wagered on.

(I) Each permit holder is responsible for paying all costs associated with the up-link for, and reception of, simulcasts, and the conduct and operation of simulcast racing programs, for all fees and costs associated with serving as a simulcast host or simulcast guest, and for any required fees payable to the tracks, racing associations, or state regulatory agencies where simulcast racing is conducted at tracks located outside this state.

(J) No license, fee, or excise tax, other than as specified in division (E) of this section, shall be assessed upon or collected from a permit holder or the owners of a permit holder in connection with, or pertaining to, the operation and conduct of simulcast racing programs in this state, by any county, township, municipal corporation, district, or other body having the authority to assess or collect a tax or fee.

(K)(1) Permit holders operating tracks within the same county or adjacent counties that are conducting simulcast racing programs under this section may enter into agreements regarding the conduct of simulcast racing programs at their respective tracks and the sharing of the retained commissions therefrom, for such periods of time, upon such terms and conditions, and subject to such rights and obligations, as the contracting permit holders consider appropriate under the circumstances. Permit holders shall notify the state racing commission of their entry into an agreement pursuant to this division, the names of the permit holders that are parties to the agreement, and the length of time the agreement shall be in effect.

(2) Permit holders and the thoroughbred horsemen's association and Ohio harness horsemen's association may agree to do any of the following:

(a) Increase or reduce the fees and amounts to be retained by the permit holders under this section;

(b) Increase or reduce the fees and amounts to be allocated to the purse accounts of permit holders under this section;

(c) Increase or reduce the fees to be paid between and among simulcast hosts and simulcast guests under this section and under division (C) of section 3769.0810 of the Revised Code;

(d) Modify, suspend, or waive the requirements set forth in division (B) of this section as to any permit holder or as to all permit holders.

All permit holders and both horsemen's organizations shall approve such agreement. Any agreement entered into under division (K)(2) of this section shall set forth the effective date of any such increase or reduction, and the terms and provisions of the agreement, and a copy of the agreement shall be filed with the state racing commission.

Sec. 3769.10. The state racing commission and the tax commissioner shall enforce this chapter and may incur such expenses as are necessary; provided, that the power of the tax commissioner shall extend only to enforcement and administration of the taxes levied by sections 3769.08, 3769.087, 3769.26, and 3769.28 of the Revised Code as provided in those sections and in sections 3769.088, 3769.101, 3769.102, 3769.103, 5703.05, 5703.17 to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. The commissioner may adopt, in accordance with section 5703.14 of the Revised Code, such rules as the commissioner considers necessary to administer sections 3769.08, 3769.087, 3769.088, 3769.101, 3769.102, 3769.103, 3769.26, and 3769.28 of the Revised Code.

Except as otherwise provided in section 3769.03 of the Revised Code, all taxes, fees, and moneys due the state under sections 3769.01 to 3769.071 and 3769.09 to 3769.14 of the Revised Code shall be paid to, and receipted for by, the secretary of the state racing commission, and shall be paid by the secretary weekly into the state treasury to the credit of the general revenue fund. All taxes due the state under sections 3769.08, 3769.087, and 3769.26 of the Revised Code shall be paid to, and receipted for by, the tax commissioner, and shall be paid by the commissioner ~~weekly~~ monthly into the proper funds.

All vouchers of the commission shall be approved by the commission chairperson or secretary, or both, as authorized by the commission.

Sec. 3769.101. (A) For the purposes of receiving, distributing, and accounting for revenue received from the taxes levied by sections 3769.08, 3769.087, and 3769.26 of the Revised Code, there is hereby created in the state treasury the horse-racing tax revenue fund.

(B) All moneys collected from the taxes imposed by sections 3769.08, 3769.087, and 3769.26 of the Revised Code shall be deposited into the horse-racing tax revenue fund.

(C) On or before the fifteenth day of each month, the tax commissioner shall pay into the nursing home franchise permit fee fund, Ohio fairs fund, Ohio thoroughbred race fund, Ohio standardbred development fund, Ohio quarter horse fund, and state racing commission operating fund created

under this chapter the amounts required by sections 3769.08, 3769.087, and 3769.26 of the Revised Code based on amounts received in the preceding month.

Sec. 3769.102. (A) For the purpose of receiving, distributing, and accounting for revenue received from the tax levied by section 3769.28 of the Revised Code, there is hereby created in the state treasury the horse-racing tax municipality fund.

(B) All moneys collected from the tax imposed by section 3769.28 of the Revised Code shall be deposited into the horse-racing tax municipality fund.

(C) On or before the fifteenth day of each month, the tax commissioner shall provide for payments from the horse-racing tax municipality fund to municipal corporations or townships in which a permit holder's horse-racing meeting took place and in which any facilities or accessory uses therefor were located based on amounts received in the preceding month from the permit holder. The amount collected from a permit holder pursuant to section 3769.28 of the Revised Code shall be divided equally between the municipal corporations or townships in which a permit holder's horse-racing meeting took place and in which any facilities or accessory uses therefor were located. Such municipal corporations or townships may distribute a portion of the moneys so received to any adjoining political subdivision that incurs increased expenses because of such a horse-racing meeting.

Sec. 3769.103. (A) On each day on which banks are open for business, or not later than noon of the calendar day following a racing day on which banks are not open for business, a permit holder shall remit the amount of tax due under sections 3769.08, 3769.087, and 3769.26 of the Revised Code in the manner required by the commissioner. The permit holder shall file with the tax due a report in the form required by the commissioner. The report shall reflect the activity of the previous racing day and include any other information the commissioner considers necessary to administer the taxes imposed under sections 3769.08, 3769.087, and 3769.26 of the Revised Code.

(B) Within ten days after the close of a horse-racing meeting, a permit holder shall remit the amount of tax due under section 3769.28 of the Revised Code in the manner required by the commissioner. The permit holder shall file with the tax due the final report required pursuant to section 3769.28 of the Revised Code in the form required by the commissioner. The report shall include any information the commissioner considers necessary to administer the tax imposed by section 3769.28 of the Revised Code.

(C) The commissioner may require permit holders to use the Ohio

business gateway to file reports and remit the tax, or may provide for another means for taxpayers to file and remit the tax electronically.

Sec. 3769.26. (A)(1) Except as otherwise provided in division (B) of this section, each track in existence on September 27, 1994, regardless of the number of permit holders authorized to conduct race meetings at the track, may establish, with the approval of the state racing commission and the appropriate local legislative authority, not more than two satellite facilities at which it may conduct pari-mutuel wagering on horse races conducted either inside or outside this state and simulcast by a simulcast host to the satellite facilities.

(2) Prior to a track's establishing satellite facilities under this section, the permit holders at that track shall agree among themselves regarding their respective rights and obligations with respect to those satellite facilities.

(3)(a) Any track that desires to establish a satellite facility shall provide written notification of its intent to the state racing commission and to the appropriate local legislative authority that is required to approve the satellite facility, together with detailed plans and specifications for the satellite facility. The commission shall deliver copies of this notification to all other tracks in this state, and the commission shall, within forty-five days after receiving the notification, hold a hearing on the track's intent to establish a satellite facility. At this hearing the commission shall consider the evidence presented and determine whether the request for establishment of a satellite facility shall be approved.

The commission shall not approve a track's request to establish a satellite facility if the owner of the premises where the satellite facility is proposed to be located or if the proposed operator of the satellite facility has been convicted of or has pleaded guilty to a gambling offense that is a felony or any other felony under the laws of this state, any other state, or the United States that the commission determines to be related to fitness to be the owner of such a premises or to be the operator of a satellite facility. As used in division (A)(3)(a) of this section, "gambling offense" has the same meaning as in section 2915.01 of the Revised Code and "operator" means the individual who is responsible for the day-to-day operations of a satellite facility. The commission shall conduct a background investigation on each person who is the owner of a premises where a satellite facility is proposed to be located or who is proposed to be the operator or an employee of a satellite facility. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code that specify the specific information the commission shall collect in conducting such a background investigation.

No track shall knowingly contract with a person as the owner of the

premises where a satellite facility is located, or knowingly employ a person as the operator or an employee of a satellite facility, who has been convicted of or pleaded guilty to a gambling offense that is a felony or any other felony under the laws of this state, any other state, or the United States that the commission determines to be related to fitness to be the owner of such a premises or to be the operator or an employee of a satellite facility. The commission may impose a fine in an amount not to exceed ten thousand dollars on any track that violates any of these prohibitions.

(b) Each track that receives the notification described in division (A)(3)(a) of this section shall notify the commission and the track that desires to establish the satellite facility, within thirty days after receiving the notification from the commission, indicating whether or not it desires to participate in the joint ownership of the facility. Ownership shall be distributed equally among the tracks that choose to participate in the joint ownership of the facility unless the participating tracks agree to and contract otherwise. Tracks that fail to respond to the commission and the track that desires to establish the satellite facility within this thirty-day period regarding the ownership of the particular satellite facility are not eligible to participate in its ownership.

(B) If, within three years after September 27, 1994, a track in existence on September 27, 1994, does not establish both of the satellite facilities it is authorized to establish under division (A) of this section, another track, with the approval of the racing commission, may establish in accordance with this section a number of additional satellite facilities that does not exceed the number of satellite facilities that the first track did not establish. However, no more than fourteen satellite facilities may be established in this state.

(C) Except as otherwise provided in this division, each permit holder in this state shall allow the races that it conducts, and the races conducted outside this state that it receives as a simulcast host, to be simulcast to all satellite facilities operating in this state and shall take all action necessary to supply its simulcast and wagering information to these satellite facilities. A permit holder at a track where the average daily amount wagered for all race meetings during calendar year 1990 did not exceed two hundred fifty thousand dollars may elect not to simulcast its races to the satellite facilities. If a permit holder at such a track chooses to simulcast its races to satellite facilities, it shall allow its races to be simulcast to all satellite facilities operating in this state. Except as otherwise provided in this division, each satellite facility shall receive simulcasts of and conduct pari-mutuel wagering on all live racing programs being conducted at any track in this

state and on all agreed simulcast racing programs, as provided in division (D) of section 3769.089 of the Revised Code, conducted in other states that are received by simulcast in this state, without regard to the breed of horse competing in the race or the time of day of the race.

No satellite facility may receive simulcasts of horse races during the same hours that a county fair or independent fair located within the same county as the satellite facility is conducting pari-mutuel wagering on horse races at that county or independent fair.

Except as otherwise provided in this division, the commission shall not approve the establishment of a satellite facility within a radius of fifty miles of any track. The commission may approve the establishment of a satellite facility at a location within a radius of at least thirty-five but not more than fifty miles from one or more tracks if all of the holders of permits issued for those tracks consent in writing to the establishment of the satellite facility. The commission may approve the establishment of a satellite facility at a location within a radius of thirty-five miles of more than one race track if all holders of permits issued for those tracks consent in writing to the establishment of the satellite facility and, if the tracks are located completely within one county and the proposed satellite facility will be located within that county, if both the legislative authority of the municipal corporation in that county with the largest population, and the appropriate legislative authority that is required to approve the satellite facility under division (A)(1) of this section, approve the establishment of the new satellite facility. The commission may approve the establishment of a satellite facility at a location within a radius of less than twenty miles from an existing satellite facility if the owner of the existing satellite facility consents in writing to the establishment of the new satellite facility.

A satellite facility shall not receive simulcasts of horse races conducted outside this state on any day when no simulcast host is operating.

(D) Each simulcast host is responsible for paying all costs associated with the up-link for simulcasts. Each satellite facility is responsible for paying all costs associated with the reception of simulcasts and the operation of the satellite facility.

(E) All money wagered at the simulcast host, and all money wagered at all satellite facilities on races simulcast from the simulcast host, shall be included in a common pari-mutuel pool at the simulcast host. Except as otherwise provided in division (F)(6) of this section, the payment shall be the same for all winning tickets whether a wager is placed at a simulcast host or a satellite facility. Wagers placed at a satellite facility shall conform in denomination, character, terms, conditions, and in all other respects to

wagers placed at the simulcast host for the same race.

(F)(1) As used in division (F) of this section, "effective rate" means the effective gross tax percentage applicable at the simulcast host, determined in accordance with sections 3769.08 and 3769.087 of the Revised Code, after combining the money wagered at the simulcast host with the money wagered at satellite facilities on races simulcast from the host track.

(2) For the purposes of calculating the amount of taxes to be paid and the amount of commissions to be retained by permit holders, fifty per cent of the amount wagered at satellite facilities on a live racing program simulcast from a simulcast host shall be allocated to the permit holder's live race wagering at that simulcast host that conducts the live racing program, and fifty per cent of the amount wagered at satellite facilities on simulcast racing programs conducted outside this state shall be allocated to, and apportioned equally among, the permit holders acting as simulcast hosts for the out-of-state simulcast racing programs. The remainder of the amount wagered at a satellite facility on races simulcast from a simulcast host shall be allocated to the satellite facility. In computing the tax due on the amount allocated to the satellite facility, if there is more than one simulcast host for out-of-state simulcast racing programs, the effective rate applied by the satellite facility shall be the tax rate applicable to the simulcast host that pays the highest effective rate under section 3769.08 of the Revised Code on such simulcast racing programs.

(3) The portion of the amount wagered that is allocated to a simulcast host under division (F)(2) of this section shall be treated, for the purposes of calculating the amount of taxes to be paid and commissions to be retained, as having been wagered at the simulcast host on a live racing program or on a simulcast racing program. The permit holder at the simulcast host shall pay, ~~by check, draft, or money order to the state tax commissioner~~ in the manner prescribed under section 3769.103 of the Revised Code, as a tax, the tax specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable, except that the tax shall be calculated using the effective rate, and the permit holder may retain as a commission the percentage of the amount wagered as specified in those sections. From the tax collected, the tax commissioner shall make distributions to the respective funds, and in the proper amounts, as required by sections 3769.08 and 3769.087 of the Revised Code, as applicable.

(4) From the portion of the amount wagered that is allocated to a satellite facility under division (F)(2) of this section, the satellite facility may retain as a commission the amount specified in section 3769.08 or 3769.087 of the Revised Code, as applicable. The portion of the amount

wagered that is allocated to a satellite facility shall be subject to tax at the effective rate as follows:

(a) One per cent of such amount allocated to the satellite facility shall be paid as a tax each racing day to the tax commissioner for deposit into the nursing home franchise permit fee fund.

(b) The remaining balance of the taxes calculated at the effective rate, after payment of the tax specified in division (F)(4)(a) of this section, shall be retained by the satellite facility to pay for those costs associated with the reception of the simulcasts.

(5) From the commission retained by a satellite facility after the deduction of the tax paid at the effective rate under division (F)(4) of this section, the satellite facility shall retain an amount equal to two and three-eighths per cent of the amount wagered that day on simulcast racing programs and the balance shall be divided as follows:

(a) One-half shall be paid to the owner of the satellite facility;

(b) One-half shall be paid to the state racing commission for deposit into the Ohio combined simulcast horse racing purse fund.

(6) In addition to the commission retained under this section, a satellite facility shall retain two and one-half per cent of the amount that would otherwise be paid on each winning wager unless the retention of this amount would either cause or add to a minus pool. As used in division (F)(6) of this section, "minus pool" means a wagering pool in which a winning wager is paid off at less than one hundred ten per cent of the amount of the wager. The amount retained shall be paid each racing day to the tax commissioner for deposit into the nursing home franchise permit fee fund.

(7) At the close of each day, each satellite facility shall pay, by check, draft, or money order, or by wire transfer of funds, out of the money retained on that day to the collection and settlement agent the required fee to be paid by the simulcast host to the tracks, racing associations, or state regulatory agencies located outside this state for simulcasts into this state computed and based on one-half of the amount wagered at the satellite facility that day on interstate simulcast racing programs.

(G) No license, fee, or excise tax, other than as specified in division (F)(6) of this section, shall be assessed upon or collected from a satellite facility, the owners of a satellite facility, or the holders of permits issued for a track that has established a satellite facility by any county, township, municipal corporation, district, or other body having the authority to assess or collect a tax or fee.

(H) In no case shall that portion of the commissions designated for purses from satellite facilities be less than that portion of those commissions

designated for purses at the simulcast host.

(I) It is the intention of the general assembly in enacting this section not to adversely affect the amounts paid into the Ohio thoroughbred race fund created under section 3769.083 of the Revised Code. Therefore, each track that acts as a simulcast host under this section shall calculate, on a semi-annual basis during calendar years 1994, 1995, and 1996, its average daily contribution to the Ohio thoroughbred race fund created under section 3769.083 of the Revised Code on those days on which the track conducted live horse racing. If this average daily contribution to the fund is less than the average daily contribution from the same track to the fund during the same six-month period of calendar year 1992, there shall be contributed to the fund an amount equal to the average daily shortfall multiplied by the number of days of live racing conducted during the six-month period in calendar year 1994, 1995, or 1996, as applicable. The amount of such contribution shall be allocated among the simulcast host, the purse program at the simulcast host, and the satellite facilities for which the track served as the simulcast host, on a pro rata basis in proportion to the amounts contributed by them to the fund during such six-month period in calendar year 1994, 1995, or 1996, as applicable.

Sec. 3769.28. ~~The tax commissioner shall collect from~~ Within ten days after the close of a horse-racing meeting, each permit holder who conducts a pari-mutuel system of wagering where the wagering is less than five million dollars shall remit, in the manner prescribed under section 3769.103 of the Revised Code, a sum of money equal to one-tenth of one per cent of the total amount wagered and where the wagering is five million dollars or more a sum of money equal to fifteen hundredths of one per cent of the total amount wagered during any horse-racing meeting for the purpose of providing operating revenue for the political subdivisions wherein such meetings are held. Within ten days after the close of a meeting, the permit holder shall also prepare and transmit, in the manner prescribed under section 3769.103 of the Revised Code, to the tax commissioner a final report showing the total amount wagered during the horse-racing meeting and any other information required by the commissioner relative to the tax levied by this section. ~~The final report shall be signed by the permit holder or an authorized agent of the permit holder. The commissioner shall prescribe the form of the final report.~~

~~The commissioner shall collect the tax due under this section on amounts wagered during a horse-racing meeting within ten days after the close of the meeting. The amount collected by the commissioner shall be made payable to the chief fiscal officers of the municipal corporations or~~

~~townships in which such horse racing meeting took place and in which any such facilities or accessory uses therefor were located. The commissioner shall then immediately forward the amount collected to such chief fiscal officers. The amount collected shall be divided equally between the municipal corporations or townships in which such horse racing meeting took place and in which any facilities or accessory uses therefor were located. Such municipal corporations or townships may distribute a portion of the moneys so received to any adjoining political subdivision which incurs increased expenses because of such horse racing meeting.~~

This section shall not apply to any agricultural society which holds a horse-racing permit.

The amount collected under this section from any one permit holder shall not exceed fifteen thousand dollars from any one horse-racing meeting in any calendar year.

Sec. 3770.02. (A) Subject to the advice and consent of the senate, the governor shall appoint a director of the state lottery commission who shall serve at the pleasure of the governor. The director shall devote full time to the duties of the office and shall hold no other office or employment. The director shall meet all requirements for appointment as a member of the commission and shall, by experience and training, possess management skills that equip the director to administer an enterprise of the nature of a state lottery. The director shall receive an annual salary in accordance with pay range 48 of section 124.152 of the Revised Code.

(B)(1) The director shall attend all meetings of the commission and shall act as its secretary. The director shall keep a record of all commission proceedings and shall keep the commission's records, files, and documents at the commission's principal office. All records of the commission's meetings shall be available for inspection by any member of the public, upon a showing of good cause and prior notification to the director.

(2) The director shall be the commission's executive officer and shall be responsible for keeping all commission records and supervising and administering the state lottery in accordance with this chapter, and carrying out all commission rules adopted under section 3770.03 of the Revised Code.

(C)(1) The director shall appoint an assistant director, deputy directors of marketing, operations, sales, finance, public relations, security, and administration, and as many regional managers as are required. The director may also appoint necessary professional, technical, and clerical assistants. All such officers and employees shall be appointed and compensated pursuant to Chapter 124. of the Revised Code. Regional and assistant

regional managers, sales representatives, and any lottery executive account representatives shall remain in the unclassified service.

(2) The director, in consultation with the director of administrative services, may establish standards of proficiency and productivity for commission field representatives.

(D) The director shall request the bureau of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency to supply the director with the criminal records of any job applicant and may periodically request the criminal records of commission employees. At or prior to the time of making such a request, the director shall require a job applicant or commission employee to obtain fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency, and the director shall cause these fingerprint cards to be forwarded to the bureau of criminal identification and investigation and the federal bureau of investigation. The commission shall assume the cost of obtaining the fingerprint cards and shall pay to each agency supplying criminal records for each investigation under this division a reasonable fee, as determined by the agency.

(E) The director shall license lottery sales agents pursuant to section 3770.05 of the Revised Code and, when it is considered necessary, may revoke or suspend the license of any lottery sales agent. The director may license video lottery technology providers, independent testing laboratories, and gaming employees, and promulgate rules relating thereto. When the director considers it necessary, the director may suspend or revoke the license of a video lottery technology provider, independent testing laboratory, or gaming employee, including suspension or revocation without affording an opportunity for a prior hearing under section 119.07 of the Revised Code when the public safety, convenience, or trust requires immediate action.

(F) The director shall confer at least once each month with the commission, at which time the director shall advise it regarding the operation and administration of the lottery. The director shall make available at the request of the commission all documents, files, and other records pertaining to the operation and administration of the lottery. The director shall prepare and make available to the commission each month a complete and accurate accounting of lottery revenues, prize money disbursements and the cost of goods and services awarded as prizes, operating expenses, and all other relevant financial information, including an accounting of all transfers made from any lottery funds in the custody of the treasurer of state to

benefit education.

(G) The director may enter into contracts for the operation or promotion of the lottery pursuant to Chapter 125. of the Revised Code.

(H)(1) Pursuant to rules adopted by the commission under section 3770.03 of the Revised Code, the director shall require any lottery sales agents to ~~either mail directly to the commission or~~ deposit to the credit of the state lottery fund, in banking institutions designated by the treasurer of state, net proceeds due the commission as determined by the director, ~~and to file with the director or the director's designee reports of their receipts and transactions in the sale of lottery tickets in the form required by the director.~~

(2) Pursuant to rules adopted by the commission under Chapter 119. of the Revised Code, the director may impose penalties for the failure of a sales agent to transfer funds to the commission in a timely manner. Penalties may include monetary penalties, immediate suspension or revocation of a license, or any other penalty the commission adopts by rule.

(I) The director may arrange for any person, or any banking institution, to perform functions and services in connection with the operation of the lottery as the director may consider necessary to carry out this chapter.

(J)(1) As used in this chapter, "statewide joint lottery game" means a lottery game that the commission sells solely within this state under an agreement with other lottery jurisdictions to sell the same lottery game solely within their statewide or other jurisdictional boundaries.

(2) If the governor directs the director to do so, the director shall enter into an agreement with other lottery jurisdictions to conduct statewide joint lottery games. If the governor signs the agreement personally or by means of an authenticating officer pursuant to section 107.15 of the Revised Code, the director then may conduct statewide joint lottery games under the agreement.

(3) The entire net proceeds from any statewide joint lottery games shall be used to fund elementary, secondary, vocational, and special education programs in this state.

(4) The commission shall conduct any statewide joint lottery games in accordance with rules it adopts under division (B)(5) of section 3770.03 of the Revised Code.

(K)(1) The director shall enter into an agreement with the department of ~~alcohol and drug addiction services~~ mental health and addiction services under which the department shall provide a program of gambling addiction services on behalf of the commission. The commission shall pay the costs of the program provided pursuant to the agreement.

(2) As used in this section, "gambling addiction services" has the same

meaning as in section ~~3793.04~~ 5119.01 of the Revised Code.

Sec. 3770.06. (A) There is hereby created the state lottery gross revenue fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. All gross revenues received from sales of lottery tickets, fines, fees, and related proceeds in connection with the statewide lottery and all gross proceeds from statewide joint lottery games shall be deposited into the fund. The treasurer of state shall invest any portion of the fund not needed for immediate use in the same manner as, and subject to all provisions of law with respect to the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the director of the state lottery commission or the director's designee.

Except for gross proceeds from statewide joint lottery games, all revenues of the state lottery gross revenue fund that are not paid to holders of winning lottery tickets, that are not required to meet short-term prize liabilities, that are not credited to lottery sales agents in the form of bonuses, commissions, or reimbursements, that are not paid to financial institutions to reimburse those institutions for sales agent nonsufficient funds, and that are collected from sales agents for remittance to insurers under contract to provide sales agent bonding services shall be transferred to the state lottery fund, which is hereby created in the state treasury. In addition, all revenues of the state lottery gross revenue fund that represent the gross proceeds from the statewide joint lottery games and that are not paid to holders of winning lottery tickets, that are not required to meet short-term prize liabilities, that are not credited to lottery sales agents in the form of bonuses, commissions, or reimbursements, and that are not necessary to cover operating expenses associated with those games or to otherwise comply with the agreements signed by the governor that the director enters into under division (J) of section 3770.02 of the Revised Code or the rules the commission adopts under division (B)(5) of section 3770.03 of the Revised Code shall be transferred to the state lottery fund. All investment earnings of the fund shall be credited to the fund. Moneys shall be disbursed from the fund pursuant to vouchers approved by the director. Total disbursements for monetary prize awards to holders of winning lottery tickets in connection with the statewide lottery and purchases of goods and services awarded as prizes to holders of winning lottery tickets shall be of an amount equal to at least fifty per cent of the total revenue accruing from the sale of lottery tickets.

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, there is hereby established in the state treasury the lottery profits education fund. Whenever, in the judgment of the director of the state lottery commission, the amount to the credit of the state lottery fund that does not represent

proceeds from statewide joint lottery games is in excess of that needed to meet the maturing obligations of the commission and as working capital for its further operations, the director of the state lottery commission shall recommend the amount of the excess to be transferred to the lottery profits education fund, and the director of budget and management may transfer the excess to the lottery profits education fund in connection with the statewide lottery. In addition, whenever, in the judgment of the director of the state lottery commission, the amount to the credit of the state lottery fund that represents proceeds from statewide joint lottery games equals the entire net proceeds of those games as described in division (B)(5) of section 3770.03 of the Revised Code and the rules adopted under that division, the director of the state lottery commission shall recommend the amount of the proceeds to be transferred to the lottery profits education fund, and the director of budget and management may transfer those proceeds to the lottery profits education fund. Investment earnings of the lottery profits education fund shall be credited to the fund.

The lottery profits education fund shall be used solely for the support of elementary, secondary, vocational, and special education programs as determined in appropriations made by the general assembly, or as provided in applicable bond proceedings for the payment of debt service on obligations issued to pay costs of capital facilities, including those for a system of common schools throughout the state pursuant to section 2n of Article VIII, Ohio Constitution. When determining the availability of money in the lottery profits education fund, the director of budget and management may consider all balances and estimated revenues of the fund.

(C) There is hereby established in the state treasury the deferred prizes trust fund. With the approval of the director of budget and management, an amount sufficient to fund annuity prizes shall be transferred from the state lottery fund and credited to the trust fund. The treasurer of state shall credit all earnings arising from investments purchased under this division to the trust fund. Within sixty days after the end of each fiscal year, the treasurer of state shall certify to the director of budget and management whether the actuarial amount of the trust fund is sufficient over the fund's life for continued funding of all remaining deferred prize liabilities as of the last day of the fiscal year just ended. Also, within that sixty days, the director of budget and management shall certify the amount of investment earnings necessary to have been credited to the trust fund during the fiscal year just ending to provide for such continued funding of deferred prizes. Any earnings credited in excess of the latter certified amount shall be transferred to the lottery profits education fund.

To provide all or a part of the amounts necessary to fund deferred prizes awarded by the commission in connection with the statewide lottery, the treasurer of state, in consultation with the commission, may invest moneys contained in the deferred prizes trust fund which represents proceeds from the statewide lottery in obligations of the type permitted for the investment of state funds but whose maturities are thirty years or less. Notwithstanding the requirements of any other section of the Revised Code, to provide all or part of the amounts necessary to fund deferred prizes awarded by the commission in connection with statewide joint lottery games, the treasurer of state, in consultation with the commission, may invest moneys in the trust fund which represent proceeds derived from the statewide joint lottery games in accordance with the rules the commission adopts under division (B)(5) of section 3770.03 of the Revised Code. Investments of the trust fund are not subject to the provisions of division (A)(10) of section 135.143 of the Revised Code limiting to twenty-five per cent the amount of the state's total average portfolio that may be invested in debt interests and limiting to one-half of one per cent the amount that may be invested in debt interests of a single issuer.

All purchases made under this division shall be effected on a delivery versus payment method and shall be in the custody of the treasurer of state.

The treasurer of state may retain an investment advisor, if necessary. The commission shall pay any costs incurred by the treasurer of state in retaining an investment advisor.

(D) The auditor of state shall conduct annual audits of all funds and any other audits as the auditor of state or the general assembly considers necessary. The auditor of state may examine all records, files, and other documents of the commission, and records of lottery sales agents that pertain to their activities as agents, for purposes of conducting authorized audits.

~~(E)~~ The state lottery commission shall establish an internal audit ~~program~~ plan before the beginning of each fiscal year, subject to the approval of the ~~auditor office of state~~ internal audit in the office of budget and management. At the end of each fiscal year, the commission shall prepare and submit an annual report to the ~~auditor office of state~~ internal audit for the ~~auditor of state's office's~~ review and approval, specifying the internal audit work completed by the end of that fiscal year and reporting on compliance with the annual internal audit ~~program~~. ~~The form and content of the report shall be prescribed by the auditor of state under division (C) of section 117.20 of the Revised Code~~ plan.

~~(E)~~(F) Whenever, in the judgment of the director of budget and

management, an amount of net state lottery proceeds is necessary to be applied to the payment of debt service on obligations, all as defined in sections 151.01 and 151.03 of the Revised Code, the director shall transfer that amount directly from the state lottery fund or from the lottery profits education fund to the bond service fund defined in those sections. The provisions of this division are subject to any prior pledges or obligation of those amounts to the payment of bond service charges as defined in division (C) of section 3318.21 of the Revised Code, as referred to in division (B) of this section.

Sec. 3772.062. (A) The executive director of the commission shall enter into an agreement with the department of ~~alcohol and drug addiction services~~ mental health and addiction services under which the department provides a program of gambling and addiction services on behalf of the commission.

(B) The executive director of the commission, in conjunction with the department of ~~alcohol and drug addiction services~~ mental health and addiction services and the state lottery commission, shall establish, operate, and publicize an in-state, toll-free telephone number Ohio residents may call to obtain basic information about problem gambling, the gambling addiction services available to problem gamblers, and how a problem gambler may obtain help. The telephone number shall be staffed twenty-four hours per day, seven days a week, to respond to inquiries and provide that information. The costs of establishing, operating, and publicizing the telephone number shall be paid for with money in the problem casino gambling and addictions fund.

Sec. 3772.24. (A) An employee of a casino facility who is between eighteen and twenty-one years of age may be present in the area of a casino facility where casino gaming is being conducted, as long as the employee's duties are related solely to nongaming activities. An individual who is less than twenty-one years of age may enter a designated area of a casino facility where casino gaming is being conducted, as established by the commission, to pass to another area where casino gaming is not being conducted, but only if the individual is personally escorted by licensed casino personnel, as approved by the commission, who at all times remain in close proximity to the individual. An individual who is less than twenty-one years of age shall not make a wager under this chapter.

(B) Casino operators shall notify the commission of the days and hours during which casino gaming will be conducted.

Sec. 3772.36. (A) There is hereby created in the state treasury the casino control commission enforcement fund. All moneys that are derived from any

finances, mandatory fines, or forfeited bail to which the commission may be entitled under this chapter and all moneys that are derived from forfeitures of property to which the commission may be entitled under this chapter or Chapter 2981. of the Revised Code, any other provision of the Revised Code, or federal law shall be deposited into the fund. Subject to division (B) of this section and divisions (B), (C), and (D) of section 2981.13 of the Revised Code, the moneys in the fund shall be used solely to subsidize the commission's division of enforcement and its efforts to ensure the integrity of casino gaming.

(B) Notwithstanding any contrary provision in the Revised Code, moneys that are derived from forfeitures of property under federal law and that are deposited into the casino control commission enforcement fund in accordance with division (A) of this section shall be used and accounted for in accordance with the applicable federal law, and the commission otherwise shall comply with federal law in connection with that money.

Sec. 3781.112. (A) As used in this section, "secured facility" means any of the following:

(1) A maternity unit, newborn care nursery, or maternity home licensed under Chapter 3711. of the Revised Code;

(2) A pediatric intensive care unit subject to rules adopted by the director of health pursuant to section 3702.11 of the Revised Code;

(3) A children's hospital, as defined in section 3727.01 of the Revised Code;

(4) A hospital that is licensed under section ~~5419.20~~ 5119.33 of the Revised Code to receive mentally ill persons;

(5) The portion of a nursing home licensed under section 3721.02 of the Revised Code or in accordance with section 3721.09 of the Revised Code in which specialized care is provided to residents of the nursing home who have physical or mental conditions that require a resident to be restricted in the resident's freedom of movement for the health and safety of the resident, the staff attending the resident, or the general public.

(B) A secured facility may take reasonable steps in accordance with rules the board of building standards adopts under division (A) of section 3781.10 of the Revised Code and in accordance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code, to deny egress to confine and protect patients or residents of the secured facility who are not capable of self-preservation. A secured facility that wishes to deny egress to those patients or residents may use delayed-egress doors and electronically coded doors to deny egress, on the condition that those doors are installed and used in accordance with rules the board of building

standards adopts under division (A) of section 3781.10 of the Revised Code and in accordance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code. A secured facility also may install controlled-egress locks, in compliance with rules the board of building standards adopts under division (A) of section 3781.10 of the Revised Code and in compliance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code, in areas of the secured facility where patients or residents who have physical or mental conditions that would endanger the patients or residents, the staff attending the patients or residents, or the general public if those patients or residents are not restricted in their freedom of movement. A secured facility that uses delayed-egress doors and electronically coded doors, controlled-egress locks, or both, shall do both of the following:

(1) Provide continuous, twenty-four-hour custodial care to the patients or residents of the facility;

(2) Establish a system to evacuate patients or residents in the event of fire or other emergency.

Sec. 3795.01. As used in sections 3795.01, 3795.02, and 3795.03 of the Revised Code:

(A) "Assist suicide" or "assisting suicide" means knowingly doing either of the following, with the purpose of helping another person to commit or attempt suicide:

(1) Providing the physical means by which the person commits or attempts to commit suicide;

(2) Participating in a physical act by which the person commits or attempts to commit suicide.

(B) "Certified nurse practitioner," "certified nurse-midwife," and "clinical nurse specialist" have the same meanings as in section 4723.01 of the Revised Code.

(C) "CPR" has the same meaning as in section 2133.21 of the Revised Code.

(D) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat a person's physical or mental condition.

(E) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care.

(F) "Health care facility" means any of the following:

(1) A hospital;

(2) A hospice care program or pediatric respite care program as defined in section 3712.01 of the Revised Code;

(3) A nursing home;

(4) A home health agency;

(5) An intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities.

(G) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.

(H) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

Sec. 3798.01. As used in this chapter:

(A) "Administrative safeguards," "physical safeguards," and "technical safeguards" have the same meanings as in 45 C.F.R. 164.304.

(B) "Approved health information exchange" means a health information exchange that has been approved or reapproved by the medicaid director ~~of job and family services~~ pursuant to the approval or reapproval process, as applicable, the director establishes in rules adopted under division (A) of section 3798.15 of the Revised Code or that has been certified by the office of the national coordinator for health information technology in the United States department of health and human services.

(C) "Covered entity," "disclosure," "health care provider," "health information," "individually identifiable health information," "protected health information," and "use" have the same meanings as in 45 C.F.R. 160.103.

(D) "Designated record set" has the same meaning as in 45 C.F.R. 164.501.

(E) "Direct exchange" means the activity of electronic transmission of health information through a direct connection between the electronic record systems of health care providers without the use of a health information exchange.

(F) "Health care component" and "hybrid entity" have the same meanings as in 45 C.F.R. 164.103.

(G) "Health information exchange" means any person or governmental entity that provides in this state a technical infrastructure to connect computer systems or other electronic devices used by covered entities to facilitate the secure transmission of health information. "Health information exchange" excludes health care providers engaged in direct exchange, including direct exchange through the use of a health information service

provider.

(H) "HIPAA privacy rule" means the standards for privacy of individually identifiable health information in 45 C.F.R. part 160 and in 45 C.F.R. part 164, subparts A and E.

(I) "Interoperability" means the capacity of two or more information systems to exchange information in an accurate, effective, secure, and consistent manner.

(J) "Minor" means an unemancipated person under eighteen years of age or a mentally or physically disabled person under twenty-one years of age who meets criteria specified in rules adopted by the medicaid director ~~of job and family services~~ under section 3798.13 of the Revised Code.

(K) "More stringent" has the same meaning as in 45 C.F.R. 160.202.

(L) "Office of health transformation" means the office of health transformation created by executive order 2011-02K or a successor governmental entity responsible for health system oversight in this state.

(M) "Personal representative" means a person who has authority under applicable law to make decisions related to health care on behalf of an adult or emancipated minor, or the parent, legal guardian, or other person acting in loco parentis who is authorized under law to make health care decisions on behalf of an unemancipated minor. "Personal representative" does not include the parent or legal guardian of, or another person acting in loco parentis to, a minor who consents to the minor's own receipt of health care or a minor who makes medical decisions on the minor's own behalf pursuant to law, court approval, or because the minor's parent, legal guardian, or other person acting in loco parentis has assented to an agreement of confidentiality between the provider and the minor.

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

(O) "State agency" means any one or more of the following:

(1) The department of administrative services;

(2) The department of aging;

~~(2)(3)~~ The department of ~~alcohol and drug addiction services~~ mental health and addiction services;

~~(3)(4)~~ The department of developmental disabilities;

~~(4)(5)~~ The department of education;

~~(5)(6)~~ The department of health;

~~(6)(7)~~ The department of insurance;

~~(7)(8)~~ The department of job and family services;

~~(8)(9)~~ The department of ~~mental health~~ medicaid;

~~(9)~~(10) The department of rehabilitation and correction;
~~(10)~~(11) The department of youth services;
~~(11)~~(12) The bureau of workers' compensation;
~~(12)~~(13) The ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency;
~~(13)~~(14) The office of the attorney general;
~~(14)~~(15) A health care licensing board created under Title XLVII of the Revised Code that possesses individually identifiable health information.

Sec. 3798.10. (A) Not later than six months after ~~the effective date of this section~~ September 10, 2012, the medicaid director ~~of job and family services~~, in consultation with the office of health transformation, shall prescribe by rules adopted in accordance with Chapter 119. of the Revised Code a standard authorization form for the use and disclosure of protected health information by covered entities in this state. The form shall meet all requirements specified in 45 C.F.R. 164.508 and, where applicable, 42 C.F.R. part 2.

(B) If a form the medicaid director prescribes under division (A) of this section is properly executed by an individual or the individual's personal representative, it shall be accepted by any person or governmental entity in this state as valid authorization for the use or disclosure of the individual's protected health information to the persons or governmental entities specified in the form.

(C) This section does not preclude a person or governmental entity from accepting as valid authorization for the use or disclosure of protected health information a form other than the form prescribed under division (A) of this section if the other form meets all requirements specified in 45 C.F.R. 164.508 and, if applicable, 42 C.F.R. part 2.

Sec. 3798.13. The medicaid director ~~of job and family services~~ shall adopt rules for purposes of specifying the criteria a person who is mentally or physically disabled and who is under twenty-one years of age must meet to be considered a minor for purposes of sections 3798.07 and 3798.12 of the Revised Code.

Sec. 3798.14. (A) The medicaid director ~~of job and family services~~, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing standards the director must use to approve health information exchanges operating in this state. The rules shall not be adopted until the earlier of sixty days following the adoption of a federal certification process for health information exchanges by the office of the national coordinator for health information technology in the United States department of health

and human services or January 1, 2013. Subject to division (B) of this section, the rules may include standards and procedures to be followed by a health information exchange regarding the following:

(1) Access to and use and disclosure of protected health information maintained by or on an approved health information exchange;

(2) Demonstration of adequate financial resources to sustain continued operations in compliance with the rules adopted under this section;

(3) Participation in outreach activities for individuals and covered entities;

(4) Conduct of operations in a transparent manner to promote consumer confidence;

(5) Implementation of security breach notification procedures.

(B) The rules the medicaid director adopts pursuant to division (A) of this section shall be consistent with certification standards for health information exchanges established in federal statutes and regulations, including nationally recognized standards for interoperability.

Sec. 3798.15. (A) The medicaid director ~~of job and family services~~, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing processes for all of the following:

(1) A health information exchange to obtain approval to operate as an approved health information exchange in this state and, at times specified by the director, obtain reapproval of such status;

(2) The director to investigate and resolve concerns and complaints submitted to the director regarding an approved health information exchange;

(3) A health information exchange to apply for reconsideration of a decision the director makes under a process established under division (A)(1) or (2) of this section;

(4) Covered entities and approved health information exchanges to enter into participation agreements and enforce the terms of such agreements.

(B) Any decision the medicaid director makes in relation to a request for reconsideration made in accordance with rules adopted under division (A)(3) of this section is not subject to appeal under Chapter 119. of the Revised Code.

Sec. 3798.16. (A) The medicaid director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of specifying the content of agreements governing covered entities' participation in approved health information exchanges. At a minimum, the

rules shall require the content of such participation agreements to include all of the following:

(1) Procedures for a covered entity to disclose an individual's protected health information to an approved health information exchange;

(2) Procedures for a covered entity to access an individual's protected health information from an approved health information exchange;

(3) Subject to division (B) of this section, a written notice to be provided by a covered entity to an individual or the individual's personal representative prior to the covered entity's disclosure of the individual's protected health information to an approved health information exchange;

(4) Documentation the covered entity must use to verify that a notice described in division (A)(3) of this section has been provided by the covered entity to an individual or the individual's personal representative prior to the disclosure of the individual's protected health information to an approved health information exchange;

(5) Procedures for an individual or the individual's personal representative to submit to the covered entity a written request to place restrictions on the covered entity's disclosure of protected health information to the approved health information exchange;

(6) The standards a covered entity must use to determine whether, and to what extent, to comply with a written request described in division (A)(5) of this section;

(7) The purposes for which a covered entity may access and use protected health information from the approved health information exchange.

(B) With respect to the written notice described in division (A)(3) of this section, the rules may specify that the notice can be incorporated into the covered entity's notice of privacy practices required by 45 C.F.R. 164.520 and shall specify that the notice include the following statements:

(1) The individual's protected health information will be disclosed to the approved health information exchange to facilitate the provision of health care to the individual.

(2) The approved health information exchange maintains appropriate administrative, physical, and technical safeguards to protect the privacy and security of protected health information.

(3) Only authorized individuals may access and use protected health information from the approved health information exchange.

(4) The individual or the individual's personal representative has the right to request in writing that the covered entity do either or both of the following:

(a) Not disclose any of the individual's protected health information to the approved health information exchange;

(b) Not disclose specific categories of the individual's protected health information to the approved health information exchange.

(5) Any restrictions on the disclosure of protected health information an individual requests as described in either division (B)(4)(a) or (b) of this section may result in a health care provider not having access to information that is necessary for the provider to render appropriate care to the individual.

(6) Any restrictions on the disclosure of protected health information an individual requests as described in division (B)(4)(a) of this section must be honored by the covered entity.

(7) Any restrictions on the disclosure of protected health information an individual requests as described in division (B)(4)(b) of this section must be honored if the restriction is consistent with rules adopted under this chapter.

(C) In adopting standards under division (A)(6) of this section, the medicaid director shall take into consideration the technical capabilities of software available to health information exchanges."

Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code do not apply to the following:

(A) Policies offering coverage that is regulated under Chapters 3935. and 3937. of the Revised Code;

(B) An employer's self-insurance plan and any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of any provisions of those sections to the plan and its administrators;

(C) A third-party payer for coverage provided under the medicare advantage program operated under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(D) A third-party payer for coverage provided under the medicaid program ~~operated under Title XIX of the "Social Security Act,"~~ except that if a federal waiver applied for under section ~~5111.178~~ 5167.25 of the Revised Code is granted or the medicaid director ~~of job and family services~~ determines that this provision can be implemented without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code apply to claims submitted electronically or non-electronically that are made with respect to coverage of medicaid recipients by health insuring corporations licensed under Chapter 1751. of the Revised Code, instead of the prompt payment requirements of 42 C.F.R. 447.46;

(E) A third-party payer for coverage provided under the tricare program offered by the United States department of defense.

Sec. 3903.14. (A) The superintendent of insurance as rehabilitator may appoint one or more special deputies, who shall have all the powers and responsibilities of the rehabilitator granted under this section, and the superintendent may employ such clerks and assistants as considered necessary. The compensation of the special deputies, clerks, and assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the superintendent, with the approval of the court and shall be paid out of the funds or assets of the insurer. The persons appointed under this section shall serve at the pleasure of the superintendent. In the event that the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the superintendent may advance the costs so incurred out of any appropriation for the maintenance of the department of insurance. Any amounts so advanced for expenses of administration shall be repaid to the superintendent for the use of the department out of the first available money of the insurer.

(B) The rehabilitator may take such action as the rehabilitator considers necessary or appropriate to reform and revitalize the insurer. The rehabilitator shall have all the powers of the directors, officers, and managers, whose authority shall be suspended, except as they are redelegated by the rehabilitator. The rehabilitator shall have full power to direct and manage, to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of the insurer.

(C) If it appears to the rehabilitator that there has been criminal or tortious conduct, or breach of any contractual or fiduciary obligation detrimental to the insurer by any officer, manager, agent, director, trustee, broker, employee, or other person, the rehabilitator may pursue all appropriate legal remedies on behalf of the insurer.

(D) If the rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer is appropriate, the rehabilitator shall prepare a plan to effect such changes. Upon application of the rehabilitator for approval of the plan, and after such notice and hearings as the court may prescribe, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. Any plan approved under this section shall be, in the judgment of the court, fair and equitable to all parties concerned. If the plan is approved, the rehabilitator shall carry out the plan. In the case of a life insurer, the plan proposed may include the imposition of liens upon the policies of the company, if all rights of shareholders are first relinquished. A plan for a life insurer may also propose imposition of a moratorium upon loan and cash

surrender rights under policies, for such period and to such an extent as may be necessary.

(E) In the case of a medicaid health insuring corporation that has posted a bond or deposited securities in accordance with section 1751.271 of the Revised Code, the plan proposed under division (D) of this section may include the use of the proceeds of the bond or securities to first pay the claims of contracted providers for covered health care services provided to medicaid recipients, then next to pay other claimants with any remaining funds, consistent with the priorities set forth in sections 3903.421 and 3903.42 of the Revised Code.

(F) The rehabilitator shall have the power under sections 3903.26 and 3903.27 of the Revised Code to avoid fraudulent transfers.

(G) As used in this section:

(1) "Contracted provider" means a provider with a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients.

(2) "Medicaid recipient" means a person ~~eligible for assistance under enrolled in~~ the medicaid program ~~operated pursuant to Chapter 5111. of the Revised Code.~~

Sec. 3905.40. There shall be paid to the superintendent of insurance the following fees:

(A) Each insurance company doing business in this state shall pay:

(1) For filing a copy of its charter or deed of settlement, two hundred fifty dollars;

(2) For filing each statement, one hundred seventy-five dollars;

(3) For each certificate of authority or license, one hundred seventy-five, and for each certified copy thereof, five dollars;

(4) For each copy of a paper filed in the superintendent's office, twenty cents per page;

(5) For issuing certificates of deposits or certified copies thereof, five dollars for the first certificate or copy and one dollar for each additional certificate or copy;

(6) For issuing certificates of compliance or certified copies thereof, sixty dollars;

(7) For affixing the seal of office and certifying documents, other than those enumerated herein, two dollars;

(8) For each agent appointment and each annual renewal of an agent appointment, not more than twenty dollars;

~~(9) For each termination of an agent appointment, five dollars.~~

(B) Each domestic life insurance company doing business in this state

shall pay for annual valuation of its policies, one cent on every one thousand dollars of insurance.

(C) Each applicant for licensure as an insurance agent except applicants for licensure as surety bail bond agents, surplus line brokers, and portable electronics insurance vendors shall pay ten dollars for each line of authority requested. Fees collected under this division shall be credited to the department of insurance operating fund created in section 3901.021 of the Revised Code.

(D) Each domestic mutual life insurance company shall pay for verifying that any amendment to its articles of incorporation was regularly adopted, two hundred fifty dollars with each application for verification. Any such amendment shall be considered to have been regularly adopted when approved by the affirmative vote of two-thirds of the policyholders present in person or by proxy at any annual meeting of policyholders or at a special meeting of policyholders called for that purpose.

(E) Each insurance agent doing business in this state shall pay a biennial license renewal fee of twenty-five dollars, except the following insurance agents are not required to pay that license renewal fee:

- (1) Individual resident agents who have met their continuing education requirements under section 3905.481 of the Revised Code;
- (2) Surety bail bond agents;
- (3) Surplus line brokers;
- (4) Portable electronics insurance vendors.

(F) Each applicant for licensure as a portable electronics insurance vendor with a portable electronics insurance limited lines license and each licensed vendor doing business in this state shall pay the following fees prescribed by the superintendent:

(1) For vendors engaged in portable electronic transactions at more than ten locations in this state, an application fee not to exceed five thousand dollars for an initial license and a biennial license renewal fee not to exceed two thousand five hundred dollars for each renewal thereafter;

(2) For vendors engaged in portable electronic transactions at ten or fewer locations in this state, an application fee not to exceed three thousand dollars for an initial license and a biennial license renewal fee not to exceed one thousand dollars for each renewal thereafter.

(G) All fees collected by the superintendent under this section except any fees collected under divisions (A)(2), (3), and (6) of this section shall be credited to the department of insurance operating fund created under section 3901.021 of the Revised Code.

Sec. 3905.483. (A) There is hereby created the insurance agent

education advisory council to advise the superintendent of insurance in carrying out the duties imposed under sections 3905.04 and 3905.481 to 3905.486 of the Revised Code.

(B) The council shall be composed of the superintendent, or the superintendent's designee, and twelve members appointed by the superintendent, as follows:

(1) One representative of the association of Ohio life insurance companies;

(2) One representative of the independent insurance agents of Ohio;

(3) One representative of the Ohio association of health underwriters;

(4) One representative of the national association of insurance and financial advisors-Ohio;

(5) One representative of the Ohio insurance institute;

(6) One representative of the professional insurance agents association of Ohio;

(7) One representative of the Ohio land title association;

(8) Two insurance agents each of whom has been licensed continuously during the five-year period immediately preceding the agent's appointment;

(9) One representative of an insurance company admitted to transact business in this state;

(10) Two representatives of consumers, one of whom shall be at least ~~sixty~~ fifty years of age.

(C)(1) Of the initial eleven appointments made by the superintendent, three shall be for terms ending December 31, 1994, four shall be for terms ending December 31, 1995, and four shall be for terms ending December 31, 1996. Thereafter, terms of office shall be for three years, each term ending on the thirty-first day of December of the third year.

(2) The initial appointment of the twelfth member made by the superintendent under division (B)(7) of this section, pursuant to Am. Sub. S.B. 129 of the 124th general assembly, shall be for a term ending December 31, 2003. Thereafter, the term of office shall be for three years, ending on the thirty-first day of December of the third year.

(D) Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. A vacancy shall be filled in the same manner as the original appointment.

(E) Initial appointments to the council shall be made no later than thirty days after April 16, 1993. The initial appointment of the twelfth member to the council under division (B)(7) of this section, pursuant to Am. Sub. S.B. 129 of the 124th general assembly, shall be made no later than December 31, 2002.

(F) Any member is eligible for reappointment. The superintendent, after notice and opportunity for a hearing, may remove for cause any member the superintendent appoints.

(G) The superintendent or the superintendent's designee shall serve as chairperson of the council. Meetings shall be held upon the call of the chairperson and as may be provided by procedures adopted by the superintendent. Seven members of the council constitute a quorum.

(H) Each member shall receive mileage and necessary and actual expenses while engaged in the business of the council.

Sec. 3905.862. Upon the expiration or cancellation of a surety bail bond agent's appointment, the agent shall not engage or attempt to engage in any activity requiring such an appointment. However, an insurer that cancels the appointment of a surety bail bond agent may authorize the agent to continue to attempt the arrest and surrender of a defendant for whom a bail bond had been written prior to the cancellation and to seek discharge of forfeitures and judgments.

~~An insurer that cancels the appointment of a surety bail bond agent or allows that appointment to expire shall pay to the superintendent of insurance a fee pursuant to division (A)(9) of section 3905.40 of the Revised Code.~~

Sec. 3916.06. (A)(1) With each application for a viatical settlement, a viatical settlement provider or viatical settlement broker shall disclose at least the following to a viator no later than the time all parties sign the application for the viatical settlement contract:

(a) That there are possible alternatives to viatical settlement contracts, including any accelerated death benefits offered under the viator's policy;

(b) That some or all of the proceeds of the viatical settlement may be subject to federal income taxation and state franchise and income taxation, and that assistance should be sought from a professional tax advisor;

(c) That the proceeds of the viatical settlement could be subject to the claims of creditors;

(d) That receipt of the proceeds of the viatical settlement may adversely affect the viator's eligibility for ~~medical assistance under Chapter 5111. of the Revised Code~~ the medicaid program or other government benefits or entitlements, and that advice should be obtained from the appropriate

government agencies;

(e) That the viator has a right to rescind the viatical settlement contract for at least fifteen calendar days after the viator receives the viatical settlement proceeds, as provided in section 3916.08 of the Revised Code. If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment of all viatical settlement proceeds to the viatical settlement company.

(f) That funds will be sent to the viator within three business days after the viatical settlement provider has received written acknowledgment from the insurer or group administrator that ownership of the policy or interest in the certificate has been transferred and that the beneficiary has been designated pursuant to the viatical settlement contract;

(g) That entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy, to be forfeited by the viator and that assistance should be sought from a financial advisor.

(h) That following execution of the viatical settlement contract, the viatical settlement provider or the authorized representative of the viatical settlement provider may contact the insured for the purpose of determining the insured's health status and to confirm the insured's residential or business address and telephone number or for other purposes permitted by law. Any such contact shall be limited to once in any three-month period if the insured has a life expectancy of more than one year or to once per month if the insured has a life expectancy of one year or less.

(2) The viatical settlement provider or viatical settlement broker shall provide the disclosures under division (A)(1) of this section in a separate document that is signed by the viator and the viatical settlement provider or viatical settlement broker.

(3) Disclosure to a viator under division (A)(1) of this section shall include distribution of a brochure describing the process of viatical settlements. The viatical settlement provider or viatical settlement broker shall use the NAIC's form for the brochure unless another form is developed or approved by the superintendent.

(4) The disclosure document under division (A)(1) of this section shall contain the following language:

"All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are

asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years."

(B)(1) A viatical settlement provider shall disclose at least the following to a viator prior to the date the viatical settlement contract is signed by all the necessary parties:

(a) The affiliation, if any, between the viatical settlement provider and the issuer of the policy to be viaticated;

(b) The name, business address, and telephone number of the viatical settlement provider;

(c) Regarding a viatical settlement broker, the amount and method of calculating the broker's compensation. As used in this division, "compensation" includes anything of value paid or given to a viatical settlement broker for the placement of a policy or certificate.

(d) Any affiliations or contractual arrangements between the viatical settlement provider and the viatical settlement broker;

(e) If a policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the possible loss of coverage on the other lives under the policy and that advice should be sought from the viator's insurance agent or the company issuing the policy;

(f) The dollar amount of the current death benefit payable to the viatical settlement provider under the policy, and, if known, the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy, and the extent to which the viator's interest in those benefits will be transferred as a result of the viatical settlement contract.

(g) That an escrow agent shall provide escrow services to the parties pursuant to a written agreement, signed by the viatical settlement provider, the viatical settlement broker, and the viator. At the close of escrow, the escrow agent will distribute the proceeds of the sale to the viator, minus any compensation to be paid to any other persons who provided services and to whom the viator has agreed to compensate out of the gross amount offered by the viatical settlement purchaser. All persons receiving any form of compensation under the escrow agreement shall be clearly identified, including name, business address, telephone number, and tax identification number.

(2) The viatical settlement broker shall disclose at least the following to a viator prior to the execution of the viatical settlement contract:

(a) The name, business address, and telephone number of the viatical settlement broker;

(b) A full, complete, and accurate description of all offers, counteroffers, acceptances, and rejections relating to the proposed viatical settlement contract;

(c) Any affiliations or contractual agreements between the viatical settlement broker and any person making an offer in connection with the proposed viatical settlement contract;

(d) The amount and method of calculating the viatical settlement broker's compensation and, if any portion of the viatical settlement broker's compensation is taken from the viatical settlement offer, the total amount of the viatical settlement offer and the viatical settlement broker's compensation as a percentage of that total. As used in this division, "compensation" includes anything of value paid or given to a viatical settlement broker related to the settlement of a policy.

(3) The viatical settlement provider or viatical settlement broker shall conspicuously display the disclosures required under divisions (B)(1) and (2) of this section in the viatical settlement contract or in a separate document signed by the viator and the viatical settlement provider or viatical settlement broker, as appropriate.

(C) If the viatical settlement provider transfers ownership or changes the beneficiary of the policy, the viatical settlement provider shall communicate in writing the change in ownership or beneficiary to the insured within twenty days after the change.

Sec. 3923.24. (A) Notwithstanding section 3901.71 of the Revised Code, every certificate furnished by an insurer in connection with, or pursuant to any provision of, any group sickness and accident insurance policy delivered, issued for delivery, renewed, or used in this state on or after January 1, 1972, every policy of sickness and accident insurance delivered, issued for delivery, renewed, or used in this state on or after January 1, 1972, and every multiple employer welfare arrangement offering an insurance program, which provides that coverage of an unmarried dependent child of a parent or legal guardian will terminate upon attainment of the limiting age for dependent children specified in the contract shall also provide in substance both of the following:

(1) Once an unmarried child has attained the limiting age for dependent children, as provided in the policy, upon the request of the insured, the insurer shall offer to cover the unmarried child until the child attains twenty-eight years of age if all of the following are true:

(a) The child is the natural child, stepchild, or adopted child of the

insured.

(b) The child is a resident of this state or a full-time student at an accredited public or private institution of higher education.

(c) The child is not employed by an employer that offers any health benefit plan under which the child is eligible for coverage.

(d) ~~The child is not eligible for coverage under the medicaid program established under Chapter 5111. of the Revised Code or the medicare program established under Title XVIII of the "Social Security Act," 42 U.S.C. 1395.~~

(2) That attainment of the limiting age for dependent children shall not operate to terminate the coverage of a dependent child if the child is and continues to be both of the following:

(a) Incapable of self-sustaining employment by reason of mental retardation or physical handicap;

(b) Primarily dependent upon the policyholder or certificate holder for support and maintenance.

(B) Proof of such incapacity and dependence for purposes of division (A)(2) of this section shall be furnished by the policyholder or by the certificate holder to the insurer within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than annually after the two-year period following the child's attainment of the limiting age, the insurer may require proof satisfactory to it of the continuance of such incapacity and dependency.

(C) Nothing in this section shall require an insurer to cover a dependent child who is mentally retarded or physically handicapped if the contract is underwritten on evidence of insurability based on health factors set forth in the application, or if such dependent child does not satisfy the conditions of the contract as to any requirement for evidence of insurability or other provision of the contract, satisfaction of which is required for coverage thereunder to take effect. In any such case, the terms of the contract shall apply with regard to the coverage or exclusion of the dependent from such coverage. Nothing in this section shall apply to accidental death or dismemberment benefits provided by any such policy of sickness and accident insurance.

(D) Nothing in this section shall do any of the following:

(1) Require that any policy offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the policy;

(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents,

as provided in the policy;

(3) Require an employer to offer health insurance coverage to the dependents of any employee.

(E) This section does not apply to any policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(F) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following:

(1) A public employee benefit plan;

(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq.

Sec. 3923.241. (A) Notwithstanding section 3901.71 of the Revised Code, any public employee benefit plan that provides that coverage of an unmarried dependent child will terminate upon attainment of the limiting age for dependent children specified in the plan shall also provide in substance both of the following:

(1) Once an unmarried child has attained the limiting age for dependent children, as provided in the plan, upon the request of the employee, the public employee benefit plan shall offer to cover the unmarried child until the child attains twenty-eight years of age if all of the following are true:

(a) The child is the natural child, stepchild, or adopted child of the employee.

(b) The child is a resident of this state or a full-time student at an accredited public or private institution of higher education.

(c) The child is not employed by an employer that offers any health benefit plan under which the child is eligible for coverage.

(d) The child is not eligible for ~~coverage under the medicaid program established under Chapter 5111. of the Revised Code or the medicare program established under Title XVIII of the "Social Security Act," 42 U.S.C. 1395.~~

(2) That attainment of the limiting age for dependent children shall not operate to terminate the coverage of a dependent child if the child is and continues to be both of the following:

(a) Incapable of self-sustaining employment by reason of mental retardation or physical handicap;

(b) Primarily dependent upon the plan member for support and maintenance.

(B) Proof of incapacity and dependence for purposes of division (A)(2) of this section shall be furnished to the public employee benefit plan within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than annually, the public employee benefit plan may require proof satisfactory to it of the continuance of such incapacity and dependency.

(C) Nothing in this section shall do any of the following:

(1) Require that any public employee benefit plan offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the public employee benefit plan;

(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents, as provided in the plan;

(3) Require an employer to offer health insurance coverage to the dependents of any employee.

(D) This section does not apply to any public employee benefit plan covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(E) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following:

(1) A public employee benefit plan;

(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq.

Sec. 3923.281. (A) As used in this section:

(1) "Biologically based mental illness" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the

American psychiatric association.

(2) "Policy of sickness and accident insurance" has the same meaning as in section 3923.01 of the Revised Code, but excludes any hospital indemnity, medicare supplement, long-term care, disability income, one-time-limited-duration policy of not longer than six months, supplemental benefit, or other policy that provides coverage for specific diseases or accidents only; any policy that provides coverage for workers' compensation claims compensable pursuant to Chapters 4121. and 4123. of the Revised Code; and any policy that provides coverage to ~~beneficiaries enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, as provided by the Ohio department of job and family services under Chapter 5111. of the Revised Code~~ recipients.

(B) Notwithstanding section 3901.71 of the Revised Code, and subject to division (E) of this section, every policy of sickness and accident insurance shall provide benefits for the diagnosis and treatment of biologically based mental illnesses on the same terms and conditions as, and shall provide benefits no less extensive than, those provided under the policy of sickness and accident insurance for the treatment and diagnosis of all other physical diseases and disorders, if both of the following apply:

(1) The biologically based mental illness is clinically diagnosed by a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; a psychologist licensed under Chapter 4732. of the Revised Code; a professional clinical counselor, professional counselor, or independent social worker licensed under Chapter 4757. of the Revised Code; or a clinical nurse specialist licensed under Chapter 4723. of the Revised Code whose nursing specialty is mental health.

(2) The prescribed treatment is not experimental or investigational, having proven its clinical effectiveness in accordance with generally accepted medical standards.

(C) Division (B) of this section applies to all coverages and terms and conditions of the policy of sickness and accident insurance, including, but not limited to, coverage of inpatient hospital services, outpatient services, and medication; maximum lifetime benefits; copayments; and individual and family deductibles.

(D) Nothing in this section shall be construed as prohibiting a sickness and accident insurance company from taking any of the following actions:

(1) Negotiating separately with mental health care providers with regard to reimbursement rates and the delivery of health care services;

(2) Offering policies that provide benefits solely for the diagnosis and treatment of biologically based mental illnesses;

(3) Managing the provision of benefits for the diagnosis or treatment of biologically based mental illnesses through the use of pre-admission screening, by requiring beneficiaries to obtain authorization prior to treatment, or through the use of any other mechanism designed to limit coverage to that treatment determined to be necessary;

(4) Enforcing the terms and conditions of a policy of sickness and accident insurance.

(E) An insurer that offers any policy of sickness and accident insurance is not required to provide benefits for the diagnosis and treatment of biologically based mental illnesses pursuant to division (B) of this section if all of the following apply:

(1) The insurer submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the insurer's costs for claims and administrative expenses for the coverage of all other physical diseases and disorders to increase by more than one per cent per year.

(2) The insurer submits a signed letter from an independent member of the American academy of actuaries to the superintendent of insurance opining that the increase described in division (E)(1) of this section could reasonably justify an increase of more than one per cent in the annual premiums or rates charged by the insurer for the coverage of all other physical diseases and disorders.

(3) The superintendent of insurance makes the following determinations from the documentation and opinion submitted pursuant to divisions (E)(1) and (2) of this section:

(a) Incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the insurer's costs for claims and administrative expenses for the coverage of all other physical diseases and disorders to increase by more than one per cent per year.

(b) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the insurer for the coverage of all other physical diseases and disorders.

Any determination made by the superintendent under this division is subject to Chapter 119. of the Revised Code.

Sec. 3923.443. (A)(1) No agent shall sell, solicit, or negotiate long-term

care insurance on or after September 1, 2008, without completing an initial eight-hour partnership program training course as described in division (B) of this section.

(2)(a) Any agent that sells, solicits, or negotiates any long-term care insurance shall complete at least four hours of continuing education in every twenty-four-month period commencing on the first day of January of the year immediately following the year of the issuance of the agent's license.

(b) No agent shall fail to complete the continuing education requirements in division (A)(2)(a) of this section in the twenty-four-month period described in that division.

(B) The initial training course and continuing education required under division (A) of this section may be approved by the superintendent of insurance as continuing education courses under sections 3905.481 to 3905.486 of the Revised Code and shall consist of combined topics related to long-term care insurance, long-term care services, and state long-term care insurance partnership programs, including all of the following:

(1) State and federal regulations and requirements and the relationship between state long-term care insurance partnership programs and other public and private coverage of long-term care services, including medicaid;

(2) Available long-term care services and providers;

(3) Changes or improvements in long-term care services or providers;

(4) Alternatives to the purchase of private long-term care insurance;

(5) The effect of inflation on benefits and the importance of inflation protection;

(6) Consumer suitability standards and guidelines;

(7) Any other topics required by the superintendent.

(C) The initial training and continuing education required by division (A) of this section shall not include training that is specific to a particular insurer or company product or that includes any sales or marketing information, materials, or training other than those required by state or federal law.

(D) A resident agent shall satisfy the training and continuing education required by division (A) of this section by completing long-term care courses that are approved by the superintendent. A nonresident agent may satisfy the training and continuing education required by division (A) of this section by completing the training requirements in any other state, provided that the course is approved for credit by the insurance department of that state prior to the agent taking the course.

(E) Each insurer shall obtain records of the initial training and continuing education completed by agents of that insurer pursuant to

division (A) of this section as well as the training completed by the insurer's agents concerning the distribution of the insurer's partnership program policies and shall make those records available to the superintendent upon request.

(F) Each insurer shall maintain records with respect to the training of its agents concerning the distribution of the insurer's partnership program policies. Each insurer shall provide documentation to the superintendent that will allow the superintendent to provide assurance to the medicaid director ~~of job and family services~~ that agents have received the training required by this section and that agents have demonstrated an understanding of the partnership program policies and their relationship to public and private coverage of long-term care in this state, including medicaid. The superintendent may audit each insurer's records annually to verify that the insurer is maintaining the records required by this division. The superintendent shall make the records provided to the superintendent pursuant to division (E) of this section available to the director.

Sec. 3923.49. The department of insurance shall establish an outreach program to educate consumers about the following:

- (A) The need for long-term care insurance;
- (B) Mechanisms for financing long-term care;
- (C) The availability of long-term care insurance;
- (D) The resource protection provided by the Ohio long-term care insurance program under section ~~5111.18~~ 5164.86 of the Revised Code;
- (E) That a consumer who purchased a long-term care insurance policy that does not meet the requirements of section 3923.50 of the Revised Code may purchase a policy that meets those requirements.

The department shall develop and make available to consumers information to assist them in choosing long-term care insurance coverage.

Sec. 3923.50. For the purposes of the Ohio long-term care insurance program established under section ~~5111.18~~ 5164.86 of the Revised Code, the department of insurance shall notify the department of ~~job and family services~~ medicaid of all long-term care insurance policies that meet all of the following requirements:

- (A) Comply with sections 3923.41 to 3923.48 of the Revised Code and the rules adopted under section 3923.47 of the Revised Code;
- (B) Provide benefits for home and community-based services in addition to nursing home care;
- (C) Include case management services in its coverage of home and community-based services;
- (D) Provide five per cent inflation protection compounded annually;

(E) Provide for the keeping of records and explanation-of-benefit reports on insurance payments that count toward resource exclusion for the ~~medical assistance~~ medicaid program;

(F) Provide the information the medicaid director ~~of job and family services~~ determines is necessary to document the extent of resource exclusion and to evaluate the Ohio long-term care insurance program;

(G) Comply with other requirements established in rules adopted under this section.

The superintendent of insurance shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements under division (G) of this section that policies must meet to qualify under the Ohio long-term care insurance program. The superintendent shall consult with the departments of aging and ~~job and family services~~ medicaid in adopting those rules.

Sec. 3923.601. (A)(1) This section applies to both of the following:

(a) A sickness and accident insurer that issues or requires the use of a standardized identification card or an electronic technology for submission and routing of prescription drug claims pursuant to a policy, contract, or agreement for health care services;

(b) A person that a sickness and accident insurer contracts with to issue a standardized identification card or an electronic technology described in division (A)(1)(a) of this section.

(2) Notwithstanding division (A)(1) of this section, this section does not apply to the issuance or required use of a standardized identification card or an electronic technology for the submission and routing of prescription drug claims in connection with any of the following:

(a) Any individual or group policy of sickness and accident insurance covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, medicare, tricare, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(b) Coverage provided under the ~~medicaid, as defined in section 5111.01 of the Revised Code~~ program.

(c) Coverage provided under an employer's self-insurance plan or by any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise

precludes the application of this section to the plan and its administrators.

(B) A standardized identification card or an electronic technology issued or required to be used as provided in division (A)(1) of this section shall contain uniform prescription drug information in accordance with either division (B)(1) or (2) of this section.

(1) The standardized identification card or the electronic technology shall be in a format and contain information fields approved by the national council for prescription drug programs or a successor organization, as specified in the council's or successor organization's pharmacy identification card implementation guide in effect on the first day of October most immediately preceding the issuance or required use of the standardized identification card or the electronic technology.

(2) If the insurer or person under contract with the insurer to issue a standardized identification card or an electronic technology requires the information for the submission and routing of a claim, the standardized identification card or the electronic technology shall contain any of the following information:

- (a) The insurer's name;
- (b) The insured's name, group number, and identification number;
- (c) A telephone number to inquire about pharmacy-related issues;
- (d) The issuer's international identification number, labeled as "ANSI BIN" or "RxBIN";
- (e) The processor's control number, labeled as "RxPCN";
- (f) The insured's pharmacy benefits group number if different from the insured's medical group number, labeled as "RxGrp."

(C) If the standardized identification card or the electronic technology issued or required to be used as provided in division (A)(1) of this section is also used for submission and routing of nonpharmacy claims, the designation "Rx" is required to be included as part of the labels identified in divisions (B)(2)(d) and (e) of this section if the issuer's international identification number or the processor's control number is different for medical and pharmacy claims.

(D) Each sickness and accident insurer described in division (A) of this section shall annually file a certificate with the superintendent of insurance certifying that it or any person it contracts with to issue a standardized identification card or electronic technology for submission and routing of prescription drug claims complies with this section.

(E)(1) Except as provided in division (E)(2) of this section, if there is a change in the information contained in the standardized identification card or the electronic technology issued to an insured, the insurer or person under

contract with the insurer to issue a standardized identification card or an electronic technology shall issue a new card or electronic technology to the insured.

(2) An insurer or person under contract with the insurer is not required under division (E)(1) of this section to issue a new card or electronic technology to an insured more than once during a twelve-month period.

(F) Nothing in this section shall be construed as requiring an insurer to produce more than one standardized identification card or one electronic technology for use by insureds accessing health care benefits provided under a policy of sickness and accident insurance.

Sec. 3923.83. (A)(1) This section applies to both of the following:

(a) A public employee benefit plan that issues or requires the use of a standardized identification card or an electronic technology for submission and routing of prescription drug claims pursuant to a policy, contract, or agreement for health care services;

(b) A person or entity that a public employee benefit plan contracts with to issue a standardized identification card or an electronic technology described in division (A)(1)(a) of this section.

(2) Notwithstanding division (A)(1) of this section, this section does not apply to the issuance or required use of a standardized identification card or an electronic technology for the submission and routing of prescription drug claims in connection with either of the following:

(a) Any individual or group policy of insurance covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, medicare, tricare, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(b) Coverage provided under the medicaid, ~~as defined in section 5111.01 of the Revised Code program.~~

(B) A standardized identification card or an electronic technology issued or required to be used as provided in division (A)(1) of this section shall contain uniform prescription drug information in accordance with either division (B)(1) or (2) of this section.

(1) The standardized identification card or the electronic technology shall be in a format and contain information fields approved by the national council for prescription drug programs or a successor organization, as

specified in the council's or successor organization's pharmacy identification card implementation guide in effect on the first day of October most immediately preceding the issuance or required use of the standardized identification card or the electronic technology.

(2) If the public employee benefit plan or person under contract with the plan to issue a standardized identification card or an electronic technology requires the information for the submission and routing of a claim, the standardized identification card or the electronic technology shall contain any of the following information:

- (a) The plan's name;
- (b) The insured's name, group number, and identification number;
- (c) A telephone number to inquire about pharmacy-related issues;
- (d) The issuer's international identification number, labeled as "ANSI BIN" or "RxBIN";
- (e) The processor's control number, labeled as "RxPCN";
- (f) The insured's pharmacy benefits group number if different from the insured's medical group number, labeled as "RxGrp."

(C) If the standardized identification card or the electronic technology issued or required to be used as provided in division (A)(1) of this section is also used for submission and routing of nonpharmacy claims, the designation "Rx" is required to be included as part of the labels identified in divisions (B)(2)(d) and (e) of this section if the issuer's international identification number or the processor's control number is different for medical and pharmacy claims.

(D)(1) Except as provided in division (D)(2) of this section, if there is a change in the information contained in the standardized identification card or the electronic technology issued to an insured, the public employee benefit plan or person under contract with the plan to issue a standardized identification card or electronic technology shall issue a new card or electronic technology to the insured.

(2) A public employee benefit plan or person under contract with the plan is not required under division (D)(1) of this section to issue a new card or electronic technology to an insured more than once during a twelve-month period.

~~(F)~~(E) Nothing in this section shall be construed as requiring a public employee benefit plan to produce more than one standardized identification card or one electronic technology for use by insureds accessing health care benefits provided under a health benefit plan.

Sec. 3924.41. (A) As used in sections 3924.41 and 3924.42 of the Revised Code, "health insurer" means any sickness and accident insurer or

health insuring corporation. "Health insurer" also includes any group health plan as defined in section 607 of the federal "Employee Retirement Income Security Act of 1974," 88 Stat. 832, 29 U.S.C.A. 1167.

(B) Notwithstanding any other provision of the Revised Code, no health insurer shall take into consideration the availability of, or eligibility for, ~~medical assistance~~ the medicaid program in this state ~~under Chapter 5111. of the Revised Code~~ or in any other state pursuant to ~~Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ when determining an individual's eligibility for coverage or when making payments to or on behalf of an enrollee, subscriber, policyholder, or certificate holder.

Sec. 3924.42. No health insurer shall impose requirements on the department of ~~job and family services~~ medicaid, when it has been assigned the rights of an individual who is eligible for ~~medical assistance under Chapter 5111. of the Revised Code~~ medicaid and who is covered under a health care policy, contract, or plan issued by the health insurer, that are different from the requirements applicable to an agent or assignee of any other individual so covered.

Sec. 3963.01. As used in this chapter:

(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or controlled by a contracting entity, or is under common ownership or control with a contracting entity.

(B) "Basic health care services" has the same meaning as in division (A) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.

(C) "Contracting entity" means any person that has a primary business purpose of contracting with participating providers for the delivery of health care services.

(D) "Credentialing" means the process of assessing and validating the qualifications of a provider applying to be approved by a contracting entity to provide basic health care services, specialty health care services, or supplemental health care services to enrollees.

(E) "Edit" means adjusting one or more procedure codes billed by a participating provider on a claim for payment or a practice that results in any of the following:

(1) Payment for some, but not all of the procedure codes originally billed by a participating provider;

(2) Payment for a different procedure code than the procedure code originally billed by a participating provider;

(3) A reduced payment as a result of services provided to an enrollee that are claimed under more than one procedure code on the same service date.

(F) "Electronic claims transport" means to accept and digitize claims or to accept claims already digitized, to place those claims into a format that complies with the electronic transaction standards issued by the United States department of health and human services pursuant to the "Health Insurance Portability and Accountability Act of 1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as those electronic standards are applicable to the parties and as those electronic standards are updated from time to time, and to electronically transmit those claims to the appropriate contracting entity, payer, or third-party administrator.

(G) "Enrollee" means any person eligible for health care benefits under a health benefit plan, including an eligible recipient of medicaid ~~under Chapter 5111. of the Revised Code~~, and includes all of the following terms:

(1) "Enrollee" and "subscriber" as defined by section 1751.01 of the Revised Code;

(2) "Member" as defined by section 1739.01 of the Revised Code;

(3) "Insured" and "plan member" pursuant to Chapter 3923. of the Revised Code;

(4) "Beneficiary" as defined by section 3901.38 of the Revised Code.

(H) "Health care contract" means a contract entered into, materially amended, or renewed between a contracting entity and a participating provider for the delivery of basic health care services, specialty health care services, or supplemental health care services to enrollees.

(I) "Health care services" means basic health care services, specialty health care services, and supplemental health care services.

(J) "Material amendment" means an amendment to a health care contract that decreases the participating provider's payment or compensation, changes the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expenses, or adds a new product. A material amendment does not include any of the following:

(1) A decrease in payment or compensation resulting solely from a change in a published fee schedule upon which the payment or compensation is based and the date of applicability is clearly identified in the contract;

(2) A decrease in payment or compensation that was anticipated under the terms of the contract, if the amount and date of applicability of the decrease is clearly identified in the contract;

(3) An administrative change that may significantly increase the provider's administrative expense, the specific applicability of which is clearly identified in the contract;

(4) Changes to an existing prior authorization, precertification, notification, or referral program that do not substantially increase the provider's administrative expense;

(5) Changes to an edit program or to specific edits if the participating provider is provided notice of the changes pursuant to division (A)(1) of section 3963.04 of the Revised Code and the notice includes information sufficient for the provider to determine the effect of the change;

(6) Changes to a health care contract described in division (B) of section 3963.04 of the Revised Code.

(K) "Participating provider" means a provider that has a health care contract with a contracting entity and is entitled to reimbursement for health care services rendered to an enrollee under the health care contract.

(L) "Payer" means any person that assumes the financial risk for the payment of claims under a health care contract or the reimbursement for health care services provided to enrollees by participating providers pursuant to a health care contract.

(M) "Primary enrollee" means a person who is responsible for making payments for participation in a health care plan or an enrollee whose employment or other status is the basis of eligibility for enrollment in a health care plan.

(N) "Procedure codes" includes the American medical association's current procedural terminology code, the American dental association's current dental terminology, and the centers for medicare and medicaid services health care common procedure coding system.

(O) "Product" means one of the following types of categories of coverage for which a participating provider may be obligated to provide health care services pursuant to a health care contract:

(1) A health maintenance organization or other product provided by a health insuring corporation;

(2) A preferred provider organization;

(3) Medicare;

(4) Medicaid;

(5) Workers' compensation.

(P) "Provider" means a physician, podiatrist, dentist, chiropractor, optometrist, psychologist, physician assistant, advanced practice registered nurse, occupational therapist, massage therapist, physical therapist, professional counselor, professional clinical counselor, hearing aid dealer,

orthotist, prosthetist, home health agency, hospice care program, pediatric respite care program, or hospital, or a provider organization or physician-hospital organization that is acting exclusively as an administrator on behalf of a provider to facilitate the provider's participation in health care contracts. "Provider" does not mean a pharmacist, pharmacy, nursing home, or a provider organization or physician-hospital organization that leases the provider organization's or physician-hospital organization's network to a third party or contracts directly with employers or health and welfare funds.

(Q) "Specialty health care services" has the same meaning as in section 1751.01 of the Revised Code, except that it does not include any services listed in division (B) of section 1751.01 of the Revised Code that are provided by a pharmacist or a nursing home.

(R) "Supplemental health care services" has the same meaning as in division (B) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.

Sec. 3963.04. (A)(1) If an amendment to a health care contract is not a material amendment, the contracting entity shall provide the participating provider notice of the amendment at least fifteen days prior to the effective date of the amendment. The contracting entity shall provide all other notices to the participating provider pursuant to the health care contract.

(2) A material amendment to a health care contract shall occur only if the contracting entity provides to the participating provider the material amendment in writing and notice of the material amendment not later than ninety days prior to the effective date of the material amendment. The notice shall be conspicuously entitled "Notice of Material Amendment to Contract."

(3) If within fifteen days after receiving the material amendment and notice described in division (A)(2) of this section, the participating provider objects in writing to the material amendment, and there is no resolution of the objection, either party may terminate the health care contract upon written notice of termination provided to the other party not later than sixty days prior to the effective date of the material amendment.

(4) If the participating provider does not object to the material amendment in the manner described in division (A)(3) of this section, the material amendment shall be effective as specified in the notice described in division (A)(2) of this section.

(B)(1) Division (A) of this section does not apply if the delay caused by compliance with that division could result in imminent harm to an enrollee, if the material amendment of a health care contract is required by state or

federal law, rule, or regulation, or if the provider affirmatively accepts the material amendment in writing and agrees to an earlier effective date than otherwise required by division (A)(2) of this section.

(2) This section does not apply under any of the following circumstances:

(a) The participating provider's payment or compensation is based on the current medicaid or medicare physician fee schedule, and the change in payment or compensation results solely from a change in that physician fee schedule.

(b) A routine change or update of the health care contract is made in response to any addition, deletion, or revision of any service code, procedure code, or reporting code, or a pricing change is made by any third party source.

For purposes of division (B)(2)(b) of this section:

(i) "Service code, procedure code, or reporting code" means the current procedural terminology (CPT), current dental terminology (CDT), the healthcare common procedure coding system (HCPCS), the international classification of diseases (ICD), or the drug topics redbook average wholesale price (AWP).

(ii) "Third party source" means the American medical association, American dental association, the centers for medicare and medicaid services, the national center for health statistics, the department of health and human services office of the inspector general, the Ohio department of insurance, or the Ohio department of ~~job and family services~~ medicaid.

(C) Notwithstanding divisions (A) and (B) of this section, a health care contract may be amended by operation of law as required by any applicable state or federal law, rule, or regulation. Nothing in this section shall be construed to require the renegotiation of a health care contract that is in existence before ~~the effective date of this section~~ June 25, 2008, until the time that the contract is renewed or materially amended.

Sec. 4104.33. There is hereby created the historical boilers licensing board consisting of seven members, three of whom shall be appointed by the governor with the advice and consent of the senate. The governor shall make initial appointments to the board within ninety days after October 24, 2002. Of the initial members appointed by the governor, one shall be for a term ending three years after October 24, 2002, one shall be for a term ending four years after October 24, 2002, and one shall be for a term ending five years after October 24, 2002. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month of the year as did the term that it succeeds. Of the three members the governor appoints,

one member shall be an employee of the division of boiler inspection in the department of commerce; one member shall be an independent mechanical engineer who is not involved in selling or inspecting historical boilers; and one shall be an active member of an association that represents managers of fairs or festivals.

Two members of the board shall be appointed by the president of the senate and two members of the board shall be appointed by the speaker of the house of representatives. The president and speaker shall make initial appointments to the board within ninety days after October 24, 2002. Of the initial members appointed by the president, one shall be for a term ending four years after October 24, 2002 and one shall be for a term ending five years after October 24, 2002. Of the initial members appointed by the speaker, one shall be for a term ending three years after October 24, 2002 and one shall be for a term ending five years after October 24, 2002. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month of the year as did the term that it succeeds. Of the four members appointed by the president and speaker, each shall own a historical boiler and also have at least ten years of experience in the operation of historical boilers, and each of these four members shall reside in a different region of the state.

Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled ~~in the manner provided for initial appointments~~ by the director of commerce, and shall not require the advice and consent of the senate. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The members of the board, annually, shall elect, by majority vote, a chairperson from among their members. The board shall meet at least once annually and at other times at the call of the chairperson. Board members shall receive their actual and necessary expenses incurred in the discharge of their duties as board members.

The superintendent of industrial compliance shall furnish office space, staff, and supplies to the board as the superintendent determines are necessary for the board to carry out its official duties under sections 4104.33 to 4104.37 of the Revised Code.

Sec. 4112.02. It shall be an unlawful discriminatory practice:

(A) For any employer, because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any person, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment.

(B) For an employment agency or personnel placement service, because of race, color, religion, sex, military status, national origin, disability, age, or ancestry, to do any of the following:

(1) Refuse or fail to accept, register, classify properly, or refer for employment, or otherwise discriminate against any person;

(2) Comply with a request from an employer for referral of applicants for employment if the request directly or indirectly indicates that the employer fails to comply with the provisions of sections 4112.01 to 4112.07 of the Revised Code.

(C) For any labor organization to do any of the following:

(1) Limit or classify its membership on the basis of race, color, religion, sex, military status, national origin, disability, age, or ancestry;

(2) Discriminate against, limit the employment opportunities of, or otherwise adversely affect the employment status, wages, hours, or employment conditions of any person as an employee because of race, color, religion, sex, military status, national origin, disability, age, or ancestry.

(D) For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any person because of race, color, religion, sex, military status, national origin, disability, or ancestry in admission to, or employment in, any program established to provide apprentice training.

(E) Except where based on a bona fide occupational qualification certified in advance by the commission, for any employer, employment agency, personnel placement service, or labor organization, prior to employment or admission to membership, to do any of the following:

(1) Elicit or attempt to elicit any information concerning the race, color, religion, sex, military status, national origin, disability, age, or ancestry of an applicant for employment or membership;

(2) Make or keep a record of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any applicant for employment or membership;

(3) Use any form of application for employment, or personnel or membership blank, seeking to elicit information regarding race, color, religion, sex, military status, national origin, disability, age, or ancestry; but an employer holding a contract containing a nondiscrimination clause with

the government of the United States, or any department or agency of that government, may require an employee or applicant for employment to furnish documentary proof of United States citizenship and may retain that proof in the employer's personnel records and may use photographic or fingerprint identification for security purposes;

(4) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination, based upon race, color, religion, sex, military status, national origin, disability, age, or ancestry;

(5) Announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of that group;

(6) Utilize in the recruitment or hiring of persons any employment agency, personnel placement service, training school or center, labor organization, or any other employee-referring source known to discriminate against persons because of their race, color, religion, sex, military status, national origin, disability, age, or ancestry.

(F) For any person seeking employment to publish or cause to be published any advertisement that specifies or in any manner indicates that person's race, color, religion, sex, military status, national origin, disability, age, or ancestry, or expresses a limitation or preference as to the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any prospective employer.

(G) For any proprietor or any employee, keeper, or manager of a place of public accommodation to deny to any person, except for reasons applicable alike to all persons regardless of race, color, religion, sex, military status, national origin, disability, age, or ancestry, the full enjoyment of the accommodations, advantages, facilities, or privileges of the place of public accommodation.

(H) For any person to do any of the following:

(1) Refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin;

(2) Represent to any person that housing accommodations are not available for inspection, sale, or rental, when in fact they are available, because of race, color, religion, sex, military status, familial status, ancestry,

disability, or national origin;

(3) Discriminate against any person in the making or purchasing of loans or the provision of other financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, or any person in the making or purchasing of loans or the provision of other financial assistance that is secured by residential real estate, because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located, provided that the person, whether an individual, corporation, or association of any type, lends money as one of the principal aspects or incident to the person's principal business and not only as a part of the purchase price of an owner-occupied residence the person is selling nor merely casually or occasionally to a relative or friend;

(4) Discriminate against any person in the terms or conditions of selling, transferring, assigning, renting, leasing, or subleasing any housing accommodations or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodations, including the sale of fire, extended coverage, or homeowners insurance, because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located;

(5) Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located;

(6) Refuse to consider without prejudice the combined income of both husband and wife for the purpose of extending mortgage credit to a married couple or either member of a married couple;

(7) Print, publish, or circulate any statement or advertisement, or make or cause to be made any statement or advertisement, relating to the sale, transfer, assignment, rental, lease, sublease, or acquisition of any housing accommodations, or relating to the loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, that indicates any preference, limitation, specification, or discrimination based upon race,

color, religion, sex, military status, familial status, ancestry, disability, or national origin, or an intention to make any such preference, limitation, specification, or discrimination;

(8) Except as otherwise provided in division (H)(8) or (17) of this section, make any inquiry, elicit any information, make or keep any record, or use any form of application containing questions or entries concerning race, color, religion, sex, military status, familial status, ancestry, disability, or national origin in connection with the sale or lease of any housing accommodations or the loan of any money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations. Any person may make inquiries, and make and keep records, concerning race, color, religion, sex, military status, familial status, ancestry, disability, or national origin for the purpose of monitoring compliance with this chapter.

(9) Include in any transfer, rental, or lease of housing accommodations any restrictive covenant, or honor or exercise, or attempt to honor or exercise, any restrictive covenant;

(10) Induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that a change has occurred or may occur with respect to the racial, religious, sexual, military status, familial status, or ethnic composition of the block, neighborhood, or other area in which the housing accommodations are located, or induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that the presence or anticipated presence of persons of any race, color, religion, sex, military status, familial status, ancestry, disability, or national origin, in the block, neighborhood, or other area will or may have results including, but not limited to, the following:

(a) The lowering of property values;

(b) A change in the racial, religious, sexual, military status, familial status, or ethnic composition of the block, neighborhood, or other area;

(c) An increase in criminal or antisocial behavior in the block, neighborhood, or other area;

(d) A decline in the quality of the schools serving the block, neighborhood, or other area.

(11) Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing accommodations, or discriminate against any person in the terms or conditions of that access, membership, or participation, on account of race,

color, religion, sex, military status, familial status, national origin, disability, or ancestry;

(12) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person's having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by division (H) of this section;

(13) Discourage or attempt to discourage the purchase by a prospective purchaser of housing accommodations, by representing that any block, neighborhood, or other area has undergone or might undergo a change with respect to its religious, racial, sexual, military status, familial status, or ethnic composition;

(14) Refuse to sell, transfer, assign, rent, lease, sublease, or finance, or otherwise deny or withhold, a burial lot from any person because of the race, color, sex, military status, familial status, age, ancestry, disability, or national origin of any prospective owner or user of the lot;

(15) Discriminate in the sale or rental of, or otherwise make unavailable or deny, housing accommodations to any buyer or renter because of a disability of any of the following:

(a) The buyer or renter;

(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;

(c) Any individual associated with the person described in division (H)(15)(b) of this section.

(16) Discriminate in the terms, conditions, or privileges of the sale or rental of housing accommodations to any person or in the provision of services or facilities to any person in connection with the housing accommodations because of a disability of any of the following:

(a) That person;

(b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;

(c) Any individual associated with the person described in division (H)(16)(b) of this section.

(17) Except as otherwise provided in division (H)(17) of this section, make an inquiry to determine whether an applicant for the sale or rental of housing accommodations, a person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with that person has a disability, or make an inquiry to determine the nature or severity of a disability of the applicant or such a person or individual. The following inquiries may be made of all applicants for the sale or rental of housing accommodations, regardless of

whether they have disabilities:

(a) An inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

(b) An inquiry to determine whether an applicant is qualified for housing accommodations available only to persons with disabilities or persons with a particular type of disability;

(c) An inquiry to determine whether an applicant is qualified for a priority available to persons with disabilities or persons with a particular type of disability;

(d) An inquiry to determine whether an applicant currently uses a controlled substance in violation of section 2925.11 of the Revised Code or a substantively comparable municipal ordinance;

(e) An inquiry to determine whether an applicant at any time has been convicted of or pleaded guilty to any offense, an element of which is the illegal sale, offer to sell, cultivation, manufacture, other production, shipment, transportation, delivery, or other distribution of a controlled substance.

(18)(a) Refuse to permit, at the expense of a person with a disability, reasonable modifications of existing housing accommodations that are occupied or to be occupied by the person with a disability, if the modifications may be necessary to afford the person with a disability full enjoyment of the housing accommodations. This division does not preclude a landlord of housing accommodations that are rented or to be rented to a disabled tenant from conditioning permission for a proposed modification upon the disabled tenant's doing one or more of the following:

(i) Providing a reasonable description of the proposed modification and reasonable assurances that the proposed modification will be made in a workerlike manner and that any required building permits will be obtained prior to the commencement of the proposed modification;

(ii) Agreeing to restore at the end of the tenancy the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if it is reasonable for the landlord to condition permission for the proposed modification upon the agreement;

(iii) Paying into an interest-bearing escrow account that is in the landlord's name, over a reasonable period of time, a reasonable amount of money not to exceed the projected costs at the end of the tenancy of the restoration of the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if the landlord finds the

account reasonably necessary to ensure the availability of funds for the restoration work. The interest earned in connection with an escrow account described in this division shall accrue to the benefit of the disabled tenant who makes payments into the account.

(b) A landlord shall not condition permission for a proposed modification upon a disabled tenant's payment of a security deposit that exceeds the customarily required security deposit of all tenants of the particular housing accommodations.

(19) Refuse to make reasonable accommodations in rules, policies, practices, or services when necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas;

(20) Fail to comply with the standards and rules adopted under division (A) of section 3781.111 of the Revised Code;

(21) Discriminate against any person in the selling, brokering, or appraising of real property because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin;

(22) Fail to design and construct covered multifamily dwellings for first occupancy on or after June 30, 1992, in accordance with the following conditions:

(a) The dwellings shall have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.

(b) With respect to dwellings that have a building entrance on an accessible route, all of the following apply:

(i) The public use areas and common use areas of the dwellings shall be readily accessible to and usable by persons with a disability.

(ii) All the doors designed to allow passage into and within all premises shall be sufficiently wide to allow passage by persons with a disability who are in wheelchairs.

(iii) All premises within covered multifamily dwelling units shall contain an accessible route into and through the dwelling; all light switches, electrical outlets, thermostats, and other environmental controls within such units shall be in accessible locations; the bathroom walls within such units shall contain reinforcements to allow later installation of grab bars; and the kitchens and bathrooms within such units shall be designed and constructed in a manner that enables an individual in a wheelchair to maneuver about such rooms.

For purposes of division (H)(22) of this section, "covered multifamily dwellings" means buildings consisting of four or more units if such

buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

(I) For any person to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice defined in this section or because that person has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under sections 4112.01 to 4112.07 of the Revised Code.

(J) For any person to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be an unlawful discriminatory practice, to obstruct or prevent any person from complying with this chapter or any order issued under it, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful discriminatory practice.

(K)(1) Nothing in division (H) of this section shall bar any religious or denominational institution or organization, or any nonprofit charitable or educational organization that is operated, supervised, or controlled by or in connection with a religious organization, from limiting the sale, rental, or occupancy of housing accommodations that it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference in the sale, rental, or occupancy of such housing accommodations to persons of the same religion, unless membership in the religion is restricted on account of race, color, or national origin.

(2) Nothing in division (H) of this section shall bar any bona fide private or fraternal organization that, incidental to its primary purpose, owns or operates lodgings for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(3) Nothing in division (H) of this section limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations. Nothing in that division prohibits the owners or managers of housing accommodations from implementing reasonable occupancy standards based on the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit, provided that the standards are not implemented to circumvent the purposes of this chapter and are formulated, implemented, and interpreted in a manner consistent with this chapter and any applicable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations.

(4) Nothing in division (H) of this section requires that housing accommodations be made available to an individual whose tenancy would

constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(5) Nothing in division (H) of this section pertaining to discrimination on the basis of familial status shall be construed to apply to any of the following:

(a) Housing accommodations provided under any state or federal program that have been determined under the "Fair Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended, to be specifically designed and operated to assist elderly persons;

(b) Housing accommodations intended for and solely occupied by persons who are sixty-two years of age or older;

(c) Housing accommodations intended and operated for occupancy by at least one person who is fifty-five years of age or older per unit, as determined under the "Fair Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended.

(L) Nothing in divisions (A) to (E) of this section shall be construed to require a person with a disability to be employed or trained under circumstances that would significantly increase the occupational hazards affecting either the person with a disability, other employees, the general public, or the facilities in which the work is to be performed, or to require the employment or training of a person with a disability in a job that requires the person with a disability routinely to undertake any task, the performance of which is substantially and inherently impaired by the person's disability.

(M) Nothing in divisions (H)(1) to (18) of this section shall be construed to require any person selling or renting property to modify the property in any way or to exercise a higher degree of care for a person with a disability, to relieve any person with a disability of any obligation generally imposed on all persons regardless of disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement, or contract.

(N) An aggrieved individual may enforce the individual's rights relative to discrimination on the basis of age as provided for in this section by instituting a civil action, within one hundred eighty days after the alleged unlawful discriminatory practice occurred, in any court with jurisdiction for any legal or equitable relief that will effectuate the individual's rights.

A person who files a civil action under this division is barred, with respect to the practices complained of, from instituting a civil action under

section 4112.14 of the Revised Code and from filing a charge with the commission under section 4112.05 of the Revised Code.

(O) With regard to age, it shall not be an unlawful discriminatory practice and it shall not constitute a violation of division (A) of section 4112.14 of the Revised Code for any employer, employment agency, joint labor-management committee controlling apprenticeship training programs, or labor organization to do any of the following:

(1) Establish bona fide employment qualifications reasonably related to the particular business or occupation that may include standards for skill, aptitude, physical capability, intelligence, education, maturation, and experience;

(2) Observe the terms of a bona fide seniority system or any bona fide employee benefit plan, including, but not limited to, a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this section. However, no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual, because of the individual's age except as provided for in the "Age Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 29 U.S.C.A. 623, as amended by the "Age Discrimination in Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 623, as amended.

(3) Retire an employee who has attained sixty-five years of age who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if the employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of those plans, of the employer of the employee, which equals, in the aggregate, at least forty-four thousand dollars, in accordance with the conditions of the "Age Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 29 U.S.C.A. 631, as amended by the "Age Discrimination in Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 631, as amended;

(4) Observe the terms of any bona fide apprenticeship program if the program is registered with the Ohio apprenticeship council pursuant to sections 4139.01 to 4139.06 of the Revised Code and is approved by the federal committee on apprenticeship of the United States department of labor.

(P) Nothing in this chapter prohibiting age discrimination and nothing in division (A) of section 4112.14 of the Revised Code shall be construed to prohibit the following:

(1) The designation of uniform age the attainment of which is necessary for public employees to receive pension or other retirement benefits pursuant to Chapter 145., 742., 3307., 3309., or 5505. of the Revised Code;

(2) The mandatory retirement of uniformed patrol officers of the state highway patrol as provided in section 5505.16 of the Revised Code;

(3) The maximum age requirements for appointment as a patrol officer in the state highway patrol established by section 5503.01 of the Revised Code;

(4) The maximum age requirements established for original appointment to a police department or fire department in sections 124.41 and 124.42 of the Revised Code;

(5) Any maximum age not in conflict with federal law that may be established by a municipal charter, municipal ordinance, or resolution of a board of township trustees for original appointment as a police officer or firefighter;

(6) Any mandatory retirement provision not in conflict with federal law of a municipal charter, municipal ordinance, or resolution of a board of township trustees pertaining to police officers and firefighters;

(7) Until January 1, 1994, the mandatory retirement of any employee who has attained seventy years of age and who is serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure, at an institution of higher education as defined in the "Education Amendments of 1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a).

(Q)(1)(a) Except as provided in division (Q)(1)(b) of this section, for purposes of divisions (A) to (E) of this section, a disability does not include any physiological disorder or condition, mental or psychological disorder, or disease or condition caused by an illegal use of any controlled substance by an employee, applicant, or other person, if an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee acts on the basis of that illegal use.

(b) Division (Q)(1)(a) of this section does not apply to an employee, applicant, or other person who satisfies any of the following:

(i) The employee, applicant, or other person has successfully completed a supervised drug rehabilitation program and no longer is engaging in the illegal use of any controlled substance, or the employee, applicant, or other person otherwise successfully has been rehabilitated and no longer is engaging in that illegal use.

(ii) The employee, applicant, or other person is participating in a supervised drug rehabilitation program and no longer is engaging in the illegal use of any controlled substance.

(iii) The employee, applicant, or other person is erroneously regarded as engaging in the illegal use of any controlled substance, but the employee, applicant, or other person is not engaging in that illegal use.

(2) Divisions (A) to (E) of this section do not prohibit an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee from doing any of the following:

(a) Adopting or administering reasonable policies or procedures, including, but not limited to, testing for the illegal use of any controlled substance, that are designed to ensure that an individual described in division (Q)(1)(b)(i) or (ii) of this section no longer is engaging in the illegal use of any controlled substance;

(b) Prohibiting the illegal use of controlled substances and the use of alcohol at the workplace by all employees;

(c) Requiring that employees not be under the influence of alcohol or not be engaged in the illegal use of any controlled substance at the workplace;

(d) Requiring that employees behave in conformance with the requirements established under "The Drug-Free Workplace Act of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended;

(e) Holding an employee who engages in the illegal use of any controlled substance or who is an alcoholic to the same qualification standards for employment or job performance, and the same behavior, to which the employer, employment agency, personnel placement service, labor organization, or joint labor-management committee holds other employees, even if any unsatisfactory performance or behavior is related to an employee's illegal use of a controlled substance or alcoholism;

(f) Exercising other authority recognized in the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, as amended, including, but not limited to, requiring employees to comply with any applicable federal standards.

(3) For purposes of this chapter, a test to determine the illegal use of any controlled substance does not include a medical examination.

(4) Division (Q) of this section does not encourage, prohibit, or authorize, and shall not be construed as encouraging, prohibiting, or authorizing, the conduct of testing for the illegal use of any controlled substance by employees, applicants, or other persons, or the making of employment decisions based on the results of that type of testing.

(R) This section does not apply to a religious corporation, association, educational institution, or society with respect to the employment of an individual of a particular religion to perform work connected with the

carrying on by that religious corporation, association, educational institution, or society of its activities.

The unlawful discriminatory practices defined in this section do not make it unlawful for a person or an appointing authority administering an examination under section 124.23 of the Revised Code to obtain information about an applicant's military status for the purpose of determining if the applicant is eligible for the additional credit that is available under that section.

Sec. 4112.12. (A) There is hereby created the commission on African-American males, which shall consist of not more than twenty-five members as follows: the directors or their designees of the departments of health, development, ~~alcohol and drug addiction services~~ mental health and addiction services, and job and family services; the equal employment opportunity officer of the department of administrative services or the equal employment opportunity officer's designee; the executive director or the executive director's designee of the Ohio civil rights commission; the executive director or the executive director's designee of the division of criminal justice services in the department of public safety; the superintendent of public instruction; the chancellor or the chancellor's designee of the Ohio board of regents; two members of the house of representatives appointed by the speaker of the house of representatives each of whom shall be members of different political parties; and two members of the senate appointed by the president of the senate each of whom shall be members of different political parties. The members who are members of the general assembly shall be nonvoting members. The Ohio state university African American and African studies community extension center, in consultation with the governor, shall appoint four members from the private corporate sector, at least four members from the public sector, and two members from the nonprofit sector.

(B) Terms of office shall be for three years, except that members of the general assembly appointed to the commission shall be members only so long as they are members of the general assembly. Each term ends on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the

member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The commission annually shall elect a chairperson from among its members.

(C) Members of the commission and members of subcommittees appointed under division (B) of section 4112.13 of the Revised Code shall not be compensated, but shall be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.

(D) The Ohio state university African American and African studies community extension center, in consultation with the governor, shall appoint an executive director of the commission on African-American males, who shall be in the unclassified civil service. The executive director shall supervise the commission's activities and report to the commission and to the Ohio state university African American and African studies community extension center on the progress of those activities. The executive director shall do all things necessary for the efficient and effective implementation of the duties of the commission.

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

(E) The commission on African-American males shall do all of the following:

(1) Employ, promote, supervise, and remove all employees, as needed, in connection with the performance of its duties under this section;

(2) Maintain its office in Columbus;

(3) Acquire facilities, equipment, and supplies necessary to house the commission, its employees, and files and records under its control, and to discharge any duty imposed upon it by law. The expense of these acquisitions shall be audited and paid for in the same manner as other state expenses.

(4) Establish the overall policy and management of the commission in accordance with this chapter;

(5) Follow all state procurement requirements;

(6) Implement the policies and plans of the Ohio state university African American and African studies community extension center as those policies and plans are formulated and adopted by the Ohio state university African American and African studies community extension center;

(7) Report to the Ohio state university African American and African studies community extension center on the progress of the commission on African-American males in implementing the policies and plans of the Ohio

state university African American and African studies community extension center.

(F) The commission on African-American males may:

(1) Hold sessions at any place within the state, except that the commission on African-American males shall meet at least quarterly;

(2) Establish, change, or abolish positions, and assign and reassign duties and responsibilities of any employee of the commission on African-American males as necessary to achieve the most efficient performance of its functions.

(G) The Ohio state university African American and African studies community extension center shall establish the overall policy and management of the commission on African-American males and shall direct, manage, and oversee the commission. The Ohio state university African American and African studies community extension center shall develop overall policies and plans, and the commission on African-American males shall implement those policies and plans. The commission on African-American males, through its executive director, shall keep the Ohio state university African American and African studies community extension center informed as to the activities of the commission on African-American males in such manner and at such times as the Ohio state university African American and African studies community extension center shall determine.

The Ohio state university African American and African studies community extension center may prescribe duties and responsibilities of the commission on African-American males in addition to those prescribed in section 4112.13 of the Revised Code.

(H) The Ohio state university African American and African studies community extension center annually shall contract for a report on the status of African Americans in this state. Issues to be evaluated in the report shall include the criminal justice system, education, employment, health care, and housing, and such other issues as the Ohio state university African American and African studies community extension center may specify. The report shall include policy recommendations relating to the issues covered in the report.

Sec. 4112.31. The new African immigrants commission shall do all of the following:

(A) Gather and disseminate information and conduct hearings, conferences, investigations, and special studies on problems and programs concerning sub-Saharan African people;

(B) Secure appropriate recognition of the accomplishments and

contributions of sub-Saharan African people to this state;

(C) Stimulate public awareness of the problems of sub-Saharan African people by conducting a program of public education;

(D) Develop, coordinate, and assist other public and private organizations that serve sub-Saharan African people, including the conducting of training programs for community leadership and service project staff;

(E) Advise the governor, general assembly, and state departments and agencies of the nature, magnitude, and priorities of the problems of sub-Saharan African people;

(F) Advise the governor, general assembly, and state departments and agencies on, and assist in the development and implementation of, comprehensive and coordinated policies, programs, and procedures focusing on the special problems and needs of sub-Saharan African people, especially in the fields of education, employment, energy, health, housing, welfare, and recreation;

(G) Propose new programs concerning sub-Saharan African people to public and private agencies and evaluate for such agencies existing programs or prospective legislation concerning sub-Saharan African people;

(H) Review and approve grants to be made from federal, state, or private funds that are administered or subcontracted by the commission;

(I) Prepare, review, and approve an annual report;

(J) Serve as a clearinghouse to review and comment on all proposals to meet the needs of sub-Saharan African people that are submitted to it by public and private agencies;

(K) Apply for and accept grants and gifts from governmental and private sources to be administered by the commission or subcontracted to local agencies;

(L) Monitor and evaluate all programs subcontracted to local agencies by the commission;

(M) Endeavor to assure that sub-Saharan African people have access to decision-making bodies in all state and local governmental departments and agencies;

(N) Establish advisory committees on special subjects as needed to facilitate and maximize community participation in the operation of the commission;

(O) Establish with state and local governments and private business and industry relationships that promote and assure equal opportunity for sub-Saharan African people in government, education, and employment.

(P) Create an interagency council consisting of the following persons or

their authorized representatives: one member of the senate appointed by the president of the senate; one member of the house of representatives appointed by the speaker of the house of representatives; the directors of administrative services, agriculture, education, development ~~services~~, health, highway safety, job and family services, liquor control, ~~mental health~~ mental health and addiction services, ~~mental retardation~~ and developmental disabilities, natural resources, rehabilitation and correction, youth services, transportation, environmental protection, and budget and management; the chairperson of the Ohio civil rights commission, the ~~administrators~~ administrator of the bureau of workers' compensation ~~and~~, the ~~rehabilitation services commission~~ executive director of the opportunities for Ohioans with disabilities agency, and an additional member of the governor's cabinet appointed by the governor. The new African immigrants commission, by rule, may designate other state officers or their representatives to be members of the council. The director of the commission shall be the chairperson of the council.

The interagency council shall provide and coordinate the exchange of information relative to the needs of sub-Saharan African people and promote the delivery of state services to such people. The council shall meet at the call of the chairperson.

Advisory committees shall be composed of persons representing community organizations and charitable institutions, public officials, and such other persons as the commission determines.

Sec. 4115.034. On January 1, 1996, and the first day of January of every even-numbered year thereafter, the director of commerce shall adjust the threshold levels for which public improvement projects are subject to sections 4115.03 to 4115.16 of the Revised Code as set forth in divisions (B)(3) and (4) of section 4115.03 of the Revised Code. The director shall adjust those amounts according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in ~~the United States department of commerce, bureau of the census implicit price deflator for~~ the construction cost index published by the engineering news-record or, should that index cease to be published, a similar recognized industry index chosen by the director, provided that no increase or decrease for any year shall exceed three per cent of the threshold level in existence at the time of the adjustment.

Sec. 4115.32. (A) Subject to section 4115.36 of the Revised Code, there is hereby created the state committee for the purchase of products and services provided by persons with severe disabilities. The committee shall be composed ex officio of the following persons, or their designees:

(1) The directors of administrative services, ~~mental health~~ mental health and addiction services, developmental disabilities, transportation, natural resources, and commerce;

(2) The ~~administrators~~ administrator of the ~~rehabilitation services commission and the~~ bureau of workers' compensation and the executive director of the opportunities for Ohioans with disabilities agency;

(3) The secretary of state;

(4) One representative of a purchasing department of a political subdivision who is designated by the governor.

The governor shall appoint two representatives of a qualified nonprofit agency for persons with severe disabilities, and a person with a severe disability to the committee.

(B) Within thirty days after September 29, 1995, the governor shall appoint the representatives of a qualified nonprofit agency for persons with severe disabilities to the committee for a term ending August 31, 1996. Thereafter, terms for such representatives are for three years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each committee member shall serve from the date of the member's appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall serve as a member for the remainder of that term. A member shall serve subsequent to the expiration of the member's term and shall continue to serve until the member's successor takes office.

(C) Members of the committee shall serve without compensation. Except as otherwise provided in divisions (C)(1) and (2) of this section, members shall be reimbursed for actual and necessary expenses, including travel expenses, incurred while away from their homes or regular places of business and incurred while performing services for the committee.

(1) The members listed in divisions (A)(1) to (3) of this section, or their designees, shall not be reimbursed for any expenses.

(2) No member of the committee who is entitled to receive reimbursement for the performance of services for the committee from another agency or entity shall receive reimbursement from the committee.

(D) The committee shall elect from among its members a chairperson. The committee may request from any agency of the state, political subdivision, or instrumentality of the state any information necessary to enable it to carry out the intent of sections 4115.31 to 4115.35 of the Revised Code. Upon request of the committee, the agency, subdivision, or

instrumentality shall furnish the information to the chairperson of the committee.

(E) The committee shall not later than one hundred eighty days following the close of each fiscal year transmit to the governor, the general assembly, and each qualified nonprofit agency for persons with severe disabilities a report that includes the names of the committee members serving during the preceding fiscal year, the dates of committee meetings in that year, and any recommendations for changes in sections 4115.31 to 4115.35 of the Revised Code that the committee determines are necessary.

(F) The director of administrative services shall designate a subordinate to act as executive director of the committee and shall furnish other staff and clerical assistance, office space, and supplies required by the committee.

Sec. 4117.06. (A) The state employment relations board shall decide in each case the unit appropriate for the purposes of collective bargaining. The determination is final and conclusive and not appealable to the court.

(B) The board shall determine the appropriateness of each bargaining unit and shall consider among other relevant factors: the desires of the employees; the community of interest; wages, hours, and other working conditions of the public employees; the effect of over-fragmentation; the efficiency of operations of the public employer; the administrative structure of the public employer; and the history of collective bargaining.

(C) The board may determine a unit to be the appropriate unit in a particular case, even though some other unit might also be appropriate.

(D) In addition, in determining the appropriate unit, the board shall not:

(1) Decide that any unit is appropriate if the unit includes both professional and nonprofessional employees, unless a majority of the professional employees and a majority of the nonprofessional employees first vote for inclusion in the unit;

(2) Include guards or correction officers at correctional or mental institutions, special police officers appointed in accordance with sections ~~5119.14~~ 5119.08 and 5123.13 of the Revised Code, psychiatric attendants employed at mental health forensic facilities, youth leaders employed at juvenile correction facilities, or any public employee employed as a guard to enforce against other employees rules to protect property of the employer or to protect the safety of persons on the employer's premises in a unit with other employees;

(3) Include members of a police or fire department or members of the state highway patrol in a unit with other classifications of public employees of the department;

(4) Designate as appropriate a bargaining unit that contains more than

one institution of higher education; nor shall it within any such institution of higher education designate as appropriate a unit where such designation would be inconsistent with the accreditation standards or interpretations of such standards, governing such institution of higher education or any department, school, or college thereof. For the purposes of this division, any branch or regional campus of a public institution of higher education is part of that institution of higher education.

(5) Designate as appropriate a bargaining unit that contains employees within the jurisdiction of more than one elected county office holder, unless the county-elected office holder and the board of county commissioners agree to such other designation;

(6) With respect to members of a police department, designate as appropriate a unit that includes rank and file members of the department with members who are of the rank of sergeant or above;

(7) Except as otherwise provided by division (A)(3) of section 3314.10 or division (B) of section 3326.18 of the Revised Code, designate as appropriate a bargaining unit that contains employees from multiple community schools established under Chapter 3314. or multiple science, technology, engineering, and mathematics schools established under Chapter 3326. of the Revised Code. For purposes of this division, more than one unit may be designated within a single community school or science, technology, engineering, and mathematics school.

This section shall not be deemed to prohibit multiunit bargaining.

Sec. 4117.14. (A) The procedures contained in this section govern the settlement of disputes between an exclusive representative and a public employer concerning the termination or modification of an existing collective bargaining agreement or negotiation of a successor agreement, or the negotiation of an initial collective bargaining agreement.

(B)(1) In those cases where there exists a collective bargaining agreement, any public employer or exclusive representative desiring to terminate, modify, or negotiate a successor collective bargaining agreement shall:

(a) Serve written notice upon the other party of the proposed termination, modification, or successor agreement. The party must serve the notice not less than sixty days prior to the expiration date of the existing agreement or, in the event the existing collective bargaining agreement does not contain an expiration date, not less than sixty days prior to the time it is proposed to make the termination or modifications or to make effective a successor agreement.

(b) Offer to bargain collectively with the other party for the purpose of

modifying or terminating any existing agreement or negotiating a successor agreement;

(c) Notify the state employment relations board of the offer by serving upon the board a copy of the written notice to the other party and a copy of the existing collective bargaining agreement.

(2) In the case of initial negotiations between a public employer and an exclusive representative, where a collective bargaining agreement has not been in effect between the parties, any party may serve notice upon the board and the other party setting forth the names and addresses of the parties and offering to meet, for a period of ninety days, with the other party for the purpose of negotiating a collective bargaining agreement.

If the settlement procedures specified in divisions (B), (C), and (D) of this section govern the parties, where those procedures refer to the expiration of a collective bargaining agreement, it means the expiration of the sixty-day period to negotiate a collective bargaining agreement referred to in this subdivision, or in the case of initial negotiations, it means the ninety-day period referred to in this subdivision.

(3) The parties shall continue in full force and effect all the terms and conditions of any existing collective bargaining agreement, without resort to strike or lock-out, for a period of sixty days after the party gives notice or until the expiration date of the collective bargaining agreement, whichever occurs later, or for a period of ninety days where applicable.

(4) Upon receipt of the notice, the parties shall enter into collective bargaining.

(C) In the event the parties are unable to reach an agreement, they may submit, at any time prior to forty-five days before the expiration date of the collective bargaining agreement, the issues in dispute to any mutually agreed upon dispute settlement procedure which supersedes the procedures contained in this section.

(1) The procedures may include:

(a) Conventional arbitration of all unsettled issues;

(b) Arbitration confined to a choice between the last offer of each party to the agreement as a single package;

(c) Arbitration confined to a choice of the last offer of each party to the agreement on each issue submitted;

(d) The procedures described in division (C)(1)(a), (b), or (c) of this section and including among the choices for the arbitrator, the recommendations of the fact finder, if there are recommendations, either as a single package or on each issue submitted;

(e) Settlement by a citizens' conciliation council composed of three

residents within the jurisdiction of the public employer. The public employer shall select one member and the exclusive representative shall select one member. The two members selected shall select the third member who shall chair the council. If the two members cannot agree upon a third member within five days after their appointments, the board shall appoint the third member. Once appointed, the council shall make a final settlement of the issues submitted to it pursuant to division (G) of this section.

(f) Any other dispute settlement procedure mutually agreed to by the parties.

(2) If, fifty days before the expiration date of the collective bargaining agreement, the parties are unable to reach an agreement, any party may request the state employment relations board to intervene. The request shall set forth the names and addresses of the parties, the issues involved, and, if applicable, the expiration date of any agreement.

The board shall intervene and investigate the dispute to determine whether the parties have engaged in collective bargaining.

If an impasse exists or forty-five days before the expiration date of the collective bargaining agreement if one exists, the board shall appoint a mediator to assist the parties in the collective bargaining process.

(3) Any time after the appointment of a mediator, either party may request the appointment of a fact-finding panel. Within fifteen days after receipt of a request for a fact-finding panel, the board shall appoint a fact-finding panel of not more than three members who have been selected by the parties in accordance with rules established by the board, from a list of qualified persons maintained by the board.

(a) The fact-finding panel shall, in accordance with rules and procedures established by the board that include the regulation of costs and expenses of fact-finding, gather facts and make recommendations for the resolution of the matter. The board shall by its rules require each party to specify in writing the unresolved issues and its position on each issue to the fact-finding panel. The fact-finding panel shall make final recommendations as to all the unresolved issues.

(b) The board may continue mediation, order the parties to engage in collective bargaining until the expiration date of the agreement, or both.

(4) The following guidelines apply to fact-finding:

(a) The fact-finding panel may establish times and place of hearings which shall be, where feasible, in the jurisdiction of the state.

(b) The fact-finding panel shall conduct the hearing pursuant to rules established by the board.

(c) Upon request of the fact-finding panel, the board shall issue

subpoenas for hearings conducted by the panel.

(d) The fact-finding panel may administer oaths.

(e) The board shall prescribe guidelines for the fact-finding panel to follow in making findings. In making its recommendations, the fact-finding panel shall take into consideration the factors listed in divisions (G)(7)(a) to (f) of this section.

(f) The fact-finding panel may attempt mediation at any time during the fact-finding process. From the time of appointment until the fact-finding panel makes a final recommendation, it shall not discuss the recommendations for settlement of the dispute with parties other than the direct parties to the dispute.

(5) The fact-finding panel, acting by a majority of its members, shall transmit its findings of fact and recommendations on the unresolved issues to the public employer and employee organization involved and to the board no later than fourteen days after the appointment of the fact-finding panel, unless the parties mutually agree to an extension. The parties shall share the cost of the fact-finding panel in a manner agreed to by the parties.

(6)(a) Not later than seven days after the findings and recommendations are sent, the legislative body, by a three-fifths vote of its total membership, and in the case of the public employee organization, the membership, by a three-fifths vote of the total membership, may reject the recommendations; if neither rejects the recommendations, the recommendations shall be deemed agreed upon as the final resolution of the issues submitted and a collective bargaining agreement shall be executed between the parties, including the fact-finding panel's recommendations, except as otherwise modified by the parties by mutual agreement. If either the legislative body or the public employee organization rejects the recommendations, the board shall publicize the findings of fact and recommendations of the fact-finding panel. The board shall adopt rules governing the procedures and methods for public employees to vote on the recommendations of the fact-finding panel.

(b) As used in division (C)(6)(a) of this section, "legislative body" means the controlling board when the state or any of its agencies, authorities, commissions, boards, or other branch of public employment is party to the fact-finding process.

(D) If the parties are unable to reach agreement within seven days after the publication of findings and recommendations from the fact-finding panel or the collective bargaining agreement, if one exists, has expired, then the:

(1) Public employees, who are members of a police or fire department, members of the state highway patrol, deputy sheriffs, dispatchers employed by a police, fire, or sheriff's department or the state highway patrol or

civilian dispatchers employed by a public employer other than a police, fire, or sheriff's department to dispatch police, fire, sheriff's department, or emergency medical or rescue personnel and units, an exclusive nurse's unit, employees of the state school for the deaf or the state school for the blind, employees of any public employee retirement system, corrections officers, guards at penal or mental institutions, special police officers appointed in accordance with sections ~~5119.14~~ 5119.08 and 5123.13 of the Revised Code, psychiatric attendants employed at mental health forensic facilities, youth leaders employed at juvenile correctional facilities, or members of a law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board, shall submit the matter to a final offer settlement procedure pursuant to a board order issued forthwith to the parties to settle by a conciliator selected by the parties. The parties shall request from the board a list of five qualified conciliators and the parties shall select a single conciliator from the list by alternate striking of names. If the parties cannot agree upon a conciliator within five days after the board order, the board shall on the sixth day after its order appoint a conciliator from a list of qualified persons maintained by the board or shall request a list of qualified conciliators from the American arbitration association and appoint therefrom.

(2) Public employees other than those listed in division (D)(1) of this section have the right to strike under Chapter 4117. of the Revised Code provided that the employee organization representing the employees has given a ten-day prior written notice of an intent to strike to the public employer and to the board, and further provided that the strike is for full, consecutive work days and the beginning date of the strike is at least ten work days after the ending date of the most recent prior strike involving the same bargaining unit; however, the board, at its discretion, may attempt mediation at any time.

(E) Nothing in this section shall be construed to prohibit the parties, at any time, from voluntarily agreeing to submit any or all of the issues in dispute to any other alternative dispute settlement procedure. An agreement or statutory requirement to arbitrate or to settle a dispute pursuant to a final offer settlement procedure and the award issued in accordance with the agreement or statutory requirement is enforceable in the same manner as specified in division (B) of section 4117.09 of the Revised Code.

(F) Nothing in this section shall be construed to prohibit a party from seeking enforcement of a collective bargaining agreement or a conciliator's award as specified in division (B) of section 4117.09 of the Revised Code.

(G) The following guidelines apply to final offer settlement proceedings under division (D)(1) of this section:

(1) The parties shall submit to final offer settlement those issues that are subject to collective bargaining as provided by section 4117.08 of the Revised Code and upon which the parties have not reached agreement and other matters mutually agreed to by the public employer and the exclusive representative; except that the conciliator may attempt mediation at any time.

(2) The conciliator shall hold a hearing within thirty days of the board's order to submit to a final offer settlement procedure, or as soon thereafter as is practicable.

(3) The conciliator shall conduct the hearing pursuant to rules developed by the board. The conciliator shall establish the hearing time and place, but it shall be, where feasible, within the jurisdiction of the state. Not later than five calendar days before the hearing, each of the parties shall submit to the conciliator, to the opposing party, and to the board, a written report summarizing the unresolved issues, the party's final offer as to the issues, and the rationale for that position.

(4) Upon the request by the conciliator, the board shall issue subpoenas for the hearing.

(5) The conciliator may administer oaths.

(6) The conciliator shall hear testimony from the parties and provide for a written record to be made of all statements at the hearing. The board shall submit for inclusion in the record and for consideration by the conciliator the written report and recommendation of the fact-finders.

(7) After hearing, the conciliator shall resolve the dispute between the parties by selecting, on an issue-by-issue basis, from between each of the party's final settlement offers, taking into consideration the following:

(a) Past collectively bargained agreements, if any, between the parties;

(b) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

(c) The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

(d) The lawful authority of the public employer;

(e) The stipulations of the parties;

(f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of

the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

(8) Final offer settlement awards made under Chapter 4117. of the Revised Code are subject to Chapter 2711. of the Revised Code.

(9) If more than one conciliator is used, the determination must be by majority vote.

(10) The conciliator shall make written findings of fact and promulgate a written opinion and order upon the issues presented to the conciliator, and upon the record made before the conciliator and shall mail or otherwise deliver a true copy thereof to the parties and the board.

(11) Increases in rates of compensation and other matters with cost implications awarded by the conciliator may be effective only at the start of the fiscal year next commencing after the date of the final offer settlement award; provided that if a new fiscal year has commenced since the issuance of the board order to submit to a final offer settlement procedure, the awarded increases may be retroactive to the commencement of the new fiscal year. The parties may, at any time, amend or modify a conciliator's award or order by mutual agreement.

(12) The parties shall bear equally the cost of the final offer settlement procedure.

(13) Conciliators appointed pursuant to this section shall be residents of the state.

(H) All final offer settlement awards and orders of the conciliator made pursuant to Chapter 4117. of the Revised Code are subject to review by the court of common pleas having jurisdiction over the public employer as provided in Chapter 2711. of the Revised Code. If the public employer is located in more than one court of common pleas district, the court of common pleas in which the principal office of the chief executive is located has jurisdiction.

(I) The issuance of a final offer settlement award constitutes a binding mandate to the public employer and the exclusive representative to take whatever actions are necessary to implement the award.

Sec. 4117.15. (A) Whenever a strike by members of a police or fire department, members of the state highway patrol, deputy sheriffs, dispatchers employed by a police, fire, or sheriff's department or the state highway patrol or civilian dispatchers employed by a public employer other than a police, fire, or sheriff's department to dispatch police, fire, sheriff's department, or emergency medical or rescue personnel and units, an exclusive nurse's unit, employees of the state school for the deaf or the state

school for the blind, employees of any public employee retirement system, correction officers, guards at penal or mental institutions, or special police officers appointed in accordance with sections ~~5119.14~~ 5119.08 and 5123.13 of the Revised Code, psychiatric attendants employed at mental health forensic facilities, youth leaders employed at juvenile correctional facilities, or members of a law enforcement security force that is established and maintained exclusively by a board of county commissioners and whose members are employed by that board, a strike by other public employees during the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code, or a strike during the term or extended term of a collective bargaining agreement occurs, the public employer may seek an injunction against the strike in the court of common pleas of the county in which the strike is located.

(B) An unfair labor practice by a public employer is not a defense to the injunction proceeding noted in division (A) of this section. Allegations of unfair labor practices during the settlement procedures set forth in section 4117.14 of the Revised Code shall receive priority by the state employment relations board.

(C) No public employee is entitled to pay or compensation from the public employer for the period engaged in any strike.

Sec. 4121.44. (A) The administrator of workers' compensation shall oversee the implementation of the Ohio workers' compensation qualified health plan system as established under section 4121.442 of the Revised Code.

(B) The administrator shall direct the implementation of the health partnership program administered by the bureau as set forth in section 4121.441 of the Revised Code. To implement the health partnership program and to ensure the efficiency and effectiveness of the public services provided through the program, the bureau:

(1) Shall certify one or more external vendors, which shall be known as "managed care organizations," to provide medical management and cost containment services in the health partnership program for a period of two years beginning on the date of certification, consistent with the standards established under this section;

(2) May recertify ~~external vendors~~ managed care organizations for additional periods of two years; and

(3) May integrate the certified ~~vendors~~ managed care organizations with bureau staff and existing bureau services for purposes of operation and training to allow the bureau to assume operation of the health partnership program at the conclusion of the certification periods set forth in division

(B)(1) or (2) of this section;

(4) May enter into a contract with any managed care organization that is certified by the bureau, pursuant to division (B)(1) or (2) of this section, to provide medical management and cost containment services in the health partnership program.

(C) A contract entered into pursuant to division (B)(4) of this section shall include both of the following:

(1) Incentives that may be awarded by the administrator, at the administrator's discretion, based on compliance and performance of the managed care organization;

(2) Penalties that may be imposed by the administrator, at the administrator's discretion, based on the failure of the managed care organization to reasonably comply with or perform terms of the contract, which may include termination of the contract.

(D) Notwithstanding section 119.061 of the Revised Code, a contract entered into pursuant to division (B)(4) of this section may include provisions limiting, restricting, or regulating any marketing or advertising by the managed care organization, or by any individual or entity that is affiliated with or acting on behalf of the managed care organization, under the health partnership program.

(E) No managed care organization shall receive compensation under the health partnership program unless the managed care organization has entered into a contract with the bureau pursuant to division (B)(4) of this section.

(F) Any ~~vendor~~ managed care organization selected shall demonstrate all of the following:

(1) Arrangements and reimbursement agreements with a substantial number of the medical, professional and pharmacy providers currently being utilized by claimants.

(2) Ability to accept a common format of medical bill data in an electronic fashion from any provider who wishes to submit medical bill data in that form.

(3) A computer system able to handle the volume of medical bills and willingness to customize that system to the bureau's needs and to be operated by the ~~vendor's~~ managed care organization's staff, bureau staff, or some combination of both staffs.

(4) A prescription drug system where pharmacies on a statewide basis have access to the eligibility and pricing, at a discounted rate, of all prescription drugs.

(5) A tracking system to record all telephone calls from claimants and

providers regarding the status of submitted medical bills so as to be able to track each inquiry.

(6) Data processing capacity to absorb all of the bureau's medical bill processing or at least that part of the processing which the bureau arranges to delegate.

(7) Capacity to store, retrieve, array, simulate, and model in a relational mode all of the detailed medical bill data so that analysis can be performed in a variety of ways and so that the bureau and its governing authority can make informed decisions.

(8) Wide variety of software programs which translate medical terminology into standard codes, and which reveal if a provider is manipulating the procedures codes, commonly called "unbundling."

(9) Necessary professional staff to conduct, at a minimum, authorizations for treatment, medical necessity, utilization review, concurrent review, post-utilization review, and have the attendant computer system which supports such activity and measures the outcomes and the savings.

(10) Management experience and flexibility to be able to react quickly to the needs of the bureau in the case of required change in federal or state requirements.

~~(D)~~(G)(1) The administrator may decertify a managed care organization if the managed care organization does any of the following:

(a) Fails to maintain any of the requirements set forth in division (F) of this section;

(b) Fails to reasonably comply with or to perform in accordance with the terms of a contract entered into under division (B)(4) of this section;

(c) Violates a rule adopted under section 4121.441 of the Revised Code.

(2) The administrator shall provide each managed care organization that is being decertified pursuant to division (G)(1) of this section with written notice of the pending decertification and an opportunity for a hearing pursuant to rules adopted by the administrator.

(H)(1) Information contained in a ~~vendor's~~ managed care organization's application for certification in the health partnership program, and other information furnished to the bureau by a ~~vendor~~ managed care organization for purposes of obtaining certification or to comply with performance and financial auditing requirements established by the administrator, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public or be used in any court in any proceeding pending therein, unless the bureau is a party to the action or proceeding, but the information may be tabulated and published by the

bureau in statistical form for the use and information of other state departments and the public. No employee of the bureau, except as otherwise authorized by the administrator, shall divulge any information secured by the employee while in the employ of the bureau in respect to a ~~vendor's~~ managed care organization's application for certification or in respect to the business or other trade processes of any ~~vendor~~ managed care organization to any person other than the administrator or to the employee's superior.

(2) Notwithstanding the restrictions imposed by division ~~(D)~~(H)(1) of this section, the governor, members of select or standing committees of the senate or house of representatives, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4123. of the Revised Code, may examine any ~~vendor~~ managed care organization application or other information furnished to the bureau by the ~~vendor~~ managed care organization. None of those individuals shall divulge any information secured in the exercise of that authority in respect to a ~~vendor's~~ managed care organization's application for certification or in respect to the business or other trade processes of any ~~vendor~~ managed care organization to any person.

~~(E)~~(I) On and after January 1, 2001, a ~~vendor~~ managed care organization shall not be ~~any~~ an insurance company holding a certificate of authority issued pursuant to Title XXXIX of the Revised Code or ~~any~~ a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code.

~~(F)~~(J) The administrator may limit freedom of choice of health care provider or supplier by requiring, beginning with the period set forth in division (B)(1) or (2) of this section, that claimants shall pay an appropriate out-of-plan copayment for selecting a medical provider not within the health partnership program as provided for in this section.

~~(G)~~(K) The administrator, six months prior to the expiration of the bureau's certification or recertification of the ~~vendor or vendors~~ managed care organizations as set forth in division (B)(1) or (2) of this section, may certify and provide evidence to the governor, the speaker of the house of representatives, and the president of the senate that the existing bureau staff is able to match or exceed the performance and outcomes of the ~~external~~ vendor or vendors managed care organizations and that the bureau should be permitted to internally administer the health partnership program upon the expiration of the certification or recertification as set forth in division (B)(1) or (2) of this section.

~~(H)~~(L) The administrator shall establish and operate a bureau of workers' compensation health care data program. The administrator shall

develop reporting requirements from all employees, employers ~~and~~, medical providers, ~~medical vendors~~ managed care organizations, and plans that participate in the workers' compensation system. The administrator shall do all of the following:

(1) Utilize the collected data to measure and perform comparison analyses of costs, quality, appropriateness of medical care, and effectiveness of medical care delivered by all components of the workers' compensation system.

(2) Compile data to support activities of the selected ~~vendor or vendors~~ managed care organizations and to measure the outcomes and savings of the health partnership program.

(3) Publish and report compiled data on the measures of outcomes and savings of the health partnership program and submit the report to the president of the senate, the speaker of the house of representatives, and the governor with the annual report prepared under division (F)(3) of section 4121.12 of the Revised Code. The administrator shall protect the confidentiality of all proprietary pricing data.

~~(H)~~(M) Any rehabilitation facility the bureau operates is eligible for inclusion in the Ohio workers' compensation qualified health plan system or the health partnership program under the same terms as other providers within health care plans or the program.

~~(H)~~(N) In areas outside the state or within the state where no qualified health plan or an inadequate number of providers within the health partnership program exist, the administrator shall permit employees to use a nonplan or nonprogram health care provider and shall pay the provider for the services or supplies provided to or on behalf of an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code on a fee schedule the administrator adopts.

~~(K)~~(O) No health care provider, whether certified or not, shall charge, assess, or otherwise attempt to collect from an employee, employer, a managed care organization, or the bureau any amount for covered services or supplies that is in excess of the allowed amount paid by a managed care organization, the bureau, or a qualified health plan.

~~(L)~~(P) The administrator shall permit any employer or group of employers who agree to abide by the rules adopted under this section and sections 4121.441 and 4121.442 of the Revised Code to provide services or supplies to or on behalf of an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code through qualified health plans of the Ohio workers'

compensation qualified health plan system pursuant to section 4121.442 of the Revised Code or through the health partnership program pursuant to section 4121.441 of the Revised Code. No amount paid under the qualified health plan system pursuant to section 4121.442 of the Revised Code by an employer who is a state fund employer shall be charged to the employer's experience or otherwise be used in merit-rating or determining the risk of that employer for the purpose of the payment of premiums under this chapter, and if the employer is a self-insuring employer, the employer shall not include that amount in the paid compensation the employer reports under section 4123.35 of the Revised Code.

Sec. 4121.441. (A) The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules under Chapter 119. of the Revised Code for the health care partnership program administered by the bureau of workers' compensation to provide medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies to an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code, and to regulate contracts with managed care organizations pursuant to this chapter.

(1) The rules shall include, but are not limited to, the following:

~~(1)~~(a) Procedures for the resolution of medical disputes between an employer and an employee, an employee and a provider, or an employer and a provider, prior to an appeal under section 4123.511 of the Revised Code. Rules the administrator adopts pursuant to division (A)(1)(a) of this section may specify that the resolution procedures shall not be used to resolve disputes concerning medical services rendered that have been approved through standard treatment guidelines, pathways, or presumptive authorization guidelines.

~~(2)~~(b) Prohibitions against discrimination against any category of health care providers;

~~(3)~~(c) Procedures for reporting injuries to employers and the bureau by providers;

~~(4)~~(d) Appropriate financial incentives to reduce service cost and insure proper system utilization without sacrificing the quality of service;

~~(5)~~(e) Adequate methods of peer review, utilization review, quality assurance, and dispute resolution to prevent, and provide sanctions for, inappropriate, excessive or not medically necessary treatment;

~~(6)~~(f) A timely and accurate method of collection of necessary information regarding medical and health care service and supply costs, quality, and utilization to enable the administrator to determine the

effectiveness of the program;

~~(7)~~(g) Provisions for necessary emergency medical treatment for an injury or occupational disease provided by a health care provider who is not part of the program;

~~(8)~~(h) Discounted pricing for all in-patient and out-patient medical services, all professional services, and all pharmaceutical services;

~~(9)~~(i) Provisions for provider referrals, pre-admission and post-admission approvals, second surgical opinions, and other cost management techniques;

~~(10)~~(j) Antifraud mechanisms;

~~(11)~~(k) Standards and criteria for the bureau to utilize in certifying or recertifying a health care provider or a ~~vendor~~ managed care organization for participation in the health partnership program;

~~(12)~~(l) Standards ~~and criteria~~ for the bureau to utilize in penalizing or decertifying a health care provider ~~or a vendor~~ from participation in the health partnership program.

(2) Notwithstanding section 119.061 of the Revised Code, the rules may include provisions limiting, restricting, or regulating any marketing or advertising by a managed care organization, or by any individual or entity that is affiliated with or acting on behalf of the managed care organization, under the health partnership program.

(B) The administrator shall implement the health partnership program according to the rules the administrator adopts under this section for the provision and payment of medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies to an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code."

Sec. 4121.50. Not later than July 1, 2012, the administrator of workers' compensation shall adopt rules in accordance with Chapter 119. of the Revised Code to implement a coordinated services program for claimants under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code who are found to have obtained prescription drugs that were reimbursed pursuant to an order of the administrator or of the industrial commission or by a self-insuring employer but were obtained at a frequency or in an amount that is not medically necessary. The program shall be implemented in a manner that is substantially similar to the coordinated services programs established for the medicaid program under ~~section 5111.085~~ sections 5164.758 and 5111.179 5167.13 of the Revised Code.

Sec. 4121.69. (A) The administrator of workers' compensation may establish compensation plans, including schedules of hourly rates, for the

compensation of professional, administrative, and managerial employees who are employed to fulfill the duties placed upon the bureau of workers' compensation pursuant to sections 4121.61 to 4121.69 of the Revised Code. The administrator may establish rules or policies for the administration of the respective compensation plans.

This division does not apply to employees for whom the state employment relations board establishes appropriate bargaining units pursuant to section 4117.06 of the Revised Code.

(B) The administrator may employ the services and resources of any public entity or private person, business, or association in fulfilling the duties placed upon the bureau of workers' compensation by sections 4121.61 to 4121.69 of the Revised Code. The ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency, the director of job and family services, and any other public officer, employee, or agency shall give to the bureau of workers' compensation full cooperation and, at the request of the administrator, enter into a written agreement stating the procedures and criteria for referring, accepting, and providing services to claimants in the job placement and rehabilitation efforts of the bureau of workers' compensation on behalf of a claimant when referred by the bureau of workers' compensation.

(C) In appropriate cases, the bureau may refer a candidate to the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency for participation in a program of the ~~commission~~ agency. For that purpose, the bureau of workers' compensation shall compensate the ~~commission~~ agency for the nonfederal portion of its services.

Sec. 4123.32. The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules with respect to the collection, maintenance, and disbursements of the state insurance fund including all of the following:

(A) A rule providing that the premium security deposit collected from any employer entitles the employer to the benefits of this chapter for the remainder of the six months and also for an additional adjustment period of two months, and, thereafter, if the employer pays the premium due at the close of any six-month period, coverage shall be extended for an additional eight-month period beginning from the end of the six-month period for which the employer pays the premium due;

(B) A rule providing for ascertaining the correctness of any employer's report of estimated or actual expenditure of wages and the determination and adjustment of proper premiums and the payment of those premiums by the employer for or during any period less than eight months and

notwithstanding any payment or determination of premium made when exceptional conditions or circumstances in the judgment of the administrator justify the action;

(C) Such special rules as the administrator considers necessary to safeguard the fund and that are just in the circumstances, covering the rates to be applied where one employer takes over the occupation or industry of another or where an employer first makes application for state insurance, and the administrator may require that if any employer transfers a business in whole or in part or otherwise reorganizes the business, the successor in interest shall assume, in proportion to the extent of the transfer, as determined by the administrator, the employer's account and shall continue the payment of all contributions due under this chapter;

(D) A rule providing that an employer who employs an employee covered under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and this chapter and Chapter 4121. of the Revised Code shall be assessed a premium in accordance with the expenditure of wages, payroll, or both attributable to only labor performed and services provided by such an employee when the employee performs labor and provides services for which the employee is not eligible to receive compensation and benefits under that federal act.

(E) A rule providing for all of the following:

(1) If, within two months immediately after the expiration of the six-month period, an employer fails to file a report of the employer's actual payroll expenditures for the period, the premium found to be due from the employer for the period shall be increased in an amount equal to one per cent of the premium, but the increase shall not be less than three nor more than fifteen dollars;

(2) The premium determined by the administrator to be due from an employer shall be payable on or before the end of the coverage period established by the premium security deposit, or within the time specified by the administrator if the period for which the advance premium has been paid is less than eight months. If an employer fails to pay the premium when due, the administrator may add a late fee penalty of not more than thirty dollars to the premium plus an additional penalty amount as follows:

(a) For a premium from sixty-one to ninety days past due, the prime interest rate, multiplied by the premium due;

(b) For a premium from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the premium due;

(c) For a premium from one hundred twenty-one to one hundred fifty

days past due, the prime interest rate plus four per cent, multiplied by the premium due;

(d) For a premium from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the premium due;

(e) For a premium from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the premium due;

(f) For each additional thirty-day period or portion thereof that a premium remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the premium due.

(3) Notwithstanding the interest rates specified in division (E)(2) of this section, at no time shall the additional penalty amount assessed under division (E)(2) of this section exceed fifteen per cent of the premium due.

(4) An employer may appeal a late fee penalty or additional penalty to an adjudicating committee pursuant to section 4123.291 of the Revised Code.

For purposes of division (E) of this section, "prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.

(5) If the employer files an appropriate payroll report, within the time provided by law or within the time specified by the administrator if the period for which the employer paid an estimated premium is less than eight months, the employer shall not be in default and division (E)(2) of this section shall not apply if the employer pays the premiums within fifteen days after being first notified by the administrator of the amount due.

(6) Any deficiencies in the amounts of the premium security deposit paid by an employer for any period shall be subject to an interest charge of six per cent per annum from the date the premium obligation is incurred. In determining the interest due on deficiencies in premium security deposit payments, a charge in each case shall be made against the employer in an amount equal to interest at the rate of six per cent per annum on the premium security deposit due but remaining unpaid sixty days after notice by the administrator.

(7) Any interest charges or penalties provided for in divisions (E)(2) and (6) of this section shall be credited to the employer's account for rating purposes in the same manner as premiums.

(F) A rule providing that each employer, on the occasion of instituting

coverage under this chapter, shall submit a premium security deposit. The deposit shall be calculated equivalent to thirty per cent of the semiannual premium obligation of the employer based upon the employer's estimated expenditure for wages for the ensuing six-month period plus thirty per cent of an additional adjustment period of two months but only up to a maximum of one thousand dollars and not less than ten dollars. The administrator shall review the security deposit of every employer who has submitted a deposit which is less than the one-thousand-dollar maximum. The administrator may require any such employer to submit additional money up to the maximum of one thousand dollars that, in the administrator's opinion, reflects the employer's current payroll expenditure for an eight-month period.

(G) A rule providing that each employer, on the occasion of instituting coverage under this chapter, shall submit an application for coverage that completely provides all of the information required for the administrator to establish coverage for that employer, and that the employer's failure to provide all of the information completely may be grounds for the administrator to deny coverage for that employer.

(H) A rule providing that, in addition to any other remedies permitted in this chapter, the administrator may discontinue an employer's coverage if the employer fails to pay the premium due on or before the premium's due date.

(I) A rule providing that if after a final adjudication it is determined that an employer has failed to pay an obligation, billing, account, or assessment that is greater than one thousand dollars on or before its due date, the administrator may discontinue the employer's coverage in addition to any other remedies permitted in this chapter, and that the administrator shall not discontinue an employer's coverage pursuant to this division prior to a final adjudication regarding the employer's failure to pay such obligation, billing, account, or assessment on or before its due date.

(J) As used in divisions (H) and (I) of this section:

(1) "Employer" has the same meaning as in division (B) of section 4123.01 of the Revised Code except that "employer" does not include the state, a state hospital, or a state university or college.

(2) "State university or college" has the same meaning as in section 3345.12 of the Revised Code and also includes the Ohio agricultural research and development center and ~~the Ohio state university cooperative~~ OSU extension service.

(3) "State hospital" means the Ohio state university hospital and its ancillary facilities and the medical university of Ohio at Toledo hospital.

Sec. 4123.322. (A) Notwithstanding any provision to the contrary in section 4123.32 or 4123.41 of the Revised Code, the administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, may adopt rules with respect to the collection, maintenance, and disbursements of the state insurance fund to provide for a system of prospective payment of workers' compensation premiums. If the administrator elects to adopt rules establishing a prospective payment system, those rules shall include all of the following:

(1) A requirement that, notwithstanding section 4123.26 of the Revised Code, on or before the thirtieth day of June of each year, or such other date as the administrator establishes, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code shall file with the bureau of workers' compensation an estimate of the employer's payroll for the immediately following twelve-month period or other period as the administrator establishes;

(2) A requirement that upon an initial application for coverage, an employer mentioned in division (B)(2) of section 4123.01 of the Revised Code shall file with the application an estimate of the employer's payroll for the unexpired period from the date of application to the period ending on the following thirtieth day of June or other date as established by the administrator pursuant to division (A)(1) of this section, and shall pay the amount the administrator determines by rule in order to establish coverage for the employer as described in division (B)(12) of section 4121.121 of the Revised Code;

(3) A requirement that, notwithstanding section 4123.26 or 4123.41 of the Revised Code, on or before the first day of January of each year, or such other date as the administrator establishes, every employer mentioned in division (B)(1) of section 4123.01 of the Revised Code, except for a state agency or a state university or college, shall file with the bureau an estimate of the employer's payroll for the immediately following twelve-month period or other period as the administrator establishes;

(4) A requirement that upon an initial application for coverage, an employer mentioned in division (B)(1) of section 4123.01 of the Revised Code, except for a state agency or state university or college, shall file with the application an estimate of the employer's payroll for the unexpired period from the date of application to the period ending on the following thirty-first day of December or other date as established by the administrator pursuant to division (A)(3) of this section, and shall pay the amount the administrator determines by rule in order to establish coverage for the employer as described in division (B)(12) of section 4121.121 of the

Revised Code:

(5) The assessment of a penalty if an employer fails to timely file the estimates of payroll required by the rules adopted pursuant to this section;

(6) A requirement that an employer complete periodic payroll reports of actual expenditures for previous coverage periods for reconciliation with estimated payroll reports;

(7) The assessment of a penalty for late payroll reconciliation reports and for late payment of any reconciliation premium;

(8) The establishment of a transition period during which time the bureau shall determine the adequacy of existing premium security deposits of employers, the establishment of provisions for additional premium payments during that transition, the provision of a credit of those deposits toward the first premium due from an employer under the rules adopted under divisions (A)(1) to (7) of this section, and the establishment of penalties for late payment or failure to comply with the rules.

(B) For purposes of division (A)(6) of this section, an employer shall make timely payment of any premium owed when actual payroll expenditures exceeded estimated payroll, and the employer shall receive premium credit when the estimated payroll exceeded the actual payroll.

(C) For purposes of division (A)(7) of this section, if the employer's actual payroll substantially exceeds the estimated payroll, the administrator may assess additional penalties specified in rules the administrator adopts on the reconciliation premium.

(D) As used in this section, "state university or college" has the same meaning as in section 4123.32 of the Revised Code.

Sec. 4123.35. (A) Except as provided in this section, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code, and every publicly owned utility shall pay semiannually in the months of January and July into the state insurance fund the amount of annual premium the administrator of workers' compensation fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay semiannually a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator, and a receipt or certificate certifying that payment has been made, along with a written notice as is required in section 4123.54 of the Revised Code, shall be mailed immediately to the employer by the bureau of workers' compensation. The receipt or certificate is prima-facie evidence of the payment of the premium, and the proper posting of the notice constitutes

the employer's compliance with the notice requirement mandated in section 4123.54 of the Revised Code.

If the administrator adopts rules to establish a prospective payment of premium under section 4123.322 of the Revised Code, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code and every publicly owned utility shall pay into the state insurance fund the amount of premium the administrator fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator and based upon the estimates and reconciliations required by the rules the administrator adopts under section 4123.322 of the Revised Code.

The bureau of workers' compensation shall verify with the secretary of state the existence of all corporations and organizations making application for workers' compensation coverage and shall require every such application to include the employer's federal identification number.

An employer as defined in division (B)(2) of section 4123.01 of the Revised Code who has contracted with a subcontractor is liable for the unpaid premium due from any subcontractor with respect to that part of the payroll of the subcontractor that is for work performed pursuant to the contract with the employer.

Division (A) of this section providing for the payment of premiums semiannually does not apply to any employer who was a subscriber to the state insurance fund prior to January 1, 1914, or who may first become a subscriber to the fund in any month other than January or July. Instead, the semiannual premiums shall be paid by those employers from time to time upon the expiration of the respective periods for which payments into the fund have been made by them.

The administrator shall adopt rules to permit employers to make periodic payments of the semiannual premium due under this division. The rules shall include provisions for the assessment of interest charges, where appropriate, and for the assessment of penalties when an employer fails to make timely premium payments. An employer who timely pays the amounts due under this division is entitled to all of the benefits and protections of this chapter. Upon receipt of payment, the bureau immediately shall mail a receipt or certificate to the employer certifying that payment has been made, which receipt is prima-facie evidence of payment. Workers' compensation coverage under this chapter continues uninterrupted upon timely receipt of payment under this division.

Every public employer, except public employers that are self-insuring

employers under this section, shall comply with sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in regard to the contribution of moneys to the public insurance fund.

(B) Employers who will abide by the rules of the administrator and who may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and who do not desire to insure the payment thereof or indemnify themselves against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge employers who apply for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application.

All employers granted status as self-insuring employers shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section.

(1) The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the employer by this section:

(a) The employer employs a minimum of five hundred employees in this state;

(b) The employer has operated in this state for a minimum of two years, provided that an employer who has purchased, acquired, or otherwise succeeded to the operation of a business, or any part thereof, situated in this state that has operated for at least two years in this state, also shall qualify;

(c) Where the employer previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(d) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly;

(e) The financial records, documents, and data, certified by a certified

public accountant, necessary to provide the employer's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(f) The employer's organizational plan for the administration of the workers' compensation law;

(g) The employer's proposed plan to inform employees of the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and

(h) The employer has either an account in a financial institution in this state, or if the employer maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer clearly indicates that payment will be honored by a financial institution in this state.

The administrator may waive the requirements of divisions (B)(1)(a) and (b) of this section and the requirement of division (B)(1)(e) of this section that the financial records, documents, and data be certified by a certified public accountant. The administrator shall adopt rules establishing the criteria that an employer shall meet in order for the administrator to waive the ~~requirement~~ requirements of division divisions (B)(1)(a), (b), and (e) of this section. Such rules may require additional security of that employer pursuant to division (E) of section 4123.351 of the Revised Code.

The administrator shall not grant the status of self-insuring employer to the state, except that the administrator may grant the status of self-insuring employer to a state institution of higher education, including its hospitals, that meets the requirements of division (B)(2) of this section.

(2) When considering the application of a public employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or a publicly owned utility, the administrator shall verify that the public employer satisfies all of the following requirements as the requirements apply to that public employer:

(a) For the two-year period preceding application under this section, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the administrator under this chapter for that public employer for the year immediately preceding the year in which the public employer makes application under this section.

(b) For each of the two fiscal years preceding application under this

section, the unreserved and undesignated year-end fund balance in the public employer's general fund is equal to at least five per cent of the public employer's general fund revenues for the fiscal year computed in accordance with generally accepted accounting principles.

(c) For the five-year period preceding application under this section, the public employer, to the extent applicable, has complied fully with the continuing disclosure requirements established in rules adopted by the United States securities and exchange commission under 17 C.F.R. 240.15c 2-12.

(d) For the five-year period preceding application under this section, the public employer has not had its local government fund distribution withheld on account of the public employer being indebted or otherwise obligated to the state.

(e) For the five-year period preceding application under this section, the public employer has not been under a fiscal watch or fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 of the Revised Code.

(f) For the public employer's fiscal year preceding application under this section, the public employer has obtained an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of state within seven months after the end of the public employer's fiscal year.

(g) On the date of application, the public employer holds a debt rating of Aa3 or higher according to Moody's investors service, inc., or a comparable rating by an independent rating agency similar to Moody's investors service, inc.

(h) The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims under this chapter for the applicable period of time, as determined by the administrator.

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers.

(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.

The administrator may adopt rules establishing the criteria that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section. The rules may require additional security from that employer pursuant to division (E) of

section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section for a public employer who does not satisfy the criteria established in the rules the administrator adopts.

(C) A board of county commissioners described in division (G) of section 4123.01 of the Revised Code, as an employer, that will abide by the rules of the administrator and that may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and that does not desire to insure the payment thereof or indemnify itself against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge a board of county commissioners described in division (G) of section 4123.01 of the Revised Code that applies for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application. All employers granted such status shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section. The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the board as an employer by this section:

- (1) The board as an employer employs a minimum of five hundred employees in this state;
- (2) The board has operated in this state for a minimum of two years;
- (3) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;
- (4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly;
- (5) The financial records, documents, and data, certified by a certified

public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(6) The board's organizational plan for the administration of the workers' compensation law;

(7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits;

(8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state;

(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator.

(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed employees whose employers contribute to the fund, except when an employee of the employer, who has suffered the loss of a hand, arm, foot, leg, or eye prior to the injury for which compensation is to be paid, and thereafter suffers the loss of any other of the members as the result of any injury sustained in the course of and arising out of the employee's employment, the compensation to be paid by the self-insuring employer is limited to the disability suffered in the subsequent injury, additional compensation, if any, to be paid by the bureau out of the surplus created by section 4123.34 of the Revised Code.

(E) In addition to the requirements of this section, the administrator shall make and publish rules governing the manner of making application and the nature and extent of the proof required to justify a finding of fact by the administrator as to granting the status of a self-insuring employer, which rules shall be general in their application, one of which rules shall provide that all self-insuring employers shall pay into the state insurance fund such amounts as are required to be credited to the surplus fund in division (B) of section 4123.34 of the Revised Code. The administrator may adopt rules establishing requirements in addition to the requirements described in

division (B)(2) of this section that a public employer shall meet in order to qualify for self-insuring status.

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.

(F) The bureau shall review completed applications within a reasonable time. If the bureau determines to grant an employer the status as a self-insuring employer, the bureau shall issue a statement, containing its findings of fact, that is prepared by the bureau and signed by the administrator. If the bureau determines not to grant the status as a self-insuring employer, the bureau shall notify the employer of the determination and require the employer to continue to pay its full premium into the state insurance fund. The administrator also shall adopt rules establishing a minimum level of performance as a criterion for granting and maintaining the status as a self-insuring employer and fixing time limits beyond which failure of the self-insuring employer to provide for the necessary medical examinations and evaluations may not delay a decision on a claim.

(G) The administrator shall adopt rules setting forth procedures for auditing the program of self-insuring employers. The bureau shall conduct the audit upon a random basis or whenever the bureau has grounds for believing that a self-insuring employer is not in full compliance with bureau rules or this chapter.

The administrator shall monitor the programs conducted by self-insuring employers, to ensure compliance with bureau requirements and for that purpose, shall develop and issue to self-insuring employers standardized forms for use by the self-insuring employer in all aspects of the self-insuring employers' direct compensation program and for reporting of information to the bureau.

The bureau shall receive and transmit to the self-insuring employer all complaints concerning any self-insuring employer. In the case of a complaint against a self-insuring employer, the administrator shall handle the complaint through the self-insurance division of the bureau. The bureau shall maintain a file by employer of all complaints received that relate to the employer. The bureau shall evaluate each complaint and take appropriate action.

The administrator shall adopt as a rule a prohibition against any self-insuring employer from harassing, dismissing, or otherwise disciplining any employee making a complaint, which rule shall provide for a financial penalty to be levied by the administrator payable by the offending self-insuring employer.

(H) For the purpose of making determinations as to whether to grant status as a self-insuring employer, the administrator may subscribe to and pay for a credit reporting service that offers financial and other business information about individual employers. The costs in connection with the bureau's subscription or individual reports from the service about an applicant may be included in the application fee charged employers under this section.

(I) The administrator, notwithstanding other provisions of this chapter, may permit a self-insuring employer to resume payment of premiums to the state insurance fund with appropriate credit modifications to the employer's basic premium rate as such rate is determined pursuant to section 4123.29 of the Revised Code.

(J) On the first day of July of each year, the administrator shall calculate separately each self-insuring employer's assessments for the safety and hygiene fund, administrative costs pursuant to section 4123.342 of the Revised Code, and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, on the basis of the paid compensation attributable to the individual self-insuring employer according to the following calculation:

(1) The total assessment against all self-insuring employers as a class for each fund and for the administrative costs for the year that the assessment is being made, as determined by the administrator, divided by the total amount of paid compensation for the previous calendar year attributable to all amenable self-insuring employers;

(2) Multiply the quotient in division (J)(1) of this section by the total amount of paid compensation for the previous calendar year that is attributable to the individual self-insuring employer for whom the assessment is being determined. Each self-insuring employer shall pay the

assessment that results from this calculation, unless the assessment resulting from this calculation falls below a minimum assessment, which minimum assessment the administrator shall determine on the first day of July of each year with the advice and consent of the bureau of workers' compensation board of directors, in which event, the self-insuring employer shall pay the minimum assessment.

In determining the total amount due for the total assessment against all self-insuring employers as a class for each fund and the administrative assessment, the administrator shall reduce proportionately the total for each fund and assessment by the amount of money in the self-insurance assessment fund as of the date of the computation of the assessment.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for handicapped reimbursement in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in the handicapped reimbursement program and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in the handicapped reimbursement program. The administrator, as the administrator determines appropriate, may determine the total assessment for the handicapped portion of the surplus fund in accordance with sound actuarial principles.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that under division (D) of section 4121.66 of the Revised Code is used for rehabilitation costs in the same manner as set forth in divisions (J)(1) and (2) of this section, except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers who have not made the election to make payments directly under division (D) of section 4121.66 of the Revised Code and an individual self-insuring employer's proportion of paid compensation only for those self-insuring employers who have not made that election.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for reimbursement to a self-insuring employer under division (H) of section 4123.512 of the Revised Code in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in

reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code.

An employer who no longer is a self-insuring employer in this state or who no longer is operating in this state, shall continue to pay assessments for administrative costs and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, based upon paid compensation attributable to claims that occurred while the employer was a self-insuring employer within this state.

(K) There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code.

(L) Every self-insuring employer shall certify, in affidavit form subject to the penalty for perjury, to the bureau the amount of the self-insuring employer's paid compensation for the previous calendar year. In reporting paid compensation paid for the previous year, a self-insuring employer shall exclude from the total amount of paid compensation any reimbursement the self-insuring employer receives in the previous calendar year from the surplus fund pursuant to section 4123.512 of the Revised Code for any paid compensation. The self-insuring employer also shall exclude from the paid compensation reported any amount recovered under section 4123.931 of the Revised Code and any amount that is determined not to have been payable to or on behalf of a claimant in any final administrative or judicial proceeding. The self-insuring employer shall exclude such amounts from the paid compensation reported in the reporting period subsequent to the date the determination is made. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, that provide for all of the following:

(1) Establishing the date by which self-insuring employers must submit such information and the amount of the assessments provided for in division (J) of this section for employers who have been granted self-insuring status within the last calendar year;

(2) If an employer fails to pay the assessment when due, the administrator may add a late fee penalty of not more than five hundred

dollars to the assessment plus an additional penalty amount as follows:

(a) For an assessment from sixty-one to ninety days past due, the prime interest rate, multiplied by the assessment due;

(b) For an assessment from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the assessment due;

(c) For an assessment from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the assessment due;

(d) For an assessment from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due;

(e) For an assessment from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due;

(f) For each additional thirty-day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the assessment due.

(3) An employer may appeal a late fee penalty and penalty assessment to the administrator.

For purposes of division (L)(2) of this section, "prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.

The administrator shall include any assessment and penalties that remain unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section.

(M) As used in this section, "paid compensation" means all amounts paid by a self-insuring employer for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded by the self-insuring employer, and all amounts paid by a self-insuring employer for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code.

(N) Should any section of this chapter or Chapter 4121. of the Revised

Code providing for self-insuring employers' assessments based upon compensation paid be declared unconstitutional by a final decision of any court, then that section of the Revised Code declared unconstitutional shall revert back to the section in existence prior to November 3, 1989, providing for assessments based upon payroll.

(O) The administrator may grant a self-insuring employer the privilege to self-insure a construction project entered into by the self-insuring employer that is scheduled for completion within six years after the date the project begins, and the total cost of which is estimated to exceed one hundred million dollars or, for employers described in division (R) of this section, if the construction project is estimated to exceed twenty-five million dollars. The administrator may waive such cost and time criteria and grant a self-insuring employer the privilege to self-insure a construction project regardless of the time needed to complete the construction project and provided that the cost of the construction project is estimated to exceed fifty million dollars. A self-insuring employer who desires to self-insure a construction project shall submit to the administrator an application listing the dates the construction project is scheduled to begin and end, the estimated cost of the construction project, the contractors and subcontractors whose employees are to be self-insured by the self-insuring employer, the provisions of a safety program that is specifically designed for the construction project, and a statement as to whether a collective bargaining agreement governing the rights, duties, and obligations of each of the parties to the agreement with respect to the construction project exists between the self-insuring employer and a labor organization.

A self-insuring employer may apply to self-insure the employees of either of the following:

(1) All contractors and subcontractors who perform labor or work or provide materials for the construction project;

(2) All contractors and, at the administrator's discretion, a substantial number of all the subcontractors who perform labor or work or provide materials for the construction project.

Upon approval of the application, the administrator shall mail a certificate granting the privilege to self-insure the construction project to the self-insuring employer. The certificate shall contain the name of the self-insuring employer and the name, address, and telephone number of the self-insuring employer's representatives who are responsible for administering workers' compensation claims for the construction project. The self-insuring employer shall post the certificate in a conspicuous place at the site of the construction project.

The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring employer immediately shall notify the administrator when any contractor or subcontractor is added or eliminated from inclusion under the certificate.

Upon approval of the application, the self-insuring employer is responsible for the administration and payment of all claims under this chapter and Chapter 4121. of the Revised Code for the employees of the contractor and subcontractors covered under the certificate who receive injuries or are killed in the course of and arising out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project. For purposes of this chapter and Chapter 4121. of the Revised Code, a claim that is administered and paid in accordance with this division is considered a claim against the self-insuring employer listed in the certificate. A contractor or subcontractor included under the certificate shall report to the self-insuring employer listed in the certificate, all claims that arise under this chapter and Chapter 4121. of the Revised Code in connection with the construction project for which the certificate is issued.

A self-insuring employer who complies with this division is entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the employees of the contractors and subcontractors covered under a certificate issued under this division for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project, as if the employees were employees of the self-insuring employer, provided that the self-insuring employer also complies with this section. No employee of the contractors and subcontractors covered under a certificate issued under this division shall be considered the employee of the self-insuring employer listed in that certificate for any purposes other than this chapter and Chapter 4121. of the Revised Code. Nothing in this division gives a self-insuring employer authority to control the means, manner, or method of employment of the employees of the contractors and subcontractors covered under a certificate issued under this division.

The contractors and subcontractors included under a certificate issued under this division are entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the contractor's or subcontractor's employees who are employed on the construction project which is the subject of the certificate, for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those

employees' employment on that construction project.

The contractors and subcontractors included under a certificate issued under this division shall identify in their payroll records the employees who are considered the employees of the self-insuring employer listed in that certificate for purposes of this chapter and Chapter 4121. of the Revised Code, and the amount that those employees earned for employment on the construction project that is the subject of that certificate. Notwithstanding any provision to the contrary under this chapter and Chapter 4121. of the Revised Code, the administrator shall exclude the payroll that is reported for employees who are considered the employees of the self-insuring employer listed in that certificate, and that the employees earned for employment on the construction project that is the subject of that certificate, when determining those contractors' or subcontractors' premiums or assessments required under this chapter and Chapter 4121. of the Revised Code. A self-insuring employer issued a certificate under this division shall include in the amount of paid compensation it reports pursuant to division (L) of this section, the amount of paid compensation the self-insuring employer paid pursuant to this division for the previous calendar year.

Nothing in this division shall be construed as altering the rights of employees under this chapter and Chapter 4121. of the Revised Code as those rights existed prior to September 17, 1996. Nothing in this division shall be construed as altering the rights devolved under sections 2305.31 and 4123.82 of the Revised Code as those rights existed prior to September 17, 1996.

As used in this division, "privilege to self-insure a construction project" means privilege to pay individually compensation, and to furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees.

(P) A self-insuring employer whose application is granted under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application.

A self-insuring employer whose application is granted under division (O) of this section shall employ an ombudsperson for the construction project that is the subject of the application. The ombudsperson shall have experience in workers' compensation or the construction industry, or both. The ombudsperson shall perform all of the following duties:

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the

construction project, or who contract an occupational disease in the course of employment on the construction project;

(2) Investigate the status of a claim upon the request of an employee to do so;

(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.

A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:

(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.

(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:

(1) A state institution of higher education;

(2) A school district;

(3) A county school financing district;

(4) An educational service center;

(5) A community school established under Chapter 3314. of the Revised

Code;

(6) A municipal power agency as defined in section 3734.058 of the Revised Code.

(S) As used in this section:

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.

Sec. 4123.41. (A) By the first day of January of each year, the bureau of workers' compensation shall furnish to the county auditor of each county and the chief fiscal officer of each taxing district in a county and of each district activity and institution mentioned in section 4123.39 of the Revised Code forms containing the premium rates applicable to the county, district, district activity, or institution as an employer, on which to report the amount of money expended by the county, district, district activity, or institution during the previous twelve calendar months for the services of employees under this chapter.

(B) Each county auditor and each fiscal officer of a district, district activity, and institution shall calculate on the form it receives from the bureau under division (A) of this section the premium due as its proper contribution to the public insurance fund and issue a warrant in favor of the bureau for the amount due from the county, district, district activity, or institution to the public insurance fund according to the following schedule:

(1) On or before the fifteenth day of May of each year, no less than forty-five per cent of the amount due;

(2) On or before the first day of September of each year, no less than the total amount due.

(C) The legislative body of any county, district, district activity, or institution may reimburse the fund from which the workers' compensation payments are made by transferring to the fund from any other fund of the county, district, district activity, or institution, the proportionate amount of the payments that should be chargeable to the fund, whether the fund is derived from taxation or otherwise. The proportionate amount of the payments chargeable to the fund may be based on payroll, relative exposure, relative loss experience, or any combination of these factors, as determined by the legislative body.

(1) The workers' compensation program payments of any county, district, district activity, or institution may include all payments required by any bureau of workers' compensation rating plan.

(2) The workers' compensation program payments of any county, district, district activity, or institution, except for a county board of developmental disabilities, a board of alcohol, drug addiction, and mental health services, a board of mental health services, and a board of alcohol and drug addiction services, also may include any of the following:

(a) Direct administrative costs incurred in the management of the county, district, district activity, or institution's workers' compensation program;

(b) Indirect costs that are necessary and reasonable for the proper and efficient administration of the workers' compensation program as documented in a cost allocation plan. The indirect cost plan shall conform to the United States office of management and budget circular A-87 "cost principles for state and local governments," 2 C.F.R. 225, as most recently amended on May 10, 2004. The plan shall not authorize payment from the fund of any general government expense required to carry out the overall governmental responsibilities.

(3) Within sixty days before a legislative body changes the method used for calculating the proportionate amount of the payments chargeable to the fund, it shall notify, consult with, and give information supporting the change to any elected official affected by the change. A transfer made pursuant to division (B)(2) of this section is not subject to section 5705.16 of the Revised Code.

(D) Any county board of developmental disabilities, board of alcohol, drug addiction, and mental health services, board of mental health services, or board of alcohol and drug addiction services whose workers' compensation payments, on or before ~~the effective date of this section~~ September 28, 2012, includes costs referred to in division (C)(2) of this section may continue to do so on and after ~~the effective date of this amendment~~ September 28, 2012.

(E) The bureau may investigate the correctness of the information provided by the county auditor and chief fiscal officer under division (B) of this section, and if the bureau determines at any time that the county, district, district activity, or institution has not reported the correct information, the administrator of workers' compensation may make deductions or additions as the facts warrant and take those facts into consideration in determining the current or future contributions to be made by the county, district, district activity, or institution. If the county, district,

district activity, or institution does not furnish the report in the time required by this section, the administrator may fix the amount of contribution the county, district, district activity, or institution must make and certify that amount for payment.

(F) The administrator shall provide a discount to any county, district, district activity, or institution that pays its total amount due to the public insurance fund on or before the fifteenth day of May of each year as its proper contribution for premiums. The administrator shall base the discount provided under this division on the savings generated by the early payment to the public insurance fund. The administrator may provide the discount through a refund to the county, district, district activity, or institution or an offset against the future contributions due to the public insurance fund from the county, district, district activity, or institution.

(G) The administrator may impose an interest penalty for late payment of any amount due from a county, district, district activity, and institution at the interest rate established by the state tax commissioner pursuant to section 5703.47 of the Revised Code.

(H) If the administrator adopts rules for the prospective payment of premium as permitted under section 4123.322 of the Revised Code, every employer mentioned in division (B)(1) of section 4123.01 of the Revised Code, except for a state agency or a state university or college as defined in section 4123.32 of the Revised Code, shall pay into the state insurance fund the amount of premium the administrator fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator and based upon the estimates and reconciliations required by the rules the administrator adopts under section 4123.322 of the Revised Code.

Sec. 4123.57. Partial disability compensation shall be paid as follows.

Except as provided in this section, not earlier than twenty-six weeks after the date of termination of the latest period of payments under section 4123.56 of the Revised Code, or not earlier than twenty-six weeks after the date of the injury or contraction of an occupational disease in the absence of payments under section 4123.56 of the Revised Code, the employee may file an application with the bureau of workers' compensation for the determination of the percentage of the employee's permanent partial disability resulting from an injury or occupational disease.

Whenever the application is filed, the bureau shall send a copy of the application to the employee's employer or the employer's representative and shall schedule the employee for a medical examination by the bureau

medical section. The bureau shall send a copy of the report of the medical examination to the employee, the employer, and their representatives. Thereafter, the administrator of workers' compensation shall review the employee's claim file and make a tentative order as the evidence before the administrator at the time of the making of the order warrants. If the administrator determines that there is a conflict of evidence, the administrator shall send the application, along with the claimant's file, to the district hearing officer who shall set the application for a hearing.

The administrator shall notify the employee, the employer, and their representatives, in writing, of the tentative order and of the parties' right to request a hearing. Unless the employee, the employer, or their representative notifies the administrator, in writing, of an objection to the tentative order within twenty days after receipt of the notice thereof, the tentative order shall go into effect and the employee shall receive the compensation provided in the order. In no event shall there be a reconsideration of a tentative order issued under this division.

If the employee, the employer, or their representatives timely notify the administrator of an objection to the tentative order, the matter shall be referred to a district hearing officer who shall set the application for hearing with written notices to all interested persons. Upon referral to a district hearing officer, the employer may obtain a medical examination of the employee, pursuant to rules of the industrial commission.

(A) The district hearing officer, upon the application, shall determine the percentage of the employee's permanent disability, except as is subject to division (B) of this section, based upon that condition of the employee resulting from the injury or occupational disease and causing permanent impairment evidenced by medical or clinical findings reasonably demonstrable. The employee shall receive sixty-six and two-thirds per cent of the employee's average weekly wage, but not more than a maximum of thirty-three and one-third per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code, per week regardless of the average weekly wage, for the number of weeks which equals the percentage of two hundred weeks. Except on application for reconsideration, review, or modification, which is filed within ten days after the date of receipt of the decision of the district hearing officer, in no instance shall the former award be modified unless it is found from medical or clinical findings that the condition of the claimant resulting from the injury has so progressed as to have increased the percentage of permanent partial disability. A staff hearing officer shall hear an application for reconsideration filed and the staff hearing officer's decision is final. An

employee may file an application for a subsequent determination of the percentage of the employee's permanent disability. If such an application is filed, the bureau shall send a copy of the application to the employer or the employer's representative. No sooner than sixty days from the date of the mailing of the application to the employer or the employer's representative, the administrator shall review the application. The administrator may require a medical examination or medical review of the employee. The administrator shall issue a tentative order based upon the evidence before the administrator, provided that if the administrator requires a medical examination or medical review, the administrator shall not issue the tentative order until the completion of the examination or review.

The employer may obtain a medical examination of the employee and may submit medical evidence at any stage of the process up to a hearing before the district hearing officer, pursuant to rules of the commission. The administrator shall notify the employee, the employer, and their representatives, in writing, of the nature and amount of any tentative order issued on an application requesting a subsequent determination of the percentage of an employee's permanent disability. An employee, employer, or their representatives may object to the tentative order within twenty days after the receipt of the notice thereof. If no timely objection is made, the tentative order shall go into effect. In no event shall there be a reconsideration of a tentative order issued under this division. If an objection is timely made, the application for a subsequent determination shall be referred to a district hearing officer who shall set the application for a hearing with written notice to all interested persons. No application for subsequent percentage determinations on the same claim for injury or occupational disease shall be accepted for review by the district hearing officer unless supported by substantial evidence of new and changed circumstances developing since the time of the hearing on the original or last determination.

No award shall be made under this division based upon a percentage of disability which, when taken with all other percentages of permanent disability, exceeds one hundred per cent. If the percentage of the permanent disability of the employee equals or exceeds ninety per cent, compensation for permanent partial disability shall be paid for two hundred weeks.

Compensation payable under this division accrues and is payable to the employee from the date of last payment of compensation, or, in cases where no previous compensation has been paid, from the date of the injury or the date of the diagnosis of the occupational disease.

When an award under this division has been made prior to the death of

an employee, all unpaid installments accrued or to accrue under the provisions of the award are payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee, and if there are no children surviving, then to other dependents as the administrator determines.

(B) For purposes of this division, "payable per week" means the seven-consecutive-day period in which compensation is paid in installments according to the schedule associated with the applicable injury as set forth in this division.

Compensation paid in weekly installments according to the schedule described in this division may only be commuted to one or more ~~lump-sum~~ lump sum payments pursuant to the procedure set forth in section 4123.64 of the Revised Code.

In cases included in the following schedule the compensation payable per week to the employee is the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code per week and shall be paid in installments according to the following schedule:

For the loss of a first finger, commonly known as a thumb, sixty weeks.

For the loss of a second finger, commonly called index finger, thirty-five weeks.

For the loss of a third finger, thirty weeks.

For the loss of a fourth finger, twenty weeks.

For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.

The loss of a second, or distal, phalange of the thumb is considered equal to the loss of one half of such thumb; the loss of more than one half of such thumb is considered equal to the loss of the whole thumb.

The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.

The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.

The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number of weeks under this division.

For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same

number of weeks apply to the members or parts thereof as given for the loss thereof.

If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is such that the handicap or disability resulting from the loss of fingers, or loss of use of fingers, exceeds the normal handicap or disability resulting from the loss of fingers, or loss of use of fingers, the administrator may take that fact into consideration and increase the award of compensation accordingly, but the award made shall not exceed the amount of compensation for loss of a hand.

For the loss of a hand, one hundred seventy-five weeks.

For the loss of an arm, two hundred twenty-five weeks.

For the loss of a great toe, thirty weeks.

For the loss of one of the toes other than the great toe, ten weeks.

The loss of more than two-thirds of any toe is considered equal to the loss of the whole toe.

The loss of less than two-thirds of any toe is considered no loss, except as to the great toe; the loss of the great toe up to the interphalangeal joint is co-equal to the loss of one-half of the great toe; the loss of the great toe beyond the interphalangeal joint is considered equal to the loss of the whole great toe.

For the loss of a foot, one hundred fifty weeks.

For the loss of a leg, two hundred weeks.

For the loss of the sight of an eye, one hundred twenty-five weeks.

For the permanent partial loss of sight of an eye, the portion of one hundred twenty-five weeks as the administrator in each case determines, based upon the percentage of vision actually lost as a result of the injury or occupational disease, but, in no case shall an award of compensation be made for less than twenty-five per cent loss of uncorrected vision. "Loss of uncorrected vision" means the percentage of vision actually lost as the result of the injury or occupational disease.

For the permanent and total loss of hearing of one ear, twenty-five weeks; but in no case shall an award of compensation be made for less than permanent and total loss of hearing of one ear.

For the permanent and total loss of hearing, one hundred twenty-five weeks; but, except pursuant to the next preceding paragraph, in no case shall an award of compensation be made for less than permanent and total loss of hearing.

In case an injury or occupational disease results in serious facial or head

disfigurement which either impairs or may in the future impair the opportunities to secure or retain employment, the administrator shall make an award of compensation as it deems proper and equitable, in view of the nature of the disfigurement, and not to exceed the sum of ten thousand dollars. For the purpose of making the award, it is not material whether the employee is gainfully employed in any occupation or trade at the time of the administrator's determination.

When an award under this division has been made prior to the death of an employee all unpaid installments accrued or to accrue under the provisions of the award shall be payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee and if there are no such children, then to such dependents as the administrator determines.

When an employee has sustained the loss of a member by severance, but no award has been made on account thereof prior to the employee's death, the administrator shall make an award in accordance with this division for the loss which shall be payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee and if there are no such children, then to such dependents as the administrator determines.

(C) Compensation for partial impairment under divisions (A) and (B) of this section is in addition to the compensation paid the employee pursuant to section 4123.56 of the Revised Code. A claimant may receive compensation under divisions (A) and (B) of this section.

In all cases arising under division (B) of this section, if it is determined by any one of the following: (1) the amputee clinic at University hospital, Ohio state university; (2) the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency; (3) an amputee clinic or prescribing physician approved by the administrator or the administrator's designee, that an injured or disabled employee is in need of an artificial appliance, or in need of a repair thereof, regardless of whether the appliance or its repair will be serviceable in the vocational rehabilitation of the injured employee, and regardless of whether the employee has returned to or can ever again return to any gainful employment, the bureau shall pay the cost of the artificial appliance or its repair out of the surplus created by division (B) of section 4123.34 of the Revised Code.

In those cases where a ~~rehabilitation services commission~~ an opportunities for Ohioans with disabilities agency recommendation that an injured or disabled employee is in need of an artificial appliance would conflict with their state plan, adopted pursuant to the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator or the

administrator's designee or the bureau may obtain a recommendation from an amputee clinic or prescribing physician that they determine appropriate.

(D) If an employee of a state fund employer makes application for a finding and the administrator finds that the employee has contracted silicosis as defined in division (X), or coal miners' pneumoconiosis as defined in division (Y), or asbestosis as defined in division (AA) of section 4123.68 of the Revised Code, and that a change of such employee's occupation is medically advisable in order to decrease substantially further exposure to silica dust, asbestos, or coal dust and if the employee, after the finding, has changed or shall change the employee's occupation to an occupation in which the exposure to silica dust, asbestos, or coal dust is substantially decreased, the administrator shall allow to the employee an amount equal to fifty per cent of the statewide average weekly wage per week for a period of thirty weeks, commencing as of the date of the discontinuance or change, and for a period of one hundred weeks immediately following the expiration of the period of thirty weeks, the employee shall receive sixty-six and two-thirds per cent of the loss of wages resulting directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such employee is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the employee is employed in an occupation in which the exposure to silica dust, asbestos, or coal dust is not substantially less than the exposure in the occupation in which the employee was formerly employed or for any period during which the employee may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from silicosis, asbestosis, or coal miners' pneumoconiosis. An award for change of occupation for a coal miner who has contracted coal miners' pneumoconiosis may be granted under this division even though the coal miner continues employment with the same employer, so long as the coal miner's employment subsequent to the change is such that the coal miner's exposure to coal dust is substantially decreased and a change of occupation is certified by the claimant as permanent. The administrator may accord to the employee medical and other benefits in accordance with section 4123.66 of the Revised Code.

(E) If a firefighter or police officer makes application for a finding and the administrator finds that the firefighter or police officer has contracted a cardiovascular and pulmonary disease as defined in division (W) of section 4123.68 of the Revised Code, and that a change of the firefighter's or police officer's occupation is medically advisable in order to decrease substantially

further exposure to smoke, toxic gases, chemical fumes, and other toxic vapors, and if the firefighter, or police officer, after the finding, has changed or changes occupation to an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is substantially decreased, the administrator shall allow to the firefighter or police officer an amount equal to fifty per cent of the statewide average weekly wage per week for a period of thirty weeks, commencing as of the date of the discontinuance or change, and for a period of seventy-five weeks immediately following the expiration of the period of thirty weeks the administrator shall allow the firefighter or police officer sixty-six and two-thirds per cent of the loss of wages resulting directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such firefighter or police officer is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the firefighter or police officer is employed in an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is not substantially less than the exposure in the occupation in which the firefighter or police officer was formerly employed or for any period during which the firefighter or police officer may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from a cardiovascular and pulmonary disease. The administrator may accord to the firefighter or police officer medical and other benefits in accordance with section 4123.66 of the Revised Code.

(F) An order issued under this section is appealable pursuant to section 4123.511 of the Revised Code but is not appealable to court under section 4123.512 of the Revised Code.

Sec. 4123.93. As used in sections 4123.93 and 4123.931 of the Revised Code:

(A) "Claimant" means a person who is eligible to receive compensation, medical benefits, or death benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code.

(B) "Statutory subrogee" means the administrator of workers' compensation, a self-insuring employer, or an employer that contracts for the direct payment of medical services pursuant to division ~~(L)~~(P) of section 4121.44 of the Revised Code.

(C) "Third party" means an individual, private insurer, public or private entity, or public or private program that is or may be liable to make payments to a person without regard to any statutory duty contained in this

chapter or Chapter 4121., 4127., or 4131. of the Revised Code.

(D) "Subrogation interest" includes past, present, and estimated future payments of compensation, medical benefits, rehabilitation costs, or death benefits, and any other costs or expenses paid to or on behalf of the claimant by the statutory subrogee pursuant to this chapter or Chapter 4121., 4127., or 4131. of the Revised Code.

(E) "Net amount recovered" means the amount of any award, settlement, compromise, or recovery by a claimant against a third party, minus the attorney's fees, costs, or other expenses incurred by the claimant in securing the award, settlement, compromise, or recovery. "Net amount recovered" does not include any punitive damages that may be awarded by a judge or jury.

(F) "Uncompensated damages" means the claimant's demonstrated or proven damages minus the statutory subrogee's subrogation interest.

Sec. 4131.03. (A) For the relief of persons who are entitled to receive benefits by virtue of the federal act, there is hereby established a coal-workers pneumoconiosis fund, which shall be separate from the funds established and administered pursuant to Chapter 4123. of the Revised Code. The fund shall consist of premiums and other payments thereto by subscribers who elect to subscribe to the fund to insure the payment of benefits required by the federal act.

(B)(4) The coal-workers pneumoconiosis fund shall be in the custody of the treasurer of state. The bureau of workers' compensation shall make disbursements from the fund to those persons entitled to payment therefrom and in the amounts required pursuant to sections 4131.01 to 4131.06 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

~~(2) Beginning July 1, 2011, and ending June 30, 2013, the director of natural resources annually may request the administrator of workers' compensation to transfer a portion of the investment earnings credited to the coal-workers pneumoconiosis fund as provided in this division. If the administrator receives a request from the director, the administrator, on the first day of July, or as soon as possible after that date, shall transfer from the investment earnings credited to the coal-workers pneumoconiosis fund an amount not to exceed three million dollars to the mine safety fund created in section 1561.24 of the Revised Code for the purposes specified in that section and an amount not to exceed one million five hundred thousand dollars to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code for the purposes specified in that section. The administrator, with the advice and consent of the bureau~~

~~of workers' compensation board of directors, shall adopt rules governing the transfer in order to ensure the solvency of the coal workers pneumoconiosis fund. For that purpose, the rules may establish tests based on measures of net assets, liabilities, expenses, interest, dividend income, or other factors that the administrator determines appropriate that may be applied prior to a transfer.~~

(C) The administrator shall have the same powers to invest any of the surplus or reserve belonging to the coal-workers pneumoconiosis fund as are delegated to the administrator under section 4123.44 of the Revised Code with respect to the state insurance fund.

(D) If the administrator determines that reinsurance of the risks of the coal-workers pneumoconiosis fund is necessary to assure solvency of the fund, the administrator may:

(1) Enter into contracts for the purchase of reinsurance coverage of the risks of the fund with any company or agency authorized by law to issue contracts of reinsurance;

(2) Pay the cost of reinsurance from the fund;

(3) Include the costs of reinsurance as a liability and estimated liability of the fund.

Sec. 4141.162. (A) The director of job and family services shall establish an income and eligibility verification system that complies with section 1137 of the "Social Security Act." The programs included in the system are all of the following:

(1) Unemployment compensation pursuant to section 3304 of the "Internal Revenue Code of 1954";

(2) The state programs funded in part under part A of Title IV of the "Social Security Act" and administered under Chapters 5107. and 5108. of the Revised Code;

(3) ~~Medicaid pursuant to Title XIX of the "Social Security Act"~~ The medicaid program;

(4) The supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(5) Any Ohio program under a plan approved under Title I, X, XIV, or XVI of the "Social Security Act."

Wage information provided by employers to the director shall be furnished to the income and eligibility verification system. Such information shall be used by the director to determine eligibility of individuals for unemployment compensation benefits and the amount of those benefits and used by the agencies that administer the programs identified in divisions (A)(2) to (5) of this section to determine or verify eligibility for or the

amount of benefits under those programs.

The director shall fully implement the use of wage information to determine eligibility for and the amount of unemployment compensation benefits by September 30, 1988.

Information furnished under the system shall also be made available to the appropriate state or local child support enforcement agency for the purposes of an approved plan under Title IV-D of the "Social Security Act" and to the appropriate federal agency for the purposes of Titles II and XVI of the "Social Security Act."

(B) The director shall adopt rules as necessary under which the department of job and family services and other state agencies that the director determines must participate in order to ensure compliance with section 1137 of the "Social Security Act" exchange information with each other or authorized federal agencies about individuals who are applicants for or recipients of benefits under any of the programs enumerated in division (A) of this section. The rules shall extend to all of the following:

(1) A requirement for standardized formats and procedures for a participating agency to request and receive information about an individual, which information shall include the individual's social security number;

(2) A requirement that all applicants for and recipients of benefits under any program enumerated in division (A) of this section be notified at the time of application, and periodically thereafter, that information available through the system may be shared with agencies that administer other benefit programs and utilized in establishing or verifying eligibility or benefit amounts under the other programs enumerated in division (A) of this section;

(3) A requirement that information is made available only to the extent necessary to assist in the valid administrative needs of the program receiving the information and is targeted for use in ways which are most likely to be productive in identifying and preventing ineligibility and incorrect payments;

(4) A requirement that information is adequately protected against unauthorized disclosures for purposes other than to establish or verify eligibility or benefit amounts under the programs enumerated in division (A) of this section;

(5) A requirement that a program providing information is reimbursed by the program using the information for the actual costs of furnishing the information and that the director be reimbursed by the participating programs for any actual costs incurred in operating the system;

(6) Requirements for any other matters necessary to ensure the effective,

efficient, and timely exchange of necessary information or that the director determines must be addressed in order to ensure compliance with the requirements of section 1137 of the "Social Security Act."

(C) Each participating agency shall furnish to the income and eligibility verification system established in division (A) of this section that information, which the director, by rule, determines is necessary in order to comply with section 1137 of the "Social Security Act."

(D) Notwithstanding the information disclosure requirements of this section and section 4141.21 and division (A) of section 4141.284 of the Revised Code, the director shall administer those provisions of law so as to comply with section 1137 of the "Social Security Act."

(E) Requirements in section 4141.21 of the Revised Code with respect to confidentiality of information obtained in the administration of Chapter 4141. of the Revised Code and any sanctions imposed for improper disclosure of such information shall apply to the redisclosure of information disclosed under this section.

(F) The director of job and family services shall consult with the medicaid director and the director of administrative services regarding the implementation of this section.

Sec. 4301.01. (A) As used in the Revised Code:

(1) "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer, containing one-half of one per cent or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. "Intoxicating liquor" and "liquor" include ~~wine even if it contains less than four per cent of alcohol by volume, mixed beverages even if they contain less than four per cent of alcohol by volume, and~~ cider, and alcohol, and all solids and confections which contain ~~any alcohol~~ one-half of one per cent or more of alcohol by volume.

(2) Except as used in sections 4301.01 to 4301.20, 4301.22 to 4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36 of the Revised Code, "sale" and "sell" include exchange, barter, gift, offer for sale, sale, distribution and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to section 4301.21 of the Revised Code. "Sale" and "sell" do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the division of liquor control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any

such orders until the solicitor has been registered with the division pursuant to section 4303.25 of the Revised Code.

(3) "Vehicle" includes all means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.

(B) As used in this chapter:

(1) "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. "Alcohol" does not include denatured alcohol and wood alcohol.

(2) "Beer" includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of one per cent or more, but not more than twelve per cent, of alcohol by volume.

(3) "Wine" includes all liquids fit to use for beverage purposes containing not less than one-half of one per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume, which is made from the fermented juices of grapes, fruits, or other agricultural products, except that as used in sections 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44 of the Revised Code, and, for purposes of determining the rate of the tax that applies, division (B) of section 4301.43 of the Revised Code, "wine" does not include cider.

(4) "Mixed beverages;" ~~such as include~~ bottled and prepared cordials, cocktails, ~~and~~ highballs, ~~and solids and confections that are products~~ obtained by mixing any type of whiskey, neutral spirits, brandy, gin, or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than one-half of one per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume.

(5) "Spirituous liquor" includes all intoxicating liquors containing more than twenty-one per cent of alcohol by volume.

(6) "Sealed container" means any container having a capacity of not more than one hundred twenty-eight fluid ounces, the opening of which is closed to prevent the entrance of air.

(7) "Person" includes firms and corporations.

(8) "Manufacture" includes all processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, or brewing, or in any other manner.

(9) "Manufacturer" means any person engaged in the business of manufacturing beer or intoxicating liquor.

(10) "Wholesale distributor" and "distributor" means a person engaged in the business of selling to retail dealers for purposes of resale.

(11) "Hotel" has the same meaning as in section 3731.01 of the Revised

Code, subject to the exceptions mentioned in section 3731.03 of the Revised Code.

(12) "Restaurant" means a place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. "Restaurant" does not include pharmacies, confectionery stores, lunch stands, night clubs, and filling stations.

(13) "Club" means a corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for those purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.

(14) "Night club" means a place operated for profit, where food is served for consumption on the premises and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons.

(15) "At retail" means for use or consumption by the purchaser and not for resale.

(16) "Pharmacy" means an establishment, as defined in section 4729.01 of the Revised Code, that is under the management or control of a licensed pharmacist in accordance with section 4729.27 of the Revised Code.

(17) "Enclosed shopping center" means a group of retail sales and service business establishments that face into an enclosed mall, share common ingress, egress, and parking facilities, and are situated on a tract of land that contains an area of not less than five hundred thousand square feet. "Enclosed shopping center" also includes not more than one business establishment that is located within a free-standing building on such a tract of land, so long as the sale of beer and intoxicating liquor on the tract of land was approved in an election held under former section 4301.353 of the Revised Code.

(18) "Controlled access alcohol and beverage cabinet" means a closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device that requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages, or food may be sold.

(19) "Community facility" means either of the following:

(a) Any convention, sports, or entertainment facility or complex, or any

combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a convention facilities authority created pursuant to section 351.02 of the Revised Code;

(b) An area designated as a community entertainment district pursuant to section 4301.80 of the Revised Code.

(20) "Low-alcohol beverage" means any brewed or fermented malt product, or any product made from the fermented juices of grapes, fruits, or other agricultural products, that contains either no alcohol or less than one-half of one per cent of alcohol by volume. The beverages described in division (B)(20) of this section do not include a soft drink such as root beer, birch beer, or ginger beer.

(21) "Cider" means all liquids fit to use for beverage purposes that contain one-half of one per cent of alcohol by volume, but not more than six per cent of alcohol by weight, and that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.

(22) "Sales area or territory" means an exclusive geographic area or territory that is assigned to a particular A or B permit holder and that either has one or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. "Sales area or territory" does not include, however, any particular retail location in an exclusive geographic area or territory that had been assigned to another A or B permit holder before April 9, 2001.

Sec. 4301.10. (A) The division of liquor control shall do all of the following:

(1) Control the traffic in beer and intoxicating liquor in this state, including the manufacture, importation, and sale of beer and intoxicating liquor;

(2) Grant or refuse permits for the manufacture, distribution, transportation, and sale of beer and intoxicating liquor and the sale of alcohol, as authorized or required by this chapter and Chapter 4303. of the Revised Code. A certificate, signed by the superintendent of liquor control and to which is affixed the official seal of the division, stating that it appears from the records of the division that no permit has been issued to the person specified in the certificate, or that a permit, if issued, has been revoked, canceled, or suspended, shall be received as prima-facie evidence of the

facts recited in the certificate in any court or before any officer of this state.

(3) Put into operation, manage, and control a system of state liquor stores for the sale of spirituous liquor at retail and to holders of permits authorizing the sale of spirituous liquor; however, the division shall not establish any drive-in state liquor stores; and by means of those types of stores, and any manufacturing plants, distributing and bottling plants, warehouses, and other facilities that it considers expedient, establish and maintain a state monopoly of the distribution of spirituous liquor and its sale in packages or containers; and for that purpose, manufacture, buy, import, possess, and sell spirituous liquors as provided in this chapter and Chapter 4303. of the Revised Code, and in the rules promulgated by the superintendent of liquor control pursuant to those chapters; lease or in any manner acquire the use of any land or building required for any of those purposes; purchase any equipment that is required; and borrow money to carry on its business, and issue, sign, endorse, and accept notes, checks, and bills of exchange; but all obligations of the division created under authority of this division shall be a charge only upon the moneys received by the division from the sale of spirituous liquor and its other business transactions in connection with the sale of spirituous liquor, and shall not be general obligations of the state;

(4) Enforce the administrative provisions of this chapter and Chapter 4303. of the Revised Code, and the rules and orders of the liquor control commission and the superintendent relating to the manufacture, importation, transportation, distribution, and sale of beer or intoxicating liquor. The attorney general, any prosecuting attorney, and any prosecuting officer of a municipal corporation or a municipal court shall, at the request of the division of liquor control or the department of public safety, prosecute any person charged with the violation of any provision in those chapters or of any section of the Revised Code relating to the manufacture, importation, transportation, distribution, and sale of beer or intoxicating liquor.

(5) Determine the locations of all state liquor stores and manufacturing, distributing, and bottling plants required in connection with those stores, subject to this chapter and Chapter 4303. of the Revised Code;

(6) Conduct inspections of liquor permit premises to determine compliance with the administrative provisions of this chapter and Chapter 4303. of the Revised Code and the rules adopted under those provisions by the liquor control commission.

Except as otherwise provided in division (A)(6) of this section, those inspections may be conducted only during those hours in which the permit holder is open for business and only by authorized agents or employees of

the division or by any peace officer, as defined in section 2935.01 of the Revised Code. Inspections may be conducted at other hours only to determine compliance with laws or commission rules that regulate the hours of sale of beer or intoxicating liquor and only if the investigator has reasonable cause to believe that those laws or rules are being violated. Any inspection conducted pursuant to division (A)(6) of this section is subject to all of the following requirements:

(a) The only property that may be confiscated is contraband, as defined in section 2901.01 of the Revised Code, or property that is otherwise necessary for evidentiary purposes.

(b) A complete inventory of all property confiscated from the premises shall be given to the permit holder or the permit holder's agent or employee by the confiscating agent or officer at the conclusion of the inspection. At that time, the inventory shall be signed by the confiscating agent or officer, and the agent or officer shall give the permit holder or the permit holder's agent or employee the opportunity to sign the inventory.

(c) Inspections conducted pursuant to division (A)(6) of this section shall be conducted in a reasonable manner. A finding by any court of competent jurisdiction that an inspection was not conducted in a reasonable manner in accordance with this section or any rules adopted by the commission may be considered grounds for suppression of evidence. A finding by the commission that an inspection was not conducted in a reasonable manner in accordance with this section or any rules adopted by it may be considered grounds for dismissal of the commission case.

If any court of competent jurisdiction finds that property confiscated as the result of an administrative inspection is not necessary for evidentiary purposes and is not contraband, as defined in section 2901.01 of the Revised Code, the court shall order the immediate return of the confiscated property, provided that property is not otherwise subject to forfeiture, to the permit holder. However, the return of this property is not grounds for dismissal of the case. The commission likewise may order the return of confiscated property if no criminal prosecution is pending or anticipated.

(7) Delegate to any of its agents or employees any power of investigation that the division possesses with respect to the enforcement of any of the administrative laws relating to beer or intoxicating liquor, provided that this division does not authorize the division to designate any agent or employee to serve as an enforcement agent. The employment and designation of enforcement agents shall be within the exclusive authority of the director of public safety pursuant to sections 5502.13 to 5502.19 of the Revised Code.

(8) Collect the following fees:

(a) A biennial fifty-dollar registration fee for each agent, solicitor, trade marketing professional, or salesperson, registered pursuant to section 4303.25 of the Revised Code, of a beer or intoxicating liquor manufacturer, supplier, broker, trade marketing company, or wholesale distributor doing business in this state;

(b) A fifty-dollar product registration fee for each new beer or intoxicating liquor product sold in this state. The product registration fee also applies to products sold in this state by B-2a and S permit holders. The product registration fee shall be accompanied by a copy of the federal label and product approval for the new product.

(c) An annual three-hundred-dollar supplier registration fee from each manufacturer or supplier that produces and ships into this state, or ships into this state, intoxicating liquor or beer, in addition to an initial application fee of one hundred dollars. A manufacturer that produces and ships beer or wine into this state and that holds only an S permit is exempt from the supplier registration fee. A manufacturer that produces and ships wine into this state and that holds a B-2a permit shall pay an annual seventy-six-dollar supplier registration fee. A manufacturer that produces and ships wine into this state and that does not hold either an S or a B-2a permit, but that produces less than two hundred fifty thousand gallons of wine per year and that is entitled to a tax credit under 27 C.F.R. 24.278 shall pay an annual seventy-six-dollar supplier registration fee. A B-2a or S permit holder that does not sell its wine to wholesale distributors of wine in this state and an S permit holder that does not sell its beer to wholesale distributors of beer in this state shall not be required to submit to the division territory designation forms.

Each supplier, agent, solicitor, trade marketing professional, or salesperson registration issued under this division shall authorize the person named to carry on the activity specified in the registration. Each agent, solicitor, trade marketing professional, or salesperson registration is valid for two years or for the unexpired portion of a two-year registration period. Each supplier registration is valid for one year or for the unexpired portion of a one-year registration period. Registrations shall end on their respective uniform expiration date, which shall be designated by the division, and are subject to suspension, revocation, cancellation, or fine as authorized by this chapter and Chapter 4303. of the Revised Code.

As used in this division, "trade marketing company" and "trade marketing professional" have the same meanings as in section 4301.171 of the Revised Code.

(9) Establish a system of electronic data interchange within the division

and regulate the electronic transfer of information and funds among persons and governmental entities engaged in the manufacture, distribution, and retail sale of alcoholic beverages;

(10) Notify all holders of retail permits of the forms of permissible identification for purposes of division (A) of section 4301.639 of the Revised Code;

(11) Exercise all other powers expressly or by necessary implication conferred upon the division by this chapter and Chapter 4303. of the Revised Code, and all powers necessary for the exercise or discharge of any power, duty, or function expressly conferred or imposed upon the division by those chapters.

(B) The division may do all of the following:

(1) Sue, but may be sued only in connection with the execution of leases of real estate and the purchases and contracts necessary for the operation of the state liquor stores that are made under this chapter and Chapter 4303. of the Revised Code;

(2) Enter into leases and contracts of all descriptions and acquire and transfer title to personal property with regard to the sale, distribution, and storage of spirituous liquor within the state;

(3) Terminate at will any lease entered into pursuant to division (B)(2) of this section upon first giving ninety days' notice in writing to the lessor of its intention to do so;

(4) Fix the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor shall be sold by the division. Those retail prices shall be the same at all state liquor stores, except to the extent that a price differential is required to collect a county sales tax levied pursuant to section 5739.021 of the Revised Code and for which tax the tax commissioner has authorized prepayment pursuant to section 5739.05 of the Revised Code. In fixing selling prices, the division shall compute an anticipated gross profit at least sufficient to provide in each calendar year all costs and expenses of the division and also an adequate working capital reserve for the division. The gross profit shall not exceed forty per cent of the retail selling price based on costs of the division, and in addition the sum required by section 4301.12 of the Revised Code to be paid into the state treasury. An amount equal to one and one-half per cent of that gross profit shall be paid into the statewide treatment and prevention fund created by section 4301.30 of the Revised Code and be appropriated by the general assembly from the fund to the department of ~~alcohol and drug addiction services~~ mental health and addiction services as provided in section 4301.30 of the Revised Code.

On spirituous liquor manufactured in this state from the juice of grapes or fruits grown in this state, the division shall compute an anticipated gross profit of not to exceed ten per cent.

The wholesale prices fixed under this division shall be at a discount of not less than six per cent of the retail selling prices as determined by the division in accordance with this section.

(C) The division may approve the expansion or diminution of a premises to which a liquor permit has been issued and may adopt standards governing such an expansion or diminution.

Sec. 4301.30. (A) All fees collected by the division of liquor control shall be deposited in the state treasury to the credit of the undivided liquor permit fund, which is hereby created, at the time prescribed under section 4301.12 of the Revised Code. Each payment shall be accompanied by a statement showing separately the amount collected for each class of permits in each municipal corporation and in each township outside the limits of any municipal corporation in such township.

(B)(1) An amount equal to forty-five per cent of the fund shall be paid from the fund into the state liquor regulatory fund, which is hereby created in the state treasury. The state liquor regulatory fund shall be used to pay the operating expenses of the division of liquor control in administering and enforcing Title XLIII of the Revised Code and the operating expenses of the liquor control commission. Investment earnings of the fund shall be credited to the fund.

(2) Whenever, in the judgment of the director of budget and management, the amount of money that is in the state liquor regulatory fund is in excess of the amount that is needed to pay the operating expenses of the division in administering and enforcing Title XLIII of the Revised Code and the operating expenses of the commission, the director shall credit the excess amount to the general revenue fund.

(C) Twenty per cent of the undivided liquor permit fund shall be paid into the statewide treatment and prevention fund, which is hereby created in the state treasury. This amount shall be appropriated by the general assembly, together with an amount equal to one and one-half per cent of the gross profit of the division of liquor control derived under division (B)(4) of section 4301.10 of the Revised Code, to the department of ~~alcohol and drug addiction services~~ mental health and addiction services. In planning for the allocation of and in allocating these amounts for the purposes of Chapter ~~3793~~ 5119 of the Revised Code, the department of ~~alcohol and drug addiction services~~ shall comply with the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, and any rules adopted under that

act.

(D) Thirty-five per cent of the undivided liquor permit fund shall be distributed by the superintendent of liquor control at quarterly calendar periods as follows:

(1) To each municipal corporation, the aggregate amount shown by the statements to have been collected from permits in the municipal corporation, for the use of the general fund of the municipal corporation;

(2) To each township, the aggregate amount shown by the statements to have been collected from permits in its territory, outside the limits of any municipal corporation located in the township, for the use of the general fund of the township, or for fire protection purposes, including buildings and equipment in the township or in an established fire district within the township, to the extent that the funds are derived from liquor permits within the territory comprising such fire district.

(E) For the purpose of the distribution required by this section, E, H, and D permits covering boats or vessels are deemed to have been issued in the municipal corporation or township wherein the owner or operator of the vehicle, boat, vessel, or dining car equipment to which the permit relates has the owner's or operator's principal office or place of business within the state.

(F) If the liquor control commission determines that the police or other officers of any municipal corporation or township entitled to share in distributions under this section are refusing or culpably neglecting to enforce this chapter and Chapter 4303. of the Revised Code, or the penal laws of this state relating to the manufacture, importation, transportation, distribution, and sale of beer and intoxicating liquors, or if the prosecuting officer of a municipal corporation or a municipal court fails to comply with the request of the commission authorized by division (A)(4) of section 4301.10 of the Revised Code, the commission, by certified mail, may notify the chief executive officer of the municipal corporation or the board of township trustees of the township of the failure and require the immediate cooperation of the responsible officers of the municipal corporation or township with the division of liquor control in the enforcement of those chapters and penal laws. Within thirty days after the notice is served, the commission shall determine whether the requirement has been complied with. If the commission determines that the requirement has not been complied with, it may issue an order to the superintendent to withhold the distributive share of the municipal corporation or township until further order of the commission. This action of the commission is reviewable within thirty days thereafter in the court of common pleas of Franklin county.

(G) All fees collected by the division of liquor control from the issuance or renewal of B-2a and S permits, and paid by B-2a and S permit holders who do not also hold A-2 permits, shall be deposited in the state treasury to the credit of the state liquor regulatory fund. Once during each fiscal year, an amount equal to fifty per cent of the fees collected shall be paid from the state liquor regulatory fund into the general revenue fund.

Sec. 4301.421. (A) For the purposes of section 307.696 of the Revised Code, to pay the expenses of administering the tax, and to pay any or all of the charge the board of elections makes against the county to hold the election on the question of levying the tax, or for those purposes and to provide revenues to the county for permanent improvements, the board of county commissioners may levy a tax on the sale of beer at a rate not to exceed sixteen cents per gallon, on the sale of cider at a rate not to exceed twenty-four cents per gallon, and on the sale of wine and mixed beverages at a rate not to exceed thirty-two cents per gallon. The tax shall be imposed on all beer, cider, wine, and mixed beverages sold for resale at retail in the county, and on all beer, cider, wine, and mixed beverages sold at retail in the county by the manufacturer, bottler, importer, or other person upon which the tax has not been paid. The tax shall not be levied on the sale of wine to be used for known sacramental purposes. The tax may be levied for any number of years not exceeding twenty. The tax shall be in addition to the taxes imposed by sections 4301.42, 4301.43, 4301.432, and 4305.01 of the Revised Code. The tax shall not be considered a cost in any computation required under rules of the liquor control commission regulating minimum prices or mark-ups.

Only one sale of the same article shall be used in computing, reporting, and paying the amount of tax due.

The tax shall be levied pursuant to a resolution of the county commissioners approved by a majority of the electors in the county voting on the question of levying the tax, which resolution shall specify the rate of the tax, the number of years the tax will be levied, and the purposes for which the tax is levied. The election may be held on the date of a general election or special election held not sooner than ninety days after the date the board certifies its resolution to the board of elections. If approved by the electors, the tax shall take effect on the first day of the month specified in the resolution but not sooner than the first day of the month that is at least sixty days after the certification of the election results by the board of elections. A copy of the resolution levying the tax and the certification of the board of elections shall be certified to the tax commissioner at least sixty days prior to the date on which the tax is to become effective.

A resolution under this section may be joined on the ballot as a single question with a resolution adopted under section 307.697 or 5743.024 of the Revised Code to levy a tax for the same purposes and for the purpose of paying the expenses of administering the tax. The form of the ballot in an election held pursuant to this section shall be as prescribed in section 307.697 of the Revised Code.

(B) The board of county commissioners of a county in which a tax is imposed under this section on ~~July 19, 1995~~, the effective date of the amendment of this section by H.B. 59 of the 130th general assembly may levy a tax for the purpose of section 307.673 of the Revised Code regardless of whether or not the cooperative agreement authorized under that section has been entered into prior to the day the resolution adopted under division (B)(1) or (2) of this section is adopted, ~~and~~ for the purpose of reimbursing a county for costs incurred in the construction of a sports facility pursuant to an agreement entered into by the county under section 307.696 of the Revised Code, or for the purpose of paying the costs of capital repairs of and improvements to a sports facility. The tax shall be levied and approved in one of the manners prescribed by division (B)(1) or (2) of this section.

(1) The tax may be levied pursuant to a resolution adopted by a majority of the members of the board of county commissioners not later than September 2, 1995. A board of county commissioners approving a tax under division (B)(1) of this section may approve a tax under division (D)(1) of section 307.697 or division (C)(1) of section 5743.024 of the Revised Code at the same time. Subject to the resolution being submitted to a referendum under sections 305.31 to 305.41 of the Revised Code, the resolution shall take effect immediately, but the tax levied pursuant to the resolution shall not be levied prior to the day following the last day ~~the~~ that any tax previously levied pursuant to this division ~~(A) of this section~~ may be levied.

(2) The tax may be levied pursuant to a resolution adopted by a majority of the members of the board of county commissioners not later than September ~~2, 1995~~ 1, 2015, and approved by a majority of the electors of the county voting on the question of levying the tax ~~at the next succeeding general election following July 19, 1995~~. The board of county commissioners shall certify a copy of the resolution to the board of elections immediately upon adopting a resolution under division (D)(2) of this section, ~~and the board of elections shall place the question of levying the tax on the ballot at that election~~. The election may be held on the date of a general or special election held not sooner than ninety days after the date the board certifies its resolution to the board of elections. The form of the ballot shall be as prescribed by division (C) of section 307.697 of the Revised

Code, except that the phrase "paying not more than one-half of the costs of providing a sports facility together with related redevelopment and economic development projects" shall be replaced by the phrase "paying the costs of constructing ~~or~~, renovating, improving, or repairing a sports facility and reimbursing a county for costs incurred by the county in the construction of a sports facility," and the phrase ", beginning" (here insert the earliest date the tax would take effect)" shall be appended after "years." A board of county commissioners submitting the question of a tax under division (B)(2) of this section may submit the question of a tax under division (D)(2) of section 307.697 or division (C)(2) of section 5743.024 of the Revised Code as a single question, and the form of the ballot shall include each of the proposed taxes.

If approved by a majority of electors voting on the question, the tax shall take effect on the day specified on the ballot, which shall not be earlier than the day following the last day ~~the~~ that any tax previously levied pursuant to ~~this division (A) of this section~~ may be levied.

The rate of a tax levied pursuant to division (B)(1) or (2) of this section shall not exceed the rate specified in division (A) of this section. A tax levied pursuant to division (B)(1) or (2) of this section may be levied for any number of years not exceeding twenty.

A board of county commissioners adopting a resolution under division (B)(1) or (2) of this section shall certify a copy of the resolution to the tax commissioner immediately upon adoption of the resolution.

(C) No tax shall be levied under division (A) of this section on or after September 23, 2008. This division does not apply to a tax levied under division (B) of this section, and does not prevent the collection of any tax levied under this section before ~~that date~~ September 23, 2008, so long as that tax remains effective.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of the Revised Code:

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces.

(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale.

(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine

containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, one dollar and eight cents per wine gallon for vermouth, and one dollar and forty-eight cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid.

(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of one dollar and twenty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period of July 1, ~~2014~~ 2013, through June 30, ~~2013~~ 2015, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

Sec. 4301.62. (A) As used in this section:

(1) "Chauffeured limousine" means a vehicle registered under section 4503.24 of the Revised Code.

(2) "Street," "highway," and "motor vehicle" have the same meanings as in section 4511.01 of the Revised Code.

(B) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) Except as provided in division (C)(1)(e) of this section, in an agency store;

(2) Except as provided in division (C) of this section, on the premises of the holder of any permit issued by the division of liquor control;

(3) In any other public place;

(4) Except as provided in division (D) or (E) of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;

(5) Except as provided in division (D) or (E) of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(C)(1) A person may have in the person's possession an opened container of any of the following:

(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or F-8 permit;

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;

(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in section 4303.201 of the Revised Code;

(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control commission;

(e) Spirituous liquor to be consumed for purposes of a tasting sample, as defined in section 4301.171 of the Revised Code.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this division, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

(3)(a) A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not

purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

(b) As used in division (C)(3)(a) of this section:

(i) "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.

(ii) "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in division (C)(3)(b)(i) of this section if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending an orchestral performance and the holder of the F-9 permit grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued.

As used in division (C)(5) of this section, "orchestral performance" has the same meaning as in division (C)(3)(b) of this section.

(6)(a) A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:

(i) The person is attending a racing event at the facility; and

(ii) The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility.

(b) As used in division (C)(6)(a) of this section:

(i) "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.

(ii) "Outdoor motorsports facility" means an outdoor racetrack to which

all of the following apply:

(I) It is two and four-tenths miles or more in length.

(II) It is located on two hundred acres or more of land.

(III) The primary business of the owner of the facility is the hosting and promoting of racing events.

(IV) The holder of a D-1, D-2, or D-3 permit is located on the property of the facility.

(D) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of the person, when all of the following apply:

(1) The person or guest is a passenger in the limousine.

(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located.

(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(E) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:

(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

(2) The opened bottle of wine that is resealed in accordance with division (E)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

Sec. 4303.181. (A) Permit D-5a may be issued either to the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests or is owned by a state institution of higher education as defined in section 3345.011 of the Revised Code or a private college or university, and that qualifies under the other requirements of this section, or to the owner or operator of a restaurant specified under this section, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold,

and to registered guests in their rooms, which may be sold by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21 of the Revised Code; and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. The premises of the hotel or motel shall include a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is affiliated with the hotel or motel and within or contiguous to the hotel or motel, and that serves food within the hotel or motel, but the principal business of the owner or operator of the hotel or motel shall be the accommodation of transient guests. In addition to the privileges authorized in this division, the holder of a D-5a permit may exercise the same privileges as the holder of a D-5 permit.

The owner or operator of a hotel, motel, or restaurant who qualified for and held a D-5a permit on August 4, 1976, may, if the owner or operator held another permit before holding a D-5a permit, either retain a D-5a permit or apply for the permit formerly held, and the division of liquor control shall issue the permit for which the owner or operator applies and formerly held, notwithstanding any quota.

A D-5a permit shall not be transferred to another location. No quota restriction shall be placed on the number of D-5a permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(B) Permit D-5b may be issued to the owner, operator, tenant, lessee, or occupant of an enclosed shopping center to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold; and to sell the same products in the same manner and amount not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5b permit may exercise the same privileges as a holder of a D-5 permit.

A D-5b permit shall not be transferred to another location.

One D-5b permit may be issued at an enclosed shopping center containing at least two hundred twenty-five thousand, but less than four hundred thousand, square feet of floor area.

Two D-5b permits may be issued at an enclosed shopping center containing at least four hundred thousand square feet of floor area. No more than one D-5b permit may be issued at an enclosed shopping center for each additional two hundred thousand square feet of floor area or fraction of that floor area, up to a maximum of five D-5b permits for each enclosed

shopping center. The number of D-5b permits that may be issued at an enclosed shopping center shall be determined by subtracting the number of D-3 and D-5 permits issued in the enclosed shopping center from the number of D-5b permits that otherwise may be issued at the enclosed shopping center under the formulas provided in this division. Except as provided in this section, no quota shall be placed on the number of D-5b permits that may be issued. Notwithstanding any quota provided in this section, the holder of any D-5b permit first issued in accordance with this section is entitled to its renewal in accordance with section 4303.271 of the Revised Code.

The holder of a D-5b permit issued before April 4, 1984, whose tenancy is terminated for a cause other than nonpayment of rent, may return the D-5b permit to the division of liquor control, and the division shall cancel that permit. Upon cancellation of that permit and upon the permit holder's payment of taxes, contributions, premiums, assessments, and other debts owing or accrued upon the date of cancellation to this state and its political subdivisions and a filing with the division of a certification of that payment, the division shall issue to that person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as that person requests. The division shall issue the D-5 permit, or the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, D-3, or D-5 permits currently issued in the municipal corporation or in the unincorporated area of the township where that person's proposed premises is located equals or exceeds the maximum number of such permits that can be issued in that municipal corporation or in the unincorporated area of that township under the population quota restrictions contained in section 4303.29 of the Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not be transferred to another location. If a D-5b permit is canceled under the provisions of this paragraph, the number of D-5b permits that may be issued at the enclosed shopping center for which the D-5b permit was issued, under the formula provided in this division, shall be reduced by one if the enclosed shopping center was entitled to more than one D-5b permit under the formula.

The fee for this permit is two thousand three hundred forty-four dollars.

(C) Permit D-5c may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that qualifies under the other requirements of this section to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on

the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5c permit may exercise the same privileges as the holder of a D-5 permit.

To qualify for a D-5c permit, the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, shall have operated the restaurant at the proposed premises for not less than twenty-four consecutive months immediately preceding the filing of the application for the permit, have applied for a D-5 permit no later than December 31, 1988, and appear on the division's quota waiting list for not less than six months immediately preceding the filing of the application for the permit. In addition to these requirements, the proposed D-5c permit premises shall be located within a municipal corporation and further within an election precinct that, at the time of the application, has no more than twenty-five per cent of its total land area zoned for residential use.

A D-5c permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued.

Any person who has held a D-5c permit for at least two years may apply for a D-5 permit, and the division of liquor control shall issue the D-5 permit notwithstanding the quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission.

The fee for this permit is one thousand five hundred sixty-three dollars.

(D) Permit D-5d may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located at an airport operated by a board of county commissioners pursuant to section 307.20 of the Revised Code, at an airport operated by a port authority pursuant to Chapter 4582. of the Revised Code, or at an airport operated by a regional airport authority pursuant to Chapter 308. of the Revised Code. The holder of a D-5d permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5d permit may exercise the same privileges as the holder of a D-5 permit.

A D-5d permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(E) Permit D-5e may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, or that is a charitable organization under any chapter of the Revised Code, and that owns or operates a riverboat that meets all of the following:

- (1) Is permanently docked at one location;
- (2) Is designated as an historical riverboat by the Ohio historical society;
- (3) Contains not less than fifteen hundred square feet of floor area;
- (4) Has a seating capacity of fifty or more persons.

The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued. The population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

The fee for this permit is one thousand two hundred nineteen dollars.

(F) Permit D-5f may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following:

- (1) It contains not less than twenty-five hundred square feet of floor area.
- (2) It is located on or in, or immediately adjacent to, the shoreline of, a navigable river.
- (3) It provides docking space for twenty-five boats.
- (4) It provides entertainment and recreation, provided that not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration.

In addition, each application for a D-5f permit shall be accompanied by a certification from the local legislative authority that the issuance of the D-5f permit is not inconsistent with that political subdivision's comprehensive development plan or other economic development goal as officially established by the local legislative authority.

The holder of a D-5f permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5f permit shall not be transferred to another location.

The division of liquor control shall not issue a D-5f permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

A fee for this permit is two thousand three hundred forty-four dollars.

As used in this division, "navigable river" means a river that is also a "navigable water" as defined in the "Federal Power Act," 94 Stat. 770 (1980), 16 U.S.C. 796.

(G) Permit D-5g may be issued to a nonprofit corporation that is either the owner or the operator of a national professional sports museum. The holder of a D-5g permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5g permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after two-thirty a.m. A D-5g permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5g permits that may be issued. The fee for this permit is one thousand eight hundred seventy-five dollars.

(H)(1) Permit D-5h may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that owns or operates any of the following:

(a) A fine arts museum, provided that the nonprofit organization has no less than one thousand five hundred bona fide members possessing full membership privileges;

(b) A community arts center. As used in division (H)(1)(b) of this section, "community arts center" means a facility that provides arts programming to the community in more than one arts discipline, including, but not limited to, exhibits of works of art and performances by both professional and amateur artists.

(c) A community theater, provided that the nonprofit organization is a member of the Ohio arts council and the American community theatre association and has been in existence for not less than ten years. As used in division (H)(1)(c) of this section, "community theater" means a facility that contains at least one hundred fifty seats and has a primary function of presenting live theatrical performances and providing recreational opportunities to the community.

(2) The holder of a D-5h permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5h permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5h permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5h permits that may be issued.

(3) The fee for a D-5h permit is one thousand eight hundred seventy-five dollars.

(I) Permit D-5i may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following requirements:

(1) It is located in a municipal corporation or a township with a population of one hundred thousand or less.

(2) It has inside seating capacity for at least one hundred forty persons.

(3) It has at least four thousand square feet of floor area.

(4) It offers full-course meals, appetizers, and sandwiches.

(5) Its receipts from beer and liquor sales, excluding wine sales, do not exceed twenty-five per cent of its total gross receipts.

(6) It has at least one of the following characteristics:

(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.

(b) It is located on property that is owned or leased by the state or a state agency, and its owner or operator has authorization from the state or the state agency that owns or leases the property to obtain a D-5i permit.

The holder of a D-5i permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5i permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after two-thirty a.m. In addition to the privileges authorized in this division, the holder of a D-5i permit may exercise the same privileges as the holder of a D-5 permit.

A D-5i permit shall not be transferred to another location. The division of liquor control shall not renew a D-5i permit unless the retail food establishment or food service operation for which it is issued continues to meet the requirements described in divisions (I)(1) to (6) of this section. No quota restrictions shall be placed on the number of D-5i permits that may be

issued. The fee for the D-5i permit is two thousand three hundred forty-four dollars.

(J) Permit D-5j may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5j permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

The D-5j permit shall be issued only within a community entertainment district that is designated under section 4301.80 of the Revised Code and that meets one of the following qualifications:

(1) It is located in a municipal corporation with a population of at least one hundred thousand.

(2) It is located in a municipal corporation with a population of at least twenty thousand, and either of the following applies:

(a) It contains an amusement park the rides of which have been issued a permit by the department of agriculture under Chapter 1711. of the Revised Code.

(b) Not less than fifty million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(3) It is located in a township with a population of at least forty thousand.

(4) It is located in a township with a population of at least twenty thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the township.

(5) It is located in a municipal corporation with a population between ten thousand and twenty thousand, and both of the following apply:

(a) The municipal corporation was incorporated as a village prior to calendar year ~~1840~~ 1860 and currently has a historic downtown business district.

(b) The municipal corporation is located in the same county as another municipal corporation with at least one community entertainment district.

(6) It is located in a municipal corporation with a population of at least ten thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area

located in the municipal corporation.

(7) It is located in a municipal corporation with a population of at least five thousand, and not less than one hundred million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

The location of a D-5j permit may be transferred only within the geographic boundaries of the community entertainment district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

Not more than one D-5j permit shall be issued within each community entertainment district for each five acres of land located within the district. Not more than fifteen D-5j permits may be issued within a single community entertainment district. Except as otherwise provided in division (J)(4) of this section, no quota restrictions shall be placed upon the number of D-5j permits that may be issued.

The fee for a D-5j permit is two thousand three hundred forty-four dollars.

(K)(1) Permit D-5k may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that is the owner or operator of a botanical garden recognized by the American association of botanical gardens and arboreta, and that has not less than twenty-five hundred bona fide members.

(2) The holder of a D-5k permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, on the premises where sold.

(3) The holder of a D-5k permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m.

(4) A D-5k permit shall not be transferred to another location.

(5) No quota restrictions shall be placed on the number of D-5k permits that may be issued.

(6) The fee for the D-5k permit is one thousand eight hundred seventy-five dollars.

(L)(1) Permit D-5l may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5l

permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(2) The D-5l permit shall be issued only to a premises to which all of the following apply:

(a) The premises has gross annual receipts from the sale of food and meals that constitute not less than seventy-five per cent of its total gross annual receipts.

(b) The premises is located within a revitalization district that is designated under section 4301.81 of the Revised Code.

(c) The premises is located in a municipal corporation or township in which the number of D-5 permits issued equals or exceeds the number of those permits that may be issued in that municipal corporation or township under section 4303.29 of the Revised Code.

(d) The premises meets any of the following qualifications:

(i) It is located in a county with a population of one hundred twenty-five thousand or less according to the population estimates certified by the development services agency for calendar year 2006.

(ii) It is located in the municipal corporation that has the largest population in a county when the county has a population between two hundred fifteen thousand and two hundred twenty-five thousand according to the population estimates certified by the development services agency for calendar year 2006. Division (L)(2)(d)(ii) of this section applies only to a municipal corporation that is wholly located in a county.

(iii) It is located in the municipal corporation that has the largest population in a county when the county has a population between one hundred forty thousand and one hundred forty-one thousand according to the population estimates certified by the development services agency for calendar year 2006. Division (L)(2)(d)(iii) of this section applies only to a municipal corporation that is wholly located in a county.

(3) The location of a D-5l permit may be transferred only within the geographic boundaries of the revitalization district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

(4) Not more than one D-5l permit shall be issued within each revitalization district for each five acres of land located within the district. Not more than fifteen D-5l permits may be issued within a single revitalization district. Except as otherwise provided in division (L)(4) of this section, no quota restrictions shall be placed upon the number of D-5l permits that may be issued.

(5) No D-5l permit shall be issued to an adult entertainment

establishment as defined in section 2907.39 of the Revised Code.

(6) The fee for a D-5l permit is two thousand three hundred forty-four dollars.

(M) Permit D-5m may be issued to either the owner or the operator of a retail food establishment or food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located in, or affiliated with, a center for the preservation of wild animals as defined in section 4301.404 of the Revised Code, to sell beer and any intoxicating liquor at retail, only by the glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5m permit may exercise the same privileges as the holder of a D-5 permit.

A D-5m permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5m permits that may be issued. The fee for a permit D-5m is two thousand three hundred forty-four dollars.

(N) Permit D-5n shall be issued to either a casino operator or a casino management company licensed under Chapter 3772. of the Revised Code that operates a casino facility under that chapter, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5n permit may exercise the same privileges as the holder of a D-5 permit. A D-5n permit shall not be transferred to another location. Only one D-5n permit may be issued per casino facility and not more than four D-5n permits shall be issued in this state. The fee for a permit D-5n shall be twenty thousand dollars. The holder of a D-5n permit may conduct casino gaming on the permit premises notwithstanding any provision of the Revised Code or Administrative Code.

(O) Permit D-5o may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located within a casino facility for which a D-5n permit has been issued. The holder of a D-5o permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products

in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5o permit may exercise the same privileges as the holder of a D-5 permit. A D-5o permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued. The fee for this permit is two thousand three hundred forty-four dollars.

Sec. 4303.29. (A) No permit, other than an H permit, shall be issued to a firm or partnership unless all the members of the firm or partnership are citizens of the United States. No permit, other than an H permit, shall be issued to an individual who is not a citizen of the United States. No permit, other than an E or H permit, shall be issued to any corporation organized under the laws of any country, territory, or state other than this state until it has furnished the division of liquor control with evidence that it has complied with the laws of this state relating to the transaction of business in this state.

The division may refuse to issue any permit to or refuse to renew any permit of any person convicted of any felony that is reasonably related to the person's fitness to operate a liquor permit business in this state. No holder of a permit shall sell, assign, transfer, or pledge the permit without the written consent of the division.

(B)(1) No D-3 permit shall be issued to any club unless the club has been continuously engaged in the activity specified in section 4303.15 of the Revised Code, as a qualification for that class of permit, for two years at the time the permit is issued.

(2)(a) Subject to division (B)(2)(b) of this section, upon application by properly qualified persons, one C-1 and C-2 permit shall be issued for each one thousand population or part of that population, and one D-1 and D-2 permit shall be issued for each two thousand population or part of that population, in each municipal corporation and in the unincorporated area of each township.

Subject to division (B)(2)(b) of this section, not more than one D-3, D-4, or D-5 permit shall be issued for each two thousand population or part of that population in any municipal corporation and in the unincorporated area of any township, except that, in any city of a population of fifty-five thousand or more, one D-3 permit may be issued for each fifteen hundred population or part of that population.

(b)(i) Division (B)(2)(a) of this section does not prohibit the transfer of location or the transfer of ownership and location of a C-1, C-2, D-1, D-2, D-3, or D-5 permit from a municipal corporation or the unincorporated area

of a township to an economic development project located in another municipal corporation or the unincorporated area of another township in which no additional permits of that class may be issued to the applicant under division (B)(2)(a) of this section. However, the transfer may occur only if the applicant notifies the municipal corporation or township to which the location of the permit will be transferred regarding the transfer and the municipal corporation or township acknowledges in writing to the division of liquor control that the transfer will be to an economic development project. The municipal corporation or township shall submit the acknowledgment at the time the application for the transfer is filed with the division.

The acknowledgment by the municipal corporation or township does not prohibit it from requesting a hearing under section 4303.26 of the Revised Code. The applicant is eligible to apply for and receive the transfer of location of the permit under division (B)(2)(b) of this section if permits of that class that may be issued under division (B)(2)(a) of this section in the applicable municipal corporation or unincorporated area of the township have already been issued or if the number of applications filed for permits of that class in that municipal corporation or the unincorporated area of that township exceed the number of permits of that class that may be issued there under division (B)(2)(a) of this section.

A permit transferred under division (B)(2)(b) of this section may be subsequently transferred to a different owner at the same location, or to the same owner or a different owner at a different location in the same municipal corporation or in the unincorporated area of the same township.

(ii) Factors that may be used to determine the designation of an economic development project include, but are not limited to, architectural certification of the plans and the cost of the project, the number of jobs that will be created by the project, projected earnings of the project, projected tax revenues for the political subdivisions in which the project will be located, and the amount of financial investment in the project. The superintendent of liquor control shall determine whether the existing or proposed business that is seeking a permit described in division (B)(2)(b) of this section qualifies as an economic development project and, if the superintendent determines that it so qualifies, shall designate the business as an economic development project.

(3) Nothing in this section shall be construed to restrict the issuance of a permit to a municipal corporation for use at a municipally owned airport at which commercial airline companies operate regularly scheduled flights on which space is available to the public. A municipal corporation applying for

a permit for such a municipally owned airport is exempt, in regard to that application, from all of the following:

- (a) The population quota restrictions contained in this section;
- (b) The population quota restrictions contained in any rule of the liquor control commission;

(c) Section 4303.31 of the Revised Code.

(4) Nothing in this section shall be construed to prohibit the issuance of a D permit to the board of trustees of a soldiers' memorial for a premises located at a soldiers' memorial established pursuant to Chapter 345. of the Revised Code. An application for a D permit by the board for those premises is exempt from the population restrictions contained in this section and from the population quota restrictions contained in any rule of the liquor control commission. The location of a D permit issued to the board for those premises shall not be transferred. A board of trustees of a soldiers' memorial applying for a D-1, D-2, D-3, D-4, or D-5 permit for the soldiers' memorial is subject to section 4303.31 of the Revised Code.

(5) Nothing in this section shall be construed to restrict the issuance of a permit for a premises located at a golf course owned by a municipal corporation, township, or county, owned by a park district created under Chapter 1545. of the Revised Code, or owned by the state. The location of such a permit issued on or after September 26, 1984, for a premises located at such a golf course shall not be transferred. Any application for such a permit is exempt from all of the following:

- (a) The population quota restrictions contained in this section;
- (b) The population quota restrictions contained in any rule of the liquor control commission;

(c) Section 4303.31 of the Revised Code.

(6) As used in division (B)(6) of this section, "fair" has the same meaning as in section 991.01 of the Revised Code; "state fairgrounds" means the property that is held by the state for the purpose of conducting fairs, expositions, and exhibits and that is maintained and managed by the Ohio expositions commission under section 991.03 of the Revised Code; "capitol square" has the same meaning as in section 105.41 of the Revised Code; and "Ohio judicial center" means the site of the Ohio supreme court and its grounds.

Nothing in this section shall be construed to restrict the issuance of one or more D permits to one or more applicants for all or a part of the state fairgrounds, capitol square, or the Ohio judicial center. An application for a D permit for the state fairgrounds, capitol square, or the Ohio judicial center is exempt from the population quota restrictions contained in this section

and from the population quota restrictions contained in any rule of the liquor control commission. The location of a D permit issued for the state fairgrounds, capitol square, or the Ohio judicial center shall not be transferred. An applicant for a D-1, D-2, D-3, or D-5 permit for the state fairgrounds is not subject to section 4303.31 of the Revised Code.

Pursuant to section 1711.09 of the Revised Code, the holder of a D permit issued for the state fairgrounds shall not deal in spirituous liquor at the state fairgrounds during, or for one week before or for three days after, any fair held at the state fairgrounds.

(7) Nothing in this section shall be construed to prohibit the issuance of a D permit for a premises located at a zoological park at which sales have been approved in an election held under former section 4301.356 of the Revised Code. An application for a D permit for such a premises is exempt from the population restrictions contained in this section, from the population quota restrictions contained in any rule of the liquor control commission, and from section 4303.31 of the Revised Code. The location of a D permit issued for a premises at such a zoological park shall not be transferred, and no quota or other restrictions shall be placed on the number of D permits that may be issued for a premises at such a zoological park.

(8) As used in division (B)(8) of this section, "park district" means a park district that is created under Chapter 1545. of the Revised Code consisting of not less than twenty-two thousand acres of land, a portion of which is adjacent to Lake Erie.

Nothing in this section shall be construed to restrict the issuance of a D permit for a premises located in a park district. An application for a D permit for such a premises is exempt from the population quota restrictions contained in this section and in any rule of the liquor control commission. The location of a D permit issued for a premises in a park district shall not be transferred. An applicant for a D-1, D-2, D-3, or D-5 permit for a premises located in a park district is not subject to section 4303.31 of the Revised Code.

(C)(1) No D-3, D-4, D-5, or D-5a permit shall be issued in any election precinct in any municipal corporation or in any election precinct in the unincorporated area of any township, in which at the November, 1933, election a majority of the electors voting thereon in the municipal corporation or in the unincorporated area of the township voted against the repeal of Section 9 of Article XV, Ohio Constitution, unless the sale of spirituous liquor by the glass is authorized by a majority vote of the electors voting on the question in the precinct at an election held pursuant to this section or by a majority vote of the electors of the precinct voting on

question (C) at a special local option election held in the precinct pursuant to section 4301.35 of the Revised Code. Upon the request of an elector, the board of elections of the county that encompasses the precinct shall furnish the elector with a copy of the instructions prepared by the secretary of state under division (P) of section 3501.05 of the Revised Code and, within fifteen days after the request, a certificate of the number of signatures required for a valid petition under this section.

Upon the petition of thirty-five per cent of the total number of voters voting in any such precinct for the office of governor at the preceding general election, filed with the board of elections of the county in which such precinct is located not later than ninety days before a general election, the board shall prepare ballots and hold an election at such general election upon the question of allowing spirituous liquor to be sold by the glass in such precinct. The ballots shall be approved in form by the secretary of state. The results of the election shall be certified by the board to the secretary of state, who shall certify the results to the division.

(2) No holder of a class D-3 permit issued for a boat or vessel shall sell spirituous liquor in any precinct, in which the election provided for in this section may be held, unless the sale of spirituous liquor by the drink has been authorized by vote of the electors as provided in this section or in section 4301.35 of the Revised Code.

(D) Any holder of a C or D permit whose permit premises were purchased in 1986 or 1987 by the state or any state agency for highway purposes shall be issued the same permit at another location notwithstanding any quota restrictions contained in this chapter or in any rule of the liquor control commission.

Sec. 4305.131. (A) If any permit holder fails to pay the taxes levied by section 4301.42, 4301.43, 4301.432, or 4305.01 of the Revised Code in the manner prescribed by section 4303.33 of the Revised Code, or by section 4301.421 or 4301.424 of the Revised Code in the manner prescribed in section 4301.422 of the Revised Code, and by the rules of the tax commissioner, the commissioner may make an assessment against the permit holder based upon any information in the commissioner's possession.

No assessment shall be made against any permit holder for any taxes imposed by section 4301.42, 4301.421, 4301.424, 4301.43, 4301.432, or 4305.01 of the Revised Code more than three years after the last day of the calendar month in which the sale was made or more than three years after the return for that period is filed, whichever is later. This section does not bar an assessment against any permit holder or registrant as provided in section 4303.331 of the Revised Code who fails to file a return as required

by section 4301.422 or 4303.33 of the Revised Code, or who files a fraudulent return.

A penalty of up to thirty per cent may be added to the amount of every assessment made under this section. The commissioner may adopt rules providing for the imposition and remission of penalties added to assessments made under this section.

The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the permit holder's place of business is located or the county in which the party assessed resides. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state beer and liquor sales taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment, except as otherwise provided in this chapter and Chapters 4301. and 4307. of the Revised Code.

~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by

section 5703.47 of the Revised Code from the day the commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected under this section shall be considered as revenue arising from the taxes imposed by sections 4301.42, 4301.421, 4301.424, 4301.43, 4301.432, and 4305.01 of the Revised Code.

Sec. 4501.01. As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided:

(A) "Vehicles" means everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions.

(B) "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(C) "Agricultural tractor" and "traction engine" mean any self-propelling vehicle that is designed or used for drawing other vehicles or wheeled machinery, but has no provisions for carrying loads independently of such other vehicles, and that is used principally for agricultural purposes.

(D) "Commercial tractor," except as defined in division (C) of this section, means any motor vehicle that has motive power and either is designed or used for drawing other motor vehicles, or is designed or used

for drawing another motor vehicle while carrying a portion of the other motor vehicle or its load, or both.

(E) "Passenger car" means any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than fifteen persons in a ridesharing arrangement.

(F) "Collector's vehicle" means any motor vehicle or agricultural tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation. "Licensed collector's vehicle" means a collector's vehicle, other than an agricultural tractor or traction engine, that displays current, valid license tags issued under section 4503.45 of the Revised Code, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.

(G) "Historical motor vehicle" means any motor vehicle that is over twenty-five years old and is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but that in no event is used for general transportation.

(H) "Noncommercial motor vehicle" means any motor vehicle, including a farm truck as defined in section 4503.04 of the Revised Code, that is designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.

(I) "Bus" means any motor vehicle that has motor power and is designed and used for carrying more than nine passengers, except any motor vehicle that is designed and used for carrying not more than fifteen passengers in a ridesharing arrangement.

(J) "Commercial car" or "truck" means any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor.

(K) "Bicycle" means every device, other than a device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which a person may ride, and that has two or more wheels, any of which is more than fourteen inches in diameter.

(L) "Motorized bicycle" means any vehicle that either has two tandem wheels or one wheel in the front and two wheels in the rear, that is capable of being pedaled, and that is equipped with a helper motor of not more than

fifty cubic centimeters piston displacement that produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

(M) "Trailer" means any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle that is formed by or operated as a combination of a semitrailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed greater than twenty-five miles per hour, and a vehicle that is designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour. "Trailer" does not include a manufactured home or travel trailer.

(N) "Noncommercial trailer" means any trailer, except a travel trailer or trailer that is used to transport a boat as described in division (B) of this section, but, where applicable, includes a vehicle that is used to transport a boat as described in division (M) of this section, that has a gross weight of no more than ten thousand pounds, and that is used exclusively for purposes other than engaging in business for a profit, such as the transportation of personal items for personal or recreational purposes.

(O) "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of section 3781.06 of the Revised Code.

(P) "Semitrailer" means any vehicle of the trailer type that does not have motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of a semitrailer into a trailer.

(Q) "Recreational vehicle" means a vehicular portable structure that meets all of the following conditions:

- (1) It is designed for the sole purpose of recreational travel.
- (2) It is not used for the purpose of engaging in business for profit.
- (3) It is not used for the purpose of engaging in intrastate commerce.
- (4) It is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended.
- (5) It is not regulated by the public utilities commission pursuant to Chapter 4905., 4921., or 4923. of the Revised Code.
- (6) It is classed as one of the following:
 - (a) "Travel trailer" means a nonself-propelled recreational vehicle that does not exceed an overall length of thirty-five feet, exclusive of bumper and tongue or coupling, and contains less than three hundred twenty square feet of space when erected on site. "Travel trailer" includes a tent-type fold-out camping trailer as defined in section 4517.01 of the Revised Code.
 - (b) "Motor home" means a self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.
 - (c) "Truck camper" means a nonself-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.
 - (d) "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.
 - (e) "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.
- (R) "Pneumatic tires" means tires of rubber and fabric or tires of similar material, that are inflated with air.
- (S) "Solid tires" means tires of rubber or similar elastic material that are not dependent upon confined air for support of the load.
- (T) "Solid tire vehicle" means any vehicle that is equipped with two or more solid tires.
- (U) "Farm machinery" means all machines and tools that are used in the

production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm, agricultural tractors, threshing machinery, hay-baling machinery, corn shellers, hammermills, and machinery used in the production of horticultural, agricultural, and vegetable products.

(V) "Owner" includes any person or firm, other than a manufacturer or dealer, that has title to a motor vehicle, except that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" includes in addition manufacturers and dealers.

(W) "Manufacturer" and "dealer" include all persons and firms that are regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles, at an established place of business that is used exclusively for the purpose of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. A place of business that is used for manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles shall be deemed to be used exclusively for those purposes even though snowmobiles or all-purpose vehicles are sold or displayed for sale thereat, even though farm machinery is sold or displayed for sale thereat, or even though repair, accessory, gasoline and oil, storage, parts, service, or paint departments are maintained thereat, or, in any county having a population of less than seventy-five thousand at the last federal census, even though a department in a place of business is used to dismantle, salvage, or rebuild motor vehicles by means of used parts, if such departments are operated for the purpose of furthering and assisting in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. Places of business or departments in a place of business used to dismantle, salvage, or rebuild motor vehicles by means of using used parts are not considered as being maintained for the purpose of assisting or furthering the manufacturing, selling, displaying, and offering for sale or dealing in motor vehicles.

(X) "Operator" includes any person who drives or operates a motor vehicle upon the public highways.

(Y) "Chauffeur" means any operator who operates a motor vehicle, other than a taxicab, as an employee for hire; or any operator whether or not the owner of a motor vehicle, other than a taxicab, who operates such vehicle for transporting, for gain, compensation, or profit, either persons or property owned by another. Any operator of a motor vehicle who is voluntarily involved in a ridesharing arrangement is not considered an employee for hire or operating such vehicle for gain, compensation, or

profit.

(Z) "State" includes the territories and federal districts of the United States, and the provinces of Canada.

(AA) "Public roads and highways" for vehicles includes all public thoroughfares, bridges, and culverts.

(BB) "Manufacturer's number" means the manufacturer's original serial number that is affixed to or imprinted upon the chassis or other part of the motor vehicle.

(CC) "Motor number" means the manufacturer's original number that is affixed to or imprinted upon the engine or motor of the vehicle.

(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications:

(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds;

(2) Is a power unit having three or more axles, regardless of the gross vehicle weight;

(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds.

"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this state, or any political subdivisions thereof.

(GG) "Chartered party" means a group of persons who contract as a group to acquire the exclusive use of a passenger-carrying motor vehicle at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully

on file with the United States department of transportation, for the purpose of group travel to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

(HH) "International registration plan" means a reciprocal agreement of member jurisdictions that is endorsed by the American association of motor vehicle administrators, and that promotes and encourages the fullest possible use of the highway system by authorizing apportioned registration of fleets of vehicles and recognizing registration of vehicles apportioned in member jurisdictions.

(II) "Restricted plate" means a license plate that has a restriction of time, geographic area, mileage, or commodity, and includes license plates issued to farm trucks under division (J) of section 4503.04 of the Revised Code.

(JJ) "Gross vehicle weight," with regard to any commercial car, trailer, semitrailer, or bus that is taxed at the rates established under section 4503.042 or 4503.65 of the Revised Code, means the unladen weight of the vehicle fully equipped plus the maximum weight of the load to be carried on the vehicle.

(KK) "Combined gross vehicle weight" with regard to any combination of a commercial car, trailer, and semitrailer, that is taxed at the rates established under section 4503.042 or 4503.65 of the Revised Code, means the total unladen weight of the combination of vehicles fully equipped plus the maximum weight of the load to be carried on that combination of vehicles.

(LL) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire ~~on an hourly basis~~ pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an agreement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine ~~at a fixed rate per hour or trip~~. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(MM) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(NN) "Acquired situs," with respect to a manufactured home or a mobile home, means to become located in this state by the placement of the home on real property, but does not include the placement of a manufactured home or a mobile home in the inventory of a new motor vehicle dealer or the inventory of a manufacturer, remanufacturer, or distributor of

manufactured or mobile homes.

(OO) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

(PP) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

(QQ) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

(RR) "Financial transaction device" has the same meaning as in division (A) of section 113.40 of the Revised Code.

(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section.

(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(UU) "Limited driving privileges" means the privilege to operate a motor vehicle that a court grants under section 4510.021 of the Revised Code to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended.

(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities. "Utility vehicle" includes a vehicle with a maximum attainable speed of twenty miles per hour or less that is used exclusively within the boundaries of state parks by state park employees or volunteers for the operation or maintenance of state park facilities.

Sec. 4501.21. (A) There is hereby created in the state treasury the license plate contribution fund. The fund shall consist of all contributions paid by motor vehicle registrants and collected by the registrar of motor vehicles pursuant to sections 4503.491, 4503.493, 4503.494, 4503.496, 4503.498, 4503.499, 4503.50, 4503.501, 4503.502, 4503.505, 4503.51, 4503.522, 4503.523, 4503.524, 4503.526, 4503.531, 4503.545, 4503.55,

4503.551, 4503.552, 4503.553, 4503.561, 4503.562, 4503.564, 4503.591, 4503.67, 4503.68, 4503.69, 4503.701, 4503.71, 4503.711, 4503.712, 4503.713, 4503.72, 4503.73, 4503.732, 4503.74, 4503.75, 4503.751, 4503.85, 4503.89, 4503.92, and 4503.94 of the Revised Code.

(B) The registrar shall pay the contributions the registrar collects in the fund as follows:

The registrar shall pay the contributions received pursuant to section 4503.491 of the Revised Code to the breast cancer fund of Ohio, which shall use that money only to pay for programs that provide assistance and education to Ohio breast cancer patients and that improve access for such patients to quality health care and clinical trials and shall not use any of the money for abortion information, counseling, services, or other abortion-related activities.

The registrar shall pay the contributions received pursuant to section 4503.493 of the Revised Code to the autism society of Ohio, which shall use the contributions for programs and autism awareness efforts throughout the state.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.494 of the Revised Code to the national multiple sclerosis society for distribution in equal amounts to the northwestern Ohio, Ohio buckeye, and Ohio valley chapters of the national multiple sclerosis society. These chapters shall use the money they receive under this section to assist in paying the expenses they incur in providing services directly to their clients.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.496 of the Revised Code to the Ohio sickle cell and health association, which shall use the contributions to help support educational, clinical, and social support services for adults who have sickle cell disease.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.498 of the Revised Code to special olympics Ohio, inc., which shall use the contributions for its programs, charitable efforts, and other activities.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.499 of the Revised Code to the children's glioma cancer foundation, which shall use the contributions for its research and other programs.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.50 of the Revised Code to the future farmers of America foundation, which shall deposit the contributions into its general account to be used for educational and scholarship purposes of the future farmers of

America foundation.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.501 of the Revised Code to the 4-H youth development program of the Ohio state university extension program, which shall use those contributions to pay the expenses it incurs in conducting its educational activities.

The registrar shall pay the contributions received pursuant to section 4503.502 of the Revised Code to the Ohio cattlemen's foundation, which shall use those contributions for scholarships and other educational activities.

The registrar shall pay the contributions received pursuant to section 4503.505 of the Revised Code to the organization Ohio region phi theta kappa, which shall use those contributions for scholarships for students who are members of that organization.

The registrar shall pay each contribution the registrar receives pursuant to section 4503.51 of the Revised Code to the university or college whose name or marking or design appears on collegiate license plates that are issued to a person under that section. A university or college that receives contributions from the fund shall deposit the contributions into its general scholarship fund.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.522 of the Revised Code to the "friends of Perry's victory and international peace memorial, incorporated," a nonprofit corporation organized under the laws of this state, to assist that organization in paying the expenses it incurs in sponsoring or holding charitable, educational, and cultural events at the monument.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.523 of the Revised Code to the fairport lights foundation, which shall use the money to pay for the restoration, maintenance, and preservation of the lighthouses of fairport harbor.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.524 of the Revised Code to the Massillon tiger football booster club, which shall use the contributions only to promote and support the football team of Washington high school of the Massillon city school district.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.526 of the Revised Code to the Ohio district Kiwanis foundation of the Ohio district of Kiwanis international, which shall use the money it receives under this section to pay the costs of its educational and humanitarian activities.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.531 of the Revised Code to the thank you foundation, incorporated, a nonprofit corporation organized under the laws of this state, to assist that organization in paying for the charitable activities and programs it sponsors in support of United States military personnel, veterans, and their families.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.55 of the Revised Code to the pro football hall of fame, which shall deposit the contributions into a special bank account that it establishes and which shall be separate and distinct from any other account the pro football hall of fame maintains, to be used exclusively for the purpose of promoting the pro football hall of fame as a travel destination.

The registrar shall pay the contributions that are paid to the registrar pursuant to section 4503.545 of the Revised Code to the national rifle association foundation, which shall use the money to pay the costs of the educational activities and programs the foundation holds or sponsors in this state.

The registrar shall pay to the Ohio pet fund the contributions the registrar receives pursuant to section 4503.551 of the Revised Code and any other money from any other source, including donations, gifts, and grants, that is designated by the source to be paid to the Ohio pet fund. The Ohio pet fund shall use the moneys it receives under this section to support programs for the sterilization of dogs and cats and for educational programs concerning the proper veterinary care of those animals, and for expenses of the Ohio pet fund that are reasonably necessary for it to obtain and maintain its tax-exempt status and to perform its duties.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.552 of the Revised Code to the rock and roll hall of fame and museum, incorporated.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.553 of the Revised Code to the Ohio coalition for animals, incorporated, a nonprofit corporation. Except as provided in division (B) of this section, the coalition shall distribute the money to its members, and the members shall use the money only to pay for educational, charitable, and other programs of each coalition member that provide care for unwanted, abused, and neglected horses. The Ohio coalition for animals may use a portion of the money to pay for reasonable marketing costs incurred in the design and promotion of the license plate and for administrative costs incurred in the disbursement and management of funds received under this section.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.561 of the Revised Code to the state of Ohio chapter of ducks unlimited, inc., which shall deposit the contributions into a special bank account that it establishes. The special bank account shall be separate and distinct from any other account the state of Ohio chapter of ducks unlimited, inc., maintains and shall be used exclusively for the purpose of protecting, enhancing, restoring, and managing wetlands and conserving wildlife habitat. The state of Ohio chapter of ducks unlimited, inc., annually shall notify the registrar in writing of the name, address, and account to which such payments are to be made.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.562 of the Revised Code to the Mahoning river consortium, which shall use the money to pay the expenses it incurs in restoring and maintaining the Mahoning river watershed.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.564 of the Revised Code to Antioch college for the use of the Glen Helen ecology institute to pay expenses related to the Glen Helen nature preserve.

The registrar shall pay to a sports commission created pursuant to section 4503.591 of the Revised Code each contribution the registrar receives under that section that an applicant pays to obtain license plates that bear the logo of a professional sports team located in the county of that sports commission and that is participating in the license plate program pursuant to division (E) of that section, irrespective of the county of residence of an applicant.

The registrar shall pay to a community charity each contribution the registrar receives under section 4503.591 of the Revised Code that an applicant pays to obtain license plates that bear the logo of a professional sports team that is participating in the license plate program pursuant to division (G) of that section.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.67 of the Revised Code to the Dan Beard council of the boy scouts of America. The council shall distribute all contributions in an equitable manner throughout the state to regional councils of the boy scouts.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.68 of the Revised Code to the great river council of the girl scouts of the United States of America. The council shall distribute all contributions in an equitable manner throughout the state to regional councils of the girl scouts.

The registrar shall pay the contributions the registrar receives pursuant

to section 4503.69 of the Revised Code to the Dan Beard council of the boy scouts of America. The council shall distribute all contributions in an equitable manner throughout the state to regional councils of the boy scouts.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.701 of the Revised Code to the Prince Hall grand lodge of free and accepted masons of Ohio, which shall use the contributions for scholarship purposes.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.71 of the Revised Code to the fraternal order of police of Ohio, incorporated, which shall deposit the fees into its general account to be used for purposes of the fraternal order of police of Ohio, incorporated.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.711 of the Revised Code to the fraternal order of police of Ohio, incorporated, which shall deposit the contributions into an account that it creates to be used for the purpose of advancing and protecting the law enforcement profession, promoting improved law enforcement methods, and teaching respect for law and order.

The registrar shall pay the contributions received pursuant to section 4503.712 of the Revised Code to Ohio concerns of police survivors, which shall use those contributions to provide whatever assistance may be appropriate to the families of Ohio law enforcement officers who are killed in the line of duty.

The registrar shall pay the contributions received pursuant to section 4503.713 of the Revised Code to the greater Cleveland peace officers memorial society, which shall use those contributions to honor law enforcement officers who have died in the line of duty and support its charitable purposes.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.72 of the Revised Code to the organization known on March 31, 2003, as the Ohio CASA/GAL association, a private, nonprofit corporation organized under Chapter 1702. of the Revised Code. The Ohio CASA/GAL association shall use these contributions to pay the expenses it incurs in administering a program to secure the proper representation in the courts of this state of abused, neglected, and dependent children, and for the training and supervision of persons participating in that program.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.73 of the Revised Code to Wright B. Flyer, incorporated, which shall deposit the contributions into its general account to be used for purposes of Wright B. Flyer, incorporated.

The registrar shall pay the contributions the registrar receives pursuant

to section 4503.732 of the Revised Code to the Siegel & Shuster society, a nonprofit organization dedicated to commemorating and celebrating the creation of Superman in Cleveland, Ohio.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.74 of the Revised Code to the Columbus zoological park association, which shall disburse the moneys to Ohio's major metropolitan zoos, as defined in section 4503.74 of the Revised Code, in accordance with a written agreement entered into by the major metropolitan zoos.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.75 of the Revised Code to the rotary foundation, located on March 31, 2003, in Evanston, Illinois, to be placed in a fund known as the permanent fund and used to endow educational and humanitarian programs of the rotary foundation.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.751 of the Revised Code to the Ohio association of realtors, which shall deposit the contributions into a property disaster relief fund maintained under the Ohio realtors charitable and education foundation.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.85 of the Revised Code to the Ohio sea grant college program to be used for Lake Erie area research projects.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.89 of the Revised Code to the American red cross of greater Columbus on behalf of the Ohio chapters of the American red cross, which shall use the contributions for disaster readiness, preparedness, and response programs on a statewide basis.

The registrar shall pay the contributions received pursuant to section 4503.92 of the Revised Code to support our troops, incorporated, a national nonprofit corporation, which shall use those contributions in accordance with its articles of incorporation and for the benefit of servicemembers of the armed forces of the United States and their families when they are in financial need.

The registrar shall pay the contributions the registrar receives pursuant to section 4503.94 of the Revised Code to the Michelle's leading star foundation, which shall use the money solely to fund the rental, lease, or purchase of the simulated driving curriculum of the Michelle's leading star foundation by boards of education of city, exempted village, local, and joint vocational school districts.

(C) All investment earnings of the license plate contribution fund shall be credited to the fund. Not later than the first day of May of every year, the registrar shall distribute to each entity described in division (B) of this

section the investment income the fund earned the previous calendar year. The amount of such a distribution paid to an entity shall be proportionate to the amount of money the entity received from the fund during the previous calendar year.

Sec. 4503.03. (A)(1)(a) ~~The~~ Except as provided in division (B) of this section, the registrar of motor vehicles may designate the county auditor in each county one or more of the following persons to act as a deputy registrar. If the population of a county is forty thousand or less according to the last federal census and if the county auditor is designated by the registrar as a deputy registrar, no other person need be designated in the county to act as a deputy registrar in each county:

(i) The county auditor in any county, subject to division (A)(1)(b)(i) of this section;

(ii) The clerk of a court of common pleas in any county, subject to division (A)(1)(b)(ii) of this section;

(iii) An individual;

(iv) A nonprofit corporation as defined in division (C) of section 1702.01 of the Revised Code.

(b)(i) If the population of a county is forty thousand or less according to the most recent federal decennial census and if the county auditor is designated by the registrar as a deputy registrar, no other person need be designated in the county to act as a deputy registrar.

(ii) The registrar may designate a clerk of a court of common pleas as a deputy registrar if the population of the county is forty thousand or less according to the last federal census. In a county with a population greater than forty thousand but not more than fifty thousand according to the last federal census, the clerk of a court of common pleas is eligible to act as a deputy registrar and may participate in the competitive selection process for the award of a deputy registrar contract by applying in the same manner as any other person. All fees collected and retained by a clerk for conducting deputy registrar services shall be paid into the county treasury to the credit of the certificate of title administration fund created under section 325.33 of the Revised Code.

~~(e) In all other instances, the registrar shall contract with one or more other persons in each county to act as deputy registrars. As part of the selection process in awarding a deputy registrar contract, the registrar shall consider the customer service performance record of any person previously awarded a deputy registrar contract.~~

Notwithstanding the county population restrictions in division (A)(1)(b) of this section, if no person applies to act under contract as a deputy registrar

in a county and the county auditor is not designated as a deputy registrar, the registrar may ask the clerk of a court of common pleas to serve as the deputy registrar for that county.

(c) As part of the selection process in awarding a deputy registrar contract, the registrar shall consider the customer service performance record of any person previously awarded a deputy registrar contract pursuant to division (A)(1) of this section.

(2) Deputy registrars shall accept applications for the annual license tax for any vehicle not taxed under section 4503.63 of the Revised Code and shall assign distinctive numbers in the same manner as the registrar. Such deputies shall be located in such locations in the county as the registrar sees fit. There shall be at least one deputy registrar in each county.

Deputy registrar contracts are subject to the provisions of division (B) of section 125.081 of the Revised Code.

(B)(1) The registrar shall not ~~contract with~~ designate any person to act as a deputy registrar under division (A)(1) of this section if the person or, where applicable, the person's spouse or a member of the person's immediate family has made, within the current calendar year or any one of the previous three calendar years, one or more contributions totaling in excess of one hundred dollars to any person or entity included in division (A)(2) of section 4503.033 of the Revised Code. As used in this division, "immediate family" has the same meaning as in division (D) of section 102.01 of the Revised Code, and "entity" includes any political party and any "continuing association" as defined in division (B)(4) of section 3517.01 of the Revised Code or "political action committee" as defined in division (B)(8) of that section that is primarily associated with that political party. For purposes of this division, contributions to any continuing association or any political action committee that is primarily associated with a political party shall be aggregated with contributions to that political party.

The contribution limitations contained in this division do not apply to any county auditor or clerk of a court of common pleas. A county auditor or clerk of a court of common pleas is not required to file the disclosure statement or pay the filing fee required under section 4503.033 of the Revised Code. The limitations of this division also do not apply to a deputy registrar who, subsequent to being awarded a deputy registrar contract, is elected to an office of a political subdivision.

(2) The registrar shall not ~~contract with~~ designate either of the following to act as a deputy registrar:

~~(1)~~(a) Any elected public official other than a county auditor or, as authorized by division (A)(1)(b) of this section, a clerk of a court of

common pleas, acting in an official capacity, except that, the registrar shall continue and may renew a contract with any deputy registrar who, subsequent to being awarded a deputy registrar contract, is elected to an office of a political subdivision;

~~(2)~~(b) Any person holding a current, valid contract to conduct motor vehicle inspections under section 3704.14 of the Revised Code.

(3) As used in division (B) of this section, "political subdivision" has the same meaning as in section 3501.01 of the Revised Code.

(C)(1) Except as provided in division (C)(2) of this section, deputy registrars are independent contractors and neither they nor their employees are employees of this state, except that nothing in this section shall affect the status of county auditors or clerks of courts of common pleas as public officials, nor the status of their employees as employees of any of the counties of this state, which are political subdivisions of this state. Each deputy registrar shall be responsible for the payment of all unemployment compensation premiums, all workers' compensation premiums, social security contributions, and any and all taxes for which the deputy registrar is legally responsible. Each deputy registrar shall comply with all applicable federal, state, and local laws requiring the withholding of income taxes or other taxes from the compensation of the deputy registrar's employees. Each deputy registrar shall maintain during the entire term of the deputy registrar's contract a policy of business liability insurance satisfactory to the registrar and shall hold the department of public safety, the director of public safety, the bureau of motor vehicles, and the registrar harmless upon any and all claims for damages arising out of the operation of the deputy registrar agency.

(2) For purposes of Chapter 4141. of the Revised Code, determinations concerning the employment of deputy registrars and their employees shall be made under Chapter 4141. of the Revised Code.

(D)(1) With the approval of the director, the registrar shall adopt rules governing ~~the deputy registrars. The rules shall do all of the following:~~

(a) Establish requirements governing the terms of the contract between the registrar and each deputy registrar and specifications for the services to be performed. ~~The rules shall include specifications relating to the;~~

(b) Establish requirements governing the amount of bond to be given as provided in this section; ~~the~~

(c) Establish requirements governing the size and location of the deputy's office; ~~and~~

(d) Establish requirements governing the leasing of equipment necessary to conduct the vision screenings required under section 4507.12 of

the Revised Code and training in the use of the equipment.—~~The specifications shall permit and encourage;~~

(e) Encourage every deputy registrar to inform the public of the location of the deputy registrar's office and hours of operation by means of public service announcements ~~and allow;~~

(f) Allow any deputy registrar to advertise in regard to the operation of the deputy registrar's office. ~~The rules also shall include specifications for;~~

(g) Specify the hours the deputy's office is to be open to the public and ~~shall~~ require as a minimum that one deputy's office in each county be open to the public for at least four hours each weekend, provided that if only one deputy's office is located within the boundary of the county seat, that office is the office that shall be open for the four-hour period each weekend. ~~The rules also shall include specifications providing;~~

(h) Specify that every deputy ~~in each county~~ registrar, upon request, provide any person with information about the location and office hours of all deputy registrars in the county ~~and that every deputy prominently display within the deputy's office, the toll free telephone number of the bureau. The rules shall not prohibit the award of;~~

(i) Allow a deputy registrar contract to be awarded to a nonprofit corporation formed under the laws of this state. ~~The rules shall;~~

(j) Except as provided in division (D)(2) of this section, prohibit any deputy registrar from operating more than one ~~such deputy registrar's~~ office at any time, ~~except that the rules may permit a nonprofit corporation formed for the purposes of providing automobile-related services to its members or the public and that provides such services from more than one location in this state to operate a deputy registrar office at any such location, provided that the nonprofit corporation operates no more than one deputy registrar office in any one county. The rules may include such other specifications as the registrar and director consider necessary to provide a high level of service.~~

~~The rules shall establish;~~

(k) For the duration of any deputy registrar contract, require that the deputy registrar occupy a primary residence in a location that is within a one-hour commute time from the deputy registrar's office or offices. The rules shall require the registrar to determine commute time by using multiple established internet-based mapping services.

(l) Establish procedures for a deputy registrar ~~who requests such to~~ request the authority to collect reinstatement fees under sections 4507.1612, 4507.45, 4509.101, 4509.81, 4510.10, 4510.22, 4510.72, and 4511.191 of the Revised Code and to transmit the reinstatement fees and two dollars of

the service fee collected under those sections. The registrar shall ensure that, not later than January 1, 2012, at least one deputy registrar in each county has the necessary equipment and is able to accept reinstatement fees. The registrar shall deposit the service fees received from a deputy registrar under those sections into the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code and shall use the money for deputy registrar equipment necessary in connection with accepting reinstatement fees.

(m) Establish such other requirements as the registrar and director consider necessary to provide a high level of service.

(2) Notwithstanding division (D)(1)(j) of this section, the rules may allow both of the following:

(a) The registrar to award a contract to a deputy registrar to operate more than one deputy registrar's office if determined by the registrar to be practical;

(b) A nonprofit corporation formed for the purposes of providing automobile-related services to its members or the public and that provides such services from more than one location in this state to operate a deputy registrar office at any location.

(3) As a daily adjustment, the bureau of motor vehicles shall credit to a deputy registrar three dollars and fifty cents for each damaged license plate or validation sticker the deputy registrar replaces as a service to a member of the public.

~~(3)~~(4)(a) With the prior approval of the registrar, each deputy registrar may conduct at the location of the deputy registrar's office any business that is consistent with the functions of a deputy registrar and that is not specifically mandated or authorized by this or another chapter of the Revised Code or by implementing rules of the registrar.

(b) In accordance with guidelines the director of public safety shall establish, a deputy registrar may operate or contract for the operation of a vending machine at a deputy registrar location if products of the vending machine are consistent with the functions of a deputy registrar.

(c) A deputy registrar may enter into an agreement with the Ohio turnpike and infrastructure commission pursuant to division (A)(11) of section 5537.04 of the Revised Code for the purpose of allowing the general public to acquire from the deputy registrar the electronic toll collection devices that are used under the multi-jurisdiction electronic toll collection agreement between the Ohio turnpike and infrastructure commission and any other entities or agencies that participate in such an agreement. The approval of the registrar is not necessary if a deputy registrar engages in this activity.

~~(4)~~(5) As used in this section and in section 4507.01 of the Revised Code, "nonprofit corporation" has the same meaning as in section 1702.01 of the Revised Code.

(E)(1) Unless otherwise terminated and except for interim contracts of ~~less~~ lasting not longer than one year, contracts with deputy registrars shall be ~~for a term of at least two years, but no more than three years, and all contracts effective on or after~~ entered into through a competitive selection process and shall be limited in duration as follows:

(a) For contracts entered into between July 1, 1996, shall be for a term of more and June 29, 2014, for a period of not less than two years, but not more than three years.~~At:~~

(b) For contracts entered into on or after June 29, 2014, for a period of five years, unless the registrar determines that a shorter contract term is appropriate for a particular deputy registrar.

(2) All contracts with deputy registrars shall expire on the last Saturday of June in the year of their expiration. ~~The~~ Prior to the expiration of any deputy registrar contract, the registrar, with the approval of the director, may award a one-year contract extension to any deputy registrar who has provided exemplary service based upon objective performance evaluations.

(3)(a) The auditor of state may examine the accounts, reports, systems, and other data of each deputy registrar at least every two years. The registrar, with the approval of the director, shall immediately remove a deputy who violates any provision of the Revised Code related to the duties as a deputy, any rule adopted by the registrar, or a term of the deputy's contract with the registrar. The registrar also may remove a deputy who, in the opinion of the registrar, has engaged in any conduct that is either unbecoming to one representing this state or is inconsistent with the efficient operation of the deputy's office.

(b) If the registrar, with the approval of the director, determines that there is good cause to believe that a deputy registrar or a person proposing for a deputy registrar contract has engaged in any conduct that would require the denial or termination of the deputy registrar contract, the registrar may require the production of books, records, and papers as the registrar determines are necessary, and may take the depositions of witnesses residing within or outside the state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the registrar may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where the witness resides or is found. Such a subpoena shall be served and returned in

the same manner as a subpoena in a criminal case is served and returned. The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fees and mileage shall be paid from the fund in the state treasury for the use of the agency in the same manner as other expenses of the agency are paid.

In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which the witness lawfully may be interrogated, the court of common pleas of any county where the disobedience, neglect, or refusal occurs or any judge of that court, on application by the registrar, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from that court, or a refusal to testify in that court.

(4) Nothing in ~~this~~ division (E) of this section shall be construed to require a hearing of any nature prior to the termination of any deputy registrar contract by the registrar, with the approval of the director, for cause.

(F) Except as provided in section 2743.03 of the Revised Code, no court, other than the court of common pleas of Franklin county, has jurisdiction of any action against the department of public safety, the director, the bureau, or the registrar to restrain the exercise of any power or authority, or to entertain any action for declaratory judgment, in the selection and appointment of, or contracting with, deputy registrars. Neither the department, the director, the bureau, nor the registrar is liable in any action at law for damages sustained by any person because of any acts of the department, the director, the bureau, or the registrar, or of any employee of the department or bureau, in the performance of official duties in the selection and appointment of, and contracting with, deputy registrars.

(G) The registrar shall assign to each deputy registrar a series of numbers sufficient to supply the demand at all times in the area the deputy registrar serves, and the registrar shall keep a record in the registrar's office of the numbers within the series assigned. Each deputy shall be required to give bond in the amount of at least twenty-five thousand dollars, or in such higher amount as the registrar determines necessary, based on a uniform schedule of bond amounts established by the registrar and determined by the volume of registrations handled by the deputy. The form of the bond shall be prescribed by the registrar. The bonds required of deputy registrars, in the discretion of the registrar, may be individual or schedule bonds or may be included in any blanket bond coverage carried by the department.

(H) Each deputy registrar shall keep a file of each application received by the deputy and shall register that motor vehicle with the name and address of its owner.

(I) Upon request, a deputy registrar shall make the physical inspection of a motor vehicle and issue the physical inspection certificate required in section 4505.061 of the Revised Code.

(J) Each deputy registrar shall file a report semiannually with the registrar of motor vehicles listing the number of applicants for licenses the deputy has served, the number of voter registration applications the deputy has completed and transmitted to the board of elections, and the number of voter registration applications declined.

Sec. 4503.064. As used in sections 4503.064 to 4503.069 of the Revised Code:

(A) "Sixty-five years of age or older" means a person who will be age sixty-five or older in the calendar year following the year of application for reduction in the assessable value of the person's manufactured or mobile home.

(B) "Permanently and totally disabled" means a person who, on the first day of January of the year of application, including late application, for reduction in the assessable value of a manufactured or mobile home, has some impairment in body or mind that makes the person unable to work at any substantially remunerative employment which the person is reasonably able to perform and which will, with reasonable probability, continue for an indefinite period of at least twelve months without any present indication of recovery therefrom or has been certified as permanently and totally disabled by a state or federal agency having the function of so classifying persons.

(C) "Homestead exemption" means the reduction in taxes allowed under division (A) of section 323.152 of the Revised Code for the year in which an application is filed under section 4503.066 of the Revised Code.

(D) "Manufactured home" has the meaning given in division (C)(4) of section 3781.06 of the Revised Code, and includes a structure consisting of two manufactured homes that were purchased either together or separately and are combined to form a single dwelling, but does not include a manufactured home that is taxed as real property pursuant to division (B) of section 4503.06 of the Revised Code.

(E) "Mobile home" has the meaning given in division (O) of section 4501.01 of the Revised Code and includes a structure consisting of two mobile homes that were purchased together or separately and combined to form a single dwelling, but does not include a mobile home that is taxed as real property pursuant to division (B) of section 4503.06 of the Revised

Code.

(F) "Late application" means an application filed with an original application under division (A)(3) of section 4503.066 of the Revised Code.

(G) "Total income" has the same meaning as in section 323.151 of the Revised Code.

Sec. 4503.065. (A) This section applies to any of the following persons:

(1) An individual who is permanently and totally disabled;

(2) An individual who is sixty-five years of age or older;

(3) An individual who is the surviving spouse of a deceased person who was permanently and totally disabled or sixty-five years of age or older and who applied and qualified for a reduction in assessable value under this section in the year of death, provided the surviving spouse is at least fifty-nine but not sixty-five or more years of age on the date the deceased spouse dies.

(B) The manufactured home tax on a manufactured or mobile home that is paid pursuant to division (C) of section 4503.06 of the Revised Code and that is owned and occupied as a home by an individual whose domicile is in this state and to whom this section applies, shall be reduced for any tax year for which an application for such reduction has been approved, provided the individual did not acquire ownership from a person, other than the individual's spouse, related by consanguinity or affinity for the purpose of qualifying for the reduction. An owner includes a settlor of a revocable or irrevocable inter vivos trust holding the title to a manufactured or mobile home occupied by the settlor as of right under the trust.

(1) For manufactured and mobile homes for which the tax imposed by section 4503.06 of the Revised Code is computed under division (D)(2) of that section, the reduction shall equal ~~the greater of the reduction granted for the tax year preceding the first tax year to which this section applies pursuant to Section 803.06 of Am. Sub. H.B. 119 of the 127th general assembly, if the taxpayer received a reduction for that preceding tax year, or one of the following amounts, as applicable to the person:~~

(a) If the person received a reduction under this section for tax year 2007, the greater of the reduction for that tax year or the amount computed under division (B)(2) of this section;

(b) If the person received a reduction under this section for tax year 2014 or under division (A) of section 323.152 of the Revised Code for tax year 2013, the amount computed under division (B)(2) of this section. For purposes of divisions (B)(1)(b) and (c) of this section, a person receives a reduction under this section or division (A) of section 323.152 of the Revised Code for tax year 2014 or 2013, respectively, if the person files a

late application for that respective tax year that is approved by the county auditor under section 4503.066 or 323.153 of the Revised Code.

(c) If the person did not receive a reduction under this section for tax year 2014 or under division (A) of section 323.152 of the Revised Code for tax year 2013 and the person's total income does not exceed thirty thousand dollars, as adjusted under division (B)(5) of this section, the amount computed under division (B)(2) of this section.

(2) The amount of the reduction under division (B)(2) of this section equals the product of the following:

(a) Twenty-five thousand dollars of the true value of the property in money;

(b) The assessment percentage established by the tax commissioner under division (B) of section 5715.01 of the Revised Code, not to exceed thirty-five per cent;

(c) The effective tax rate used to calculate the taxes charged against the property for the current year, where "effective tax rate" is defined as in section 323.08 of the Revised Code;

(d) The quantity equal to one minus the sum of the percentage reductions in taxes received by the property for the current tax year under section 319.302 of the Revised Code and division (B) of section 323.152 of the Revised Code.

~~(2)(3)~~ For manufactured and mobile homes for which the tax imposed by section 4503.06 of the Revised Code is computed under division (D)(1) of that section, the reduction shall equal ~~the greater of the reduction granted for the tax year preceding the first tax year to which this section applies pursuant to Section 803.06 of Am. Sub. H.B. 119 of the 127th general assembly, if the taxpayer received a reduction for that preceding tax year, or one of the following amounts, as applicable to the person:~~

(a) If the person received a reduction under this section for tax year 2007, the greater of the reduction for that tax year or the amount computed under division (B)(4) of this section;

(b) If the person received a reduction under this section for tax year 2014 or under division (A) of section 323.152 of the Revised Code for tax year 2013, the amount computed under division (B)(4) of this section. For purposes of divisions (B)(3)(b) and (c) of this section, a person receives a reduction under this section or under division (A) of section 323.152 of the Revised Code for tax year 2014 or 2013, respectively, if the person files a late application for a refund of overpayments for that respective tax year that is approved by the county auditor under section 4503.066 of the Revised Code.

(c) If the person did not receive a reduction under this section for tax year 2014 or under division (A) of section 323.152 of the Revised Code for tax year 2013 and the person's total income does not exceed thirty thousand dollars, as adjusted under division (B)(5) of this section, the amount computed under division (B)(4) of this section.

(4) The amount of the reduction under division (B)(4) of this section equals the product of the following:

(a) Twenty-five thousand dollars of the cost to the owner, or the market value at the time of purchase, whichever is greater, as those terms are used in division (D)(1) of section 4503.06 of the Revised Code;

(b) The percentage from the appropriate schedule in division (D)(1)(b) of section 4503.06 of the Revised Code;

(c) The assessment percentage of forty per cent used in division (D)(1)(b) of section 4503.06 of the Revised Code;

(d) The tax rate of the taxing district in which the home has its situs.

(5) Each calendar year, the tax commissioner shall adjust the income threshold described in divisions (B)(1)(c) and (B)(3)(c) of this section by completing the following calculations in September of each year:

(a) Determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce from the first day of January of the preceding calendar year to the last day of December of the preceding calendar year;

(b) Multiply that percentage increase by the total income threshold for the ensuing tax year;

(c) Add the resulting product to the total income threshold for the ensuing tax year;

(d) Round the resulting sum to the nearest multiple of one hundred dollars.

The commissioner shall certify the amount resulting from the adjustment to each county auditor not later than the first day of December each year. The certified amount applies to the second ensuing tax year. The commissioner shall not make the adjustment in any calendar year in which the amount resulting from the adjustment would be less than the total income threshold for the ensuing tax year.

(C) If the owner or the spouse of the owner of a manufactured or mobile home is eligible for a homestead exemption on the land upon which the home is located, the reduction to which the owner or spouse is entitled under this section shall not exceed the difference between the reduction to which the owner or spouse is entitled under division (B) of this section and the amount of the reduction under the homestead exemption.

(D) No reduction shall be made with respect to the home of any person convicted of violating division (C) or (D) of section 4503.066 of the Revised Code for a period of three years following the conviction.

Sec. 4503.066. (A)(1) To obtain a tax reduction under section 4503.065 of the Revised Code, the owner of the home shall file an application with the county auditor of the county in which the home is located. An application for reduction in taxes based upon a physical disability shall be accompanied by a certificate signed by a physician, and an application for reduction in taxes based upon a mental disability shall be accompanied by a certificate signed by a physician or psychologist licensed to practice in this state. The certificate shall attest to the fact that the applicant is permanently and totally disabled, shall be in a form that the department of taxation requires, and shall include the definition of totally and permanently disabled as set forth in section 4503.064 of the Revised Code. An application for reduction in taxes based upon a disability certified as permanent and total by a state or federal agency having the function of so classifying persons shall be accompanied by a certificate from that agency.

(2) Each application shall constitute a continuing application for a reduction in taxes for each year in which the manufactured or mobile home is occupied by the applicant. Failure to receive a new application or notification under division (B) of this section after an application for reduction has been approved is prima-facie evidence that the original applicant is entitled to the reduction calculated on the basis of the information contained in the original application. The original application and any subsequent application shall be in the form of a signed statement and shall be filed not later than the first Monday in June. The statement shall be on a form, devised and supplied by the tax commissioner, that shall require no more information than is necessary to establish the applicant's eligibility for the reduction in taxes and the amount of the reduction to which the applicant is entitled. The form shall contain a statement that signing such application constitutes a delegation of authority by the applicant to the tax commissioner or the county auditor, individually or in consultation with each other, to examine any tax or financial records that relate to the income of the applicant as stated on the application for the purpose of determining eligibility under, or possible violation of, division (C) or (D) of this section. The form also shall contain a statement that conviction of willfully falsifying information to obtain a reduction in taxes or failing to comply with division (B) of this section shall result in the revocation of the right to the reduction for a period of three years.

(3) A late application for a reduction in taxes for the year preceding the

year for which an original application is filed may be filed with an original application. If the auditor determines that the information contained in the late application is correct, the auditor shall determine both the amount of the reduction in taxes to which the applicant would have been entitled for the current tax year had the application been timely filed and approved in the preceding year, and the amount the taxes levied under section 4503.06 of the Revised Code for the current year would have been reduced as a result of the reduction. When an applicant is permanently and totally disabled on the first day of January of the year in which the applicant files a late application, the auditor, in making the determination of the amounts of the reduction in taxes under division (A)(3) of this section, is not required to determine that the applicant was permanently and totally disabled on the first day of January of the preceding year.

The amount of the reduction in taxes pursuant to a late application shall be treated as an overpayment of taxes by the applicant. The auditor shall credit the amount of the overpayment against the amount of the taxes or penalties then due from the applicant, and, at the next succeeding settlement, the amount of the credit shall be deducted from the amount of any taxes or penalties distributable to the county or any taxing unit in the county that has received the benefit of the taxes or penalties previously overpaid, in proportion to the benefits previously received. If, after the credit has been made, there remains a balance of the overpayment, or if there are no taxes or penalties due from the applicant, the auditor shall refund that balance to the applicant by a warrant drawn on the county treasurer in favor of the applicant. The treasurer shall pay the warrant from the general fund of the county. If there is insufficient money in the general fund to make the payment, the treasurer shall pay the warrant out of any undivided manufactured or mobile home taxes subsequently received by the treasurer for distribution to the county or taxing district in the county that received the benefit of the overpaid taxes, in proportion to the benefits previously received, and the amount paid from the undivided funds shall be deducted from the money otherwise distributable to the county or taxing district in the county at the next or any succeeding distribution. At the next or any succeeding distribution after making the refund, the treasurer shall reimburse the general fund for any payment made from that fund by deducting the amount of that payment from the money distributable to the county or other taxing unit in the county that has received the benefit of the taxes, in proportion to the benefits previously received. On the second Monday in September of each year, the county auditor shall certify the total amount of the reductions in taxes made in the current year under division

(A)(3) of this section to the tax commissioner who shall treat that amount as a reduction in taxes for the current tax year and shall make reimbursement to the county of that amount in the manner prescribed in section 4503.068 of the Revised Code, from moneys appropriated for that purpose.

(B) If in any year for which an application for reduction in taxes has been approved the owner no longer qualifies for the reduction, the owner shall notify the county auditor that the owner is not qualified for a reduction in taxes.

During January of each year, the county auditor shall furnish each person whose application for reduction has been approved, by ordinary mail, a form on which to report any changes in total income, ownership, occupancy, disability, and other information earlier furnished the auditor relative to the application. The form shall be completed and returned to the auditor not later than the first Monday in June if the changes would affect the person's eligibility for the reduction.

(C) No person shall knowingly make a false statement for the purpose of obtaining a reduction in taxes under section 4503.065 of the Revised Code.

(D) No person shall knowingly fail to notify the county auditor of any change required by division (B) of this section that has the effect of maintaining or securing a reduction in taxes under section 4503.065 of the Revised Code.

(E) No person shall knowingly make a false statement or certification attesting to any person's physical or mental condition for purposes of qualifying such person for tax relief pursuant to sections 4503.064 to 4503.069 of the Revised Code.

(F) Whoever violates division (C), (D), or (E) of this section is guilty of a misdemeanor of the fourth degree.

Sec. 4503.44. (A) As used in this section and in section 4511.69 of the Revised Code:

(1) "Person with a disability that limits or impairs the ability to walk" means any person who, as determined by a health care provider, meets any of the following criteria:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

(c) Is restricted by a lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than

sixty millimeters of mercury on room air at rest;

(d) Uses portable oxygen;

(e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American heart association;

(f) Is severely limited in the ability to walk due to an arthritic, neurological, or orthopedic condition;

(g) Is blind.

(2) "Organization" means any private organization or corporation, or any governmental board, agency, department, division, or office, that, as part of its business or program, transports persons with disabilities that limit or impair the ability to walk on a regular basis in a motor vehicle that has not been altered for the purpose of providing it with special equipment for use by ~~handicapped~~ persons with disabilities. This definition does not apply to division (J) of this section.

(3) "Health care provider" means a physician, physician assistant, advanced practice registered nurse, or chiropractor as defined in this section.

(4) "Physician" means a person licensed to practice medicine or surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code.

(5) "Chiropractor" means a person licensed to practice chiropractic under Chapter 4734. of the Revised Code.

(6) "Advanced practice registered nurse" means a certified nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, or certified nurse-midwife who holds a certificate of authority issued by the board of nursing under Chapter 4723. of the Revised Code.

(7) "Physician assistant" means a person who holds a certificate to practice as a physician assistant issued under Chapter 4730. of the Revised Code.

(B) Any organization or person with a disability that limits or impairs the ability to walk may apply to the registrar of motor vehicles for a removable windshield placard or, if the person owns or leases a motor vehicle, the person may apply for the registration of any motor vehicle the person owns or leases. In addition to one or more sets of license plates or one placard, a person with a disability that limits or impairs the ability to walk is entitled to one additional placard, but only if the person applies separately for the additional placard, states the reasons why the additional placard is needed, and the registrar, in the registrar's discretion, determines that good and justifiable cause exists to approve the request for the additional placard. When a motor vehicle has been altered for the purpose of

providing it with special equipment for a person with a disability that limits or impairs the ability to walk, but is owned or leased by someone other than such a person, the owner or lessee may apply to the registrar or a deputy registrar for registration under this section. The application for registration of a motor vehicle owned or leased by a person with a disability that limits or impairs the ability to walk shall be accompanied by a signed statement from the applicant's health care provider certifying that the applicant meets at least one of the criteria contained in division (A)(1) of this section and that the disability is expected to continue for more than six consecutive months. The application for a removable windshield placard made by a person with a disability that limits or impairs the ability to walk shall be accompanied by a prescription from the applicant's health care provider prescribing such a placard for the applicant, provided that the applicant meets at least one of the criteria contained in division (A)(1) of this section. The health care provider shall state on the prescription the length of time the health care provider expects the applicant to have the disability that limits or impairs the applicant's ability to walk. The application for a removable windshield placard made by an organization shall be accompanied by such documentary evidence of regular transport of persons with disabilities that limit or impair the ability to walk by the organization as the registrar may require by rule and shall be completed in accordance with procedures that the registrar may require by rule. The application for registration of a motor vehicle that has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk but is owned by someone other than such a person shall be accompanied by such documentary evidence of vehicle alterations as the registrar may require by rule.

(C) When an organization, a person with a disability that limits or impairs the ability to walk, or a person who does not have a disability that limits or impairs the ability to walk but owns a motor vehicle that has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk first submits an application for registration of a motor vehicle under this section and every fifth year thereafter, the organization or person shall submit a signed statement from the applicant's health care provider, a completed application, and any required documentary evidence of vehicle alterations as provided in division (B) of this section, and also a power of attorney from the owner of the motor vehicle if the applicant leases the vehicle. Upon submission of these items, the registrar or deputy registrar shall issue to the applicant appropriate vehicle registration and a set of license plates and validation

stickers, or validation stickers alone when required by section 4503.191 of the Revised Code. In addition to the letters and numbers ordinarily inscribed thereon, the license plates shall be imprinted with the international symbol of access. The license plates and validation stickers shall be issued upon payment of the regular license fee as prescribed under section 4503.04 of the Revised Code and any motor vehicle tax levied under Chapter 4504. of the Revised Code, and the payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code.

(D)(1) Upon receipt of a completed and signed application for a removable windshield placard, a prescription as described in division (B) of this section, documentary evidence of regular transport of persons with disabilities that limit or impair the ability to walk, if required, and payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code, the registrar or deputy registrar shall issue to the applicant a removable windshield placard, which shall bear the date of expiration on both sides of the placard and shall be valid until expired, revoked, or surrendered. Every removable windshield placard expires as described in division (D)(2) of this section, but in no case shall a removable windshield placard be valid for a period of less than sixty days. Removable windshield placards shall be renewable upon application as provided in division (B) of this section, and a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code shall be charged for the renewal of a removable windshield placard. The registrar shall provide the application form and shall determine the information to be included thereon. The registrar also shall determine the form and size of the removable windshield placard, the material of which it is to be made, and any other information to be included thereon, and shall adopt rules relating to the issuance, expiration, revocation, surrender, and proper display of such placards. Any placard issued after October 14, 1999, shall be manufactured in a manner that allows the expiration date of the placard to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

(2) At the time a removable windshield placard is issued to a person with a disability that limits or impairs the ability to walk, the registrar or deputy registrar shall enter into the records of the bureau of motor vehicles the last date on which the person will have that disability, as indicated on the accompanying prescription. Not less than thirty days prior to that date and all removable windshield placard renewal dates, the bureau shall send a renewal notice to that person at the person's last known address as shown in the records of the bureau, informing the person that the person's removable

windshield placard will expire on the indicated date not to exceed five years from the date of issuance, and that the person is required to renew the placard by submitting to the registrar or a deputy registrar another prescription, as described in division (B) of this section, and by complying with the renewal provisions prescribed in division (D)(1) of this section. If such a prescription is not received by the registrar or a deputy registrar by that date, the placard issued to that person expires and no longer is valid, and this fact shall be recorded in the records of the bureau.

(3) At least once every year, on a date determined by the registrar, the bureau shall examine the records of the office of vital statistics, located within the department of health, that pertain to deceased persons, and also the bureau's records of all persons who have been issued removable windshield placards and temporary removable windshield placards. If the records of the office of vital statistics indicate that a person to whom a removable windshield placard or temporary removable windshield placard has been issued is deceased, the bureau shall cancel that placard, and note the cancellation in its records.

The office of vital statistics shall make available to the bureau all information necessary to enable the bureau to comply with division (D)(3) of this section.

(4) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special license plates if the parking card or special license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(E)(1)(a) Any person with a disability that limits or impairs the ability to walk may apply to the registrar or a deputy registrar for a temporary removable windshield placard. The application for a temporary removable windshield placard shall be accompanied by a prescription from the applicant's health care provider prescribing such a placard for the applicant, provided that the applicant meets at least one of the criteria contained in division (A)(1) of this section and that the disability is expected to continue for six consecutive months or less. The health care provider shall state on the prescription the length of time the health care provider expects the applicant to have the disability that limits or impairs the applicant's ability to walk, which cannot exceed six months from the date of the prescription. Upon receipt of an application for a temporary removable windshield placard, presentation of the prescription from the applicant's health care provider, and payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code, the registrar or

deputy registrar shall issue to the applicant a temporary removable windshield placard.

(b) Any active-duty member of the armed forces of the United States, including the reserve components of the armed forces and the national guard, who has an illness or injury that limits or impairs the ability to walk may apply to the registrar or a deputy registrar for a temporary removable windshield placard. With the application, the person shall present evidence of the person's active-duty status and the illness or injury. Evidence of the illness or injury may include a current department of defense convalescent leave statement, any department of defense document indicating that the person currently has an ill or injured casualty status or has limited duties, or a prescription from any health care provider prescribing the placard for the applicant. Upon receipt of the application and the necessary evidence, the registrar or deputy registrar shall issue the applicant the temporary removable windshield placard without the payment of any service fee.

(2) The temporary removable windshield placard shall be of the same size and form as the removable windshield placard, shall be printed in white on a red-colored background, and shall bear the word "temporary" in letters of such size as the registrar shall prescribe. A temporary removable windshield placard also shall bear the date of expiration on the front and back of the placard, and shall be valid until expired, surrendered, or revoked, but in no case shall such a placard be valid for a period of less than sixty days. The registrar shall provide the application form and shall determine the information to be included on it, provided that the registrar shall not require a health care provider's prescription or certification for a person applying under division (E)(1)(b) of this section. The registrar also shall determine the material of which the temporary removable windshield placard is to be made and any other information to be included on the placard and shall adopt rules relating to the issuance, expiration, surrender, revocation, and proper display of those placards. Any temporary removable windshield placard issued after October 14, 1999, shall be manufactured in a manner that allows for the expiration date of the placard to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

(F) If an applicant for a removable windshield placard is a veteran of the armed forces of the United States whose disability, as defined in division (A)(1) of this section, is service-connected, the registrar or deputy registrar, upon receipt of the application, presentation of a signed statement from the applicant's health care provider certifying the applicant's disability, and presentation of such documentary evidence from the department of veterans

affairs that the disability of the applicant meets at least one of the criteria identified in division (A)(1) of this section and is service-connected as the registrar may require by rule, but without the payment of any service fee, shall issue the applicant a removable windshield placard that is valid until expired, surrendered, or revoked.

(G) Upon a conviction of a violation of division (I), (J), or (K) of this section, the court shall report the conviction, and send the placard or parking card, if available, to the registrar, who thereupon shall revoke the privilege of using the placard or parking card and send notice in writing to the placardholder or cardholder at that holder's last known address as shown in the records of the bureau, and the placardholder or cardholder shall return the placard or card if not previously surrendered to the court, to the registrar within ten days following mailing of the notice.

Whenever a person to whom a removable windshield placard or parking card has been issued moves to another state, the person shall surrender the placard or card to the registrar; and whenever an organization to which a placard or card has been issued changes its place of operation to another state, the organization shall surrender the placard or card to the registrar.

(H) Subject to division (F) of section 4511.69 of the Revised Code, the operator of a motor vehicle displaying a removable windshield placard, temporary removable windshield placard, parking card, or the special license plates authorized by this section is entitled to park the motor vehicle in any special parking location reserved for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces.

(I) No person or organization that is not eligible under division (B) or (E) of this section shall willfully and falsely represent that the person or organization is so eligible.

No person or organization shall display license plates issued under this section unless the license plates have been issued for the vehicle on which they are displayed and are valid.

(J) No person or organization to which a removable windshield placard or temporary removable windshield placard is issued shall do either of the following:

(1) Display or permit the display of the placard on any motor vehicle when having reasonable cause to believe the motor vehicle is being used in connection with an activity that does not include providing transportation for persons with disabilities that limit or impair the ability to walk;

(2) Refuse to return or surrender the placard, when required.

(K)(1) No person or organization to which a parking card is issued shall

do either of the following:

(a) Display or permit the display of the parking card on any motor vehicle when having reasonable cause to believe the motor vehicle is being used in connection with an activity that does not include providing transportation for a ~~handicapped~~ person with a disability;

(b) Refuse to return or surrender the parking card, when required.

(2) As used in division (K) of this section:

(a) "~~Handicapped person~~ Person with a disability" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or so severely ~~handicapped~~ disabled as to be unable to move about without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other ~~handicapping~~ disabling condition.

(b) "Organization" means any private organization or corporation, or any governmental board, agency, department, division, or office, that, as part of its business or program, transports ~~handicapped~~ persons with disabilities on a regular basis in a motor vehicle that has not been altered for the purposes of providing it with special equipment for use by ~~handicapped~~ persons with disabilities.

(L) If a removable windshield placard, temporary removable windshield placard, or parking card is lost, destroyed, or mutilated, the placardholder or cardholder may obtain a duplicate by doing both of the following:

(1) Furnishing suitable proof of the loss, destruction, or mutilation to the registrar;

(2) Paying a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code.

Any placardholder or cardholder who loses a placard or card and, after obtaining a duplicate, finds the original, immediately shall surrender the original placard or card to the registrar.

(M) The registrar shall pay all fees received under this section for the issuance of removable windshield placards or temporary removable windshield placards or duplicate removable windshield placards or cards into the state treasury to the credit of the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

(N) In addition to the fees collected under this section, the registrar or deputy registrar shall ask each person applying for a removable windshield placard or temporary removable windshield placard or duplicate removable windshield placard or license plate issued under this section, whether the person wishes to make a two-dollar voluntary contribution to support rehabilitation employment services. The registrar shall transmit the

contributions received under this division to the treasurer of state for deposit into the rehabilitation employment fund, which is hereby created in the state treasury. A deputy registrar shall transmit the contributions received under this division to the registrar in the time and manner prescribed by the registrar. The contributions in the fund shall be used by the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency to purchase services related to vocational evaluation, work adjustment, personal adjustment, job placement, job coaching, and community-based assessment from accredited community rehabilitation program facilities.

(O) For purposes of enforcing this section, every peace officer is deemed to be an agent of the registrar. Any peace officer or any authorized employee of the bureau of motor vehicles who, in the performance of duties authorized by law, becomes aware of a person whose placard or parking card has been revoked pursuant to this section, may confiscate that placard or parking card and return it to the registrar. The registrar shall prescribe any forms used by law enforcement agencies in administering this section.

No peace officer, law enforcement agency employing a peace officer, or political subdivision or governmental agency employing a peace officer, and no employee of the bureau is liable in a civil action for damages or loss to persons arising out of the performance of any duty required or authorized by this section. As used in this division, "peace officer" has the same meaning as in division (B) of section 2935.01 of the Revised Code.

(P) All applications for registration of motor vehicles, removable windshield placards, and temporary removable windshield placards issued under this section, all renewal notices for such items, and all other publications issued by the bureau that relate to this section shall set forth the criminal penalties that may be imposed upon a person who violates any provision relating to special license plates issued under this section, the parking of vehicles displaying such license plates, and the issuance, procurement, use, and display of removable windshield placards and temporary removable windshield placards issued under this section.

(Q) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4503.524. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of "Massillon tiger football booster club" license plates. The application for "Massillon tiger football booster club" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised

Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of "Massillon tiger football booster club" license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code. In addition to the letters and numbers ordinarily inscribed thereon, "Massillon tiger football booster club" license plates shall be inscribed with words and markings selected and designed by the Massillon tiger football booster club and approved by the registrar. "Massillon tiger football booster club" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) "Massillon tiger football booster club" license plates and validation stickers shall be issued upon payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, a bureau of motor vehicles administrative fee of ten dollars, the contribution specified in division (C) of this section, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for "Massillon tiger football booster club" license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the contribution, fees, and taxes contained in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal submitted under this section, the registrar shall collect a contribution of twenty-five dollars. The registrar shall transmit this contribution to the treasurer of state for deposit into the license plate contribution fund created in section 4501.21 of the Revised Code.

The registrar shall deposit the ten-dollar bureau administrative fee, the purpose of which is to compensate the bureau for additional services required in issuing "Massillon tiger football booster club" license plates, into the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4503.526. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of Kiwanis club license plates. The application for Kiwanis club license plates may be combined with a request for a special reserved license plate under section 4503.40 or

4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of Kiwanis club license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, Kiwanis club license plates shall be inscribed with words and markings selected and designed by the Ohio district of Kiwanis international. The registrar shall approve the final design. Kiwanis club license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) Kiwanis club license plates and validation stickers shall be issued upon payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, a bureau of motor vehicles administrative fee of ten dollars, the contribution specified under division (C) of this section, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for Kiwanis club license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes contained in this division and the additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal received under this section, the registrar shall collect a contribution of twenty-five dollars. The registrar shall pay this contribution into the state treasury to the credit of the license plate contribution fund created in section 4501.21 of the Revised Code.

The registrar shall deposit the ten-dollar bureau administrative fee, the purpose of which is to compensate the bureau for the additional services required in issuing Kiwanis club license plates, into the state treasury to the credit of the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4503.62. (A) Application for the registration of an apportionable vehicle shall be made to the registrar of motor vehicles in accordance with division (J) of section 4503.10 of the Revised Code.

(B) Any person applying to register a vehicle or combination vehicle that has a gross vehicle weight of twenty-six thousand pounds or less or two axles, or that is a bus used in charter party service, also may register the vehicle in accordance with division (J) of section 4503.10 of the Revised

Code if the vehicle is used or intended for use in two or more international registration plan member jurisdictions.

(C) No later than December 31, 2011, the registrar shall adopt rules under Chapter 119. of the Revised Code to establish a program to accept applications for vehicle registration transactions of apportionable vehicles electronically over the internet. The program also may provide for vehicle registration transactions of nonapportionable commercial motor vehicles over the internet.

(D) The internet registration program shall provide an option for the payment of all registration taxes and fees by use of a financial transaction device. In providing for payment by the use of a financial transaction device, the registrar ~~may, but is not required to,~~ shall comply with section 113.40 of the Revised Code. ~~The registrar, with the approval of the director of public safety, may contract with a third party to accept and process payments made by use of a financial transaction device on behalf of the bureau of motor vehicles.~~ All fees associated with payment by use of a financial transaction device shall be borne by the applicants seeking the registration of apportionable or other vehicles under the program established pursuant to division (C) of this section. The bureau shall not pay any costs, and shall not retain any additional fees, associated with the use of a financial transaction device.

(E) As used in this section, "financial transaction device" has the same meaning as in section 113.40 of the Revised Code.

Sec. 4503.732. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of "Truth, Justice, and the American Way" license plates. The application may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of an application for registration of a motor vehicle under this section, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of "Truth, Justice, and the American Way" license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, "Truth, Justice, and the American Way" license plates shall be inscribed with the words "Truth, Justice, and the American Way" and a design, logo, or marking selected by the entity that owns the Superman name. The registrar shall approve the final design after entering into a license agreement with that entity for appropriate use of the Superman name

and associated logo or marking, as applicable. The license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) "Truth, Justice, and the American Way" license plates and validation stickers shall be issued upon receipt of a contribution as provided in division (C)(1) of this section and upon payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle license tax levied under Chapter 4504. of the Revised Code, and a bureau of motor vehicles administrative fee of ten dollars. The applicant shall comply with all other applicable laws relating to the registration of motor vehicles. If the application for "Truth, Justice, and the American Way" license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes specified in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C)(1) For each application for registration and registration renewal notice the registrar receives under this section, the registrar shall collect a contribution of ten dollars. The registrar shall pay this contribution into the state treasury to the credit of the license plate contribution fund created in section 4501.21 of the Revised Code.

(2) The registrar shall pay into the state treasury the ten-dollar bureau administrative fee, the purpose of which is to compensate the bureau for additional services required in issuing "Truth, Justice, and the American Way" license plates, to the credit of the state bureau of motor vehicles fund created in section 4501.25 of Revised Code.

Sec. 4503.95. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of "Ohio history" license plates. The application for "Ohio history" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of "Ohio history" license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code. In addition to the letters and numbers ordinarily inscribed thereon, "Ohio history" license plates shall be inscribed with words and markings selected and designed by the Ohio historical society and approved by the registrar. "Ohio history" license plates

shall bear county identification stickers that identify the county of registration by name or number.

(B) "Ohio history" license plates and validation stickers shall be issued upon payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, a bureau of motor vehicles administrative fee of ten dollars, the contribution specified in division (C) of this section, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for "Ohio history" license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the contribution, fees, and taxes contained in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal submitted under this section, the registrar shall collect a contribution of twenty dollars. The registrar shall transmit this contribution to the treasurer of state for deposit in the Ohio history license plate contribution fund created in section 149.307 of the Revised Code.

The registrar shall deposit the ten-dollar bureau administrative fee, the purpose of which is to compensate the bureau for additional services required in issuing "Ohio history" license plates, in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4503.96. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of Ohio coal license plates. An application made under this section may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance by the applicant with divisions (B) and (C) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of Ohio coal license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, Ohio coal license plates shall be inscribed with identifying words or markings that are designed by the Ohio coal association and approved by the registrar. Ohio coal license plates shall display county identification stickers that identify the county of registration by name or number.

(B) Ohio coal license plates and validation stickers shall be issued upon

payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle license tax levied under Chapter 4504. of the Revised Code, and a bureau of motor vehicles administrative fee of ten dollars. The applicant shall comply with all other applicable laws relating to the registration of motor vehicles. If the application for Ohio coal license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes specified in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C) The registrar shall deposit into the state treasury the ten-dollar bureau administrative fee, the purpose of which is to compensate the bureau for additional services required in issuing Ohio coal license plates, to the credit of the state bureau of motor vehicles fund created in section 4501.25 of Revised Code.

Sec. 4505.02. The registrar of motor vehicles shall issue rules as the registrar determines necessary to ensure uniform and orderly operation of this chapter and to ensure that the identification of each applicant for a certificate of title is reasonably accurate. The clerks of the courts of common pleas shall conform thereto. The clerks shall provide the forms as prescribed by the registrar, except the manufacturers' or importers' certificates. The clerks shall provide, from moneys in the automated title processing fund, certificates of title and ribbons, cartridges, or other devices necessary for the operation of the certificate of title processing equipment as determined by the automated title processing board pursuant to division (C) of section 4505.09 of the Revised Code. All other automated title processing system supplies shall be provided by the clerks.

If it appears that any certificate of title has been improperly issued, the registrar shall cancel the certificate. Upon the cancellation of any certificate of title, the registrar shall notify the clerk who issued it, and the clerk thereupon shall enter the cancellation upon the clerk's records. The registrar also shall notify the person to whom such certificate of title was issued, as well as any lienholders appearing thereon, of the cancellation and shall demand the surrender of the certificate of title immediately, but the cancellation shall not affect the validity of any lien noted thereon. The holder of such certificate of title immediately shall return it to the registrar. If a certificate of registration has been issued to the holder of a certificate of title so canceled the registrar immediately shall cancel it and demand the return of such certificate of registration and license plates, and the holder of such certificate of registration and license plates shall return the same to the

registrar forthwith. The clerks shall keep on hand a sufficient supply of blank forms, which, except for certificate of title and memorandum certificate forms, shall be furnished and distributed without charge to registered manufacturers or dealers, or other persons residing within the county.

Sec. 4505.09. (A)(1) The clerk of a court of common pleas shall charge and retain fees as follows:

(a) Five dollars for each certificate of title that is not applied for within thirty days after the later of the assignment or delivery of the motor vehicle described in it. The entire fee shall be retained by the clerk.

(b) Fifteen dollars for each certificate of title or duplicate certificate of title including the issuance of a memorandum certificate of title, or authorization to print a non-negotiable evidence of ownership described in division (G) of section 4505.08 of the Revised Code, non-negotiable evidence of ownership printed by the clerk under division (H) of that section, and notation of any lien on a certificate of title that is applied for at the same time as the certificate of title. The clerk shall retain eleven dollars and fifty cents of that fee for each certificate of title when there is a notation of a lien or security interest on the certificate of title, twelve dollars and twenty-five cents when there is no lien or security interest noted on the certificate of title, and eleven dollars and fifty cents for each duplicate certificate of title.

(c) Four dollars and fifty cents for each certificate of title with no security interest noted that is issued to a licensed motor vehicle dealer for resale purposes and, in addition, a separate fee of fifty cents. The clerk shall retain two dollars and twenty-five cents of that fee.

(d) Five dollars for each memorandum certificate of title or non-negotiable evidence of ownership that is applied for separately. The clerk shall retain that entire fee.

(2) The fees that are not retained by the clerk shall be paid to the registrar of motor vehicles by monthly returns, which shall be forwarded to the registrar not later than the fifth day of the month next succeeding that in which the certificate is issued or that in which the registrar is notified of a lien or cancellation of a lien.

(B)(1) The registrar shall pay twenty-five cents of the amount received for each certificate of title issued to a motor vehicle dealer for resale, one dollar for certificates of title issued with a lien or security interest noted on the certificate of title, and twenty-five cents for each certificate of title with no lien or security interest noted on the certificate of title into the state bureau of motor vehicles fund established in section 4501.25 of the Revised

Code.

(2) Fifty cents of the amount received for each certificate of title shall be paid by the registrar as follows:

(a) Four cents shall be paid into the state treasury to the credit of the motor vehicle dealers board fund, which is hereby created. All investment earnings of the fund shall be credited to the fund. The moneys in the motor vehicle dealers board fund shall be used by the motor vehicle dealers board created under section 4517.30 of the Revised Code, together with other moneys appropriated to it, in the exercise of its powers and the performance of its duties under Chapter 4517. of the Revised Code, except that the director of budget and management may transfer excess money from the motor vehicle dealers board fund to the bureau of motor vehicles fund if the registrar determines that the amount of money in the motor vehicle dealers board fund, together with other moneys appropriated to the board, exceeds the amount required for the exercise of its powers and the performance of its duties under Chapter 4517. of the Revised Code and requests the director to make the transfer.

(b) Twenty-one cents shall be paid into the highway operating fund.

(c) Twenty-five cents shall be paid into the state treasury to the credit of the motor vehicle sales audit fund, which is hereby created. The moneys in the fund shall be used by the tax commissioner together with other funds available to the commissioner to conduct a continuing investigation of sales and use tax returns filed for motor vehicles in order to determine if sales and use tax liability has been satisfied. The commissioner shall refer cases of apparent violations of section 2921.13 of the Revised Code made in connection with the titling or sale of a motor vehicle and cases of any other apparent violations of the sales or use tax law to the appropriate county prosecutor whenever the commissioner considers it advisable.

(3) Two dollars of the amount received by the registrar under divisions (A)(1)(a), (b), and (d) of this section and one dollar and fifty cents of the amount received by the registrar under division (A)(1)(c) of this section for each certificate of title shall be paid into the state treasury to the credit of the automated title processing fund, which is hereby created and which shall consist of moneys collected under division (B)(3) of this section and under sections 1548.10 and 4519.59 of the Revised Code. All investment earnings of the fund shall be credited to the fund. The moneys in the fund shall be used as follows:

(a) Except for moneys collected under section 1548.10 of the Revised Code and as provided in division (B)(3)(c) of this section, moneys collected under division (B)(3) of this section shall be used to implement and

maintain an automated title processing system for the issuance of motor vehicle, off-highway motorcycle, and all-purpose vehicle certificates of title in the offices of the clerks of the courts of common pleas.

(b) Moneys collected under section 1548.10 of the Revised Code shall be used to issue marine certificates of title in the offices of the clerks of the courts of common pleas as provided in Chapter 1548. of the Revised Code.

(c) Moneys collected under division (B)(3) of this section shall be used in accordance with section 4505.25 of the Revised Code to implement Sub. S.B. 59 of the 124th general assembly.

(4) The registrar shall pay the fifty-cent separate fee collected from a licensed motor vehicle dealer under division (A)(1)(c) of this section into the title defect recision fund created by section 1345.52 of the Revised Code.

(C)(1) The automated title processing board is hereby created consisting of the registrar or the registrar's representative, a person selected by the registrar, the president of the Ohio clerks of court association or the president's representative, and two clerks of courts of common pleas appointed by the governor. The director of budget and management or the director's designee, the chief of the division of watercraft in the department of natural resources or the chief's designee, and the tax commissioner or the commissioner's designee shall be nonvoting members of the board. The purpose of the board is to facilitate the operation and maintenance of an automated title processing system and approve the procurement of automated title processing system equipment and ribbons, cartridges, or other devices necessary for the operation of that equipment. Voting members of the board, excluding the registrar or the registrar's representative, shall serve without compensation, but shall be reimbursed for travel and other necessary expenses incurred in the conduct of their official duties. The registrar or the registrar's representative shall receive neither compensation nor reimbursement as a board member.

(2) The automated title processing board shall determine each of the following:

(a) The automated title processing equipment and certificates of title requirements for each county;

(b) The payment of expenses that may be incurred by the counties in implementing an automated title processing system;

(c) The repayment to the counties for existing title processing equipment.

(3) The registrar shall purchase, lease, or otherwise acquire any automated title processing equipment and certificates of title that the board

determines are necessary from moneys in the automated title processing fund established by division (B)(3) of this section.

(D) All counties shall conform to the requirements of the registrar regarding the operation of their automated title processing system for motor vehicle titles, certificates of title for off-highway motorcycles and all-purpose vehicles, and certificates of title for watercraft and outboard motors.

Sec. 4506.07. (A) Every application for a commercial driver's license, restricted commercial driver's license, or a commercial driver's temporary instruction permit, or a duplicate of such a license, shall be made upon a form approved and furnished by the registrar of motor vehicles. Except as provided in section 4506.24 of the Revised Code in regard to a restricted commercial driver's license, the application shall be signed by the applicant and shall contain the following information:

(1) The applicant's name, date of birth, social security account number, sex, general description including height, weight, and color of hair and eyes, current residence, duration of residence in this state, country of citizenship, and occupation;

(2) Whether the applicant previously has been licensed to operate a commercial motor vehicle or any other type of motor vehicle in another state or a foreign jurisdiction and, if so, when, by what state, and whether the license or driving privileges currently are suspended or revoked in any jurisdiction, or the applicant otherwise has been disqualified from operating a commercial motor vehicle, or is subject to an out-of-service order issued under this chapter or any similar law of another state or a foreign jurisdiction and, if so, the date of, locations involved, and reason for the suspension, revocation, disqualification, or out-of-service order;

(3) Whether the applicant is afflicted with or suffering from any physical or mental disability or disease that prevents the applicant from exercising reasonable and ordinary control over a motor vehicle while operating it upon a highway or is or has been subject to any condition resulting in episodic impairment of consciousness or loss of muscular control and, if so, the nature and extent of the disability, disease, or condition, and the names and addresses of the physicians attending the applicant;

(4) Whether the applicant has obtained a medical examiner's certificate as required by this chapter and, beginning January 30, 2012, the applicant, prior to or at the time of applying, has self-certified to the registrar the applicable status of the applicant under division (A)(2) of section 4506.10 of the Revised Code;

(5) Whether the applicant has pending a citation for violation of any motor vehicle law or ordinance except a parking violation and, if so, a description of the citation, the court having jurisdiction of the offense, and the date when the offense occurred;

(6) ~~Whether~~ If an applicant has not certified the applicant's willingness to make an anatomical gift under section 2108.05 of the Revised Code, whether the applicant wishes to certify willingness to make such an anatomical gift ~~under section 2108.05 of the Revised Code~~, which shall be given no consideration in the issuance of a license;

(7) On and after May 1, 1993, whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether the applicant wishes the license issued to indicate that the applicant has executed the instrument;

(8) On and after October 7, 2009, whether the applicant is a veteran, active duty, or reservist of the armed forces of the United States and, if the applicant is such, whether the applicant wishes the license issued to indicate that the applicant is a veteran, active duty, or reservist of the armed forces of the United States by a military designation on the license.

(B) Every applicant shall certify, on a form approved and furnished by the registrar, all of the following:

(1) That the motor vehicle in which the applicant intends to take the driving skills test is representative of the type of motor vehicle that the applicant expects to operate as a driver;

(2) That the applicant is not subject to any disqualification or out-of-service order, or license suspension, revocation, or cancellation, under the laws of this state, of another state, or of a foreign jurisdiction and does not have more than one driver's license issued by this or another state or a foreign jurisdiction;

(3) Any additional information, certification, or evidence that the registrar requires by rule in order to ensure that the issuance of a commercial driver's license to the applicant is in compliance with the law of this state and with federal law.

(C) Every applicant shall execute a form, approved and furnished by the registrar, under which the applicant consents to the release by the registrar of information from the applicant's driving record.

(D) The registrar or a deputy registrar, in accordance with section

3503.11 of the Revised Code, shall register as an elector any applicant for a commercial driver's license or for a renewal or duplicate of such a license under this chapter, if the applicant is eligible and wishes to be registered as an elector. The decision of an applicant whether to register as an elector shall be given no consideration in the decision of whether to issue the applicant a license or a renewal or duplicate.

(E) The registrar or a deputy registrar, in accordance with section 3503.11 of the Revised Code, shall offer the opportunity of completing a notice of change of residence or change of name to any applicant for a commercial driver's license or for a renewal or duplicate of such a license who is a resident of this state, if the applicant is a registered elector who has changed the applicant's residence or name and has not filed such a notice.

(F) In considering any application submitted pursuant to this section, the bureau of motor vehicles may conduct any inquiries necessary to ensure that issuance or renewal of a commercial driver's license would not violate any provision of the Revised Code or federal law.

(G) In addition to any other information it contains, on and after October 7, 2009, the form approved and furnished by the registrar of motor vehicles for an application for a commercial driver's license, restricted commercial driver's license, or a commercial driver's temporary instruction permit or an application for a duplicate of such a license shall inform applicants that the applicant must present a copy of the applicant's DD-214 or an equivalent document in order to qualify to have the license or duplicate indicate that the applicant is a veteran, active duty, or reservist of the armed forces of the United States based on a request made pursuant to division (A)(8) of this section.

Sec. 4507.06. (A)(1) Every application for a driver's license or motorcycle operator's license or endorsement, or duplicate of any such license or endorsement, shall be made upon the approved form furnished by the registrar of motor vehicles and shall be signed by the applicant.

Every application shall state the following:

(a) The applicant's name, date of birth, social security number if such has been assigned, sex, general description, including height, weight, color of hair, and eyes, residence address, including county of residence, duration of residence in this state, and country of citizenship;

(b) Whether the applicant previously has been licensed as an operator, chauffeur, driver, commercial driver, or motorcycle operator and, if so, when, by what state, and whether such license is suspended or canceled at the present time and, if so, the date of and reason for the suspension or cancellation;

(c) Whether the applicant is now or ever has been afflicted with epilepsy, or whether the applicant now is suffering from any physical or mental disability or disease and, if so, the nature and extent of the disability or disease, giving the names and addresses of physicians then or previously in attendance upon the applicant;

(d) Whether an applicant for a duplicate driver's license, or duplicate license containing a motorcycle operator endorsement has pending a citation for violation of any motor vehicle law or ordinance, a description of any such citation pending, and the date of the citation;

(e) ~~Whether~~ If an applicant has not certified the applicant's willingness to make an anatomical gift under section 2108.05 of the Revised Code, whether the applicant wishes to certify willingness to make such an anatomical gift ~~under section 2108.05 of the Revised Code~~, which shall be given no consideration in the issuance of a license or endorsement;

(f) Whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether the applicant wishes the applicant's license to indicate that the applicant has executed the instrument;

(g) On and after October 7, 2009, whether the applicant is a veteran, active duty, or reservist of the armed forces of the United States and, if the applicant is such, whether the applicant wishes the applicant's license to indicate that the applicant is a veteran, active duty, or reservist of the armed forces of the United States by a military designation on the license.

(2) Every applicant for a driver's license shall be photographed in color at the time the application for the license is made. The application shall state any additional information that the registrar requires.

(B) The registrar or a deputy registrar, in accordance with section 3503.11 of the Revised Code, shall register as an elector any person who applies for a driver's license or motorcycle operator's license or endorsement under division (A) of this section, or for a renewal or duplicate of the license or endorsement, if the applicant is eligible and wishes to be registered as an elector. The decision of an applicant whether to register as an elector shall be given no consideration in the decision of whether to issue the applicant a license or endorsement, or a renewal or duplicate.

(C) The registrar or a deputy registrar, in accordance with section 3503.11 of the Revised Code, shall offer the opportunity of completing a notice of change of residence or change of name to any applicant for a

driver's license or endorsement under division (A) of this section, or for a renewal or duplicate of the license or endorsement, if the applicant is a registered elector who has changed the applicant's residence or name and has not filed such a notice.

(D) In addition to any other information it contains, on and after October 7, 2009, the approved form furnished by the registrar of motor vehicles for an application for a driver's license or motorcycle operator's license or endorsement or an application for a duplicate of any such license or endorsement shall inform applicants that the applicant must present a copy of the applicant's DD-214 or an equivalent document in order to qualify to have the license or duplicate indicate that the applicant is a veteran, active duty, or reservist of the armed forces of the United States based on a request made pursuant to division (A)(1)(g) of this section.

Sec. 4507.51. (A)(1) Every application for an identification card or duplicate shall be made on a form furnished by the registrar of motor vehicles, shall be signed by the applicant, and by the applicant's parent or guardian if the applicant is under eighteen years of age, and shall contain the following information pertaining to the applicant: name, date of birth, sex, general description including the applicant's height, weight, hair color, and eye color, address, and social security number. The application also shall ~~state~~ include, for an applicant who has not already certified the applicant's willingness to make an anatomical gift under section 2108.05 of the Revised Code, whether ~~an~~ the applicant wishes to certify willingness to make such an anatomical gift under section 2108.05 of the Revised Code and shall include information about the requirements of sections 2108.01 to 2108.29 of the Revised Code that apply to persons who are less than eighteen years of age. The statement regarding willingness to make such a donation shall be given no consideration in the decision of whether to issue an identification card. Each applicant shall be photographed in color at the time of making application.

(2)(a) The application also shall state whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether the applicant wishes the identification card issued to indicate that the applicant has executed the instrument.

(b) On and after October 7, 2009, the application also shall state whether the applicant is a veteran, active duty, or reservist of the armed

forces of the United States and, if the applicant is such, whether the applicant wishes the identification card issued to indicate that the applicant is a veteran, active duty, or reservist of the armed forces of the United States by a military designation on the identification card.

(3) The registrar or deputy registrar, in accordance with section 3503.11 of the Revised Code, shall register as an elector any person who applies for an identification card or duplicate if the applicant is eligible and wishes to be registered as an elector. The decision of an applicant whether to register as an elector shall be given no consideration in the decision of whether to issue the applicant an identification card or duplicate.

(B) The application for an identification card or duplicate shall be filed in the office of the registrar or deputy registrar. Each applicant shall present documentary evidence as required by the registrar of the applicant's age and identity, and the applicant shall swear that all information given is true. An identification card issued by the department of rehabilitation and correction under section 5120.59 of the Revised Code or an identification card issued by the department of youth services under section 5139.511 of the Revised Code shall be sufficient documentary evidence under this division upon verification of the applicant's social security number by the registrar or a deputy registrar. Upon issuing an identification card under this section for a person who has been issued an identification card under section 5120.59 or section 5139.511 of the Revised Code, the registrar or deputy registrar shall destroy the identification card issued under section 5120.59 or section 5139.511 of the Revised Code.

All applications for an identification card or duplicate shall be filed in duplicate, and if submitted to a deputy registrar, a copy shall be forwarded to the registrar. The registrar shall prescribe rules for the manner in which a deputy registrar is to file and maintain applications and other records. The registrar shall maintain a suitable, indexed record of all applications denied and cards issued or canceled.

(C) In addition to any other information it contains, on and after the date that is fifteen months after April 7, 2009, the form furnished by the registrar of motor vehicles for an application for an identification card or duplicate shall inform applicants that the applicant must present a copy of the applicant's DD-214 or an equivalent document in order to qualify to have the card or duplicate indicate that the applicant is an honorably discharged veteran of the armed forces of the United States based on a request made pursuant to division (A)(2)(b) of this section.

Sec. 4510.038. (A) Any person whose driver's or commercial driver's license or permit is suspended or who is granted limited driving privileges

under section 4510.037, under division (H) of section 4511.19, or under section 4510.07 of the Revised Code for a violation of a municipal ordinance that is substantially equivalent to division (B) of section 4511.19 of the Revised Code is not eligible to retain the license, or to have the driving privileges reinstated, until each of the following has occurred:

(1) The person successfully completes a course of remedial driving instruction approved by the director of public safety. A minimum of twenty-five per cent of the number of hours of instruction included in the course shall be devoted to instruction on driver attitude.

The course also shall devote a number of hours to instruction in the area of alcohol and drugs and the operation of vehicles. The instruction shall include, but not be limited to, a review of the laws governing the operation of a vehicle while under the influence of alcohol, drugs, or a combination of them, the dangers of operating a vehicle while under the influence of alcohol, drugs, or a combination of them, and other information relating to the operation of vehicles and the consumption of alcoholic beverages and use of drugs. The director, in consultation with the director of ~~alcohol and drug addiction services~~ mental health and addiction services, shall prescribe the content of the instruction. The number of hours devoted to the area of alcohol and drugs and the operation of vehicles shall comprise a minimum of twenty-five per cent of the number of hours of instruction included in the course.

(2) The person is examined in the manner provided for in section 4507.20 of the Revised Code, and found by the registrar of motor vehicles to be qualified to operate a motor vehicle;

(3) The person gives and maintains proof of financial responsibility, in accordance with section 4509.45 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, any course of remedial driving instruction the director of public safety approves under this section shall require its students to attend at least fifty per cent of the course in person and the director shall not approve any course of remedial driving instruction that permits its students to take more than fifty per cent of the course in any other manner, including via video teleconferencing or the internet.

(2) The director may approve a course of remedial instruction that permits students to take the entire course via video teleconferencing or the internet.

Sec. 4510.45. (A)(1) A manufacturer of ignition interlock devices that desires for its devices to be certified under section 4510.43 of the Revised Code and then to be included on the list of certified devices that the

department of public safety compiles and makes available to courts pursuant to that section first shall obtain a license from the department under this section. The department, in accordance with Chapter 119. of the Revised Code, shall adopt any rules that are necessary to implement this licensing requirement.

(2) A manufacturer shall apply to the department for the license and shall include all information the department may require by rule. Each application, including an application for license renewal, shall be accompanied by an application fee of one hundred dollars, which the department shall deposit into the state treasury to the credit of the indigent drivers alcohol treatment fund created by section 4511.191 of the Revised Code.

(3) Upon receipt of a completed application, if the department finds that a manufacturer has complied with all application requirements, the department shall issue a license to the manufacturer. A manufacturer that has been issued a license under this section is eligible immediately to have the models of ignition interlock devices it produces certified under section 4510.43 of the Revised Code and then included on the list of certified devices that the department compiles and makes available to courts pursuant to that section.

(4)(a) A license issued under this section shall expire annually on a date selected by the department. The department shall reject the license application of a manufacturer if any of the following apply:

(i) The application is not accompanied by the application fee.

(ii) The department finds that the manufacturer has not complied with all application requirements.

(iii) The license application is a renewal application and the manufacturer failed to file the annual report or failed to pay the fee as required by division (B) of this section.

(b) A manufacturer whose license application is rejected by the department may appeal the decision to the director of public safety. The director or the director's designee shall hold a hearing on the matter not more than thirty days from the date of the manufacturer's appeal. If the director or the director's designee upholds the denial of the manufacturer's application for a license, the manufacturer may appeal the decision to the Franklin county court of common pleas. If the director or the director's designee reverses the denial of the manufacturer's application for a license, the director or the director's designee shall issue a written order directing that the department issue a license to the manufacturer.

(B) Every manufacturer of ignition interlock devices that is issued a

license under this section shall file an annual report with the department on a form the department prescribes on or before a date the department prescribes. The annual report shall state the amount of net profit the manufacturer earned during a twelve-month period specified by the department that is attributable to the sales of that manufacturer's certified ignition interlock devices to purchasers in this state. Each manufacturer shall pay a fee equal to five per cent of the amount of the net profit described in this division.

The department may permit annual reports to be filed via electronic means.

(C) The department shall deposit all fees it receives from manufacturers under this section into the state treasury to the credit of the indigent drivers alcohol treatment fund created by section 4511.191 of the Revised Code. All money so deposited into that fund that is paid by the department of ~~alcohol and drug addiction services~~ mental health and addiction services to county indigent drivers alcohol treatment funds, county juvenile indigent drivers alcohol treatment funds, and municipal indigent drivers alcohol treatment funds shall be used only as described in division (H)(3) of section 4511.191 of the Revised Code.

(D)(1) The director may make an assessment, based on any information in the director's possession, against any manufacturer that fails to file an annual report or pay the fee required by division (B) of this section. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing assessments and assessment procedures and related provisions. In adopting these rules, the director shall incorporate the provisions of section 5751.09 of the Revised Code to the greatest extent possible, except that the director is not required to incorporate any provisions of that section that by their nature are not applicable, appropriate, or necessary to assessments made by the director under this section.

(2) A manufacturer may appeal the final determination of the director regarding an assessment made by the director under this section. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing such appeals. In adopting these rules, the director shall incorporate the provisions of section 5717.02 of the Revised Code to the greatest extent possible, except that the director is not required to incorporate any provisions of that section that by their nature are not applicable, appropriate, or necessary to appeals of assessments made by the director under this section.

(E) The director, in accordance with Chapter 119. of the Revised Code, shall adopt a penalty schedule setting forth the monetary penalties to be

imposed upon a manufacturer that is issued a license under this section and fails to file an annual report or pay the fee required by division (B) of this section in a timely manner. The penalty amounts shall not exceed the maximum penalty amounts established in section 5751.06 of the Revised Code for similar or equivalent facts or circumstances.

(F)(1) No manufacturer of ignition interlock devices that is required by division (B) of this section to file an annual report with the department or to pay a fee shall fail to do so as required by that division.

(2) No manufacturer of ignition interlock devices that is required by division (B) of this section to file an annual report with the department shall file a report that contains incorrect or erroneous information.

(G) Whoever violates division (F)(2) of this section is guilty of a misdemeanor of the first degree. The department shall remove from the list of certified devices described in division (A)(1) of this section the ignition interlock devices manufactured by a manufacturer that violates division (F)(1) or (2) of this section.

Sec. 4511.19. (A)(1) No person shall operate any vehicle, streetcar, or trackless trolley within this state, if, at the time of the operation, any of the following apply:

(a) The person is under the influence of alcohol, a drug of abuse, or a combination of them.

(b) The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(c) The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

(d) The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(e) The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(f) The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.

(g) The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.

(h) The person has a concentration of seventeen-hundredths of one gram

or more by weight of alcohol per two hundred ten liters of the person's breath.

(i) The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.

(j) Except as provided in division (K) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:

(i) The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.

(ii) The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.

(iii) The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.

(iv) The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.

(v) The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.

(vi) The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a

concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.

(vii) The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.

(viii) Either of the following applies:

(I) The person is under the influence of alcohol, a drug of abuse, or a combination of them, and, as measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

(II) As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

(ix) The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.

(x) The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.

(xi) The state board of pharmacy has adopted a rule pursuant to section 4729.041 of the Revised Code that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is

impaired for purposes of operating any vehicle, streetcar, or trackless trolley within this state, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

(2) No person who, within twenty years of the conduct described in division (A)(2)(a) of this section, previously has been convicted of or pleaded guilty to a violation of this division, a violation of division (A)(1) or (B) of this section, or any other equivalent offense shall do both of the following:

(a) Operate any vehicle, streetcar, or trackless trolley within this state while under the influence of alcohol, a drug of abuse, or a combination of them;

(b) Subsequent to being arrested for operating the vehicle, streetcar, or trackless trolley as described in division (A)(2)(a) of this section, being asked by a law enforcement officer to submit to a chemical test or tests under section 4511.191 of the Revised Code, and being advised by the officer in accordance with section 4511.192 of the Revised Code of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(B) No person under twenty-one years of age shall operate any vehicle, streetcar, or trackless trolley within this state, if, at the time of the operation, any of the following apply:

(1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

(3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(C) In any proceeding arising out of one incident, a person may be charged with a violation of division (A)(1)(a) or (A)(2) and a violation of division (B)(1), (2), or (3) of this section, but the person may not be convicted of more than one violation of these divisions.

(D)(1)(a) In any criminal prosecution or juvenile court proceeding for a

violation of division (A)(1)(a) of this section or for an equivalent offense that is vehicle-related, the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in section 2317.02 of the Revised Code, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.

(b) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section or for an equivalent offense that is vehicle-related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two-hour time limit specified in division (A) of section 4511.192 of the Revised Code as the maximum period of time during which a person may consent to a chemical test or tests as described in that section. The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this division when a person submits to a blood, breath, urine, or other bodily substance test at the request of a law enforcement officer under section 4511.191 of the Revised Code or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic, or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn under division (D)(1)(b) of this section shall be analyzed in accordance with methods approved by the director of health by an individual possessing a valid permit issued by the director pursuant to section 3701.143 of the Revised Code.

(c) As used in division (D)(1)(b) of this section, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in section 4765.01 of the Revised Code.

(2) In a criminal prosecution or juvenile court proceeding for a violation of division (A) of this section or for an equivalent offense that is vehicle-related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in divisions (A)(1)(b), (c), (d), and (e) of this section or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of division (A)(1)(j) of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This division does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of division (B) of this section or for an equivalent offense that is substantially equivalent to that division.

(3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.

If the chemical test was obtained pursuant to division (D)(1)(b) of this section, the person tested may have a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of section 4511.191 of the Revised Code, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of section 4511.191 of the Revised Code, the form to be read to the person to be tested, as required under section 4511.192 of the Revised Code, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

(4)(a) As used in divisions (D)(4)(b) and (c) of this section, "national highway traffic safety administration" means the national highway traffic safety administration established as an administration of the United States department of transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

(b) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a

controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the national highway traffic safety administration, all of the following apply:

(i) The officer may testify concerning the results of the field sobriety test so administered.

(ii) The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.

(iii) If testimony is presented or evidence is introduced under division (D)(4)(b)(i) or (ii) of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

(c) Division (D)(4)(b) of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (D)(4)(b) of this section.

(E)(1) Subject to division (E)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of division (A)(1)(b), (c), (d), (e), (f), (g), (h), (i), or (j) or (B)(1), (2), (3), or (4) of this section or for an equivalent offense that is substantially equivalent to any of those divisions, a laboratory report from any laboratory personnel issued a permit by the department of health authorizing an analysis as described in this division that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this division shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:

(a) The signature, under oath, of any person who performed the analysis;

(b) Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a

combination of them that was found;

(c) A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;

(d) An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the department of health.

(2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in division (E)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.

(3) A report of the type described in division (E)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

(F) Except as otherwise provided in this division, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or section 4511.191 or 4511.192 of the Revised Code, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or section 4511.191 or 4511.192 of the Revised Code, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this division also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this division is not available to a person who withdraws blood if the person engages in

willful or wanton misconduct.

As used in this division, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in section 4765.01 of the Revised Code.

(G)(1) Whoever violates any provision of divisions (A)(1)(a) to (i) or (A)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates division (A)(1)(j) of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Chapter 2929. of the Revised Code, except as otherwise authorized or required by divisions (G)(1)(a) to (e) of this section:

(a) Except as otherwise provided in division (G)(1)(b), (c), (d), or (e) of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a mandatory jail term of three consecutive days. As used in this division, three consecutive days means seventy-two consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this division if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under section ~~3793.10~~ 5119.38 of the Revised Code. The court also may suspend the execution of any part of the three-day jail term under this division if it places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Chapter ~~3793-~~ 5119. of the Revised Code by the director of ~~alcohol and drug addiction~~

~~services~~ mental health and addiction services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, except as otherwise provided in this division, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section ~~3793.10~~ 5119.38 of the Revised Code. As used in this division, three consecutive days means seventy-two consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a driver's intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days.

The court may require the offender, under a community control sanction imposed under section 2929.25 of the Revised Code, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Chapter ~~3793.~~ 5119. of the Revised Code by the director of ~~alcohol and drug addiction services~~ mental health and addiction services, in addition to the required attendance at drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

(iii) In all cases, a fine of not less than three hundred seventy-five and not more than one thousand seventy-five dollars;

(iv) In all cases, a class five license suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(5) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13 of the Revised Code.

(b) Except as otherwise provided in division (G)(1)(e) of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to one violation of division (A) or (B) of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by ~~an alcohol and drug treatment program~~ a community addiction services provider that is authorized by section ~~3793.02~~ 5119.21 of the Revised Code, subject to division (I) of this section, and shall order the offender to follow the treatment recommendations of the ~~program~~ services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the ~~program~~ services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, except as otherwise provided in this division, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by ~~an alcohol and drug treatment program~~ a community addiction service provider that is authorized by section ~~3793.02~~ 5119.21 of the Revised Code, subject to division (I) of this section, and shall order the offender to follow the treatment recommendations of the ~~program~~ services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage

and to determine whether or not treatment is warranted. Upon the request of the court, the ~~program~~ services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

(iii) In all cases, notwithstanding the fines set forth in Chapter 2929. of the Revised Code, a fine of not less than five hundred twenty-five and not more than one thousand six hundred twenty-five dollars;

(iv) In all cases, a class four license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13 of the Revised Code.

(v) In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with section 4503.233 of the Revised Code and impoundment of the license plates of that vehicle for ninety days.

(c) Except as otherwise provided in division (G)(1)(e) of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to two violations of division (A) or (B) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in sections 2929.21 to 2929.28 of the Revised Code, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous

alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the jail terms set forth in sections 2929.21 to 2929.28 of the Revised Code, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

(iii) In all cases, notwithstanding the fines set forth in Chapter 2929. of the Revised Code, a fine of not less than eight hundred fifty and not more than two thousand seven hundred fifty dollars;

(iv) In all cases, a class three license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13 of the Revised Code.

(v) In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with section 4503.234 of the Revised Code. Division (G)(6) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this division.

(vi) In all cases, the court shall order the offender to participate ~~in an alcohol and drug~~ with a community addiction program services provider authorized by section ~~3793.02~~ 5119.21 of the Revised Code, subject to division (I) of this section, and shall order the offender to follow the treatment recommendations of the ~~program services provider~~. The operator of the ~~program services provider~~ shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the ~~program services provider~~ shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

(d) Except as otherwise provided in division (G)(1)(e) of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to three or four violations of division (A) or (B) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree. The court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division

(G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or, in the discretion of the court, either a mandatory term of local incarceration of sixty consecutive days in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of sixty consecutive days in accordance with division (G)(2) of that section if the offender is not convicted of and does not plead guilty to a specification of that type. If the court imposes a mandatory term of local incarceration, it may impose a jail term in addition to the sixty-day mandatory term, the cumulative total of the mandatory term and the jail term for the offense shall not exceed one year, and, except as provided in division (A)(1) of section 2929.13 of the Revised Code, no prison term is authorized for the offense. If the court imposes a mandatory prison term, notwithstanding division (A)(4) of section 2929.14 of the Revised Code, it also may sentence the offender to a definite prison term that shall be not less than six months and not more than thirty months and the prison terms shall be imposed as described in division (G)(2) of section 2929.13 of the Revised Code. If the court imposes a mandatory prison term or mandatory prison term and additional prison term, in addition to the term or terms so imposed, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or, in the discretion of the court, either a mandatory term of local incarceration of one hundred twenty consecutive days in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of one hundred twenty consecutive days in accordance with division (G)(2) of that section if the offender is not convicted of and does not plead guilty to a specification of that type. If the court imposes a mandatory term of local incarceration, it may impose a jail term in addition to the one hundred twenty-day mandatory term, the cumulative total of the mandatory term and the jail term for the offense shall not exceed one year, and, except as provided in division (A)(1) of section 2929.13 of the Revised Code, no prison term is authorized for the offense. If the court imposes a mandatory prison term, notwithstanding division (A)(4) of section 2929.14 of the Revised Code, it also may sentence

the offender to a definite prison term that shall be not less than six months and not more than thirty months and the prison terms shall be imposed as described in division (G)(2) of section 2929.13 of the Revised Code. If the court imposes a mandatory prison term or mandatory prison term and additional prison term, in addition to the term or terms so imposed, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(iii) In all cases, notwithstanding section 2929.18 of the Revised Code, a fine of not less than one thousand three hundred fifty nor more than ten thousand five hundred dollars;

(iv) In all cases, a class two license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(2) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13 of the Revised Code.

(v) In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with section 4503.234 of the Revised Code. Division (G)(6) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this division.

(vi) In all cases, the court shall order the offender to participate ~~in an alcohol and drug~~ with a community addiction program services provider authorized by section ~~3793.02~~ 5119.21 of the Revised Code, subject to division (I) of this section, and shall order the offender to follow the treatment recommendations of the ~~program services provider~~. The operator of the ~~program services provider~~ shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the ~~program services provider~~ shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

(vii) In all cases, if the court sentences the offender to a mandatory term of local incarceration, in addition to the mandatory term, the court, pursuant to section 2929.17 of the Revised Code, may impose a term of house arrest with electronic monitoring. The term shall not commence until after the offender has served the mandatory term of local incarceration.

(e) An offender who previously has been convicted of or pleaded guilty to a violation of division (A) of this section that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a

felony of the third degree. The court shall sentence the offender to all of the following:

(i) If the offender is being sentenced for a violation of division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or a mandatory prison term of sixty consecutive days in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender is not convicted of and does not plead guilty to a specification of that type. The court may impose a prison term in addition to the mandatory prison term. The cumulative total of a sixty-day mandatory prison term and the additional prison term for the offense shall not exceed five years. In addition to the mandatory prison term or mandatory prison term and additional prison term the court imposes, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or a mandatory prison term of one hundred twenty consecutive days in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender is not convicted of and does not plead guilty to a specification of that type. The court may impose a prison term in addition to the mandatory prison term. The cumulative total of a one hundred twenty-day mandatory prison term and the additional prison term for the offense shall not exceed five years. In addition to the mandatory prison term or mandatory prison term and additional prison term the court imposes, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(iii) In all cases, notwithstanding section 2929.18 of the Revised Code, a fine of not less than one thousand three hundred fifty nor more than ten thousand five hundred dollars;

(iv) In all cases, a class two license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range

specified in division (A)(2) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13 of the Revised Code.

(v) In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with section 4503.234 of the Revised Code. Division (G)(6) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this division.

(vi) In all cases, the court shall order the offender to participate ~~in an alcohol and drug~~ with a community addiction program services provider authorized by section ~~3793.02~~ 5119.21 of the Revised Code, subject to division (I) of this section, and shall order the offender to follow the treatment recommendations of the program services provider. The operator of the program services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the program services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

(2) An offender who is convicted of or pleads guilty to a violation of division (A) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of section 4511.191 of the Revised Code.

(3) If an offender is sentenced to a jail term under division (G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this division that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.

As an alternative to a mandatory jail term of ten consecutive days required by division (G)(1)(b)(i) of this section, the court, under this division, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the

five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of twenty consecutive days required by division (G)(1)(b)(ii) of this section, the court, under this division, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of thirty consecutive days required by division (G)(1)(c)(i) of this section, the court, under this division, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by division (G)(1)(c)(ii) of this section, the court, under this division, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

(4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under division (G) of this section and if section 4510.13 of the Revised Code permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must

display on the vehicle that is driven subject to the privileges restricted license plates that are issued under section 4503.231 of the Revised Code, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of section 4503.231 of the Revised Code.

(5) Fines imposed under this section for a violation of division (A) of this section shall be distributed as follows:

(a) Twenty-five dollars of the fine imposed under division (G)(1)(a)(iii), thirty-five dollars of the fine imposed under division (G)(1)(b)(iii), one hundred twenty-three dollars of the fine imposed under division (G)(1)(c)(iii), and two hundred ten dollars of the fine imposed under division (G)(1)(d)(iii) or (e)(iii) of this section shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. The agency shall use this share to pay only those costs it incurs in enforcing this section or a municipal OVI ordinance and in informing the public of the laws governing the operation of a vehicle while under the influence of alcohol, the dangers of the operation of a vehicle under the influence of alcohol, and other information relating to the operation of a vehicle under the influence of alcohol and the consumption of alcoholic beverages.

(b) Fifty dollars of the fine imposed under division (G)(1)(a)(iii) of this section shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. If the offender is being sentenced for a violation of division (A)(1)(a), (b), (c), (d), (e), or (j) of this section and was confined as a result of the offense prior to being sentenced for the offense but is not sentenced to a term of incarceration, the fifty dollars shall be paid to the political subdivision that paid the cost of housing the offender during that period of confinement. The political subdivision shall use the share under this division to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate this section or a municipal OVI ordinance, costs of any immobilizing or disabling device used on the offender's vehicle, and costs of electronic house arrest equipment needed for persons who violate this section.

(c) Twenty-five dollars of the fine imposed under division (G)(1)(a)(iii) and fifty dollars of the fine imposed under division (G)(1)(b)(iii) of this section shall be deposited into the county or municipal indigent drivers' alcohol treatment fund under the control of that court, as created by the

county or municipal corporation under division (F) of section 4511.191 of the Revised Code.

(d) One hundred fifteen dollars of the fine imposed under division (G)(1)(b)(iii), two hundred seventy-seven dollars of the fine imposed under division (G)(1)(c)(iii), and four hundred forty dollars of the fine imposed under division (G)(1)(d)(iii) or (e)(iii) of this section shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate this section or a municipal OVI ordinance, costs for any immobilizing or disabling device used on the offender's vehicle, and costs of electronic house arrest equipment needed for persons who violate this section.

(e) Fifty dollars of the fine imposed under divisions (G)(1)(a)(iii), (G)(1)(b)(iii), (G)(1)(c)(iii), (G)(1)(d)(iii), and (G)(1)(e)(iii) of this section shall be deposited into the special projects fund of the court in which the offender was convicted and that is established under division (E)(1) of section 2303.201, division (B)(1) of section 1901.26, or division (B)(1) of section 1907.24 of the Revised Code, to be used exclusively to cover the cost of immobilizing or disabling devices, including certified ignition interlock devices, and remote alcohol monitoring devices for indigent offenders who are required by a judge to use either of these devices. If the court in which the offender was convicted does not have a special projects fund that is established under division (E)(1) of section 2303.201, division (B)(1) of section 1901.26, or division (B)(1) of section 1907.24 of the Revised Code, the fifty dollars shall be deposited into the indigent drivers interlock and alcohol monitoring fund under division (I) of section 4511.191 of the Revised Code.

(f) Seventy-five dollars of the fine imposed under division (G)(1)(a)(iii), one hundred twenty-five dollars of the fine imposed under division (G)(1)(b)(iii), two hundred fifty dollars of the fine imposed under division (G)(1)(c)(iii), and five hundred dollars of the fine imposed under division (G)(1)(d)(iii) or (e)(iii) of this section shall be transmitted to the treasurer of state for deposit into the indigent defense support fund established under section 120.08 of the Revised Code.

(g) The balance of the fine imposed under division (G)(1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), or (e)(iii) of this section shall be disbursed as otherwise provided by law.

(6) If title to a motor vehicle that is subject to an order of criminal forfeiture under division (G)(1)(c), (d), or (e) of this section is assigned or

transferred and division (B)(2) or (3) of section 4503.234 of the Revised Code applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national automobile dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.

(7) In all cases in which an offender is sentenced under division (G) of this section, the offender shall provide the court with proof of financial responsibility as defined in section 4509.01 of the Revised Code. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to section 2929.18 or 2929.28 of the Revised Code in an amount not exceeding five thousand dollars for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under division (G) of this section.

(8) As used in division (G) of this section, "electronic monitoring," "mandatory prison term," and "mandatory term of local incarceration" have the same meanings as in section 2929.01 of the Revised Code.

(H) Whoever violates division (B) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

(1) Except as otherwise provided in division (H)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of section 4510.02 of the Revised Code.

(2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of division (A) or (B) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of section 4510.02 of the Revised Code.

(3) If the offender also is convicted of or also pleads guilty to a

specification of the type described in section 2941.1416 of the Revised Code and if the court imposes a jail term for the violation of division (B) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of section 2929.24 of the Revised Code.

(4) The offender shall provide the court with proof of financial responsibility as defined in section 4509.01 of the Revised Code. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to section 2929.28 of the Revised Code in an amount not exceeding five thousand dollars for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the violation of division (B) of this section.

(I)(1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Chapter ~~3793- 5119~~ of the Revised Code by the director of ~~alcohol and drug addiction services~~ mental health and addiction services.

(2) An offender who stays in a drivers' intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(J) If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(K) Division (A)(1)(j) of this section does not apply to a person who operates a vehicle, streetcar, or trackless trolley while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that division, if both of the following apply:

(1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(L) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in division (A)(1)(j) of this section also apply in a prosecution of a violation of division (D) of section 2923.16 of the Revised Code in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(M) All terms defined in section 4510.01 of the Revised Code apply to this section. If the meaning of a term defined in section 4510.01 of the Revised Code conflicts with the meaning of the same term as defined in section 4501.01 or 4511.01 of the Revised Code, the term as defined in section 4510.01 of the Revised Code applies to this section.

(N)(1) The Ohio Traffic Rules in effect on January 1, 2004, as adopted by the supreme court under authority of section 2937.46 of the Revised Code, do not apply to felony violations of this section. Subject to division (N)(2) of this section, the Rules of Criminal Procedure apply to felony violations of this section.

(2) If, on or after January 1, 2004, the supreme court modifies the Ohio Traffic Rules to provide procedures to govern felony violations of this section, the modified rules shall apply to felony violations of this section.

Sec. 4511.191. (A)(1) As used in this section:

(a) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(b) "Alcohol monitoring device" means any device that provides for continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's conviction of or plea of guilty to an offense.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(5)(a) If a law enforcement officer arrests a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's

whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar of motor vehicles and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test or had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, had been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused one previous request to consent to a chemical test and also had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, which violation or offense arose from an incident other than the incident that led to the refusal, the suspension shall be a class A suspension imposed for the period of time

specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, had been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused a number of previous requests to consent to a chemical test and also had been convicted of or pleaded guilty to a number of violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses that cumulatively total three or more such refusals, convictions, and guilty pleas, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and

section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (C)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or

pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of

the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the registrar or an eligible deputy registrar of a license reinstatement fee of four hundred seventy-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. Money credited to the fund under this section shall be used for purposes identified in ~~the comprehensive statewide alcohol and drug addiction services plan developed~~ under section ~~3793.04~~ 5119.22 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established in the state treasury. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of ~~alcohol and drug addiction services~~ mental health and addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to division (H) of this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the cost of the continued use of an alcohol monitoring device as described in divisions (H)(3) and (4) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of ~~alcohol and drug addiction services~~ mental health and addiction

services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of ~~alcohol and drug addiction services~~ mental health and addiction services.

(d) Seventy-five dollars shall be credited to the ~~Ohio rehabilitation services commission~~ opportunities for Ohioans with disabilities agency established by section ~~3304.12~~ 3304.15 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the ~~commission~~ agency to rehabilitate ~~people~~ persons with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services fund created by section 4513.263 of the Revised Code.

(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established in the state treasury. Moneys in the fund shall be distributed by the department of public safety to the county indigent drivers interlock and alcohol monitoring funds, the county juvenile indigent drivers interlock and alcohol monitoring funds, and the municipal indigent drivers interlock and alcohol monitoring funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device, or an alcohol monitoring device used by an offender or juvenile offender who is ordered to use the device by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's use of the device.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and

circumstances, the person is liable for payment of, and shall be required to pay to the registrar or an eligible deputy registrar, only one reinstatement fee of four hundred seventy-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(5) In addition to the reinstatement fee under this section, if the person pays the reinstatement fee to a deputy registrar, the deputy registrar shall collect a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, plus two dollars of the service fee, to the registrar in the manner the registrar shall determine.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification under section 3123.611 or 4506.16 of the Revised Code or any period of suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(H)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol

treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division (F) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of additional costs imposed under section 2949.094 of the Revised Code that are specified for deposit into a county, county juvenile, or municipal indigent drivers alcohol treatment fund by that section, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund. The portions of the fees paid under division (F) of this section that are to be so deposited shall be determined in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division of the section or provision.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) Regarding a suspension imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) Regarding a suspension imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of an assessment or the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of the assessment or the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to obtain an assessment or attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the

offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

In addition, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in the following manners:

(a) If the source of the moneys was an appropriation of the general assembly, a portion of a fee that was paid under division (F) of this section, a portion of a fine that was specified for deposit into the fund by section 4511.193 of the Revised Code, or a portion of a fine that was paid for a violation of section 4511.19 of the Revised Code or of a provision contained in Chapter 4510. of the Revised Code that was required to be deposited into the fund, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender, in conjunction with a treatment program approved by the department of ~~alcohol and drug addiction services~~ mental health and addiction services, when such use is determined clinically necessary by the treatment program and when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device;

(b) If the source of the moneys was a portion of an additional court cost imposed under section 2949.094 of the Revised Code, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device. The moneys may be used for a device as described in this division if the use of the device is in conjunction with a treatment program approved by the department of ~~alcohol and drug addiction services~~ mental health and addiction services, when the use of the device is determined clinically necessary by the treatment program, but the use of a device is not required to be in conjunction with a treatment program approved by the department in order for the moneys to be used for the device as described in this division.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing alcohol monitoring devices to be used in conjunction with division (H)(3) of this section, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device.

(5) For the purpose of determining as described in division (F)(2)(c) of this section whether an offender does not have the means to pay for the offender's attendance at an alcohol and drug addiction treatment program or whether an alleged offender or delinquent child is unable to pay the costs specified in division (H)(4) of this section, the court shall use the indigent client eligibility guidelines and the standards of indigency established by the state public defender to make the determination.

(6) The court shall identify and refer any ~~alcohol and drug~~ community addiction program services provider that is not certified under section ~~3793.06~~ 5119.36 of the Revised Code and that is interested in receiving amounts from the surplus in the fund declared under division (H)(4) of this section to the department of ~~alcohol and drug addiction services~~ mental health and addiction services in order for the ~~program services provider~~ to become a certified ~~alcohol and drug~~ community addiction program services

provider. The department shall keep a record of applicant referrals received pursuant to this division and shall submit a report on the referrals each year to the general assembly. If a ~~program services provider~~ interested in becoming certified makes an application to become certified pursuant to section ~~3793.06~~ 5119.36 of the Revised Code, the ~~program services provider~~ is eligible to receive surplus funds as long as the application is pending with the department. The department of ~~alcohol and drug addiction services~~ mental health and addiction services must offer technical assistance to the applicant. If the interested ~~program services provider~~ withdraws the certification application, the department must notify the court, and the court shall not provide the interested ~~program services provider~~ with any further surplus funds.

(7)(a) Each alcohol and drug addiction services board and board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code shall submit to the department of ~~alcohol and drug addiction services~~ mental health and addiction services an annual report for each indigent drivers alcohol treatment fund in that board's area.

(b) The report, which shall be submitted not later than sixty days after the end of the state fiscal year, shall provide the total payment that was made from the fund, including the number of indigent consumers that received treatment services and the number of indigent consumers that received an alcohol monitoring device. The report shall identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. The report shall include the fiscal year balance of each indigent drivers alcohol treatment fund located in that board's area. In the event that a surplus is declared in the fund pursuant to division (H)(4) of this section, the report also shall provide the total payment that was made from the surplus moneys and identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. ~~The department may require additional information necessary to complete the comprehensive statewide alcohol and drug addiction services plan as required by section 3793.04 of the Revised Code.~~

(c) If a board is unable to obtain adequate information to develop the report to submit to the department for a particular indigent drivers alcohol treatment fund, the board shall submit a report detailing the effort made in obtaining the information.

(I)(1) Each county shall establish an indigent drivers interlock and alcohol monitoring fund and a juvenile indigent drivers interlock and alcohol treatment fund, and each municipal corporation in which there is a

municipal court shall establish an indigent drivers interlock and alcohol monitoring fund. All revenue that the general assembly appropriates to the indigent drivers interlock and alcohol monitoring fund for transfer to a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund, all portions of license reinstatement fees that are paid under division (F)(2) of this section and that are credited under that division to the indigent drivers interlock and alcohol monitoring fund in the state treasury, and all portions of fines that are paid under division (G) of section 4511.19 of the Revised Code and that are credited by division (G)(5)(e) of that section to the indigent drivers interlock and alcohol monitoring fund in the state treasury shall be deposited in the appropriate fund in accordance with division (I)(2) of this section.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that portion of the fine paid under division (G) of section 4511.19 of the Revised Code and that is credited under either division to the indigent drivers interlock and alcohol monitoring fund shall be deposited into a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund as follows:

(a) If the fee or fine is paid by a person who was charged in a county court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county indigent drivers interlock and alcohol monitoring fund under the control of that court.

(b) If the fee or fine is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county juvenile indigent drivers interlock and alcohol monitoring fund established in the county served by the court.

(c) If the fee or fine is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers interlock and alcohol monitoring fund under the control of that court.

Sec. 4511.21. (A) No person shall operate a motor vehicle, trackless trolley, or streetcar at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface, and width of the street or highway and any other conditions, and no person shall drive any motor vehicle, trackless trolley, or streetcar in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured

clear distance ahead.

(B) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to this section by the director of transportation or local authorities, for the operator of a motor vehicle, trackless trolley, or streetcar to operate the same at a speed not exceeding the following:

(1)(a) Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when twenty miles per hour school speed limit signs are erected; except that, on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by division (B)(4) of this section and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by divisions (B)(9) and (10) of this section. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.

(b) As used in this section and in section 4511.212 of the Revised Code, "school" means any school chartered under section 3301.16 of the Revised Code and any nonchartered school that during the preceding year filed with the department of education in compliance with rule 3301-35-08 of the Ohio Administrative Code, a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone. "School" also includes a special elementary school that in writing requests the county engineer of the county in which the special elementary school is located to create a school zone at the location of that school. Upon receipt of such a written request, the county engineer shall create a school zone at that location by erecting the appropriate signs.

(c) As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway, and also includes that portion of a state highway. Upon request from local authorities for streets and highways under their jurisdiction and that portion of a state highway under the jurisdiction of the director of transportation or a request from a county engineer in the case of a school zone for a special elementary school, the director may extend the traditional

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school zone boundaries. The distances in divisions (B)(1)(c)(i), (ii), and (iii) of this section shall not exceed three hundred feet per approach per direction and are bounded by whichever of the following distances or combinations thereof the director approves as most appropriate:

(i) The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of three hundred feet on each approach direction;

(ii) The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of three hundred feet on each approach direction;

(iii) The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of three hundred feet on each approach direction of the highway.

Nothing in this section shall be construed to invalidate the director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in divisions (B)(1)(a) and (c) of this section.

(d) As used in this division, "crosswalk" has the meaning given that term in division (LL)(2) of section 4511.01 of the Revised Code.

The director may, upon request by resolution of the legislative authority of a municipal corporation, the board of trustees of a township, or a county board of developmental disabilities created pursuant to Chapter 5126. of the Revised Code, and upon submission by the municipal corporation, township, or county board of such engineering, traffic, and other information as the director considers necessary, designate a school zone on any portion of a state route lying within the municipal corporation, lying within the unincorporated territory of the township, or lying adjacent to the property of a school that is operated by such county board, that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than one thousand three hundred twenty feet. Such a school zone shall include the distance encompassed by the crosswalk and extending three hundred feet on each approach direction of the state route.

(e) As used in this section, "special elementary school" means a school that meets all of the following criteria:

(i) It is not chartered and does not receive tax revenue from any source.

(ii) It does not educate children beyond the eighth grade.

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(iii) It is located outside the limits of a municipal corporation.

(iv) A majority of the total number of students enrolled at the school are not related by blood.

(v) The principal or other person in charge of the special elementary school annually sends a report to the superintendent of the school district in which the special elementary school is located indicating the total number of students enrolled at the school, but otherwise the principal or other person in charge does not report any other information or data to the superintendent.

(2) Twenty-five miles per hour in all other portions of a municipal corporation, except on state routes outside business districts, through highways outside business districts, and alleys;

(3) Thirty-five miles per hour on all state routes or through highways within municipal corporations outside business districts, except as provided in divisions (B)(4) and (6) of this section;

(4) Fifty miles per hour on controlled-access highways and expressways within municipal corporations;

(5) Fifty-five miles per hour on highways outside municipal corporations, other than highways within island jurisdictions as provided in division (B)(8) of this section, highways as provided in division (B)(9) of this section, and highways, expressways, and freeways as provided in divisions (B)(~~12~~), (13), (14), and (16); ~~and (17)~~ of this section;

(6) Fifty miles per hour on state routes within municipal corporations outside urban districts unless a lower prima-facie speed is established as further provided in this section;

(7) Fifteen miles per hour on all alleys within the municipal corporation;

(8) Thirty-five miles per hour on highways outside municipal corporations that are within an island jurisdiction;

(9) Sixty miles per hour on two-lane state routes outside municipal corporations as established by the director under division (H)(2) of this section.

(10) Fifty-five miles per hour at all times on freeways with paved shoulders inside municipal corporations, other than freeways as provided in divisions (B)(~~13~~), (14) and (16); ~~and (17)~~ of this section;

(11) Fifty-five miles per hour at all times on freeways outside municipal corporations, other than freeways as provided in divisions (B)(~~13~~), (14) and (16); ~~and (17)~~ of this section;

(12) ~~Fifty-five~~ Sixty miles per hour for operators of any motor vehicle at all times on all portions of ~~freeways that are not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system for operators of any motor~~

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~~vehicle weighing in excess of eight thousand pounds empty weight and any noncommercial bus rural divided highways;~~

(13) ~~Fifty-five~~ Sixty-five miles per hour for operators of any motor vehicle weighing eight thousand pounds or less empty weight and any commercial bus at all times on all portions of freeways that are not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, unless a higher speed limit is established under division (L) of this section at all times on all rural expressways without traffic control signals;

(14) ~~Sixty-five~~ Seventy miles per hour for operators of any motor vehicle weighing eight thousand pounds or less empty weight and any commercial bus at all times on all portions of the following:

(a) ~~Freeways that are not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995;~~

(b) ~~Freeways that are not part of the interstate system but are built to the standards and specifications that are applicable to freeways that are part of the interstate system, and that had such a speed limit established under division (L) of this section;~~

(c) ~~Rural, divided, multi-lane highways that are designated as part of the national highway system under the "National Highway System Designation Act of 1995," 109 Stat. 568, 23 U.S.C.A. 103, and that had such a speed limit established under division (M) of this section: rural freeways;~~

(15) Fifty-five miles per hour for operators of any motor vehicle at all times on all portions of freeways in congested areas as determined by the director and that are part of the interstate system and are located within a municipal corporation or within an interstate freeway outerbelt;

(16) Sixty-five miles per hour for operators of any motor vehicle at all times on all portions of freeways in urban areas as determined by the director and that are part of the interstate system and are part of an interstate freeway outerbelt;

(17) ~~Seventy miles per hour at all times on all portions of freeways that are part of the interstate system and are outside urbanized areas, as designated in accordance with 23 U.S.C. 101, for operators of all motor vehicles.~~

(C) It is prima-facie unlawful for any person to exceed any of the speed limitations in divisions (B)(1)(a), (2), (3), (4), (6), (7), and (8) of this section, or any declared or established pursuant to this section by the

director or local authorities and it is unlawful for any person to exceed any of the speed limitations in division (D) of this section. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.

(D) No person shall operate a motor vehicle, trackless trolley, or streetcar upon a street or highway as follows:

(1) At a speed exceeding fifty-five miles per hour, except upon a two-lane state route as provided in division (B)(9) of this section and upon a highway, expressway, or freeway as provided in divisions (B)(~~12~~), (13), (~~14~~), and (16); ~~and (17)~~ of this section;

(2) At a speed exceeding sixty miles per hour upon a two-lane state route as provided in division (B)(9) of this section: and upon a highway as provided in division (B)(12) of this section;

(3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in division (B)(13) or upon a freeway as provided in division (B)(16) of this section, except upon a freeway as provided in division (B)(~~17~~)(14) of this section;

(4) At a speed exceeding seventy miles per hour upon a freeway as provided in division (B)(~~17~~)(14) of this section;

(5) ~~If a motor vehicle weighing in excess of eight thousand pounds empty weight or a noncommercial bus as prescribed in division (B)(11) of this section, at a speed exceeding fifty five miles per hour, except upon a freeway as provided in divisions (B)(16) and (17) of this section;~~

(6) ~~At a speed exceeding the posted speed limit upon a freeway for which the director has determined and declared a speed limit of not more than sixty five miles per hour pursuant to division (L)(2) or (M) of this section;~~

(7) ~~At a speed exceeding sixty five miles per hour upon a freeway for which such a speed limit has been established through the operation of division (L)(3) of this section;~~

(8) At a speed exceeding the posted speed limit upon a highway, expressway, or freeway for which the director has determined and declared a speed limit pursuant to division (I)(2) or (L)(2) of this section.

(E) In every charge of violation of this section the affidavit and warrant shall specify the time, place, and speed at which the defendant is alleged to have driven, and in charges made in reliance upon division (C) of this section also the speed which division (B)(1)(a), (2), (3), (4), (6), (7), or (8) of, or a limit declared or established pursuant to, this section declares is prima-facie lawful at the time and place of such alleged violation, except

that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.

(F) When a speed in excess of both a prima-facie limitation and a limitation in division (D) of this section is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both division (B)(1)(a), (2), (3), (4), (6), (7), or (8) of this section, or of a limit declared or established pursuant to this section by the director or local authorities, and of the limitation in division (D) of this section. If the court finds a violation of division (B)(1)(a), (2), (3), (4), (6), (7), or (8) of, or a limit declared or established pursuant to, this section has occurred, it shall enter a judgment of conviction under such division and dismiss the charge under division (D) of this section. If it finds no violation of division (B)(1)(a), (2), (3), (4), (6), (7), or (8) of, or a limit declared or established pursuant to, this section, it shall then consider whether the evidence supports a conviction under division (D) of this section.

(G) Points shall be assessed for violation of a limitation under division (D) of this section in accordance with section 4510.036 of the Revised Code.

(H)(1) Whenever the director determines upon the basis of a geometric and traffic characteristic study that any speed limit set forth in divisions (B)(1)(a) to (D) of this section is greater or less than is reasonable or safe under the conditions found to exist at any portion of a street or highway under the jurisdiction of the director, the director shall determine and declare a reasonable and safe prima-facie speed limit, which shall be effective when appropriate signs giving notice of it are erected at the location.

(2) Whenever the director determines upon the basis of a geometric and traffic characteristic study that the speed limit of fifty-five miles per hour on a two-lane state route outside a municipal corporation is less than is reasonable or safe under the conditions found to exist at that portion of the state route, the director may determine and declare a speed limit of sixty miles per hour for that portion of the state route, which shall be effective when appropriate signs giving notice of it are erected at the location.

(I)(1) Except as provided in divisions (I)(2) and (K) of this section, whenever local authorities determine upon the basis of an engineering and traffic investigation that the speed permitted by divisions (B)(1)(a) to (D) of this section, on any part of a highway under their jurisdiction, is greater than is reasonable and safe under the conditions found to exist at such location,

the local authorities may by resolution request the director to determine and declare a reasonable and safe prima-facie speed limit. Upon receipt of such request the director may determine and declare a reasonable and safe prima-facie speed limit at such location, and if the director does so, then such declared speed limit shall become effective only when appropriate signs giving notice thereof are erected at such location by the local authorities. The director may withdraw the declaration of a prima-facie speed limit whenever in the director's opinion the altered prima-facie speed becomes unreasonable. Upon such withdrawal, the declared prima-facie speed shall become ineffective and the signs relating thereto shall be immediately removed by the local authorities.

(2) A local authority may determine on the basis of a geometric and traffic characteristic study that the speed limit of sixty-five miles per hour on a portion of a freeway under its jurisdiction that was established through the operation of division (L)(3) of this section is greater than is reasonable or safe under the conditions found to exist at that portion of the freeway. If the local authority makes such a determination, the local authority by resolution may request the director to determine and declare a reasonable and safe speed limit of not less than fifty-five miles per hour for that portion of the freeway. If the director takes such action, the declared speed limit becomes effective only when appropriate signs giving notice of it are erected at such location by the local authority.

(J) Local authorities in their respective jurisdictions may authorize by ordinance higher prima-facie speeds than those stated in this section upon through highways, or upon highways or portions thereof where there are no intersections, or between widely spaced intersections, provided signs are erected giving notice of the authorized speed, but local authorities shall not modify or alter the basic rule set forth in division (A) of this section or in any event authorize by ordinance a speed in excess of fifty miles per hour.

Alteration of prima-facie limits on state routes by local authorities shall not be effective until the alteration has been approved by the director. The director may withdraw approval of any altered prima-facie speed limits whenever in the director's opinion any altered prima-facie speed becomes unreasonable, and upon such withdrawal, the altered prima-facie speed shall become ineffective and the signs relating thereto shall be immediately removed by the local authorities.

(K)(1) As used in divisions (K)(1), (2), (3), and (4) of this section, "unimproved highway" means a highway consisting of any of the following:

- (a) Unimproved earth;
- (b) Unimproved graded and drained earth;

(c) Gravel.

(2) Except as otherwise provided in divisions (K)(4) and (5) of this section, whenever a board of township trustees determines upon the basis of an engineering and traffic investigation that the speed permitted by division (B)(5) of this section on any part of an unimproved highway under its jurisdiction and in the unincorporated territory of the township is greater than is reasonable or safe under the conditions found to exist at the location, the board may by resolution declare a reasonable and safe prima-facie speed limit of fifty-five but not less than twenty-five miles per hour. An altered speed limit adopted by a board of township trustees under this division becomes effective when appropriate traffic control devices, as prescribed in section 4511.11 of the Revised Code, giving notice thereof are erected at the location, which shall be no sooner than sixty days after adoption of the resolution.

(3)(a) Whenever, in the opinion of a board of township trustees, any altered prima-facie speed limit established by the board under this division becomes unreasonable, the board may adopt a resolution withdrawing the altered prima-facie speed limit. Upon the adoption of such a resolution, the altered prima-facie speed limit becomes ineffective and the traffic control devices relating thereto shall be immediately removed.

(b) Whenever a highway ceases to be an unimproved highway and the board has adopted an altered prima-facie speed limit pursuant to division (K)(2) of this section, the board shall, by resolution, withdraw the altered prima-facie speed limit as soon as the highway ceases to be unimproved. Upon the adoption of such a resolution, the altered prima-facie speed limit becomes ineffective and the traffic control devices relating thereto shall be immediately removed.

(4)(a) If the boundary of two townships rests on the centerline of an unimproved highway in unincorporated territory and both townships have jurisdiction over the highway, neither of the boards of township trustees of such townships may declare an altered prima-facie speed limit pursuant to division (K)(2) of this section on the part of the highway under their joint jurisdiction unless the boards of township trustees of both of the townships determine, upon the basis of an engineering and traffic investigation, that the speed permitted by division (B)(5) of this section is greater than is reasonable or safe under the conditions found to exist at the location and both boards agree upon a reasonable and safe prima-facie speed limit of less than fifty-five but not less than twenty-five miles per hour for that location. If both boards so agree, each shall follow the procedure specified in division (K)(2) of this section for altering the prima-facie speed limit on the

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highway. Except as otherwise provided in division (K)(4)(b) of this section, no speed limit altered pursuant to division (K)(4)(a) of this section may be withdrawn unless the boards of township trustees of both townships determine that the altered prima-facie speed limit previously adopted becomes unreasonable and each board adopts a resolution withdrawing the altered prima-facie speed limit pursuant to the procedure specified in division (K)(3)(a) of this section.

(b) Whenever a highway described in division (K)(4)(a) of this section ceases to be an unimproved highway and two boards of township trustees have adopted an altered prima-facie speed limit pursuant to division (K)(4)(a) of this section, both boards shall, by resolution, withdraw the altered prima-facie speed limit as soon as the highway ceases to be unimproved. Upon the adoption of the resolution, the altered prima-facie speed limit becomes ineffective and the traffic control devices relating thereto shall be immediately removed.

(5) As used in division (K)(5) of this section:

(a) "Commercial subdivision" means any platted territory outside the limits of a municipal corporation and fronting a highway where, for a distance of three hundred feet or more, the frontage is improved with buildings in use for commercial purposes, or where the entire length of the highway is less than three hundred feet long and the frontage is improved with buildings in use for commercial purposes.

(b) "Residential subdivision" means any platted territory outside the limits of a municipal corporation and fronting a highway, where, for a distance of three hundred feet or more, the frontage is improved with residences or residences and buildings in use for business, or where the entire length of the highway is less than three hundred feet long and the frontage is improved with residences or residences and buildings in use for business.

Whenever a board of township trustees finds upon the basis of an engineering and traffic investigation that the prima-facie speed permitted by division (B)(5) of this section on any part of a highway under its jurisdiction that is located in a commercial or residential subdivision, except on highways or portions thereof at the entrances to which vehicular traffic from the majority of intersecting highways is required to yield the right-of-way to vehicles on such highways in obedience to stop or yield signs or traffic control signals, is greater than is reasonable and safe under the conditions found to exist at the location, the board may by resolution declare a reasonable and safe prima-facie speed limit of less than fifty-five but not less than twenty-five miles per hour at the location. An altered speed limit

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adopted by a board of township trustees under this division shall become effective when appropriate signs giving notice thereof are erected at the location by the township. Whenever, in the opinion of a board of township trustees, any altered prima-facie speed limit established by it under this division becomes unreasonable, it may adopt a resolution withdrawing the altered prima-facie speed, and upon such withdrawal, the altered prima-facie speed shall become ineffective, and the signs relating thereto shall be immediately removed by the township.

~~(L)(1) Within one hundred twenty days of February 29, 1996, the director of transportation, based upon a geometric and traffic characteristic study of a freeway that is part of the interstate system or that is not part of the interstate system, but is built to the standards and specifications that are applicable to freeways that are part of the interstate system, in consultation with the director of public safety and, if applicable, the local authority having jurisdiction over a portion of such freeway, may determine and declare that the speed limit of less than sixty five miles per hour established on such freeway or portion of freeway either is reasonable and safe or is less than that which is reasonable and safe.~~

~~(2) If the established speed limit for such a freeway or portion of freeway is determined to be less than that which is reasonable and safe, the director of transportation, in consultation with the director of public safety and, if applicable, the local authority having jurisdiction over the portion of freeway, shall determine and declare a reasonable and safe speed limit of not more than sixty five miles per hour for that freeway or portion of freeway.~~

~~The director of transportation or local authority having jurisdiction over the freeway or portion of freeway shall erect appropriate signs giving notice of the speed limit at such location within one hundred fifty days of February 29, 1996. Such speed limit becomes effective only when such signs are erected at the location.~~

~~(3) If, within one hundred twenty days of February 29, 1996, the director of transportation does not make a determination and declaration of a reasonable and safe speed limit for a freeway or portion of freeway that is part of the interstate system or that is not part of the interstate system, but is built to the standards and specifications that are applicable to freeways that are part of the interstate system and that has a speed limit of less than sixty five miles per hour, the speed limit on that freeway or portion of a freeway shall be sixty five miles per hour. The director of transportation or local authority having jurisdiction over the freeway or portion of the freeway shall erect appropriate signs giving notice of the speed limit of sixty five miles per hour at such location within one hundred fifty days of~~

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~~February 29, 1996. Such speed limit becomes effective only when such signs are erected at the location. A speed limit established through the operation of division (L)(3) of this section is subject to reduction under division (I)(2) of this section.~~

~~(M) Within three hundred sixty days after February 29, 1996, the director of transportation, based upon a geometric and traffic characteristic study of a rural, divided, multi-lane highway that has been designated as part of the national highway system under the "National Highway System Designation Act of 1995," 109 Stat. 568, 23 U.S.C.A. 103, in consultation with the director of public safety and, if applicable, the local authority having jurisdiction over a portion of the highway, may determine and declare that the speed limit of less than sixty five miles per hour established on the highway or portion of highway either is reasonable and safe or is less than that which is reasonable and safe.~~

~~If the established speed limit for the highway or portion of highway is determined to be less than that which is reasonable and safe, the director of transportation, in consultation with the director of public safety and, if applicable, the local authority having jurisdiction over the portion of highway, shall determine and declare a reasonable and safe speed limit of not more than sixty five miles per hour for that highway or portion of highway. The director of transportation or local authority having jurisdiction over the highway or portion of highway shall erect appropriate signs giving notice of the speed limit at such location within three hundred ninety days after February 29, 1996. The speed limit becomes effective only when such signs are erected at the location. On the effective date of this amendment, the director of transportation, based upon an engineering study of a highway, expressway, or freeway described in division (B)(12), (13), (14), (15), or (16) of this section, in consultation with the director of public safety and, if applicable, the local authority having jurisdiction over the studied highway, expressway, or freeway, may determine and declare that the speed limit established on such highway, expressway, or freeway under division (B)(12), (13), (14), (15), or (16) of this section either is reasonable and safe or is more or less than that which is reasonable and safe.~~

~~(2) If the established speed limit for a highway, expressway, or freeway studied pursuant to division (L)(1) of this section is determined to be more or less than that which is reasonable and safe, the director of transportation, in consultation with the director of public safety and, if applicable, the local authority having jurisdiction over the studied highway, expressway, or freeway, shall determine and declare a reasonable and safe speed limit for that highway, expressway, or freeway.~~

(N)(1)(a) If the boundary of two local authorities rests on the centerline of a highway and both authorities have jurisdiction over the highway, the speed limit for the part of the highway within their joint jurisdiction shall be either one of the following as agreed to by both authorities:

(i) Either prima-facie speed limit permitted by division (B) of this section;

(ii) An altered speed limit determined and posted in accordance with this section.

(b) If the local authorities are unable to reach an agreement, the speed limit shall remain as established and posted under this section.

(2) Neither local authority may declare an altered prima-facie speed limit pursuant to this section on the part of the highway under their joint jurisdiction unless both of the local authorities determine, upon the basis of an engineering and traffic investigation, that the speed permitted by this section is greater than is reasonable or safe under the conditions found to exist at the location and both authorities agree upon a uniform reasonable and safe prima-facie speed limit of less than fifty-five but not less than twenty-five miles per hour for that location. If both authorities so agree, each shall follow the procedure specified in this section for altering the prima-facie speed limit on the highway, and the speed limit for the part of the highway within their joint jurisdiction shall be uniformly altered. No altered speed limit may be withdrawn unless both local authorities determine that the altered prima-facie speed limit previously adopted becomes unreasonable and each adopts a resolution withdrawing the altered prima-facie speed limit pursuant to the procedure specified in this section.

(O) As used in this section:

(1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.

(2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.

(3) "Noncommercial bus" includes but is not limited to a school bus or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.

(4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the director.

(5) "Rural" means outside urbanized areas, as designated in accordance with 23 U.S.C. 101, and outside of a business or urban district.

(P)(1) A violation of any provision of this section is one of the following:

(a) Except as otherwise provided in divisions (P)(1)(b), (1)(c), (2), and (3) of this section, a minor misdemeanor;

(b) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;

(c) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.

(2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of this section or of any provision of a municipal ordinance that is substantially similar to this section and operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.

(3) Notwithstanding division (P)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with section 4511.98 of the Revised Code, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this division and if the court determines that the offender is an indigent person and unable to pay the fine.

Sec. 4511.69. (A) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with and not more than twelve inches from the right-hand curb, unless it is impossible to approach so close to the curb; in such case the stop shall be made as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise. Local authorities by ordinance may permit angle parking on any roadway under their jurisdiction, except that angle parking shall not be permitted on a state route within a municipal corporation unless an unoccupied roadway width of not less than twenty-five feet is available for free-moving traffic.

(B) Local authorities by ordinance may permit parking of vehicles with

the left-hand wheels adjacent to and within twelve inches of the left-hand curb of a one-way roadway.

(C)(1)(a) Except as provided in division (C)(~~2~~)(1)(b) of this section, no vehicle or trackless trolley shall be stopped or parked on a road or highway with the vehicle or trackless trolley facing in a direction other than the direction of travel on that side of the road or highway.

~~(2)(b)~~ The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.

(2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in division (C)(2) of this section irrespective of whether or not the space is metered.

(D) Notwithstanding any statute or any rule, resolution, or ordinance adopted by any local authority, air compressors, tractors, trucks, and other equipment, while being used in the construction, reconstruction, installation, repair, or removal of facilities near, on, over, or under a street or highway, may stop, stand, or park where necessary in order to perform such work, provided a flagperson is on duty or warning signs or lights are displayed as may be prescribed by the director of transportation.

(E) Special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces, shall be provided and designated by all political subdivisions and by the state and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented, or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators, and ramps. All elevated signs posted in accordance with this division and division (C) of section 3781.111 of the Revised Code shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking

location if the motor vehicle is not legally entitled to be parked in that location.

(F)(1) No person shall stop, stand, or park any motor vehicle at special parking locations provided under division (E) of this section or at special clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with that division, unless one of the following applies:

(a) The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates;

(b) The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.

(2) Any motor vehicle that is parked in a special marked parking location in violation of division (F)(1)(a) or (b) of this section may be towed or otherwise removed from the parking location by the law enforcement agency of the political subdivision in which the parking location is located. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by that political subdivision for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by that political subdivision for towing and storing motor vehicles.

(3) If a person is charged with a violation of division (F)(1)(a) or (b) of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in division (A)(1) of section 4503.44 of the Revised Code.

(G) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or special license plates, or when a motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a

manner as to be clearly a traffic hazard.

(H) No owner of an office, facility, or parking garage where special parking locations are required to be designated in accordance with division (E) of this section shall fail to properly mark the special parking locations in accordance with that division or fail to maintain the markings of the special locations, including the erection and maintenance of the fixed or movable signs.

(I) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special license plates if the parking card or special license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(J)(1) Whoever violates division (A) or (C) of this section is guilty of a minor misdemeanor.

(2)(a) Whoever violates division (F)(1)(a) or (b) of this section is guilty of a misdemeanor and shall be punished as provided in division (J)(2)(a) and (b) of this section. Except as otherwise provided in division (J)(2)(a) of this section, an offender who violates division (F)(1)(a) or (b) of this section shall be fined not less than two hundred fifty nor more than five hundred dollars. An offender who violates division (F)(1)(a) or (b) of this section shall be fined not more than one hundred dollars if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:

(i) At the time of the violation of division (F)(1)(a) of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or special license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in division (F)(1)(a) of this section.

(ii) At the time of the violation of division (F)(1)(b) of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or special handicapped license plates that then were valid but the offender or the person neglected to display the card or license plates as described in division (F)(1)(b) of this section.

(b) In no case shall an offender who violates division (F)(1)(a) or (b) of this section be sentenced to any term of imprisonment.

An arrest or conviction for a violation of division (F)(1)(a) or (b) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in

connection with the person's appearance as a witness.

The clerk of the court shall pay every fine collected under division (J)(2) of this section to the political subdivision in which the violation occurred. Except as provided in division (J)(2) of this section, the political subdivision shall use the fine moneys it receives under division (J)(2) of this section to pay the expenses it incurs in complying with the signage and notice requirements contained in division (E) of this section. The political subdivision may use up to fifty per cent of each fine it receives under division (J)(2) of this section to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the political subdivision that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs.

(3) Whoever violates division (H) of this section shall be punished as follows:

(a) Except as otherwise provided in division (J)(3) of this section, the offender shall be issued a warning.

(b) If the offender previously has been convicted of or pleaded guilty to a violation of division (H) of this section or of a municipal ordinance that is substantially similar to that division, the offender shall not be issued a warning but shall be fined not more than twenty-five dollars for each parking location that is not properly marked or whose markings are not properly maintained.

(K) As used in this section:

(1) "Handicapped person" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or so severely handicapped as to be unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other handicapping condition.

(2) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in section 4503.44 of the Revised Code.

(3) "Special license plates" and "removable windshield placard" mean any license plates or removable windshield placard or temporary removable windshield placard issued under section 4503.41 or 4503.44 of the Revised Code, and also mean any substantially similar license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country, or sovereignty.

Sec. 4511.85. (A) The operator of a chauffeured limousine shall accept passengers only on the basis of prearranged contracts, as defined in division (LL) of section 4501.01 of the Revised Code, and shall not cruise in search

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of patronage unless the limousine is in compliance with any statute or ordinance governing the operation of taxicabs or other similar vehicles for hire.

(B) The operator of a chauffeured limousine may provide transportation to passengers who arrange for the transportation through an intermediary, including a digital dispatching service. Notwithstanding any law to the contrary, when providing transportation arranged through an intermediary, the operator of a chauffeured limousine may establish the fare and method of fare calculation, so long as the method of fare calculation is provided to the passenger upon request.

(C) No person shall advertise or hold self out as doing business as a limousine service or livery service or other similar designation unless each vehicle used by the person to provide the service is registered in accordance with section 4503.24 of the Revised Code and is in compliance with section 4509.80 of the Revised Code.

~~(D)~~ Whoever violates this section is guilty of a misdemeanor of the first degree.

Sec. 4513.34. (A)(1) The director of transportation with respect to all highways that are a part of the state highway system and local authorities with respect to highways under their jurisdiction, upon application in writing, shall issue a special regional heavy hauling permit authorizing the applicant to operate or move a vehicle or combination of vehicles as follows:

(a) At a size or weight of vehicle or load exceeding the maximum specified in sections 5577.01 to 5577.09 of the Revised Code, or otherwise not in conformity with sections 4513.01 to 4513.37 of the Revised Code;

(b) Upon any highway under the jurisdiction of the authority granting the permit except those highways with a condition insufficient to bear the weight of the vehicle or combination of vehicles as stated in the application;

(c) For regional trips at distances of one hundred fifty miles or less from a facility stated on the application as the applicant's point of origin.

Issuance of a special regional heavy hauling permit is subject to the payment of a fee established by the director or local authority in accordance with this section.

(2) In circumstances where a person is not eligible to receive a permit under division (A)(1) of this section, the director of transportation with respect to all highways that are a part of the state highway system and local authorities with respect to highways under their jurisdiction, upon application in writing and for good cause shown, may issue a special permit in writing authorizing the applicant to operate or move a vehicle or

combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in sections 5577.01 to 5577.09 of the Revised Code, or otherwise not in conformity with sections 4513.01 to 4513.37 of the Revised Code, upon any highway under the jurisdiction of the authority granting the permit.

(3) For purposes of this section, the director may designate certain state highways or portions of state highways as special economic development highways. If an application submitted to the director under this section involves travel of a nonconforming vehicle or combination of vehicles upon a special economic development highway, the director, in determining whether good cause has been shown that issuance of a permit is justified, shall consider the effect the travel of the vehicle or combination of vehicles will have on the economic development in the area in which the designated highway or portion of highway is located.

(B) Notwithstanding sections 715.22 and 723.01 of the Revised Code, the holder of a permit issued by the director under this section may move the vehicle or combination of vehicles described in the permit on any highway that is a part of the state highway system when the movement is partly within and partly without the corporate limits of a municipal corporation. No local authority shall require any other permit or license or charge any license fee or other charge against the holder of a permit for the movement of a vehicle or combination of vehicles on any highway that is a part of the state highway system. The director shall not require the holder of a permit issued by a local authority to obtain a special permit for the movement of vehicles or combination of vehicles on highways within the jurisdiction of the local authority. Permits may be issued for any period of time not to exceed one year, as the director in the director's discretion or a local authority in its discretion determines advisable, or for the duration of any public construction project.

(C)(1) The application for a permit issued under this section shall be in the form that the director or local authority prescribes. The director or local authority may prescribe a permit fee to be imposed and collected when any permit described in this section is issued. The permit fee may be in an amount sufficient to reimburse the director or local authority for the administrative costs incurred in issuing the permit, and also to cover the cost of the normal and expected damage caused to the roadway or a street or highway structure as the result of the operation of the nonconforming vehicle or combination of vehicles. The director, in accordance with Chapter 119. of the Revised Code, shall establish a schedule of fees for permits issued by the director under this section; however, the fee to operate a triple

trailer unit, at locations authorized under federal law, shall be one hundred dollars.

(2) For the purposes of this section and of rules adopted by the director under this section, milk transported in bulk by vehicle is deemed a nondivisible load.

(3) For purposes of this section and of rules adopted by the director under this section, three or fewer aluminum coils, transported by a vehicle, are deemed a nondivisible load. The director shall adopt rules establishing requirements for an aluminum coil permit that are substantially similar to the requirements for a steel coil permit under Chapter 5501:2-1 of the Administrative Code.

(D) The director or a local authority shall issue a special regional heavy hauling permit under division (A)(1) of this section upon application and payment of the applicable fee. However, the director or local authority may issue or withhold a special permit specified in division (A)(2) of this section. If a permit is to be issued, the director or local authority may limit or prescribe conditions of operation for the vehicle and may require the posting of a bond or other security conditioned upon the sufficiency of the permit fee to compensate for damage caused to the roadway or a street or highway structure. In addition, a local authority, as a condition of issuance of an overweight permit, may require the applicant to develop and enter into a mutual agreement with the local authority to compensate for or to repair excess damage caused to the roadway by travel under the permit.

For a permit that will allow travel of a nonconforming vehicle or combination of vehicles on a special economic development highway, the director, as a condition of issuance, may require the applicant to agree to make periodic payments to the department to compensate for damage caused to the roadway by travel under the permit.

(E) Every permit issued under this section shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit. No person shall violate any of the terms of a permit.

(F) The director may debar an applicant from applying for a permit under this section upon a finding based on a reasonable belief that the applicant has done any of the following:

(1) Abused the process by repeatedly submitting false information or false travel plans or by using another company or individual's name, insurance, or escrow account without proper authorization;

(2) Failed to comply with or substantially perform under a previously issued permit according to its terms, conditions, and specifications within

specified time limits;

(3) Failed to cooperate in the application process for the permit or in any other procedures that are related to the issuance of the permit by refusing to provide information or documents required in a permit or by failing to respond to and correct matters related to the permit;

(4) Accumulated repeated justified complaints regarding performance under a permit that was previously issued to the applicant or previously failed to obtain a permit when such a permit was required;

(5) Attempted to influence a public employee to breach ethical conduct standards;

(6) Been convicted of a criminal offense related to the application for, or performance under, a permit, including, but not limited to, bribery, falsification, fraud or destruction of records, receiving stolen property, and any other offense that directly reflects on the applicant's integrity or commercial driver's license;

(7) Accumulated repeated convictions under a state or federal safety law governing commercial motor vehicles or a rule or regulation adopted under such a law;

(8) Accumulated repeated convictions under a law, rule, or regulation governing the movement of traffic over the public streets and highways;

(9) Failed to pay any fees associated with any permitted operation or move;

(10) Deliberately or willfully submitted false or misleading information in connection with the application for, or performance under, a permit issued under this section.

If the applicant is a partnership, association, or corporation, the director also may debar from consideration for permits any partner of the partnership, or the officers, directors, or employees of the association or corporation being debarred.

The director may adopt rules in accordance with Chapter 119. of the Revised Code governing the debarment of an applicant.

(G) When the director reasonably believes that grounds for debarment exist, the director shall send the person that is subject to debarment a notice of the proposed debarment. A notice of proposed debarment shall indicate the grounds for the debarment of the person and the procedure for requesting a hearing. The notice and hearing shall be in accordance with Chapter 119. of the Revised Code. If the person does not respond with a request for a hearing in the manner specified in that chapter, the director shall issue the debarment decision without a hearing and shall notify the person of the decision by certified mail, return receipt requested. The

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debarment period may be of any length determined by the director, and the director may modify or rescind the debarment at any time. During the period of debarment, the director shall not issue, or consider issuing, a permit under this section to any partnership, association, or corporation that is affiliated with a debarred person. After the debarment period expires, the person, and any partnership, association, or corporation affiliated with the person, may reapply for a permit.

(H)(1) No person shall violate the terms of a permit issued under this section that relate to gross load limits.

(2) No person shall violate the terms of a permit issued under this section that relate to axle load by more than two thousand pounds per axle or group of axles.

(3) No person shall violate the terms of a permit issued under this section that relate to an approved route except upon order of a law enforcement officer or authorized agent of the issuing authority.

(I) Whoever violates division (H) of this section shall be punished as provided in section 4513.99 of the Revised Code.

(J) A permit issued by the department of transportation or a local authority under this section for the operation of a vehicle or combination of vehicles is valid for the purposes of the vehicle operation in accordance with the conditions and limitations specified on the permit. Such a permit is voidable by law enforcement only for operation of a vehicle or combination of vehicles in violation of the weight, dimension, or route provisions of the permit. However, a permit is not voidable for operation in violation of a route provision of a permit if the operation is upon the order of a law enforcement officer.

Sec. 4701.03. (A) The accountancy board annually shall elect a president, secretary, and treasurer from its members. The board may adopt and amend rules for the orderly conduct of its affairs and for the administration of this chapter. The board may adopt and amend rules defining the practice of public accounting, rules of professional conduct appropriate to establish and maintain a high standard of integrity and dignity in registrants and certificate holders under this chapter, and rules regulating the sole proprietorship, partnership, limited liability company, professional association, corporation-for-profit, or other legal entity practice of public accounting. A majority of the board shall constitute a quorum for the transaction of business.

(B) The board shall keep and hold open for public inspection all records of its proceedings.

(C) The board may employ any clerks that are necessary to assist it in

the performance of its duties and the keeping of its records. If the board employs an executive director, the board shall pay the executive director ~~shall be paid~~ in accordance with ~~pay range 18 of schedule E-1 of section 124.152 of the Revised Code, or, if the director was employed and being paid on June 28, 2003, in accordance with step 7 in pay range 18 of schedule E-1 of former section 124.152 of the Revised Code and continued to be so paid on June 29, 2003, the executive director shall be paid in accordance with pay range 18 of salary schedule E-1 for step seven only of section 124.152 of the Revised Code.~~

Sec. 4707.02. (A) No person shall act as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer within this state without a license issued by the department of agriculture. No auction shall be conducted in this state except by an auctioneer licensed by the department.

The department shall not issue or renew a license if the applicant or licensee has been convicted of a felony or crime involving fraud or theft in this or another state at any time during the ten years immediately preceding application or renewal.

(B) Division (A) of this section does not apply to any of the following:

(1) Sales at auction that either are required by law to be at auction, other than sales pursuant to a judicial order or decree, or are conducted by or under the direction of a public authority;

(2) The owner of any real or personal property desiring to sell the property at auction, provided that the property was not acquired for the purpose of resale;

(3) An auction mediation company;

(4) An auction that is conducted in a course of study for auctioneers that is approved by the state auctioneers commission created under section 4707.03 of the Revised Code for purposes of student training and is supervised by a licensed auctioneer;

(5)(a) An auction that is sponsored by a nonprofit or charitable organization that is registered in this state under Chapter 1702. or Chapter 1716. of the Revised Code, respectively, if the auction only involves the property of the members of the organization and the auction is part of a fair that is organized by an agricultural society under Chapter 1711. of the Revised Code or by the Ohio expositions commission under Chapter 991. of the Revised Code at which an auctioneer who is licensed under this chapter physically conducts the auction; or

(b) Sales at an auction sponsored by a charitable, religious, or civic organization that is tax exempt under subsection 501(c)(3) of the Internal Revenue Code, or by a public school, chartered nonpublic school, or

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community school, if no person in the business of organizing, arranging, or conducting an auction for compensation and no consignor of consigned items sold at the auction, except such organization or school, receives compensation from the proceeds of the auction. As used in division (B)(5)(b) of this section, "compensation" means money, a thing of value other than participation in a charitable event, or a financial benefit.

(6) A person licensed as a livestock dealer under Chapter 943. of the Revised Code who exclusively sells livestock and uses an auctioneer who is licensed under this chapter to conduct the auction;

(7) A person licensed as a motor vehicle auction owner under Chapter 4517. of the Revised Code who exclusively sells motor vehicles to a person licensed under Chapter 4517. of the Revised Code and who uses an auctioneer who is licensed under this chapter to conduct the auction;

(8) A person who sells real or personal property by means of the internet;

(9) A bid calling contest that is approved by the commission and that is conducted for the purposes of the advancement or promotion of the auction profession in this state, provided that no compensation is paid to the sponsor of or participants in the contest other than a prize or award for winning the contest;

(10) An auction at which the champion of a national or international bid calling contest appears, provided that both of the following apply:

(a) The champion is not paid a commission.

(b) The auction is conducted under the direct supervision of an auctioneer licensed under this chapter in order to ensure that the champion complies with this chapter and rules adopted under it.

(C)(1) No person shall advertise or hold oneself out as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer without a license issued by the department of agriculture.

(2) Division (C)(1) of this section does not apply to an individual who is the subject of an advertisement regarding an auction conducted under division (B)(5)(b) of this section.

Sec. 4707.073. (A) No corporation, limited liability company, general or limited partnership, or unincorporated association shall act or hold itself out as an auctioneer without a valid auctioneer's license issued under this section. This section does not apply to a person who is issued a license under section 4707.071 of the Revised Code.

(B) The department of agriculture may grant an auctioneer's license to a corporation, limited liability company, general or limited partnership, or unincorporated association that is determined to be qualified by the

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department. Every applicant for a license under this section shall furnish to the department, on forms provided by the department, satisfactory proof that the applicant:

(1) Is in good standing with the secretary of state if the applicant is a corporation;

(2) Is of trustworthy character;

(3) Has provided proof of financial responsibility as required in section 4707.11 of the Revised Code;

(4) Is registered with the secretary of state or a local authority, as applicable, to do business in this state;

(5) Has complied with any other requirement that the director establishes in rules adopted under section 4707.19 of the Revised Code.

(C) An application submitted under this section shall list the names of all of the owners, directors, partners, or members of the applicant, as applicable, and shall indicate those that have an auctioneer's license issued under section 4707.07 of the Revised Code.

(D)~~(4)~~ The department shall not issue a license under this section unless one of the following applies, as applicable:

~~(a)~~(1) If the applicant is a limited liability company or a general or limited partnership, not less than fifty per cent of the members or general partners have a current license issued under section 4707.07 of the Revised Code.

~~(b)~~(2) If the applicant is a corporation, not less than fifty per cent of the directors and the president or chief executive have a current license issued under section 4707.07 of the Revised Code.

~~(c)~~(3) If the applicant is an unincorporated association, not less than fifty per cent of the members have a current license issued under section 4707.07 of the Revised Code.

Failure of a corporation, limited liability company, partnership, or unincorporated association to maintain the applicable requirements of this division after the issuance of a license under this section may be sufficient cause for the revocation of the license under section 4707.15 of the Revised Code.

~~(2) Not later than two years after the effective date of this section, a corporation, partnership, or unincorporated association that was issued a license under section 4707.07 of the Revised Code on or before the effective date of this section shall comply with the requirements established in division (D)(1) of this section. If such a corporation, partnership, or unincorporated association fails to comply with those requirements, the license of the corporation, partnership, or unincorporated association~~

~~immediately shall terminate.~~

(E) Upon the issuance of a license under this section, a corporation, limited liability company, partnership, or unincorporated association shall designate an individual from among its directors, partners, or members who is licensed under section 4707.07 of the Revised Code as its agent for purposes of communication with the department. If that individual ceases to be the agent, the corporation, limited liability company, partnership, or unincorporated association shall notify the department not later than ten days after the day on which the individual ceases to be the agent. Upon notification to the department, the license of the corporation, limited liability company, partnership, or unincorporated association, as applicable, immediately shall terminate. If the corporation, limited liability company, partnership, or unincorporated association notifies the department of the designation of a new agent in accordance with the requirements of this division and pays a fee in the amount of ten dollars, the department shall issue the corporation, limited liability company, partnership, or unincorporated association a new license.

(F) This section does not preclude a corporation, limited liability company, partnership, or unincorporated association from selling real property at auction, provided that the requirements of this section and section 4707.021 and Chapter 4735. of the Revised Code are satisfied.

(G) A person licensed as a real estate broker under Chapter 4735. of the Revised Code shall not be required to obtain a license under this section if the person complies with sections 4707.021 and 4707.22 of the Revised Code.

Sec. 4707.10. (A) The fee for each apprentice auctioneer's or auction firm license issued by the department of agriculture is one hundred dollars, and the annual renewal fee for any such license is one hundred dollars. All licenses expire annually on the last day of June of each year and shall be renewed according to the standard renewal procedures of Chapter 4745. of the Revised Code, or the procedures of this section. Any licensee under this chapter who wishes to renew the licensee's license, but fails to do so before the first day of July shall reapply for licensure in the same manner and pursuant to the same requirements as for initial licensure, unless before the first day of September of the year of expiration, the former licensee pays to the department, in addition to the regular renewal fee, a late renewal penalty of one hundred dollars.

(B)(1) Each person to whom the department issues an auctioneer's license or special auctioneer's license shall pay a licensure fee. Those licenses are biennial and expire in accordance with the schedule established

in division (B)(2) of this section. If such a license is issued during the first year of a biennium, the licensee shall pay a fee in the amount of two hundred dollars. If the license is issued during the second year of a biennium, the licensee shall pay a fee in the amount of one hundred dollars. With respect to an auctioneer's license, the fees apply regardless of whether the license is issued to an individual under section 4707.07 of the Revised Code or to a corporation, limited liability company, partnership, or association under section 4707.073 of the Revised Code.

All auctioneer's licenses and special auctioneer's licenses expire on the last day of June of the biennium. The licenses shall be renewed in accordance with the standard renewal procedures of Chapter 4745. of the Revised Code or the procedures in this section and upon the licensee's payment to the department of a renewal fee of two hundred dollars. A licensee who wishes to renew the licensee's license, but who fails to do so before the first day of July following the license's expiration, shall reapply for licensure in the same manner and pursuant to the same requirements as for the initial licensure unless before the first day of September following the expiration, the former licensee pays to the department, in addition to the regular renewal fee, a late renewal penalty of one hundred dollars.

(2) The biennial expiration of an auctioneer's license or special auctioneer's license shall occur in accordance with the following schedule:

(a) The license shall expire in odd-numbered years if the business name or last name, as applicable, of the licensee begins with the letters "A" through "J" or with the letters "X" through "Z."

(b) The license shall expire in even-numbered years if the business name or last name, as applicable, of the licensee begins with the letters "K" through "W."

(C) Any person who fails to renew the person's license before the first day of July is prohibited from engaging in any activity specified or comprehended in section 4707.01 of the Revised Code until such time as the person's license is renewed or a new license is issued. Renewal of a license between the first day of July and the first day of September does not relieve any person from complying with this division. The department may refuse to renew the license of or issue a new license to any person who violates this division.

(D) The department shall prepare and deliver to each licensee a permanent license certificate and an identification card, the appropriate portion of which shall be carried on the person of the licensee at all times when engaged in any type of auction activity, and part of which shall be posted with the permanent certificate in a conspicuous location at the

licensee's place of business.

(E) Notice in writing shall be given to the department by each auctioneer or apprentice auctioneer licensee of any change of principal business location or any change or addition to the name or names under which business is conducted, whereupon the department shall issue a new license for the unexpired period. Any change of business location or change or addition of names without notification to the department shall automatically cancel any license previously issued. For each new ~~auctioneer~~ auctioneer's or apprentice ~~auctioneer~~ auctioneer's license issued upon the occasion of a change in business location or a change in or an addition of names under which business is conducted, the department may collect a fee of ten dollars for each change in location, or name or each added name unless the notification of the change occurs concurrently with the renewal application or unless otherwise provided in section 4707.07 of the Revised Code.

Sec. 4709.11. Every license issued pursuant to this chapter expires on the thirty-first day of August of each even-numbered year. Each licensee desiring to do so shall, on or before the first day of September of each even-numbered year, renew ~~his~~ the licensee's license pursuant to the standard renewal procedure of Chapter 4745. of the Revised Code. Any holder of an expired license shall restore ~~his~~ the holder's license before continuing the practice of barbering or the activity for which ~~he~~ the holder is licensed under this chapter and pay the appropriate restoration fee. If the person fails to restore ~~his~~ the person's license within ~~three~~ six years, ~~he~~ the person shall pay any required restoration fee and take any examination required for the license under this chapter.

Sec. 4713.08. (A) The state board of cosmetology shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this chapter. The rules shall do all of the following:

(1) Govern the practice of the branches of cosmetology and management of salons;

(2) Specify conditions a person must satisfy to qualify for a temporary pre-examination work permit under section 4713.22 of the Revised Code and the conditions and method of renewing a temporary pre-examination work permit under that section;

(3) Provide for the conduct of examinations under section 4713.24 of the Revised Code;

(4) Specify conditions under which the board will take into account, under section 4713.32 of the Revised Code, instruction an applicant for a license under section 4713.28, 4713.30, or 4713.31 of the Revised Code

received more than five years before the date of application for the license;

(5) Provide for the granting of waivers under section 4713.29 of the Revised Code;

(6) Specify conditions an applicant must satisfy for the board to issue the applicant a license under section 4713.34 of the Revised Code without the applicant taking an examination conducted under section 4713.24 of the Revised Code;

(7) Specify locations in which glamour photography services in which a branch of cosmetology is practiced may be provided;

(8) Establish conditions and the fee for a temporary special occasion work permit under section 4713.37 of the Revised Code and specify the amount of time such a permit is valid;

(9) Specify conditions an applicant must satisfy for the board to issue the applicant an independent contractor license under section 4713.39 of the Revised Code and the fee for issuance and renewal of the license;

(10) Establish conditions under which food may be sold at a salon;

(11) Specify which professions regulated by a professional regulatory board of this state may be practiced in a salon under section 4713.42 of the Revised Code;

(12) Establish standards for the provision of cosmetic therapy, massage therapy, or other professional service in a salon pursuant to section 4713.42 of the Revised Code;

(13) Establish standards for board approval of, and the granting of credits for, training in branches of cosmetology at schools of cosmetology licensed in this state;

(14) Establish the manner in which a school of cosmetology licensed under section 4713.44 of the Revised Code may offer post-secondary and advanced practice programs;

(15) Establish sanitary standards for the practice of the branches of cosmetology, salons, and schools of cosmetology;

~~(15)~~(16) Establish the application process for obtaining a tanning facility permit under section 4713.48 of the Revised Code, including the amount of the fee for an initial or renewed permit;

~~(16)~~(17) Establish standards for installing and operating a tanning facility in a manner that ensures the health and safety of consumers, including standards that do all of the following:

(a) Establish a maximum safe time of exposure to radiation and a maximum safe temperature at which sun lamps may be operated;

(b) Require consumers to wear protective eyeglasses and be supervised as to the length of time consumers use the facility;

(c) Require the operator to prohibit consumers from standing too close to sun lamps and to post signs warning consumers of the potential effects of radiation on persons taking certain medications and of the possible relationship of the radiation to skin cancer;

(d) Require the installation of protective shielding for sun lamps and handrails for consumers;

(e) Require floors to be dry during operation of lamps;

(f) Require a consumer who is under the age of eighteen to obtain written consent from the consumer's parent or legal guardian prior to receiving tanning services.

~~(17)~~(18)(a) If the board, under section 4713.61 of the Revised Code, develops a procedure for classifying licenses inactive, do both of the following:

(i) Establish a fee for having a license classified inactive that reflects the cost to the board of providing the inactive license service;

(ii) Specify the continuing education that a person whose license has been classified inactive must complete to have the license restored. The continuing education shall be sufficient to ensure the minimum competency in the use or administration of a new procedure or product required by a licensee necessary to protect public health and safety. The requirement shall not exceed the cumulative number of hours of continuing education that the person would have been required to complete had the person retained an active license.

(b) In addition, the board may specify the conditions and method for granting a temporary work permit to practice a branch of cosmetology to a person whose license has been classified inactive.

~~(18)~~(19) Establish a fee for approval of a continuing education program under section 4713.62 of the Revised Code that is adequate to cover any expense the board incurs in the approval process;

~~(19)~~(20) Anything else necessary to implement this chapter.

(B)(1) The rules adopted under division (A)(2) of this section may establish additional conditions for a temporary pre-examination work permit under section 4713.22 of the Revised Code that are applicable to persons who practice a branch of cosmetology in another state or country.

(2) The rules adopted under division (A)~~(17)~~(18)(b) of this section may establish additional conditions for a temporary work permit that are applicable to persons who practice a branch of cosmetology in another state.

(C) The conditions specified in rules adopted under division (A)(6) of this section may include that an applicant is applying for a license to practice a branch of cosmetology for which the board determines an

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examination is unnecessary.

(D) The rules adopted under division (A)(11) of this section shall not include a profession if practice of the profession in a salon is a violation of a statute or rule governing the profession.

(E) The sanitary standards established under division (A)~~(14)~~(15) of this section shall focus in particular on precautions to be employed to prevent infectious or contagious diseases being created or spread. The board shall consult with the Ohio department of health when establishing the sanitary standards.

(F) The fee established by rules adopted under division (A)~~(15)~~(16) of this section shall cover the cost the board incurs in inspecting tanning facilities and enforcing the board's rules but may not exceed one hundred dollars per location of such facilities.

Sec. 4713.44. (A) The state board of cosmetology shall issue a license to operate a school of cosmetology to an applicant who pays the applicable fee and satisfies all of the following requirements:

~~(A)~~(1) Maintains a course of practical training and technical instruction for the branch or branches of cosmetology to be taught at the school equal to the requirements for admission to an examination under section 4713.24 of the Revised Code that a person must pass to obtain a license to practice that branch or those branches of cosmetology;

~~(B)~~(2) Possesses or makes available apparatus and equipment sufficient for the ready and full teaching of all subjects of the curriculum;

~~(C)~~(3) Maintains persons licensed under section 4713.31 or 4713.34 of the Revised Code to teach the theory and practice of the branches of cosmetology;

~~(D)~~(4) Notifies the board of the enrollment of each new student, keeps a record devoted to the different practices, establishes grades, and holds examinations in order to certify the students' completion of the prescribed course of study before the issuance of certificates of completion;

~~(E)~~(5) In the case of a school of cosmetology that offers clock hours for the purpose of satisfying minimum hours of training and instruction, keeps a daily record of the attendance of each student;

~~(F)~~(6) On the date that an apprentice cosmetology instructor begins cosmetology instructor training at the school, certifies the name of the apprentice cosmetology instructor to the board along with the date on which the apprentice's instructor training began;

~~(G)~~(7) Instructs not more than six apprentice cosmetology instructors at any one time;

~~(H)~~(8) Files with the board a good and sufficient surety bond executed

by the person, firm, or corporation operating the school of cosmetology as principal and by a surety company as surety in the amount of ten thousand dollars; provided, that this requirement does not apply to a vocational program conducted by a city, exempted village, local, or joint vocational school district. The bond shall be in the form prescribed by the board and be conditioned upon the school's continued instruction in the theory and practice of the branches of cosmetology. Every bond shall continue in effect until notice of its termination is given to the board by registered mail and every bond shall so provide.

(9) Establishes and maintains an internal procedure for processing complaints filed against the school and for providing students with instructions on how to file a complaint directly with the board pursuant to section 4713.641 of the Revised Code.

(B) A school of cosmetology holding a license issued under division (A) of this section is an educational institution and is authorized to offer educational programs beyond secondary education, advanced practice programs, or both in accordance with rules adopted by the board pursuant to section 4713.08 of the Revised Code.

(C) A school of cosmetology holding a license to operate a school of cosmetology on the effective date of this amendment shall establish and maintain an internal procedure for processing complaints filed against the school and shall provide each of the school's students with instructions on how to file a complaint directly with the board pursuant to section 4713.641 of the Revised Code.

Sec. 4713.641. Any student or former student of a school of cosmetology licensed under division (A) of section 4713.44 of the Revised Code may file a complaint with the state board of cosmetology alleging that the school has violated division (A) of section 4713.64 of the Revised Code. The complaint shall be in writing and signed by the person bringing the complaint. Upon receiving a complaint, the board shall initiate a preliminary investigation to determine whether it is probable that a violation was committed. If the board determines after preliminary investigation that it is not probable that a violation was committed, the board shall notify the person who filed the complaint of the board's findings and that the board will not issue a formal complaint in the matter. If the board determines after a preliminary investigation that it is probable that a violation was committed, the board shall proceed against the school pursuant to the board's authority under section 4713.64 of the Revised Code and in accordance with the hearing and notice requirements prescribed in Chapter 119. of the Revised Code.

Sec. 4715.22. (A)(1) This section applies only when a licensed dental hygienist is not practicing under a permit issued pursuant to section 4715.363 of the Revised Code authorizing practice under the oral health access supervision of a dentist.

(2) As used in this section, "health care facility" means either of the following:

- (a) A hospital registered under section 3701.07 of the Revised Code;
- (b) A "home" as defined in section 3721.01 of the Revised Code.

(B) A licensed dental hygienist shall practice under the supervision, order, control, and full responsibility of a dentist licensed under this chapter. A dental hygienist may practice in a dental office, public or private school, health care facility, dispensary, or public institution. Except as provided in division (C) or (D) of this section, a dental hygienist may not provide dental hygiene services to a patient when the supervising dentist is not physically present at the location where the dental hygienist is practicing.

(C) A dental hygienist may provide, for not more than fifteen consecutive business days, dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if all of the following requirements are met:

(1) The dental hygienist has at least two years and a minimum of three thousand hours of experience in the practice of dental hygiene.

(2) The dental hygienist has successfully completed a course approved by the state dental board in the identification and prevention of potential medical emergencies.

(3) The dental hygienist complies with written protocols for emergencies the supervising dentist establishes.

(4) The dental hygienist does not perform, while the supervising dentist is absent from the location, procedures while the patient is anesthetized, definitive root planing, definitive subgingival curettage, or other procedures identified in rules the state dental board adopts.

(5) The supervising dentist has evaluated the dental hygienist's skills.

(6) The supervising dentist examined the patient not more than seven months prior to the date the dental hygienist provides the dental hygiene services to the patient.

(7) The dental hygienist complies with written protocols or written standing orders that the supervising dentist establishes.

(8) The supervising dentist completed and evaluated a medical and dental history of the patient not more than one year prior to the date the dental hygienist provides dental hygiene services to the patient and, except when the dental hygiene services are provided in a health care facility, the

supervising dentist determines that the patient is in a medically stable condition.

(9) If the dental hygiene services are provided in a health care facility, a doctor of medicine and surgery or osteopathic medicine and surgery who holds a current certificate issued under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code is present in the health care facility when the services are provided.

(10) In advance of the appointment for dental hygiene services, the patient is notified that the supervising dentist will be absent from the location and that the dental hygienist cannot diagnose the patient's dental health care status.

(11) The dental hygienist is employed by, or under contract with, one of the following:

(a) The supervising dentist;

(b) A dentist licensed under this chapter who is one of the following:

(i) The employer of the supervising dentist;

(ii) A shareholder in a professional association formed under Chapter 1785. of the Revised Code of which the supervising dentist is a shareholder;

(iii) A member or manager of a limited liability company formed under Chapter 1705. of the Revised Code of which the supervising dentist is a member or manager;

(iv) A shareholder in a corporation formed under division (B) of section 1701.03 of the Revised Code of which the supervising dentist is a shareholder;

(v) A partner or employee of a partnership or a limited liability partnership formed under Chapter 1775. or 1776. of the Revised Code of which the supervising dentist is a partner or employee.

(c) A government entity that employs the dental hygienist to provide dental hygiene services in a public school or in connection with other programs the government entity administers.

(D) A dental hygienist may provide dental hygiene services to a patient when the supervising dentist is not physically present at the location at which the services are provided if the services are provided as part of a dental hygiene program that is approved by the state dental board and all of the following requirements are met:

(1) The program is operated through a school district board of education or the governing board of an educational service center; the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code; a national, state, district, or local dental association; or any other public or private entity

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recognized by the state dental board.

(2) The supervising dentist is employed by or a volunteer for, and the patients are referred by, the entity through which the program is operated.

(3) ~~The (a) Except as provided in division (D)(3)(b) of this section, the services are performed after examination and diagnosis by the dentist and in accordance with the dentist's written treatment plan.~~

(b) The requirement in division (D)(3)(a) of this section does not apply when the only service to be provided by the dental hygienist is the placement of pit and fissure sealants.

(E) No person shall do either of the following:

(1) Practice dental hygiene in a manner that is separate or otherwise independent from the dental practice of a supervising dentist;

(2) Establish or maintain an office or practice that is primarily devoted to the provision of dental hygiene services.

(F) The state dental board shall adopt rules under division (C) of section 4715.03 of the Revised Code identifying procedures a dental hygienist may not perform when practicing in the absence of the supervising dentist pursuant to division (C) or (D) of this section.

Sec. 4715.36. As used in this section and sections 4715.361 to 4715.374 of the Revised Code:

(A) "Accredited dental hygiene school" means a dental hygiene school accredited by the American dental association commission on dental accreditation or a dental hygiene school whose educational standards are recognized by the American dental association commission on dental accreditation and approved by the state dental board.

(B) "Authorizing dentist" means a dentist who authorizes a dental hygienist to perform dental hygiene services under section 4715.365 of the Revised Code.

(C) "Clinical evaluation" means a diagnosis and treatment plan formulated for an individual patient by a dentist.

(D) "Dentist" means an individual licensed under this chapter to practice dentistry.

(E) "Dental hygienist" means an individual licensed under this chapter to practice as a dental hygienist.

(F) "Dental hygiene services" means the prophylactic, preventive, and other procedures that dentists are authorized by this chapter and rules of the state dental board to assign to dental hygienists, except for procedures while a patient is anesthetized, definitive root planing, definitive subgingival curettage, the administration of local anesthesia, and the procedures specified in rules adopted by the board as described in division (C)(4) of

section 4715.22 of the Revised Code.

(G) "Facility" means any of the following:

(1) A health care facility, as defined in section 4715.22 of the Revised Code;

(2) A state correctional institution, as defined in section 2967.01 of the Revised Code;

(3) A comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C. 9831, as amended, and is licensed as a child day-care center;

(4) A residential facility licensed under section 5123.19 of the Revised Code;

(5) A public school, as defined in section 3701.93 of the Revised Code, located in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code;

(6) A nonpublic school, as defined in section 3701.93 of the Revised Code, located in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code;

(7) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(8) A shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code;

(9) A facility operated by the department of youth services under Chapter 5139. of the Revised Code;

~~(10) A shelter for runaways, as defined in section 5119.64 of the Revised Code;~~

~~(11)~~ A foster home, as defined in section 5103.02 of the Revised Code;

~~(12)~~(11) A nonprofit clinic, as defined in section 3715.87 of the Revised Code;

~~(13)~~(12) The residence of one or more individuals receiving services provided by a home health agency, as defined in section 5101.61 of the Revised Code;

~~(14)~~(13) A dispensary;

~~(15)~~(14) A health care facility, such as a clinic or hospital, of the United States department of veterans affairs;

~~(16)~~(15) The residence of one or more individuals enrolled in a home and community-based services medicaid waiver component, as defined in section ~~5111.851~~ 5166.01 of the Revised Code;

~~(17)~~(16) A facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;

~~(18)~~(17) A women, infants, and children clinic;

~~(19)~~(18) A mobile dental unit located at any location listed in divisions (G)(1) to ~~(18)~~(17) of this section;

~~(20)~~(19) Any other location, as specified by the state dental board in rules adopted under section 4715.372 of the Revised Code, that is in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code and provides health care services to individuals who are medicaid recipients ~~of medical assistance under the medicaid program established pursuant to Chapter 5111. of the Revised Code~~ and to indigent and uninsured persons, as defined in section 2305.234 of the Revised Code.

Sec. 4715.372. (A) The state dental board shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement the oral health access supervision program, including rules that do all of the following:

(1) For the purpose of division (G)~~(20)~~(19) of section 4715.36 of the Revised Code, designate additional facilities at which a dental hygienist may be authorized to perform dental hygiene services under the oral health access supervision program;

(2) For the purpose of section 4715.362 of the Revised Code, prescribe the application form and requirements for obtaining an oral health access supervision permit;

(3) For the purpose of section 4715.363 of the Revised Code, prescribe the application form for a permit to practice as a dental hygienist under the oral health access supervision of a dentist;

(4) For the purpose of division (B)(3) of section 4715.363 of the Revised Code and subject to division (B) of this section, establish standards for the course in the practice of dental hygiene under oral health access supervision;

(5) For the purpose of section 4715.369 of the Revised Code, prescribe the form for renewal of an oral health access supervision permit;

(6) For the purpose of section 4715.37 of the Revised Code, prescribe the form for renewal of a permit to practice as a dental hygienist under the oral health access supervision of a dentist.

(B) The course in the practice of dental hygiene under oral health access supervision for which the board establishes standards under division (A)(4) of this section shall meet all of the following requirements:

(1) Be eight hours in length;

(2) Include, at a minimum, instruction in both of the following:

(a) The treatment of geriatric patients, medically compromised patients,

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developmentally disabled patients, and pediatric patients;

(b) Recordkeeping practices.

(3) Be developed and offered by an institution accredited by the American dental association commission on dental accreditation or a program provided by a sponsor of continuing education approved by the board;

(4) Include content that is separate and independent from the course content required for the completion of dental hygiene education from an accredited dental hygiene school.

Sec. 4717.03. (A) Members of the board of embalmers and funeral directors shall annually in July, or within thirty days after the senate's confirmation of the new members appointed in that year, meet and organize by selecting from among its members a president, vice-president, and secretary-treasurer. The board may hold other meetings as it determines necessary. A quorum of the board consists of four members, of whom at least three shall be members who are embalmers and funeral directors. The concurrence of at least four members is necessary for the board to take any action. The president and secretary-treasurer shall sign all licenses issued under this chapter and affix the board's seal to each license.

(B) The board may appoint an individual who is not a member of the board to serve as executive director of the board. The executive director serves at the pleasure of the board and shall do all of the following:

(1) Serve as the board's chief administrative officer;

(2) Act as custodian of the board's records;

(3) Execute all of the board's orders;

(4) Employ staff who are not members of the board and who serve at the pleasure of the executive director to provide any assistance that the board considers necessary.

(C) In executing the board's orders as required by division (B)(3) of this section, the executive director may enter the premises, establishment, office, or place of business of any embalmer, funeral director, or operator of a crematory facility in this state. The executive director may serve and execute any process issued by any court under this chapter.

~~(C) The board may employ clerical or technical staff who are not members of the board and who serve at the pleasure of the board to provide any clerical or technical assistance the board considers necessary. (D) The board executive director may employ necessary inspectors, who shall be licensed embalmers and funeral directors. Any An inspector employed by the board executive director may enter the premises, establishment, office, or place of business of any embalmer, funeral director, or operator of a~~

crematory facility in this state, for the purposes of inspecting the facility and premises; the license and registration of embalmers and funeral directors operating in the facility; and the license of the funeral home, embalming facility, or crematory. ~~The inspector shall serve and execute any process issued by any court under this chapter, serve and execute any papers or process issued by the board or any officer or member of the board, facility~~ and perform any other duties delegated to the inspector by the board or assigned to the inspector by the executive director. The executive director may enter the facility or premises of a funeral home, embalming facility, or crematory for the purpose of an inspection if accompanied by an inspector or, if an inspector is not available, when a situation presents a danger of immediate and serious harm to the public.

~~(D)~~(E) The president of the board shall designate three of ~~its~~ the board's members to serve on the crematory review board, which is hereby created, for such time as the president finds appropriate to carry out the provisions of this chapter. Those members of the crematory review board designated by the president to serve and three members designated by the cemetery dispute resolution commission shall designate, by a majority vote, one person who is experienced in the operation of a crematory facility and who is not affiliated with a cemetery or a funeral home to serve on the crematory review board for such time as the crematory review board finds appropriate. Members serving on the crematory review board shall not receive any additional compensation for serving on the board, but may be reimbursed for their actual and necessary expenses incurred in the performance of official duties as members of the board. Members of the crematory review board shall designate one from among its members to serve as a chairperson for such time as the board finds appropriate. Costs associated with conducting an adjudicatory hearing in accordance with division ~~(E)~~(F) of this section shall be paid from funds available to the board of embalmers and funeral directors.

~~(E)~~(F) Upon receiving written notice from the board of embalmers and funeral directors of any of the following, the crematory review board shall conduct an adjudicatory hearing on the matter in accordance with Chapter 119. of the Revised Code, except as otherwise provided in this section or division (C) of section 4717.14 of the Revised Code:

(1) Notice provided under division ~~(H)~~(I) of this section of an alleged violation of any provision of this chapter or any rules adopted under this chapter governing or in connection with crematory facilities or cremation;

(2) Notice provided under division (B) of section 4717.14 of the Revised Code that the board of embalmers and funeral directors proposes to

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refuse to grant or renew, or to suspend or revoke, a license to operate a crematory facility;

(3) Notice provided under division (C) of section 4717.14 of the Revised Code that the board of embalmers and funeral directors has issued an order summarily suspending a license to operate a crematory facility;

(4) Notice provided under division (B) of section 4717.15 of the Revised Code that the board of embalmers and funeral directors proposes to issue a notice of violation and order requiring payment of a forfeiture for any violation described in divisions (A)(9)(a) to (g) of section 4717.04 of the Revised Code alleged in connection with a crematory facility or cremation.

Nothing in division ~~(E)~~(F) of this section precludes the crematory review board from appointing an independent examiner in accordance with section 119.09 of the Revised Code to conduct any adjudication hearing required under division ~~(E)~~(F) of this section.

The crematory review board shall submit a written report of findings and advisory recommendations, and a written transcript of its proceedings, to the board of embalmers and funeral directors. The board of embalmers and funeral directors shall serve a copy of the written report of the crematory review board's findings and advisory recommendations on the party to the adjudication or the party's attorney, by certified mail, within five days after receiving the report and advisory recommendations. A party may file objections to the written report with the board of embalmers and funeral directors within ten days after receiving the report. No written report is final or appealable until it is issued as a final order by the board of embalmers and funeral directors and entered on the record of the proceedings. The board of embalmers and funeral directors shall consider objections filed by the party prior to issuing a final order. After reviewing the findings and advisory recommendations of the crematory review board, the written transcript of the crematory review board's proceedings, and any objections filed by a party, the board of embalmers and funeral directors shall issue a final order in the matter. Any party may appeal the final order issued by the board of embalmers and funeral directors in a matter described in divisions ~~(E)~~(F)(1) to (4) of this section in accordance with section 119.12 of the Revised Code, except that the appeal may be made to the court of common pleas in the county in which is located the crematory facility to which the final order pertains, or in the county in which the party resides.

~~(F)~~(G) On its own initiative or on receiving a written complaint from any person whose identity is made known to the board of embalmers and funeral directors, the board shall investigate the acts or practices of any

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person holding or claiming to hold a license or registration under this chapter that, if proven to have occurred, would violate this chapter or any rules adopted under it. The board may compel witnesses by subpoena to appear and testify in relation to investigations conducted under this chapter and may require by subpoena duces tecum the production of any book, paper, or document pertaining to an investigation. If a person does not comply with a subpoena or subpoena duces tecum, the board may apply to the court of common pleas of any county in this state for an order compelling the person to comply with the subpoena or subpoena duces tecum, or for failure to do so, to be held in contempt of court.

~~(G)~~(H) If, as a result of its investigation conducted under division ~~(F)~~(G) of this section, the board of embalmers and funeral directors has reasonable cause to believe that the person investigated is violating any provision of this chapter or any rules adopted under this chapter governing or in connection with embalming, funeral directing, funeral homes, embalming facilities, or the operation of funeral homes or embalming facilities, it may, after providing the opportunity for an adjudicatory hearing, issue an order directing the person to cease the acts or practices that constitute the violation. The board shall conduct the adjudicatory hearing in accordance with Chapter 119. of the Revised Code except that, notwithstanding the provisions of that chapter, the following shall apply:

(1) The board shall send the notice informing the person of the person's right to a hearing by certified mail.

(2) The person is entitled to a hearing only if the person requests a hearing and if the board receives the request within thirty days after the mailing of the notice described in division ~~(G)~~(H)(1) of this section.

(3) A stenographic record shall be taken, in the manner prescribed in section 119.09 of the Revised Code, at every adjudicatory hearing held under this section, regardless of whether the record may be the basis of an appeal to a court.

~~(H)~~(I) If, as a result of its investigation conducted under division ~~(F)~~(G) of this section, the board of embalmers and funeral directors has reasonable cause to believe that the person investigated is violating any provision of this chapter or any rules adopted under this chapter governing or in connection with crematory facilities or cremation, the board shall send written notice of the alleged violation to the crematory review board. If, after the conclusion of the adjudicatory hearing in the matter conducted under division ~~(E)~~(F) of this section, the board of embalmers and funeral directors finds that a person is in violation of any provision of this chapter or any rules adopted under this chapter governing or in connection with

crematory facilities or cremation, the board may issue a final order under that division directing the person to cease the acts or practices that constitute the violation.

~~(H)~~(J) The board of embalmers and funeral directors may bring a civil action to enjoin any violation or threatened violation of sections 4717.01 to 4717.15 of the Revised Code or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; divisions (A) to (C) of section 4717.28, or division (D) or (E) of section 4717.31 of the Revised Code. The action shall be brought in the county where the violation occurred or the threatened violation is expected to occur. At the request of the board, the attorney general shall represent the board in any matter arising under this chapter.

~~(I)~~(K) The board of embalmers and funeral directors and the crematory review board may issue subpoenas for funeral directors and embalmers or persons holding themselves out as such, for operators of crematory facilities or persons holding themselves out as such, or for any other person whose testimony, in the opinion of either board, is necessary. The subpoena shall require the person to appear before the appropriate board or any designated member of either board, upon any hearing conducted under this chapter. The penalty for disobedience to the command of such a subpoena is the same as for refusal to answer such a process issued under authority of the court of common pleas.

~~(K)~~(L) All moneys received by the board of embalmers and funeral directors from any source shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund created in section 4743.05 of the Revised Code.

~~(L)~~(M) The board of embalmers and funeral directors shall submit a written report to the governor on or before the first Monday of July of each year. This report shall contain a detailed statement of the nature and amount of the board's receipts and the amount and manner of its expenditures.

Sec. 4717.06. (A)(1) Any person who desires to obtain a license to operate a funeral home, embalming facility, or crematory facility shall apply to the board of embalmers and funeral directors on a form provided by the board. The application shall include the initial license fee set forth in section 4717.07 of the Revised Code and proof satisfactory to the board that the funeral home, embalming facility, or crematory facility is in compliance with rules adopted by the board under section 4717.04 of the Revised Code, rules adopted by the board of building standards under Chapter 3781. of the Revised Code, and all other federal, state, and local requirements relating to

the safety of the premises.

(2) If the funeral home, embalming facility, or crematory facility to which the license application pertains is owned by a corporation or limited liability company, the application shall include the name and address of the corporation's or limited liability company's statutory agent appointed under section 1701.07 or 1705.06 of the Revised Code or, in the case of a foreign corporation, the corporation's designated agent appointed under section 1703.041 of the Revised Code. If the funeral home, embalming facility, or crematory facility to which the application pertains is owned by a partnership, the application shall include the name and address of each of the partners. If, at any time after the submission of a license application or issuance of a license, the statutory or designated agent of a corporation or limited liability company owning a funeral home, embalming facility, or crematory facility or the address of the statutory or designated agent changes or, in the case of a partnership, any of the partners of the funeral home, embalming facility, or crematory facility or the address of any of the partners changes, the applicant for or holder of the license to operate the funeral home, embalming facility, or crematory facility shall submit written notice to the board, within thirty days after the change, informing the board of the change and of any name or address of a statutory or designated agent or partner that has changed from that contained in the application for the license or the most recent notice submitted under division (A)(2) of this section.

(B)(1) The board shall issue a license to operate a funeral home only for the address at which the funeral home is operated. The funeral home license and licenses of the embalmers and funeral directors employed by the funeral home shall be displayed in a conspicuous place within the funeral home.

(2) The funeral home shall have on the premises one of the following:

(a) If embalming will take place at the funeral home, an embalming room that is adequately equipped and maintained. The embalming room shall be kept in a clean and sanitary manner and used only for the embalming, preparation, or holding of dead human bodies. The embalming room shall contain only the articles, facilities, and instruments necessary for those purposes.

(b) If embalming will not take place at the funeral home, a holding room that is adequately equipped and maintained. The holding room shall be kept in a clean and sanitary manner and used only for the preparation, other than embalming, and holding of dead human bodies. The holding room shall contain only the articles and facilities necessary for those purposes.

(3) Except as provided in division (B) of section 4717.11 of the Revised

Code, a funeral home shall be established and operated only under the name of a holder of a funeral director's license issued by the board who is actually in charge of and ultimately responsible for the funeral home, and a funeral home license shall not include directional or geographical references in the name of the funeral home. The holder of the funeral home license shall be a funeral director licensed under this chapter who is actually in charge of and ultimately responsible for the funeral home. Nothing in division (B)(3) of this section prohibits the holder of a funeral home license from including directional or geographical references in promotional or advertising materials identifying the location of the funeral home.

(4) Each funeral home shall be directly supervised by a funeral director licensed under this chapter, who ~~shall~~ may supervise ~~only~~ more than one funeral home.

(C)(1) The board shall issue a license to operate an embalming facility only for the address at which the embalming facility is operated. The license shall be displayed in a conspicuous place within the facility.

(2) The embalming facility shall be adequately equipped and maintained in a sanitary manner. The embalming room at such a facility shall contain only the articles, facilities, and instruments necessary for its stated purpose. The embalming room shall be kept in a clean and sanitary condition and used only for the care and preparation of dead human bodies.

(3) An embalming facility license shall be issued only to an embalmer licensed under division (B) of section 4717.05 of the Revised Code, who is actually in charge of the facility.

(D)(1) The board shall issue a license to operate a crematory facility only for the address at which the crematory facility is located and operated. The license shall be displayed in a conspicuous place within the crematory facility.

(2) The crematory facility shall be adequately equipped and maintained in a clean and sanitary manner. The crematory facility may be located in a funeral home, embalming facility, cemetery building, or other building in which the crematory facility may lawfully operate. If a crematory facility engages in the cremation of animals, the crematory facility shall cremate animals in a cremation chamber that also is not used to cremate dead human bodies or human body parts and shall not cremate animals in a cremation chamber used for the cremation of dead human bodies and human body parts. Cremation chambers that are used for the cremation of dead human bodies or human body parts and cremation chambers used for the cremation of animals may be located in the same area.

(3) A license to operate a crematory facility shall be issued to the person

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actually in charge of the crematory facility. This section does not require the individual who is actually in charge of the crematory facility to be an embalmer or funeral director licensed under this chapter.

(4) Nothing in this section or rules adopted under section 4717.04 of the Revised Code precludes the establishment and operation of a crematory facility on or adjacent to the property on which a cemetery, funeral home, or embalming facility is located.

Sec. 4717.07. (A) The board of embalmers and funeral directors shall charge and collect the following fees:

(1) For the initial issuance or biennial renewal of an embalmer's or funeral director's license, one hundred ~~forty~~ fifty dollars;

(2) For the issuance of an embalmer or funeral director registration, twenty-five dollars;

(3) For filing an embalmer or funeral director certificate of apprenticeship, ten dollars;

(4) For the application to take the examination for a license to practice as an embalmer or funeral director, or to retake a section of the examination, thirty-five dollars;

(5) For the initial issuance of a license to operate a funeral home, ~~two~~ three hundred fifty dollars and biennial renewal of a license to operate a funeral home, ~~two~~ three hundred fifty dollars;

(6) For the reinstatement of a lapsed embalmer's or funeral director's license, the renewal fee prescribed in division (A)(1) of this section plus fifty dollars for each month or portion of a month the license is lapsed ~~until reinstatement~~, but not more than one thousand dollars;

(7) For the reinstatement of a lapsed license to operate a funeral home, the renewal fee prescribed in division (A)(5) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;

(8) For the initial issuance of a license to operate an embalming facility, ~~two~~ three hundred fifty dollars and biennial renewal of a license to operate an embalming facility, ~~two~~ three hundred fifty dollars;

(9) For the reinstatement of a lapsed license to operate an embalming facility, the renewal fee prescribed in division (A)(8) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;

(10) For the initial issuance of a license to operate a crematory facility, ~~two~~ three hundred fifty dollars and biennial renewal of a license to operate a crematory facility, ~~two~~ three hundred fifty dollars;

(11) For the reinstatement of a lapsed license to operate a crematory

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facility, the renewal fee prescribed in division (A)(10) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;

(12) For the issuance of a duplicate of a license issued under this chapter, ~~four~~ ten dollars.

(B) In addition to the fees set forth in division (A) of this section, an applicant shall pay the examination fee assessed by any examining agency the board uses for any section of an examination required under this chapter.

(C) Subject to the approval of the controlling board, the board of embalmers and funeral directors may establish fees in excess of the amounts set forth in this section, provided that these fees do not exceed the amounts set forth in this section by more than fifty per cent.

Sec. 4717.10. (A) The board of embalmers and funeral directors may recognize licenses issued to embalmers and funeral directors by other states, and upon presentation of such licenses, may issue to the holder an embalmer's or funeral director's license under this chapter. The board shall charge the same fee as prescribed in section 4717.07 of the Revised Code to issue or renew such an embalmer's or funeral director's license. Such licenses shall be renewed ~~annually~~ biennially as provided in section 4717.08 of the Revised Code. The board shall not issue a license to any person under this section unless the applicant proves that the applicant, in the state in which the applicant is licensed, has complied with requirements substantially equal to those established in section 4717.05 of the Revised Code.

(B) The board of embalmers and funeral directors may issue courtesy cards. A courtesy cardholder shall be authorized to undertake both the following acts in this state:

(1) Prepare and complete those sections of a death certificate and other permits needed for disposition of deceased human remains in this state and sign and file such death certificates and permits;

(2) Supervise and conduct funeral ceremonies and interments in this state.

(C) The board of embalmers and funeral directors may determine under what conditions a courtesy card may be issued to funeral directors in bordering states after taking into account whether and under what conditions and fees such border states issue similar courtesy cards to funeral directors licensed in this state. Applicants for courtesy cards shall apply on forms prescribed by the board, pay ~~an annual~~ a biennial fee set by the board for initial applications and renewals, and adhere to such other requirements imposed by the board on courtesy cardholders.

(D) No courtesy cardholder shall be authorized to undertake any of the following activities in this state:

(1) Arranging funerals or disposition services with members of the public in this state;

(2) Be employed by or under contract to a funeral home licensed in this state to perform funeral services in this state;

(3) Advertise funeral or disposition services in this state;

(4) Enter into or execute funeral or disposition contracts in this state;

(5) Prepare or embalm deceased human remains in this state;

(6) Arrange for or carry out the disinterment of human remains in this state.

(E) As used in this section, "courtesy card" means a special permit that may be issued to a funeral director licensed in a state that borders this state and who does not hold a funeral director's license under this chapter.

Sec. 4717.14. (A) The board of embalmers and funeral directors may refuse to grant or renew, or may suspend or revoke, any license issued under this chapter or may require the holder of a license to take corrective action courses for any of the following reasons:

(1) The license was obtained by fraud or misrepresentation either in the application or in passing the examination.

(2) The applicant or licensee has been convicted of or has pleaded guilty to a felony or of any crime involving moral turpitude.

(3) The applicant or licensee has purposely violated any provision of sections 4717.01 to 4717.15 or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the Revised Code; any rule or order of the department of health or a board of health of a health district governing the disposition of dead human bodies; or any other rule or order applicable to the applicant or licensee.

(4) The applicant or licensee has committed immoral or unprofessional conduct.

(5) The applicant or licensee knowingly permitted an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the applicant's or licensee's supervision.

(6) The applicant or licensee has been habitually intoxicated, or is addicted to the use of morphine, cocaine, or other habit-forming or illegal drugs.

(7) The applicant or licensee has refused to promptly submit the custody

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of a dead human body upon the express order of the person legally entitled to the body.

(8) The licensee loaned the licensee's own license, or the applicant or licensee borrowed or used the license of another person, or knowingly aided or abetted the granting of an improper license.

(9) The applicant or licensee transferred a license to operate a funeral home, embalming facility, or crematory from one owner or operator to another, or from one location to another, without notifying the board.

(10) The applicant or licensee misled the public by using false or deceptive advertising.

(B)(1) The board of embalmers and funeral directors shall refuse to grant or renew, or shall suspend or revoke, an embalmer's, funeral director's, funeral home, or embalming facility license only in accordance with Chapter 119. of the Revised Code.

(2) The board shall send to the crematory review board written notice that it proposes to refuse to issue or renew, or proposes to suspend or revoke, a license to operate a crematory facility. If, after the conclusion of the adjudicatory hearing on the matter conducted under division ~~(E)~~(F) of section 4717.03 of the Revised Code, the board of embalmers and funeral directors finds that any of the circumstances described in divisions (A)(1) to (10) of this section apply to the person named in its proposed action, the board may issue a final order under division ~~(E)~~(F) of section 4717.03 of the Revised Code refusing to issue or renew, or suspending or revoking, the person's license to operate a crematory facility.

(C) If the board of embalmers and funeral directors determines that there is clear and convincing evidence that any of the circumstances described in divisions (A)(1) to (10) of this section apply to the holder of a license issued under this chapter and that the licensee's continued practice presents a danger of immediate and serious harm to the public, the board may suspend the licensee's license without a prior adjudicatory hearing. The executive director of the board shall prepare written allegations for consideration by the board.

The board, after reviewing the written allegations, may suspend a license without a prior hearing.

The board shall issue a written order of suspension by a delivery system or in person in accordance with section 119.07 of the Revised Code. Such an order is not subject to suspension by the court during the pendency of any appeal filed under section 119.12 of the Revised Code. If the holder of an embalmer's, funeral director's, funeral home, or embalming facility license requests an adjudicatory hearing by the board, the date set for the hearing

shall be within fifteen days, but not earlier than seven days, after the licensee has requested a hearing, unless the board and the licensee agree to a different time for holding the hearing.

Upon issuing a written order of suspension to the holder of a license to operate a crematory facility, the board of embalmers and funeral directors shall send written notice of the issuance of the order to the crematory review board. The crematory review board shall hold an adjudicatory hearing on the order under division ~~(E)~~(F) of section 4717.03 of the Revised Code within fifteen days, but not earlier than seven days, after the issuance of the order, unless the crematory review board and the licensee agree to a different time for holding the adjudicatory hearing.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicatory order issued by the board of embalmers and funeral directors pursuant to this division and Chapter 119. of the Revised Code, or division ~~(E)~~(F) of section 4717.03 of the Revised Code, as applicable, becomes effective. The board of embalmers and funeral directors shall issue its final adjudicatory order within sixty days after the completion of its hearing or, in the case of the summary suspension of a license to operate a crematory facility, within sixty days after completion of the adjudicatory hearing by the crematory review board. A failure to issue the order within that time results in the dissolution of the summary suspension order, but does not invalidate any subsequent final adjudicatory order.

(D) If the board of embalmers and funeral directors suspends or revokes a license held by a funeral director or a funeral home for any reason identified in division (A) of this section, the board may file a complaint with the court of common pleas in the county where the violation occurred requesting appointment of a receiver and the sequestration of the assets of the funeral home that held the suspended or revoked license or the licensed funeral home that employs the funeral director that held the suspended or revoked license. If the court of common pleas is satisfied with the application for a receivership, the court may appoint a receiver.

The board or a receiver may employ and procure whatever assistance or advice is necessary in the receivership or liquidation and distribution of the assets of the funeral home, and, for that purpose, may retain officers or employees of the funeral home as needed. All expenses of the receivership or liquidation shall be paid from the assets of the funeral home and shall be a lien on those assets, and that lien shall be a priority to any other lien.

(E) Any holder of a license issued under this chapter who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a

judicial finding of eligibility for treatment in lieu of conviction entered against the individual in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in another jurisdiction for any substantially equivalent criminal offense, is hereby suspended from practice under this chapter by operation of law, and any license issued to the individual under this chapter is hereby suspended by operation of law as of the date of the guilty plea, verdict or finding of guilt, or judicial finding of eligibility for treatment in lieu of conviction, regardless of whether the proceedings are brought in this state or another jurisdiction. The board shall notify the suspended individual of the suspension of the individual's license by the operation of this division by a delivery system or in person in accordance with section 119.07 of the Revised Code. If an individual whose license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the license.

(F) No person whose license has been suspended or revoked under or by the operation of this section shall practice embalming or funeral directing or operate a funeral home, embalming facility, or crematory facility until the board has reinstated the person's license.

Sec. 4717.15. (A) The board of embalmers and funeral directors, without the necessity for conducting a prior adjudication hearing, may issue a notice of violation to the holder of an embalmer's, funeral director's, funeral home, or embalming facility license issued under this chapter who the board finds has committed any of the violations described in divisions (A)(9)(a) to (g) of section 4717.04 of the Revised Code. The notice shall set forth the specific violation committed by the licensee and shall be sent by certified mail. The notice shall be accompanied by an order requiring the payment of the appropriate forfeiture prescribed in rules adopted under division (A)(9) of section 4717.04 of the Revised Code and by a notice informing the licensee that the licensee is entitled to an adjudicatory hearing on the notice of violation and order if the licensee requests a hearing and if the board receives the request within thirty days after the mailing of the notice of violation and order. The board shall conduct any such adjudicatory hearing in accordance with Chapter 119. of the Revised Code, except as otherwise provided in this division.

A licensee who receives a notice of violation and order under this division shall pay to the executive director of the board the full amount of

the forfeiture by certified check within thirty days after the notice of violation and order were mailed to the licensee unless, within that time, the licensee submits a request for an adjudicatory hearing on the notice of violation and order. If such a request for an adjudicatory hearing is timely filed, the licensee need not pay the forfeiture to the executive director until after a final, nonappealable administrative or judicial decision is rendered on the order requiring payment of the forfeiture. If a final nonappealable administrative or judicial decision is rendered affirming the board's order, the licensee shall pay to the executive director of the board the full amount of the forfeiture by certified check within thirty days after notice of the decision was sent to the licensee. A forfeiture is considered to be paid when the licensee's certified check is received by the executive director in Columbus. If the licensee fails to so pay the full amount of the forfeiture to the executive director within that time, the board shall issue an order suspending or revoking the individual's license, as the board considers appropriate.

(B) The board shall send to the crematory review board written notice that it proposes to issue to the holder of a license to operate a crematory facility issued under this chapter a notice of violation and order requiring payment of a forfeiture specified in rules adopted under division (A)(9) of section 4717.04 of the Revised Code. If, after the conclusion of the adjudicatory hearing on the matter conducted under division ~~(E)~~(F) of section 4717.03 of the Revised Code, the board of embalmers and funeral directors finds that the licensee has committed any of the violations described in divisions (A)(9)(a) to (g) of section 4717.04 of the Revised Code in connection with the operation of a crematory facility or cremation, the board of embalmers and funeral directors may issue a final order under division ~~(E)~~(F) of section 4717.03 of the Revised Code requiring payment of the appropriate forfeiture specified in rules adopted under division (A)(9) of section 4717.04 of the Revised Code. A licensee who receives such an order shall pay the full amount of the forfeiture to the executive director by certified check within thirty days after the order was sent to the licensee unless, within that time, the licensee files a notice of appeal in accordance with division ~~(E)~~(F) of section 4717.03 and section 119.12 of the Revised Code. If such a notice of appeal is timely filed, the licensee need not pay the forfeiture to the executive director until after a final, nonappealable judicial decision is rendered in the appeal. If a final, nonappealable judicial decision is rendered affirming the board's order, the licensee shall pay to the executive director the full amount of the forfeiture by certified check within thirty days after notice of the decision was sent to the licensee. A forfeiture

is considered paid when the licensee's certified check is received by the executive director in Columbus. If the licensee fails to so pay the full amount of the forfeiture to the executive director within that time, the board shall issue an order suspending or revoking the individual's license, as the board considers appropriate.

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of the Revised Code:

(1) "Affiliate" means a business entity that is owned by, operated by, controlled by, or under common control with another business entity.

(2) "Communication" means a written or oral notification or advertisement that meets both of the following criteria, as applicable:

(a) The notification or advertisement is transmitted by or on behalf of the seller of goods or services and by or through any printed, audio, video, cinematic, telephonic, or electronic means.

(b) In the case of a notification or advertisement other than by telephone, either of the following conditions is met:

(i) The notification or advertisement is followed by a telephone call from a telephone solicitor or salesperson.

(ii) The notification or advertisement invites a response by telephone, and, during the course of that response, a telephone solicitor or salesperson attempts to make or makes a sale of goods or services. As used in division (A)(2)(b)(ii) of this section, "invites a response by telephone" excludes the mere listing or inclusion of a telephone number in a notification or advertisement.

(3) "Gift, award, or prize" means anything of value that is offered or purportedly offered, or given or purportedly given by chance, at no cost to the receiver and with no obligation to purchase goods or services. As used in this division, "chance" includes a situation in which a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telephone solicitor does not identify the specific item that the person will receive.

(4) "Goods or services" means any real property or any tangible or intangible personal property, or services of any kind provided or offered to a person. "Goods or services" includes, but is not limited to, advertising; labor performed for the benefit of a person; personal property intended to be attached to or installed in any real property, regardless of whether it is so attached or installed; timeshare estates or licenses; and extended service contracts.

(5) "Purchaser" means a person that is solicited to become or does become financially obligated as a result of a telephone solicitation.

(6) "Salesperson" means an individual who is employed, appointed, or authorized by a telephone solicitor to make telephone solicitations but does not mean any of the following:

(a) An individual who comes within one of the exemptions in division (B) of this section;

(b) An individual employed, appointed, or authorized by a person who comes within one of the exemptions in division (B) of this section;

(c) An individual under a written contract with a person who comes within one of the exemptions in division (B) of this section, if liability for all transactions with purchasers is assumed by the person so exempted.

(7) "Telephone solicitation" means a communication to a person that meets both of the following criteria:

(a) The communication is initiated by or on behalf of a telephone solicitor or by a salesperson.

(b) The communication either represents a price or the quality or availability of goods or services or is used to induce the person to purchase goods or services, including, but not limited to, inducement through the offering of a gift, award, or prize.

(8) "Telephone solicitor" means a person that engages in telephone solicitation directly or through one or more salespersons either from a location in this state, or from a location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a business.

(B) A telephone solicitor is exempt from the provisions of sections 4719.02 to 4719.18 and section 4719.99 of the Revised Code if the telephone solicitor is any one of the following:

(1) A person engaging in a telephone solicitation that is a one-time or infrequent transaction not done in the course of a pattern of repeated transactions of a like nature;

(2) A person engaged in telephone solicitation solely for religious or political purposes; a charitable organization, fund-raising counsel, or professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; or any person or other entity exempt under section 1716.03 of the Revised Code from filing a registration statement under section 1716.02 of the Revised Code;

(3) A person, making a telephone solicitation involving a home solicitation sale as defined in section 1345.21 of the Revised Code, that makes the sales presentation and completes the sale at a later, face-to-face meeting between the seller and the purchaser rather than during the

telephone solicitation. However, if the person, following the telephone solicitation, causes another person to collect the payment of any money, this exemption does not apply.

(4) A licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person when making a telephone solicitation within the scope of the person's license. As used in division (B)(4) of this section, "licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person" means a person subject to licensure or registration as such by the securities and exchange commission; the National Association of Securities Dealers or other self-regulatory organization, as defined by 15 U.S.C.A. 78c; by the division of securities under Chapter 1707. of the Revised Code; or by an official or agency of any other state of the United States.

(5)(a) A person primarily engaged in soliciting the sale of a newspaper of general circulation;

(b) As used in division (B)(5)(a) of this section, "newspaper of general circulation" includes, but is not limited to, both of the following:

(i) A newspaper that is a daily law journal designated as an official publisher of court calendars pursuant to section 2701.09 of the Revised Code;

(ii) A newspaper or publication that has at least twenty-five per cent editorial, non-advertising content, exclusive of inserts, measured relative to total publication space, and an audited circulation to at least fifty per cent of the households in the newspaper's retail trade zone as defined by the audit.

(6)(a) An issuer, or its subsidiary, that has a class of securities to which all of the following apply:

(i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A. 78l, and is registered or is exempt from registration under 15 U.S.C.A. 78l(g)(2)(A), (B), (C), (E), (F), (G), or (H);

(ii) The class of securities is listed on the New York stock exchange, the American stock exchange, or the NASDAQ national market system;

(iii) The class of securities is a reported security as defined in 17 C.F.R. 240.11Aa3-1(a)(4).

(b) An issuer, or its subsidiary, that formerly had a class of securities that met the criteria set forth in division (B)(6)(a) of this section if the issuer, or its subsidiary, has a net worth in excess of one hundred million dollars, files or its parent files with the securities and exchange commission an S.E.C. form 10-K, and has continued in substantially the same business since it had a class of securities that met the criteria in division (B)(6)(a) of

this section. As used in division (B)(6)(b) of this section, "issuer" and "subsidiary" include the successor to an issuer or subsidiary.

(7) A person soliciting a transaction regulated by the commodity futures trading commission, if the person is registered or temporarily registered for that activity with the commission under 7 U.S.C.A. 1 et. seq. and the registration or temporary registration has not expired or been suspended or revoked;

(8) A person soliciting the sale of any book, record, audio tape, compact disc, or video, if the person allows the purchaser to review the merchandise for at least seven days and provides a full refund within thirty days to a purchaser who returns the merchandise or if the person solicits the sale on behalf of a membership club operating in compliance with regulations adopted by the federal trade commission in 16 C.F.R. 425;

(9) A supervised financial institution or its subsidiary. As used in division (B)(9) of this section, "supervised financial institution" means a bank, trust company, savings and loan association, savings bank, credit union, industrial loan company, consumer finance lender, commercial finance lender, or institution described in section 2(c)(2)(F) of the "Bank Holding Company Act of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an official or agency of the United States, this state, or any other state of the United States; or a licensee or registrant under sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 1321.83 of the Revised Code.

(10)(a) An insurance company, association, or other organization that is licensed or authorized to conduct business in this state by the superintendent of insurance pursuant to Title XXXIX of the Revised Code or Chapter 1751. of the Revised Code, when soliciting within the scope of its license or authorization.

(b) A licensed insurance broker, agent, or solicitor when soliciting within the scope of the person's license. As used in division (B)(10)(b) of this section, "licensed insurance broker, agent, or solicitor" means any person licensed as an insurance broker, agent, or solicitor by the superintendent of insurance pursuant to Title XXXIX of the Revised Code.

(11) A person soliciting the sale of services provided by a cable television system operating under authority of a governmental franchise or permit;

(12) A person soliciting a business-to-business sale under which any of the following conditions are met:

(a) The telephone solicitor has been operating continuously for at least three years under the same business name under which it solicits purchasers,

and at least fifty-one per cent of its gross dollar volume of sales consists of repeat sales to existing customers to whom it has made sales under the same business name.

(b) The purchaser business intends to resell the goods purchased.

(c) The purchaser business intends to use the goods or services purchased in a recycling, reuse, manufacturing, or remanufacturing process.

(d) The telephone solicitor is a publisher of a periodical or of magazines distributed as controlled circulation publications as defined in division (CC) of section 5739.01 of the Revised Code and is soliciting sales of advertising, subscriptions, reprints, lists, information databases, conference participation or sponsorships, trade shows or media products related to the periodical or magazine, or other publishing services provided by the controlled circulation publication.

(13) A person that, not less often than once each year, publishes and delivers to potential purchasers a catalog that complies with both of the following:

(a) It includes all of the following:

(i) The business address of the seller;

(ii) A written description or illustration of each good or service offered for sale;

(iii) A clear and conspicuous disclosure of the sale price of each good or service; shipping, handling, and other charges; and return policy.

(b) One of the following applies:

(i) The catalog includes at least twenty-four pages of written material and illustrations, is distributed in more than one state, and has an annual postage-paid mail circulation of not less than two hundred fifty thousand households;

(ii) The catalog includes at least ten pages of written material or an equivalent amount of material in electronic form on the internet or an on-line computer service, the person does not solicit customers by telephone but solely receives telephone calls made in response to the catalog, and during the calls the person takes orders but does not engage in further solicitation of the purchaser. As used in division (B)(13)(b)(ii) of this section, "further solicitation" does not include providing the purchaser with information about, or attempting to sell, any other item in the catalog that prompted the purchaser's call or in a substantially similar catalog issued by the seller.

(14) A political subdivision or instrumentality of the United States, this state, or any state of the United States;

(15) A college or university or any other public or private institution of

higher education in this state;

(16) A public utility as defined in section 4905.02 of the Revised Code or a retail natural gas supplier as defined in section 4929.01 of the Revised Code, if the utility or supplier is subject to regulation by the public utilities commission, or the affiliate of the utility or supplier;

(17) A person that solicits sales through a television program or advertisement that is presented in the same market area no fewer than twenty days per month or offers for sale no fewer than ten distinct items of goods or services; and offers to the purchaser an unconditional right to return any good or service purchased within a period of at least seven days and to receive a full refund within thirty days after the purchaser returns the good or cancels the service;

(18)(a) A person that, for at least one year, has been operating a retail business under the same name as that used in connection with telephone solicitation and both of the following occur on a continuing basis:

(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises.

(ii) At least fifty-one per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises.

(b) An affiliate of a person that meets the requirements in division (B)(18)(a) of this section if the affiliate meets all of the following requirements:

(i) The affiliate has operated a retail business for a period of less than one year;

(ii) The affiliate either displays goods and offers them for retail sale at the affiliate's business premises or offers services for sale and provides them at the affiliate's business premises;

(iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or services at the affiliate's business premises.

(c) A person that, for a period of less than one year, has been operating a retail business in this state under the same name as that used in connection with telephone solicitation, as long as all of the following requirements are met:

(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises;

(ii) The goods or services that are the subject of telephone solicitation

are sold at the person's business premises, and at least sixty-five per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises;

(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310.

(19) A person who performs telephone solicitation sales services on behalf of other persons and to whom one of the following applies:

(a) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least seventy-five per cent of its gross revenues from written telephone solicitation contracts with persons who come within one of the exemptions in division (B) of this section.

(b) The person is an affiliate of one or more exempt persons and makes telephone solicitations on behalf of only the exempt persons of which it is an affiliate.

(c) The person makes telephone solicitations on behalf of only exempt persons, the person and each exempt person on whose behalf telephone solicitations are made have entered into a written contract that specifies the manner in which the telephone solicitations are to be conducted and that at a minimum requires compliance with the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310, and the person conducts the telephone solicitations in the manner specified in the written contract.

(d) The person performs telephone solicitation for religious or political purposes, a charitable organization, a fund-raising council, or a professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; and meets all of the following requirements:

(i) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least fifty-one per cent of its gross revenues from written telephone solicitation contracts with persons who come within the exemption in division (B)(2) of this section;

(ii) The person does not conduct a prize promotion or offer the sale of an investment opportunity;

(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310.

(20) A person that is a licensed real estate salesperson or broker under Chapter 4735. of the Revised Code when soliciting within the scope of the

person's license;

(21)(a) Either of the following:

(i) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature on behalf of a publisher under a written agreement directly between the publisher and the person.

(ii) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature as authorized by a publisher under a written agreement directly with a publisher's clearinghouse provided the person is a resident of Ohio for more than three years and initiates all telephone solicitations from Ohio and the person conducts the solicitation and sale in compliance with 16 C.F.R. part 310, as adopted by the federal trade commission.

(b) As used in division (B)(21) of this section, "periodical or magazine of general, paid circulation" excludes a periodical or magazine circulated only as part of a membership package or given as a free gift or prize from the publisher or person.

(22) A person that solicits the sale of food, as defined in section 3715.01 of the Revised Code, or the sale of products of horticulture, as defined in section 5739.01 of the Revised Code, if the person does not intend the solicitation to result in, or the solicitation actually does not result in, a sale that costs the purchaser an amount greater than five hundred dollars.

(23) A funeral director licensed pursuant to Chapter 4717. of the Revised Code when soliciting within the scope of that license, if both of the following apply:

(a) The solicitation and sale are conducted in compliance with 16 C.F.R. part 453, as adopted by the federal trade commission, and with sections 1107.33 and 1345.21 to 1345.28 of the Revised Code;

(b) The person provides to the purchaser of any preneed funeral contract a notice that clearly and conspicuously sets forth the cancellation rights specified in division (G) of section 1107.33 of the Revised Code, and retains a copy of the notice signed by the purchaser.

(24) A person, or affiliate thereof, licensed to sell or issue Ohio instruments designated as travelers checks pursuant to sections 1315.01 to 1315.18 of the Revised Code.

(25) A person that solicits sales from its previous purchasers and meets all of the following requirements:

(a) The solicitation is made under the same business name that was previously used to sell goods or services to the purchaser;

(b) The person has, for a period of not less than three years, operated a

business under the same business name as that used in connection with telephone solicitation;

(c) The person does not conduct a prize promotion or offer the sale of an investment opportunity;

(d) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310;

(e) Neither the person nor any of its principals has been convicted of, pleaded guilty to, or has entered a plea of no contest for a felony or a theft offense as defined in sections 2901.02 and 2913.01 of the Revised Code or similar law of another state or of the United States;

(f) Neither the person nor any of its principals has had entered against them an injunction or a final judgment or order, including an agreed judgment or order, an assurance of voluntary compliance, or any similar instrument, in any civil or administrative action involving engaging in a pattern of corrupt practices, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property; the use of any untrue, deceptive, or misleading representation; or the use of any unfair, unlawful, deceptive, or unconscionable trade act or practice.

(26) An institution defined as a home health agency in section 3701.881 of the Revised Code, that conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310, and engages in telephone solicitation only within the scope of the institution's certification, accreditation, contract with the department of aging, or status as a home health agency; and that meets one of the following requirements:

(a) The institution is certified as a provider of home health services under Title XVIII of the Social Security Act, 49 Stat. 620, 42 U.S.C. 301, as amended;

(b) The institution is accredited by either the joint commission on accreditation of health care organizations or the community health accreditation program;

(c) The institution is providing ~~passport~~ PASSPORT services under the direction of the ~~Ohio~~ department of aging under ~~section 173.40~~ sections 173.52 to 173.523 of the Revised Code;

(d) An affiliate of an institution that meets the requirements of division (B)(26)(a), (b), or (c) of this section when offering for sale substantially the same goods and services as those that are offered by the institution that meets the requirements of division (B)(26)(a), (b), or (c) of this section.

(27) A person licensed by the department of health pursuant to section

3712.04 or 3712.041 of the Revised Code to provide a hospice care program or pediatric respite care program when conducting telephone solicitations within the scope of the person's license and according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310.

Sec. 4723.18. (A) The board of nursing shall authorize a licensed practical nurse to administer to an adult intravenous therapy if the nurse supplies evidence satisfactory to the board that all of the following are the case:

(1) The nurse holds a current, valid license issued under this chapter to practice nursing as a licensed practical nurse.

(2) The nurse has been authorized under section 4723.18 of the Revised Code to administer medications.

(3) The nurse successfully completed a course of study in the safe performance of intravenous therapy approved by the board pursuant to section 4723.19 of the Revised Code or by an agency in another jurisdiction that regulates the practice of nursing and has requirements for intravenous therapy course approval that are substantially similar to the requirements in division (B) of section 4723.19 of the Revised Code, as determined by the board.

(4) The nurse has successfully completed a minimum of forty hours of training that includes all of the following:

(a) The curriculum established by rules adopted by the board;

(b) Training in the anatomy and physiology of the cardiovascular system, signs and symptoms of local and systemic complications in the administration of fluids and antibiotic additives, and guidelines for management of these complications;

(c) Any other training or instruction the board considers appropriate;

(d) A testing component that requires the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely.

(B) Except as provided in section 4723.181 of the Revised Code and subject to the restrictions in division (D) of this section, a licensed practical nurse may perform intravenous therapy on an adult patient only if authorized by the board pursuant to division (A) of this section and only at the direction of one of the following:

(1) A licensed physician, dentist, optometrist, or podiatrist who, except as provided in division (C)(2) of this section, is present and readily available at the facility where the intravenous therapy procedure is performed;

(2) A registered nurse in accordance with division (C) of this section.

(C)(1) Except as provided in division (C)(2) of this section and section 4723.181 of the Revised Code, when a licensed practical nurse authorized by the board to perform intravenous therapy performs an intravenous therapy procedure at the direction of a registered nurse, the registered nurse or another registered nurse shall be readily available at the site where the intravenous therapy is performed, and before the licensed practical nurse initiates the intravenous therapy, the registered nurse shall personally perform an on-site assessment of the adult patient who is to receive the intravenous therapy.

(2) When a licensed practical nurse authorized by the board to perform intravenous therapy performs an intravenous therapy procedure in a home as defined in section 3721.10 of the Revised Code, or in an intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities as defined in section ~~5111.20~~ 5124.01 of the Revised Code, at the direction of a registered nurse or licensed physician, dentist, optometrist, or podiatrist, a registered nurse shall be on the premises of the home or facility or accessible by some form of telecommunication.

(D) No licensed practical nurse shall perform any of the following intravenous therapy procedures:

(1) Initiating or maintaining any of the following:

(a) Blood or blood components;

(b) Solutions for total parenteral nutrition;

(c) Any cancer therapeutic medication including, but not limited to, cancer chemotherapy or an anti-neoplastic agent;

(d) Solutions administered through any central venous line or arterial line or any other line that does not terminate in a peripheral vein, except that a licensed practical nurse authorized by the board to perform intravenous therapy may maintain the solutions specified in division (D)(6)(a) of this section that are being administered through a central venous line or peripherally inserted central catheter;

(e) Any investigational or experimental medication.

(2) Initiating intravenous therapy in any vein, except that a licensed practical nurse authorized by the board to perform intravenous therapy may initiate intravenous therapy in accordance with this section in a vein of the hand, forearm, or antecubital fossa;

(3) Discontinuing a central venous, arterial, or any other line that does not terminate in a peripheral vein;

(4) Initiating or discontinuing a peripherally inserted central catheter;

(5) Mixing, preparing, or reconstituting any medication for intravenous therapy, except that a licensed practical nurse authorized by the board to

perform intravenous therapy may prepare or reconstitute an antibiotic additive;

(6) Administering medication via the intravenous route, including all of the following activities:

(a) Adding medication to an intravenous solution or to an existing infusion, except that a licensed practical nurse authorized by the board to perform intravenous therapy may do any of the following:

(i) Initiate an intravenous infusion containing one or more of the following elements: dextrose 5%, normal saline, lactated ringers, sodium chloride .45%, sodium chloride 0.2%, sterile water;

(ii) Hang subsequent containers of the intravenous solutions specified in division (D)(6)(a)(i) of this section that contain vitamins or electrolytes, if a registered nurse initiated the infusion of that same intravenous solution;

(iii) Initiate or maintain an intravenous infusion containing an antibiotic additive.

(b) Injecting medication via a direct intravenous route, except that a licensed practical nurse authorized by the board to perform intravenous therapy may inject heparin or normal saline to flush an intermittent infusion device or heparin lock including, but not limited to, bolus or push.

(7) Changing tubing on any line including, but not limited to, an arterial line or a central venous line, except that a licensed practical nurse authorized by the board to perform intravenous therapy may change tubing on an intravenous line that terminates in a peripheral vein;

(8) Programming or setting any function of a patient controlled infusion pump.

(E) Notwithstanding divisions (A) and (D) of this section, at the direction of a physician or a registered nurse, a licensed practical nurse authorized by the board to perform intravenous therapy may perform the following activities for the purpose of performing dialysis:

(1) The routine administration and regulation of saline solution for the purpose of maintaining an established fluid plan;

(2) The administration of a heparin dose intravenously;

(3) The administration of a heparin dose peripherally via a fistula needle;

(4) The loading and activation of a constant infusion pump;

(5) The intermittent injection of a dose of medication that is administered via the hemodialysis blood circuit and through the patient's venous access.

(F) No person shall employ or direct a licensed practical nurse to perform an intravenous therapy procedure without first verifying that the

licensed practical nurse is authorized by the board to perform intravenous therapy.

Sec. 4723.35. (A) As used in this section, "chemical dependency" means either of the following:

(1) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(2) The use of a controlled substance as defined in section 3719.01 of the Revised Code, a harmful intoxicant as defined in section 2925.01 of the Revised Code, or a dangerous drug as defined in section 4729.01 of the Revised Code, to the extent that the user becomes physically or psychologically dependent on the substance, intoxicant, or drug or endangers the user's health, safety, or welfare or that of others.

(B) The board of nursing may abstain from taking disciplinary action under section 4723.28 or 4723.86 of the Revised Code against an individual with a chemical dependency if it finds that the individual can be treated effectively and there is no impairment of the individual's ability to practice according to acceptable and prevailing standards of safe care. The board shall establish a chemical dependency monitoring program to monitor the registered nurses, licensed practical nurses, dialysis technicians, and certified community health workers against whom the board has abstained from taking action. The board shall develop the program, select the program's name, and designate a coordinator to administer the program.

(C) Determinations regarding an individual's eligibility for admission to, continued participation in, and successful completion of the monitoring program shall be made by the board's supervising member for disciplinary matters in accordance with rules adopted under division (D) of this section.

(D) The board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish the following:

(1) Eligibility requirements for admission to and continued participation in the monitoring program;

(2) Terms and conditions that must be met to participate in and successfully complete the program;

(3) Procedures for keeping confidential records regarding participants;

(4) Any other requirements or procedures necessary to establish and administer the program.

(E)(1) As a condition of being admitted to the monitoring program, an individual shall surrender to the program coordinator the license or certificate that the individual holds. While the surrender is in effect, the individual is prohibited from engaging in the practice of nursing, engaging

in the provision of dialysis care, or engaging in the provision of services that were being provided as a certified community health worker.

If the board's supervising member for disciplinary matters determines that a participant is capable of resuming practice according to acceptable and prevailing standards of safe care, the program coordinator shall return the participant's license or certificate. If the participant violates the terms and conditions of resumed practice, the coordinator shall require the participant to surrender the license or certificate as a condition of continued participation in the program. The coordinator may require the surrender only on the approval of the board's supervising member for disciplinary matters.

The surrender of a license or certificate on admission to the monitoring program or while participating in the program does not constitute an action by the board under section 4723.28 or 4723.86 of the Revised Code. The participant may rescind the surrender at any time and the board may proceed by taking action under section 4723.28 or 4723.86 of the Revised Code.

(2) If the program coordinator determines that a participant is significantly out of compliance with the terms and conditions for participation, the coordinator shall notify the board's supervising member for disciplinary matters and the supervising member shall determine whether to temporarily suspend the participant's license or certificate. The board shall notify the participant of the suspension by certified mail sent to the participant's last known address and shall refer the matter to the board for formal action under section 4723.28 or 4723.86 of the Revised Code.

(F) All of the following apply with respect to the receipt, release, and maintenance of records and information by the monitoring program:

(1) The program coordinator shall maintain all program records in the board's office, and for each participant, shall retain the records for a period of two years following the participant's date of successful completion of the program.

(2) When applying to participate in the monitoring program, the applicant shall sign a waiver permitting the board to receive and release information necessary to determine whether the individual is eligible for admission. After being admitted, the participant shall sign a waiver permitting the board to receive and release information necessary to determine whether the individual is eligible for continued participation in the program. Information that may be necessary for the board's supervising member for disciplinary matters to determine eligibility for admission or continued participation in the monitoring program includes, but is not limited to, information provided to and by employers, probation officers, law enforcement agencies, peer assistance programs, health professionals,

and treatment providers. No entity with knowledge that the information has been provided to the monitoring program shall divulge that knowledge to any other person.

(3) Except as provided in division (F)(4) of this section, all records pertaining to an individual's application for or participation in the monitoring program, including medical records, treatment records, and mental health records, shall be confidential. The records are not public records for the purposes of section 149.43 of the Revised Code and are not subject to discovery by subpoena or admissible as evidence in any judicial proceeding.

(4) The board may disclose information regarding a participant's progress in the program to any person or government entity that the participant authorizes in writing to be given the information. In disclosing information under this division, the board shall not include any information that is protected under section ~~3793.13~~ 5119.27 of the Revised Code or any federal statute or regulation that provides for the confidentiality of medical, mental health, or substance abuse records.

(G) In the absence of fraud or bad faith, the board as a whole, its individual members, and its employees and representatives are not liable for damages in any civil action as a result of disclosing information in accordance with division (F)(4) of this section. In the absence of fraud or bad faith, any person reporting to the program with regard to an individual's chemical dependence, or the progress or lack of progress of that individual with regard to treatment, is not liable for damages in any civil action as a result of the report.

Sec. 4723.481. This section establishes standards and conditions regarding the authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to prescribe drugs and therapeutic devices under a certificate to prescribe issued under section ~~4723.481~~ 4723.48 of the Revised Code.

(A) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not prescribe any drug or therapeutic device that is not included in the types of drugs and devices listed on the formulary established in rules adopted under section 4723.50 of the Revised Code.

(B) The prescriptive authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not exceed the prescriptive authority of the collaborating physician or podiatrist, including the collaborating physician's authority to treat chronic pain with controlled substances and products containing tramadol as described in section 4731.052 of the Revised Code.

(C)(1) Except as provided in division (C)(2) or (3) of this section, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may prescribe to a patient a schedule II controlled substance only if all of the following are the case:

(a) The patient has a terminal condition, as defined in section 2133.01 of the Revised Code.

(b) The collaborating physician of the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner initially prescribed the substance for the patient.

(c) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, twenty-four-hour period.

(2) The restrictions on prescriptive authority in division (C)(1) of this section do not apply if a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner issues the prescription to the patient from any of the following locations:

(a) A hospital registered under section 3701.07 of the Revised Code;

(b) An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(c) A health care facility operated by the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities;

(d) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(e) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;

(f) A hospice care program, as defined in section 3712.01 of the Revised Code;

(g) A community mental health ~~agency~~ services provider, as defined in section 5122.01 of the Revised Code;

(h) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;

(i) A freestanding birthing center, as defined in section ~~3702.51~~ 3702.141 of the Revised Code;

(j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;

(k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(l) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of

health under section 3709.05 of the Revised Code;

(m) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site.

(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not issue to a patient a prescription for a schedule II controlled substance from a convenience care clinic even if the clinic is owned or operated by an entity specified in division (C)(2) of this section.

(D) A pharmacist who acts in good faith reliance on a prescription issued by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner under division (C)(2) of this section is not liable for or subject to any of the following for relying on the prescription: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action by the state board of pharmacy under Chapter 4729. of the Revised Code.

(E) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may personally furnish to a patient a sample of any drug or therapeutic device included in the types of drugs and devices listed on the formulary, except that all of the following conditions apply:

(1) The amount of the sample furnished shall not exceed a seventy-two-hour supply, except when the minimum available quantity of the sample is packaged in an amount that is greater than a seventy-two-hour supply, in which case the packaged amount may be furnished.

(2) No charge may be imposed for the sample or for furnishing it.

(3) Samples of controlled substances may not be personally furnished.

(F) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may personally furnish to a patient a complete or partial supply of a drug or therapeutic device included in the types of drugs and devices listed on the formulary, except that all of the following conditions apply:

(1) The clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall personally furnish only antibiotics, antifungals, scabicides, contraceptives, prenatal vitamins, antihypertensives, drugs and devices used in the treatment of diabetes, drugs and devices used in the treatment of asthma, and drugs used in the treatment of dyslipidemia.

(2) The clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not furnish the drugs and devices in locations other than a health department operated by the board of health of a city or general

health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code, a federally funded comprehensive primary care clinic, or a nonprofit health care clinic or program.

(3) The clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall comply with all safety standards for personally furnishing supplies of drugs and devices, as established in rules adopted under section 4723.50 of the Revised Code.

Sec. 4725.03. The governor, with the advice and consent of the senate, shall appoint a state board of optometry consisting of six nonmedical residents of this state, five of whom shall be persons actually engaged in the practice of optometry for five years preceding appointment and one of whom shall be a member of the public at least ~~sixty~~ fifty years of age. Terms of office shall be five years, commencing on the twenty-sixth day of September and ending on the twenty-fifth day of September. Each member shall hold office from the date of appointment until the end of the term for which appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No person shall serve as a member for more than two terms.

Sec. 4725.16. (A) Each certificate of licensure, topical ocular pharmaceutical agents certificate, and therapeutic pharmaceutical agents certificate issued by the state board of optometry shall expire annually on the last day of December, and may be renewed in accordance with this section and the standard renewal procedure established under Chapter 4745. of the Revised Code.

An optometrist seeking to continue to practice optometry shall file with the board an application for license renewal. The application shall be in such form and require such pertinent professional biographical data as the board may require.

(B) All licensed optometrists shall annually complete continuing education in subjects relating to the practice of optometry, to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievements of research will assure comprehensive care to the public. The board shall prescribe by rule the continuing optometric education that licensed optometrists must complete. The length of study shall be twenty-five clock hours each year, including ten clock hours of instruction in pharmacology to be completed by all licensed optometrists.

Unless the continuing education required under this division is waived or deferred under division (D) of this section, the continuing education must be completed during the twelve-month period beginning on the first day of October and ending on the last day of September. If the board receives notice from a continuing education program indicating that an optometrist completed the program after the last day of September, and the optometrist wants to use the continuing education completed after that day to renew the license that expires on the last day of December of that year, the optometrist shall pay the penalty specified under section 4725.34 of the Revised Code for late completion of continuing education.

At least once annually, the board shall post on its web site and shall mail, or send by electronic mail, to each licensed optometrist a list of courses approved in accordance with standards prescribed by board rule. Upon the request of a licensed optometrist, the executive director of the board shall supply a list of additional courses that the board has approved subsequent to the most recent web site posting, electronic mail transmission, or mailing of the list of approved courses.

(C)(1) Annually, not later than the first day of November, the board shall mail or send by electronic mail a notice regarding license renewal to each licensed optometrist who may be eligible for renewal. The notice shall be sent to the optometrist's ~~last~~ most recent electronic mail or mailing address shown in the board's records. If the board knows that the optometrist has completed the required continuing optometric education for the year, the board may include with the notice an application for license renewal.

(2) Filing a license renewal application with the board shall serve as notice by the optometrist that the continuing optometric education requirement has been successfully completed. If the board finds that an optometrist has not completed the required continuing optometric education, the board shall disapprove the optometrist's application. The board's disapproval of renewal is effective without a hearing, unless a hearing is requested pursuant to Chapter 119. of the Revised Code.

(3) The board shall refuse to accept an application for renewal from any applicant whose license is not in good standing or who is under disciplinary review pursuant to section 4725.19 of the Revised Code.

(4) Notice of an applicant's failure to qualify for renewal shall be served upon the applicant by mail. The notice shall be sent not later than the fifteenth day of November to the applicant's last address shown in the board's records.

(D) In cases of certified illness or undue hardship, the board may waive or defer for up to twelve months the requirement of continuing optometric

education, except that in such cases the board may not waive or defer the continuing education in pharmacology required to be completed by optometrists who hold topical ocular pharmaceutical agents certificates or therapeutic pharmaceutical agents certificates. The board shall waive the requirement of continuing optometric education for any optometrist who is serving in the armed forces of the United States or who has received an initial certificate of licensure during the nine-month period which ended on the last day of September.

(E) An optometrist whose renewal application has been approved may renew each certificate held by paying to the treasurer of state the fees for renewal specified under section 4725.34 of the Revised Code. On payment of all applicable fees, the board shall issue a renewal of the optometrist's certificate of licensure, topical ocular pharmaceutical agents certificate, and therapeutic pharmaceutical agents certificate, as appropriate.

(F) Not later than the fifteenth day of December, the board shall mail or send by electronic mail a second notice regarding license renewal to each licensed optometrist who may be eligible for renewal but did not respond to the notice sent under division (C)(1) of this section. The notice shall be sent to the optometrist's ~~last~~ most recent electronic mail or mailing address shown in the board's records. If an optometrist fails to file a renewal application after the second notice is sent, the board shall send a third notice regarding license renewal prior to any action under division (I) of this section to classify the optometrist's certificates as delinquent.

(G) The failure of an optometrist to apply for license renewal or the failure to pay the applicable annual renewal fees on or before the date of expiration, shall automatically work a forfeiture of the optometrist's authority to practice optometry in this state.

(H) The board shall accept renewal applications and renewal fees that are submitted from the first day of January to the last day of April of the year next succeeding the date of expiration. An individual who submits such a late renewal application or fee shall pay the late renewal fee specified in section 4725.34 of the Revised Code.

(I)(1) If the certificates issued by the board to an individual have expired and the individual has not filed a complete application during the late renewal period, the individual's certificates shall be classified in the board's records as delinquent.

(2) Any optometrist subject to delinquent classification may submit a written application to the board for reinstatement. For reinstatement to occur, the applicant must meet all of the following conditions:

(a) Submit to the board evidence of compliance with board rules

requiring continuing optometric education in a sufficient number of hours to make up for any delinquent compliance;

(b) Pay the renewal fees for the year in which application for reinstatement is made and the reinstatement fee specified under division (A)(8) of section 4725.34 of the Revised Code;

(c) Pass all or part of the licensing examination accepted by the board under section 4725.11 of the Revised Code as the board considers appropriate to determine whether the application for reinstatement should be approved;

(d) If the applicant has been practicing optometry in another state or country, submit evidence that the applicant's license to practice optometry in the other state or country is in good standing.

(3) The board shall approve an application for reinstatement if the conditions specified in division (I)(2) of this section are met. An optometrist who receives reinstatement is subject to the continuing education requirements specified under division (B) of this section for the year in which reinstatement occurs.

Sec. 4729.69. (A) The state board of pharmacy, in collaboration with the director of ~~alcohol and drug addiction services~~ mental health and addiction services and attorney general, shall establish and administer a drug take-back program under which drugs are collected from the community for the purpose of destruction or disposal of the drugs.

(B) The program shall be established and administered in such a manner that it does both of the following:

(1) Complies with any state or federal laws regarding the collection, destruction, or disposal of drugs;

(2) Maintains the confidentiality of individuals who submit or otherwise provide drugs under the program.

(C) In consultation with the director of ~~alcohol and drug addiction services~~ mental health and addiction services and attorney general, the board shall adopt rules governing the program. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. In adopting the rules, the board shall specify all of the following:

(1) The entities that may participate;

(2) Guidelines and responsibilities for accepting drugs by participating entities;

(3) Drugs that may be collected;

(4) Record-keeping requirements;

(5) Proper methods to destroy unused drugs;

(6) Privacy protocols and security standards;

(7) Drug transportation procedures;

(8) The schedule, duration, and frequency of the collections of drugs, except that the first collection shall occur not later than one year after ~~the effective date of this section~~ May 20, 2011;

(9) Any other standards and procedures the board considers necessary for purposes of governing the program.

(D) In accordance with state and federal law, the board may adopt rules to allow an entity participating in the program to return any unused drugs to the pharmacy that originally dispensed the drug. The rules shall include procedures to be followed to maintain the confidentiality of the person for whom the drug was dispensed.

(E) Rules adopted under this section may not do any of the following:

(1) Require any entity to establish, fund, or operate a drug take-back program;

(2) Establish any new licensing requirement or fee to participate in the program;

(3) Require any entity to compile data on drugs collected.

(F) The board may compile data on the amount and type of drugs collected under the program. For purposes of this division, the board may cooperate with a public or private entity in obtaining assistance in the compilation of data. An entity providing the assistance shall not be reimbursed under the program for any costs incurred in providing the assistance.

(G) If the board compiles data under division (F) of this section, the board shall submit a report to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly. The report, to the extent possible, shall include the following information:

(1) Total weight of drugs collected, both with and without packaging;

(2) The weight of controlled substances;

(3) The amount of all of the following as a per cent of total drugs collected:

(a) Controlled substances;

(b) Brand name drugs;

(c) Generic drugs;

(d) Prescription drugs;

(e) Non-prescription drugs.

(4) The amount of vitamins, herbal supplements, and personal care products collected;

(5) If provided by the person who submitted or otherwise donated drugs to the program, the reasons why the drugs were returned or unused.

(H) No entity is required to participate in a drug take-back program established under this section, and no entity shall be subject to civil liability or professional disciplinary action for declining to participate.

(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.

Sec. 4729.80. (A) If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board is authorized or required to provide information from the database in accordance with the following:

(1) On receipt of a request from a designated representative of a government entity responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs, the board may provide to the representative information from the database relating to the professional who is the subject of an active investigation being conducted by the government entity.

(2) On receipt of a request from a federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs, the board shall provide to the officer information from the database relating to the person who is the subject of an active investigation of a drug abuse offense, as defined in section 2925.01 of the Revised Code, being conducted by the officer's employing government entity.

(3) Pursuant to a subpoena issued by a grand jury, the board shall provide to the grand jury information from the database relating to the person who is the subject of an investigation being conducted by the grand jury.

(4) Pursuant to a subpoena, search warrant, or court order in connection with the investigation or prosecution of a possible or alleged criminal offense, the board shall provide information from the database as necessary to comply with the subpoena, search warrant, or court order.

(5) On receipt of a request from a prescriber or the prescriber's delegate approved by the board, the board may provide to the prescriber information from the database relating to a patient who is either of the following, if the prescriber certifies in a form specified by the board that it is for the purpose of providing medical treatment to the patient who is the subject of the request:

(a) A current patient of the prescriber;

(b) A potential patient of the prescriber based on a referral of the patient to the prescriber.

(6) On receipt of a request from a pharmacist or the pharmacist's delegate approved by the board, the board may provide to the pharmacist information from the database relating to a current patient of the pharmacist, if the pharmacist certifies in a form specified by the board that it is for the purpose of the pharmacist's practice of pharmacy involving the patient who is the subject of the request.

(7) On receipt of a request from an individual seeking the individual's own database information in accordance with the procedure established in rules adopted under section 4729.84 of the Revised Code, the board may provide to the individual the individual's own database information.

(8) On receipt of a request from the medical director of a managed care organization that has entered into a data security agreement with the board required by section ~~5111.1710~~ 5167.14 of the Revised Code, the board ~~may~~ shall provide to the medical director information from the database relating to a medicaid recipient enrolled in the managed care organization, including information in the database related to prescriptions for the recipient that were not covered or reimbursed under a program administered by the department of medicaid.

(9) On receipt of a request from the medicaid director ~~of job and family services~~, the board ~~may~~ shall provide to the director information from the database relating to a recipient of a program administered by the department of ~~job and family services~~ medicaid, including information in the database related to prescriptions for the recipient that were not covered or paid by a program administered by the department.

(10) On receipt of a request from the administrator of workers' compensation, the board may provide to the administrator information from the database relating to a claimant under Chapter 4121., 4123., 4127., or 4131. of the Revised Code.

(11) On receipt of a request from a requestor described in division (A)(1), (2), (5), or (6) of this section who is from or participating with another state's prescription monitoring program, the board may provide to the requestor information from the database, but only if there is a written agreement under which the information is to be used and disseminated according to the laws of this state.

(B) The state board of pharmacy shall maintain a record of each individual or entity that requests information from the database pursuant to this section. In accordance with rules adopted under section 4729.84 of the Revised Code, the board may use the records to document and report statistics and law enforcement outcomes.

The board may provide records of an individual's requests for database

information to the following:

(1) A designated representative of a government entity that is responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs who is involved in an active investigation being conducted by the government entity of the individual who submitted the requests for database information;

(2) A federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs and who is involved in an active investigation being conducted by the officer's employing government entity of the individual who submitted the requests for database information.

(C) Information contained in the database and any information obtained from it is not a public record. Information contained in the records of requests for information from the database is not a public record. Information that does not identify a person may be released in summary, statistical, or aggregate form.

(D) A pharmacist or prescriber shall not be held liable in damages to any person in any civil action for injury, death, or loss to person or property on the basis that the pharmacist or prescriber did or did not seek or obtain information from the database.

Sec. 4729.81. If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board shall review the information in the drug database. If the board determines from the review that a violation of law may have occurred, it shall notify the appropriate law enforcement agency or a government entity responsible for the licensure, regulation, or discipline of licensed health professionals authorized to prescribe drugs and supply information required by the agency or entity for an investigation of the violation of law that may have occurred. The board also shall notify the medicaid director if the board determines that the violation may have been committed by a provider of services under a program administered by the department of medicaid.

Sec. 4730.411. (A) Except as provided in division (B) or (C) of this section, a physician assistant may prescribe to a patient a schedule II controlled substance only if all of the following are the case:

(1) The patient is in a terminal condition, as defined in section 2133.01 of the Revised Code.

(2) The physician assistant's supervising physician initially prescribed the substance for the patient.

(3) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, twenty-four-hour period.

(B) The restrictions on prescriptive authority in division (A) of this section do not apply if a physician assistant issues the prescription to the patient from any of the following locations:

- (1) A hospital registered under section 3701.07 of the Revised Code;
- (2) An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;
- (3) A health care facility operated by the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities;
- (4) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;
- (5) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;
- (6) A hospice care program, as defined in section 3712.01 of the Revised Code;
- (7) A community mental health ~~agency~~ services provider, as defined in section 5122.01 of the Revised Code;
- (8) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;
- (9) A freestanding birthing center, as defined in section ~~3702.51~~ 3702.141 of the Revised Code;
- (10) A federally qualified health center, as defined in section 3701.047 of the Revised Code;
- (11) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;
- (12) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;
- (13) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the physician assistant has entered into a supervisory agreement with at least one of the physician owners who practices primarily at that site.

(C) A physician assistant shall not issue to a patient a prescription for a schedule II controlled substance from a convenience care clinic even if the convenience care clinic is owned or operated by an entity specified in division (B) of this section.

(D) A pharmacist who acts in good faith reliance on a prescription issued by a physician assistant under division (B) of this section is not liable

for or subject to any of the following for relying on the prescription: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action by the state board of pharmacy under Chapter 4729. of the Revised Code.

Sec. 4731.05. (A) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this chapter. All adjudicative proceedings of the state medical board shall be conducted in accordance with Chapter 119. of the Revised Code.

(B) The state medical board shall appoint an executive director who shall be in the unclassified service of the state. The board may appoint other employees of the board as are necessary and shall prescribe their titles and duties.

(C) The state medical board shall develop requirements for and provide appropriate initial and continuing training for investigators employed by the board to carry out its duties under Chapter 4731. of the Revised Code. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(D)(1) The state medical board shall adopt internal management rules pursuant to section 111.15 of the Revised Code. The rules shall set forth criteria for assessing the board's accomplishments, activities, and performance data, including metrics detailing the board's revenues and reimbursements; budget distribution; investigation and licensing activity, including processing time frames; and enforcement data, including processing time frames. The board shall include the assessment in the annual report required by section 149.01 of the Revised Code.

(2) The state medical board shall cause the internal management rules and annual report described in division (D)(1) of this section to be publicly accessible on the state medical board's web site.

Sec. 4731.151. (A) Naprapaths who received a certificate to practice from the board prior to March 2, 1992, may continue to practice naprapathy, as defined in rules adopted by the board. Such naprapaths shall practice in accordance with rules adopted by the board.

(B)(1) As used in this division:

(a) "Mechanotherapy" means all of the following:

(i) Examining patients by verbal inquiry;

(ii) Examination of the musculoskeletal system by hand;

(iii) Visual inspection and observation;

(iv) Diagnosing a patient's condition only as to whether the patient has a

disorder of the musculoskeletal system;

(v) In the treatment of patients, employing the techniques of advised or supervised exercise; electrical neuromuscular stimulation; massage or manipulation; or air, water, heat, cold, sound, or infrared ray therapy only to those disorders of the musculoskeletal system that are amenable to treatment by such techniques and that are identifiable by examination performed in accordance with division (B)(1)(a)(i) of this section and diagnosable in accordance with division (B)(1)(a)(ii) of this section.

(b) "Educational requirements" means the completion of a course of study appropriate for certification to practice mechanotherapy on or before November 3, 1985, as determined by rules adopted under this chapter.

(2) Mechanotherapists who received a certificate to practice from the board prior to March 2, 1992, may continue to practice mechanotherapy, as defined in rules adopted by the board. Such mechanotherapists shall practice in accordance with rules adopted by the board.

A person authorized by this division to practice as a mechanotherapist may examine, diagnose, and assume responsibility for the care of patients with due regard for first aid and the hygienic and nutritional care of the patients. Roentgen rays shall be used by a mechanotherapist only for diagnostic purposes.

(3) A person who holds a certificate to practice mechanotherapy and completed educational requirements in mechanotherapy on or before November 3, 1985, is entitled to use the title "doctor of mechanotherapy" and is a "physician" who performs "medical services" for the purposes of Chapters 4121. and 4123. of the Revised Code and the medicaid program ~~established under section 5111.01 of the Revised Code~~, and shall receive payment or reimbursement as provided under those chapters and that ~~section~~ program.

Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may limit, revoke, or suspend an individual's certificate to practice, refuse to grant a certificate to an individual, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate if the individual or certificate holder is found by the board to have committed fraud during the administration of the examination for a certificate to practice or to have committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to

reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

(1) Permitting one's name or one's certificate to practice or certificate of registration to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;

(2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;

(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports to a child fatality review board under sections 307.621 to 307.629 of the Revised Code and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of

care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;

(16) Failure to pay license renewal fees specified in this chapter;

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.

For purposes of this division, a "provision of a code of ethics of a

national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual who applies for or receives a certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except when civil penalties are imposed under section 4731.225 or 4731.281 of the Revised Code, and subject to section 4731.226 of the

Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a conspiracy to violate, any provision of this chapter or any rule adopted by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(21) The violation of section 3701.79 of the Revised Code or of any abortion rule adopted by the public health council pursuant to section 3701.341 of the Revised Code;

(22) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(23) The violation of section 2919.12 of the Revised Code or the performance or inducement of an abortion upon a pregnant woman with actual knowledge that the conditions specified in division (B) of section 2317.56 of the Revised Code have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied, unless an affirmative defense as specified in division (H)(2) of that section would apply in a civil action authorized by division (H)(1) of that section;

(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;

(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other

responsible agency for any act or acts that also would constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section;

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's certificate. The demonstration shall include, but shall not be limited to, the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or

consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code;

(28) Except as provided in division (N) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that individual;

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay.

(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's file;

(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in

collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;

(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(35) Failure to supervise an oriental medicine practitioner or acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision;

(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;

(37) Assisting suicide as defined in section 3795.01 of the Revised Code;

(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;

(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;

(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;

(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;

(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;

(43) Failure to comply with the requirements of section 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(44) Failure to comply with the requirements of section 2919.171 of the

Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 of the Revised Code;

(45) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;

(46) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;

(47) Failure to comply with the requirement regarding maintaining notes described in division (B) of section 2919.191 of the Revised Code or failure to satisfy the requirements of section 2919.191 of the Revised Code prior to performing or inducing an abortion upon a pregnant woman.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice.

(D) For purposes of divisions (B)(10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, or in conducting an inspection under division (E) of section 4731.054 of the Revised Code, the board may question witnesses, conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, issue subpoenas, and compel the attendance of witnesses and production of books,

accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board.

(a) Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

(b) On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

(c) A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence, usual place of business, or address on file with the board. When serving a subpoena to an applicant for or the holder of a certificate issued under this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. If the person being served refuses to accept the subpoena or is not located, service may be made to an attorney who notifies the board that the attorney is representing the person.

(d) A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(4) All hearings, investigations, and inspections of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(5) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation or pursuant to an inspection under division (E) of section 4731.054 of the Revised Code is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and

persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver of that nature is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

The board may share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (a) The case number assigned to the complaint or alleged violation;
- (b) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;
- (c) A description of the allegations contained in the complaint;
- (d) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's

certificate to practice without a prior hearing:

(1) That there is clear and convincing evidence that an individual has violated division (B) of this section;

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.

Written allegations shall be prepared for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(9), (11), or (13) of this section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the individual's certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division

(B) of this section.

(I) The certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date of the individual's second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, or the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall do whichever of the following is applicable:

(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the board shall enter an order suspending the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's certificate to practice.

(2) In all circumstances in which division (I)(1) of this section does not apply, enter a final order permanently revoking the individual's certificate to practice.

(J) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's certificate to

practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a certificate issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a certificate made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate of registration in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(4) At the request of the board, a certificate holder shall immediately surrender to the board a certificate that the board has suspended, revoked, or permanently revoked.

(N) Sanctions shall not be imposed under division (B)(28) of this section against any person who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person authorized to practice pursuant to this chapter, to the extent allowed by this chapter and rules adopted by the board.

(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery. In developing and implementing the quality intervention program, the board may do all of the following:

(1) Offer in appropriate cases as determined by the board an educational and assessment program pursuant to an investigation the board conducts under this section;

(2) Select providers of educational and assessment services, including a quality intervention program panel of case reviewers;

(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program.

(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate;

(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.

An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program.

Sec. 4731.23. (A)(1)(a) The state medical board shall designate one or more attorneys at law who have been admitted to the practice of law, and who are classified as either administrative law attorney examiners or as administrative law attorney examiner administrators under the state job classification plan adopted under section 124.14 of the Revised Code, as hearing examiners, subject to Chapter 119. of the Revised Code, to conduct any hearing which the medical board is empowered to hold or undertake pursuant to Chapter 119. of the Revised Code.

(b) Notwithstanding the requirement of division (A)(1)(a) of this section that the board designate as a hearing examiner an attorney who is classified as either an administrative law attorney examiner or an administrative law attorney examiner administrator, the board may, subject to ~~controlling board approval~~ section 127.16 of the Revised Code, enter into a personal service contract with an attorney admitted to the practice of law in this state to serve

on a temporary basis as a hearing examiner.

(2) The hearing examiner shall hear and consider the oral and documented evidence introduced by the parties and issue in writing proposed findings of fact and conclusions of law to the board for their consideration within thirty days following the close of the hearing.

(B) The board shall be given copies of the transcript of the record hearing and all exhibits and documents presented by the parties at the hearing.

(C) The board shall, upon the favorable vote of three members, allow the parties or their counsel the opportunity to present oral arguments on the proposed findings of fact and conclusions of law of the hearing examiner prior to the board's final action.

(D) The board shall render a decision and take action within sixty days following the receipt of the hearing examiner's proposed findings of fact and conclusions of law or within any longer period mutually agreed upon by the board and the certificate holder.

(E) The final decision of the board in any hearing which the board is empowered to undertake shall be in writing and contain findings of fact and conclusions of law. Copies of the decision shall be delivered to the parties personally or by certified mail. The decision shall be final upon delivery or mailing, except that the certificate holder may appeal in the manner provided by Chapter 119. of the Revised Code.

Sec. 4731.299. (A) The state medical board may issue, without examination, to an applicant who meets all of the requirements of this section an expedited certificate to practice medicine and surgery or osteopathic medicine and surgery by endorsement.

(B) An individual who seeks an expedited certificate to practice medicine and surgery or osteopathic medicine and surgery by endorsement shall file with the board a written application on a form prescribed and supplied by the board. The application shall include all of the information the board considers necessary to process it.

(C) To be eligible to receive an expedited certificate by endorsement, an applicant shall do both of the following:

(1) Provide evidence satisfactory to the board that the applicant meets all of the following requirements:

(a) Has passed one of the following:

(i) Steps one, two, and three of the United States medical licensing examination;

(ii) Levels one, two, and three of the comprehensive osteopathic medical licensing examination of the United States;

(iii) Any other medical licensing examination recognized by the board.

(b) For at least five years immediately preceding the date of application, has held a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued by the licensing authority of another state or a Canadian province;

(c) For at least two years immediately preceding the date of application, has actively practiced medicine and surgery or osteopathic medicine and surgery in a clinical setting;

(d) Is in compliance with the medical education and training requirements in sections 4731.091 and 4731.14 of the Revised Code.

(2) Certify to the board that all of the following are the case:

(a) Not more than two malpractice claims have been filed against the applicant within a period of ten years and no malpractice claim against the applicant has resulted in total payment of more than five hundred thousand dollars.

(b) The applicant does not have a criminal record according to the criminal records check required by section 4731.081 of the Revised Code.

(c) The applicant does not have a medical condition that could affect the applicant's ability to practice according to acceptable and prevailing standards of care.

(d) No adverse action has been taken against the applicant by a health care institution.

(e) To the applicant's knowledge, no federal agency, medical society, medical association, or branch of the United States military has investigated or taken action against the applicant.

(f) No professional licensing or regulatory authority has filed a complaint against, investigated, or taken action against the applicant and the applicant has not withdrawn a professional license application.

(g) The applicant has not been suspended or expelled from any institution of higher education or school, including a medical school.

(D) An applicant for an expedited certificate by endorsement shall comply with section 4731.081 of the Revised Code.

(E) At the time of application, the applicant shall pay to the board a fee of one thousand dollars, no part of which shall be returned. No application shall be considered filed until the board receives the fee.

(F) The board shall review all applications received under this section. If the board determines that an applicant meets the requirements for an expedited certificate to practice medicine and surgery or osteopathic medicine and surgery by endorsement, the board shall issue the certificate to the applicant. Each certificate issued by the board under this section shall be

signed by the president and secretary of the board and attested by its seal.

(G) Within sixty days after the effective date of this section, the board shall approve acceptable means of demonstrating compliance with sections 4731.091 and 4731.14 of the Revised Code as required by division (C)(1)(d) of this section.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program ~~established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ health care coverage for public employees, health care benefits administered by the bureau of workers' compensation, and the medicaid program ~~established under Chapter 5111. of the Revised Code.~~

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical

clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists who are licensed, certificated, or otherwise legally authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists who are licensed, certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under this chapter, to which all of the following apply:

(a) Each physician who is a member of the group practice provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(b) Substantially all of the services of the members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group.

(c) The overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(d) The group practice meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.

(2) In the case of a faculty practice plan associated with a hospital with a medical residency training program in which physician members may provide a variety of specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the criteria in division (E)(1) of this section apply only with respect to services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have the same meanings as in the rules adopted under section 4731.70 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medicaid program ~~established under Chapter 5111. of the Revised Code~~, the auditor of state also shall report the amount to the department of ~~job and family services~~ medicaid.

The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.

Sec. 4732.06. The principal office of the state board of psychology shall be in Columbus, but it may meet or conduct business at any place in this state. The board may empower any one or more of its members to conduct any proceeding, hearing, or investigation necessary to its purposes, including the administration and enforcement of Chapter 4783. of the Revised Code. The board shall meet at least twice annually and at such other times as it determines. Special meetings may be called by the president and

shall be called by the secretary upon the written request of two members.

The board shall make such rules as are necessary to conduct its business.

The board may employ such assistants and clerical help as are necessary to administer and enforce this chapter and Chapter 4783. of the Revised Code.

Sec. 4732.07. The state board of psychology shall keep a record of its proceedings and a register of applicants for licenses under this chapter and applicants for certificates under Chapter 4783. of the Revised Code. The books and records of the board shall be prima-facie evidence of the matters therein contained. ~~Such records~~ The records regarding licensure applications shall include applicants' written examination papers.

Sec. 4732.08. All receipts of the state board of psychology from any source, including moneys collected under Chapter 4783. of the Revised Code, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund."

Sec. 4734.41. (A) As used in this section:

(1) "Chemical dependency" means either of the following:

(a) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(b) The use of a controlled substance as defined in section 3719.01 of the Revised Code, a harmful intoxicant as defined in section 2925.01 of the Revised Code, or a dangerous drug as defined in section 4729.01 of the Revised Code, to the extent that the user becomes physically or psychologically dependent on the substance, intoxicant, or drug or endangers the user's health, safety, or welfare or that of others.

(2) "Mental illness" means a recognized psychiatric or psychological condition, disorder, or syndrome that has been diagnosed by a psychiatrist, psychologist, professional clinical counselor, or independent social worker as a condition, disorder, or syndrome that may pose a danger to the person diagnosed or others or may prevent the person from practicing the person's profession according to acceptable and prevailing standards of care.

(B) The state chiropractic board shall establish a chemical dependency and mental illness monitoring program. The program shall be made available to any individual under the board's jurisdiction who has a chemical dependency or mental illness and meets the board's eligibility requirements for admission to and continued participation in the program. The board shall develop the program and may designate a coordinator to administer it or enter into a contract for the program to be administered by another entity

through a coordinator. The board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedure for operating the program.

(C) Except as provided in division (D) of this section, all records of an individual's participation in the monitoring program, including medical records, chemical dependency records, and mental health records, shall be confidential, are not public records for the purposes of section 149.43 of the Revised Code, and are not subject to discovery by subpoena or ~~admissible~~ admissible as evidence in any judicial proceeding. The program coordinator shall maintain all records as directed by the board.

(D) The monitoring program's coordinator may disclose records or information regarding an individual's progress and status of participation in the program to the disciplinary section of the board and to any person or government entity that the program participant authorizes in writing to be given the records or information.

In disclosing records or information under this division, the coordinator shall not include any record or information that is protected under section ~~3793.13~~ 5119.27 of the Revised Code or any federal statute or regulation that provides for the confidentiality of mental health or substance abuse records.

(E) In the absence of fraud or bad faith, the monitoring program's coordinator, the board and the board's employees and representatives are not liable for damages in any civil action as a result of disclosing records or information in accordance with division (D) of this section. In the absence of fraud or bad faith, any person reporting to the program an individual's chemical dependency or mental illness, or the progress or lack of progress of that individual with regard to treatment, is not liable for damages in any civil action as a result of the report.

(F) The board may abstain from taking formal disciplinary action under section 4734.31 of the Revised Code against an individual because of the individual's chemical dependency or mental illness, if the individual meets the eligibility requirements for admission into the monitoring program and all of the following occur:

(1) The individual enters into a monitoring agreement with the coordinator of the program;

(2) The individual complies with the terms and conditions for continued participation in the program, as specified in the monitoring agreement;

(3) The individual successfully completes the terms and conditions of the monitoring agreement, including the condition that the individual attain the ability to practice in accordance with acceptable and prevailing

standards of care applicable to the practice of chiropractic.

Sec. 4735.07. (A) The superintendent of real estate, with the consent of the Ohio real estate commission, may enter into agreements with recognized national testing services to administer the real estate broker's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of such examination.

(B) No applicant for a real estate broker's license shall take the broker's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude, or if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant's activities and employment record since the adjudication show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will again violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to, this chapter, or, if the applicant has violated any such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) Has been a licensed real estate broker or salesperson for at least two years; during at least two of the five years preceding the person's application, has worked as a licensed real estate broker or salesperson for an average of at least thirty hours per week; and has completed one of the following:

(a) At least twenty real estate transactions, in which property was sold for another by the applicant while acting in the capacity of a real estate broker or salesperson;

(b) Such equivalent experience as is defined by rules adopted by the commission.

(6)(a) If licensed as a real estate salesperson prior to August 1, 2001, successfully has completed at an institution of higher education all of the following:

- (i) Thirty hours of classroom instruction in real estate practice;
- (ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.
- (iii) Thirty hours of classroom instruction in real estate appraisal;
- (iv) Thirty hours of classroom instruction in real estate finance;
- (v) Three quarter hours, or its equivalent in semester hours, in financial management;
- (vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;
- (vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;
- (viii) Three quarter hours, or its equivalent in semester hours, in business law.

(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:

- (i) Forty hours of classroom instruction in real estate practice;
- (ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects

of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Twenty hours of classroom instruction in real estate appraisal;

(iv) Twenty hours of classroom instruction in real estate finance;

(v) The training in the amount of hours specified under divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section.

(c) Division (B)(6)(a) or (b) of this section does not apply to any applicant who holds a valid real estate salesperson's license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), (vi), (vii), and (viii) or division (B)(6)(b)(v) of this section do not apply to any applicant who holds a valid real estate salesperson's license issued prior to January 3, 1984.

(d) Divisions (B)(6)(a)(iii) and (B)(6)(b)(iii) of this section do not apply to any new applicant who holds a valid Ohio real estate appraiser license or certificate issued prior to the date of application for a real estate broker's license.

(7) If licensed as a real estate salesperson on or after January 3, 1984, satisfactorily has completed a minimum of two years of post-secondary education, or its equivalent in semester or quarter hours, at an institution of higher education, and has fulfilled the requirements of division (B)(6)(a) or (b) of this section. The requirements of division (B)(6)(a) or (b) of this section may be included in the two years of post-secondary education, or its equivalent in semester or quarter hours, that is required by this division.

(C) Each applicant for a broker's license shall be examined in the principles of real estate practice, Ohio real estate law, and financing and appraisal, and as to the duties of real estate brokers and real estate salespersons, the applicant's knowledge of real estate transactions and instruments relating to them, and the canons of business ethics pertaining to them. The commission from time to time shall promulgate such canons and cause them to be published in printed form.

(D) Examinations shall be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101. The contents of an examination shall be consistent with the requirements of division (B)(6) of this section and with the other specific requirements of this section. An applicant who has completed the requirements of division (B)(6) of this section at the time of application shall be examined no later than twelve months after the applicant is notified of admission to the examination.

(E) The superintendent may waive one or more of the requirements of this section in the case of an application from a nonresident real estate broker pursuant to a reciprocity agreement with the licensing authority of the state from which the nonresident applicant holds a valid real estate broker license.

(F) There shall be no limit placed on the number of times an applicant may retake the examination.

(G)(1) Not earlier than the date of issue of a real estate broker's license to a licensee, but not later than twelve months after the date of issue of a real estate broker's license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion of ten hours of classroom instruction that shall be completed in schools, seminars, and educational institutions that are approved by the commission. Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code.

If the required proof of completion is not submitted to the superintendent within twelve months of the date a license is issued under this section, the license of the real estate broker is suspended automatically without the taking of any action by the superintendent. The broker's license shall not be reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent if the licensee fails to submit proof of completion of the education requirements specified under division (G)(1) of this section within twelve months of the date the license is suspended.

(2) If the license of a real estate broker is suspended pursuant to division (G)(1) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. However, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if all of the following occur:

(a) That broker subsequently submits satisfactory proof to the superintendent that the broker has complied with the requirements of division (G)(1) of this section and requests that the broker's license as a real estate broker be reactivated;

(b) The superintendent then reactivates the broker's license as a real estate broker;

(c) The associated real estate salesperson intends to continue to be

associated with that broker and otherwise is in compliance with this chapter.

Sec. 4735.09. (A) Application for a license as a real estate salesperson shall be made to the superintendent of real estate on forms furnished by the superintendent and signed by the applicant. The application shall be in the form prescribed by the superintendent and shall contain such information as is required by this chapter and the rules of the Ohio real estate commission. The application shall be accompanied by the recommendation of the real estate broker with whom the applicant is associated or with whom the applicant intends to be associated, certifying that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, which conviction or adjudication the applicant has not disclosed to the superintendent, and recommending that the applicant be admitted to the real estate salesperson examination.

(B) A fee of sixty dollars shall accompany the application, which fee includes the fee for the initial year of the licensing period, if a license is issued. The initial year of the licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. The application fee shall be nonrefundable. A fee of sixty dollars shall be charged by the superintendent for each successive application made by the applicant. One dollar of each application fee shall be credited to the real estate education and research fund.

(C) There shall be no limit placed on the number of times an applicant may retake the examination.

(D) The superintendent, with the consent of the commission, may enter into an agreement with a recognized national testing service to administer the real estate salesperson's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of the examination.

If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate salesperson's examination, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(1) of section 4735.10 of the Revised Code.

(E) The superintendent shall issue a real estate salesperson's license

when satisfied that the applicant has received a passing score on each portion of the salesperson's examination as determined by rule by the real estate commission, except that the superintendent may waive one or more of the requirements of this section in the case of an applicant who is a licensed real estate salesperson in another state pursuant to a reciprocity agreement with the licensing authority of the state from which the applicant holds a valid real estate salesperson's license.

(F) No applicant for a salesperson's license shall take the salesperson's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude or, if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to this chapter, or, if the applicant has violated such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) If born after the year 1950, has a high school diploma or its equivalent as recognized by the state department of education;

(6) Has successfully completed at an institution of higher education all of the following:

(a) Forty hours of classroom instruction in real estate practice;

(b) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of

eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(c) Twenty hours of classroom instruction in real estate appraisal;

(d) Twenty hours of classroom instruction in real estate finance.

(G) Division (F)(6)(c) of this section does not apply to any new applicant who holds a valid Ohio real estate appraiser license or certificate issued prior to the date of application for a real estate salesperson's license.

(H) Any person who has not been licensed as a real estate salesperson or broker within a four-year period immediately preceding the person's current application for the salesperson's examination shall have successfully completed the prelicensure classroom instruction required by division (F)(6) of this section within a ten-year period immediately preceding the person's current application for the salesperson's examination.

~~(H)~~(I) Not earlier than the date of issue of a real estate salesperson's license to a licensee, but not later than twelve months after the date of issue of a real estate salesperson license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion of ten hours of classroom instruction that shall be completed in schools, seminars, and educational institutions approved by the commission. Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code.

If proof of completion of the required instruction is not submitted within twelve months of the date a license is issued under this section, the licensee's license is suspended automatically without the taking of any action by the superintendent. The superintendent immediately shall notify the broker with whom such salesperson is associated of the suspension of the salesperson's license. A salesperson whose license has been suspended under this division shall have twelve months after the date of the suspension of the salesperson's license to submit proof of successful completion of the instruction required under this division. No such license shall be reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that

the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent when the licensee fails to submit the required proof of completion of the education requirements under division ~~(H)~~(I) of this section within twelve months of the date the license is suspended.

~~(H)~~(J) Examinations shall be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12189. The contents of an examination shall be consistent with the classroom instructional requirements of division (F)(6) of this section. An applicant who has completed the classroom instructional requirements of division (F)(6) of this section at the time of application shall be examined no later than twelve months after the applicant is notified of the applicant's admission to the examination.

Sec. 4735.10. (A)(1) The Ohio real estate commission may adopt reasonable rules in accordance with Chapter 119. of the Revised Code, necessary for implementing the provisions of this chapter relating, but not limited to, the following:

- (a) The form and manner of filing applications for licensure;
- (b) Times and form of examination for license;
- (c) Placing an existing broker's license on deposit or a salesperson's license on an inactive status for an indefinite period;
- (d) Specifying the process by which a licensee may resign the licensee's license;
- (e) Defining any additional license status that the commission determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts;
- (f) Clarification of the activities that require a license under this chapter.

(2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following:

- (a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license;
- (b) A three-year license and a three-year license renewal system;
- (c) Standards for the approval of the ten-hour postlicensure courses as required by division (G) of section 4735.07 and division ~~(H)~~(I) of section 4735.09 of the Revised Code, courses of study required for licenses, courses offered in preparation for license examinations, or courses required as

continuing education for licenses.

(d) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class.

(e) Requirements for trust accounts and property management accounts. The rules shall specify that:

(i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of section 4735.18 of the Revised Code.

(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable to the property owner unless otherwise specified in a written contract.

(f) Notice of renewal forms and filing deadlines;

(g) Special assessments under division (A) of section 4735.12 of the Revised Code.

(B) The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers:

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;

(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (A) of section 4735.06 of the Revised Code;

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code;

(4) Approval of applications of brokers to place their licenses in an inactive status and to become salespersons under section 4735.13 of the Revised Code;

(5) Appointment of hearing examiners under section 119.09 of the Revised Code;

(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of examination, under sections 4735.27 and 4735.28 of the Revised Code;

(7) Qualification of foreign real estate under section 4735.25 of the

Revised Code.

If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose.

(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or superintendent may require other proof of the honesty, truthfulness, and good reputation of any person named in an application for a real estate broker's or real estate salesperson's license before admitting the applicant to the examination or issuing a license.

Sec. 4735.142. (A) Any person licensed under section 4735.07 or 4735.09 of the Revised Code, at any time prior to the date the licensee is required to file a notice of renewal pursuant to division (B) of section 4735.14 of the Revised Code may apply to the superintendent of real estate and professional licensing to place the licensee's license in a permanently resigned status.

(B) A licensee, at any time during which a license has been suspended pursuant to division (G) of section 4735.07, division ~~(H)~~(I) of section 4735.09, division (E) of section 4735.12, division (C) of section 4735.14, division (C) of section 4735.141, or section 4735.182 of the Revised Code, may apply to the superintendent on a form prescribed by the superintendent to permanently resign the licensee's license voluntarily. The resignation of a license is considered to be final without the taking of any action by the superintendent.

(C) If a person whose license is in a permanently resigned status pursuant to a request made under this section wishes to obtain an active or inactive license, the person shall apply for such a license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable, or in the rules adopted by the commission pursuant to division (A) of section 4735.10 of the Revised Code.

(D) If placing a broker's license in a permanently resigned status will result in the closure of the broker's brokerage, the broker, within three days after applying to the superintendent to place the license in a permanently resigned status, shall provide to each salesperson associated with that broker a written notice stating that fact.

(E) This section does not apply to any licensee whose license has been suspended pursuant to division (F) of section 4735.181 of the Revised Code or due to disciplinary action ordered by the commission pursuant to section 4735.051 of the Revised Code.

Sec. 4735.56. (A) Each brokerage shall develop a written brokerage policy on agency to be given to prospective sellers and purchasers in accordance with divisions (C) and (D) of this section.

(B) The brokerage policy on agency described in division (A) of this section shall include all of the following information:

(1) An explanation of the permissible agency relationships available under section 4735.53 of the Revised Code and the duties that the agent owes the agent's client;

(2) The brokerage's policy on representation of purchasers or sellers;

(3) Whether at some time during the agency relationship the brokerage and its licensee may act as a dual agent, and the options and consequences for the client if a dual agency situation arises including the right of the client to terminate the agency relationship and seek representation from another source;

(4) Whether at some time during the agency relationship, another licensee affiliated with the same brokerage as the licensee may become the exclusive agent for the other party in the transaction and whether each licensee will represent only the interests of that licensee's client;

(5) The brokerage's policy on cooperation with other brokerages, including whether the brokerage offers compensation to other brokerages or will seek compensation from other brokerages;

(6) That a brokerage that has a purchaser as a client represents the purchaser's interests even though the seller's agent or the seller may compensate that purchaser's brokerage;

(7) That the signature of the purchaser or the seller indicates acknowledgement of receipt of the brokerage policy on agency.

(C) A licensee acting as a seller's agent shall provide the seller with the brokerage policy on agency described in this section prior to marketing or showing the seller's real estate and shall obtain a signature from the seller acknowledging receipt unless the seller refuses to provide a signature. If the seller refuses to provide a signature, the licensee shall note this on the policy.

(D) A licensee working directly with a purchaser in a real estate transaction, whether as the purchaser's agent, the seller's agent, or the seller's subagent, shall provide the purchaser with the brokerage policy on agency described in this section and obtain a signature from the purchaser acknowledging receipt of the policy unless the purchaser refuses to provide a signature. If the purchaser refuses to provide a signature, the licensee shall note this on the policy. Except as provided in division (E) of this section, the licensee shall provide the brokerage policy on agency to a purchaser prior to

the earliest of the following actions of the licensee:

(1) Initiating a prequalification evaluation to determine whether the purchaser has the financial ability to purchase or lease a particular real estate property;

(2) Requesting specific financial information from the purchaser to determine the purchaser's ability to purchase or finance real estate in a particular price range;

(3) Showing the real estate to the purchaser other than at an open house;

(4) Discussing, with the purchaser, the making of an offer to purchase or lease real estate;

(5) Submitting an offer to purchase or lease real estate on behalf of the purchaser.

(E) If the earliest event described in division (D) of this section is by telephone or electronic mail, the licensee shall disclose by that same medium the nature of the agency relationship that the licensee has with both the seller and the purchaser. The licensee shall provide the purchaser with the brokerage policy on agency described in this section at the first meeting with the purchaser following this disclosure of the agency relationship.

(F) A licensee acting as a seller's agent is not required to provide a purchaser with the brokerage policy on agency described in this section except in the case of an event described in division (D) of this section.

(G) The requirements of this section regarding provision of a brokerage policy on agency ~~do not~~ apply only in ~~any~~ of the following situations:

(1) The sale or lease of vacant land;

(2) The sale of a parcel of real estate containing one to four residential units;

~~(3) The rental or leasing of residential premises as defined in section 5321.01 of the Revised Code, if the rental or lease agreement can be performed in~~ is for a term of more than eighteen months ~~or less;~~

~~(2) The referral of a prospective purchaser or seller to another licensee;~~

~~(3) Transactions involving the sale, lease, or exchange of foreign real estate as defined in division (E) of section 4735.01 of the Revised Code;~~

~~(4) Transactions involving the sale of a cemetery lot or a cemetery interment right.~~

Sec. 4742.01. As used in this chapter:

(A) "Emergency service provider" has the same meaning as in section ~~5507.01~~ 128.01 of the Revised Code.

(B) "Emergency service telecommunicator" means an individual employed by an emergency service provider, whose primary responsibility is to be an operator for the receipt or processing of calls for emergency

services made by telephone, radio, or other electronic means.

Sec. 4751.01. As used in sections 4751.01 to ~~4751.11~~ 4751.13 of the Revised Code:

(A) "Long-term services and supports settings" means any institutional or community-based setting in which medical, health, psycho-social, habilitative, rehabilitative, or personal care services are provided to individuals on a post-acute care basis.

(B) "Nursing home administrator" means any individual responsible for planning, organizing, directing, and managing the operation of a nursing home, or who in fact performs such function, whether or not such functions and duties are shared by one or more other persons.

~~(B)~~(C) "Nursing home" means a nursing home as defined by or under the authority of section 3721.01 of the Revised Code, or a nursing home operated by a governmental agency.

~~(C)~~(D) "Temporary license" means a license for a period not to exceed one hundred eighty days issued pursuant to division (B) of section 4751.06 of the Revised Code.

~~(D)~~(E) "Valid license" means a license which is current and in good standing.

Sec. 4751.02. (A) No person shall operate a nursing home unless it is under the supervision of an administrator whose principal occupation is nursing home administration or hospital administration and who holds a valid nursing home administrator's license and registration, or a temporary license, issued pursuant to Chapter 4751. of the Revised Code.

(B) No person other than a licensed and registered nursing home administrator or person holding a temporary license as required by Chapter 4751. of the Revised Code shall practice or offer to practice nursing home administration in this state. All nursing home administrators and temporary licensees shall comply with Chapter 4751. of the Revised Code and the regulations adopted thereunder.

(C) Every operator of a nursing home shall report to the board of ~~examiners executives of nursing home administrators~~ long-term services and supports the name and license number of each nursing home administrator for said home within ten days after the operator engages a nursing home administrator, and within ten days after a nursing home administrator is no longer engaged as such by such operator for said home.

(D) Each individual who holds a nursing home administrator license or temporary license shall report ~~his~~ the individual's residence mailing address and the name and address of each place of employment to the board within ten days after any change.

Sec. 4751.03. (A) There is hereby established in the department of ~~health aging~~ a board of ~~examiners executives~~ of ~~nursing home administrators~~ long-term services and supports, which board shall be composed of ~~nine~~ the following eleven members, ~~eight of whom shall be~~ representative of the professions and institutions concerned with care and treatment of chronically ill or infirm aged patients, and ~~one of whom shall be a public member at least sixty years of age, provided that less than a majority of the board members shall be representative of a single profession or institutional category, and provided further that a person appointed as a noninstitutional member shall neither have nor acquire any direct financial interest in a nursing home. For purposes of this section, nursing home administrators are considered representatives of institutions.~~

~~Four members shall be nursing home administrators, owners of nursing homes or an officer of a corporation owning a nursing home. The director of health or his designated representative shall be a member. All:~~

(1) Four members who are nursing home administrators, owners of nursing homes, or officers of corporations owning nursing homes, and who shall have an understanding of person-centered care, and experience with a range of long-term services and supports settings;

(2)(a) Three members who work in long-term services and supports settings that are not nursing homes, and who shall have an understanding of person-centered care, and experience with a range of long-term services and supports settings;

(b) At least one of the members described in division (A)(2)(a) of this section shall be a home health administrator, an owner of a home health agency, or an officer of a home health agency.

(3) One member who is a member of the academic community;

(4) One member who is a consumer of services offered in a long-term services and supports setting;

(5) One member who is a representative of the department of health, designated by the director of health, who is involved in the nursing home survey and certification process;

(6) One member who is a representative of the office of the state long-term care ombudsman, designated by the state long-term care ombudsman.

All members of the board shall be citizens of the United States and residents of this state. No member of the board who is appointed under divisions (A)(3) to (6) of this section may have or acquire any direct financial interest in a nursing home or long-term services and supports settings.

(B) The term of office for each appointed member of the board shall be for three years, commencing on the twenty-eighth day of May and ending on the twenty-seventh day of May. Each member shall serve from the date of ~~his~~ appointment until the end of the term for which ~~he was~~ appointed. No member shall serve more than two consecutive full terms.

(C) Appointments to the board shall be made by the governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any appointed member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) The governor may remove any member of the board for misconduct, incapacity, incompetence, or neglect of duty after the member so charged has been served with a written statement of charges and has been given an opportunity to be heard.

(E) Each member of the board, except the member designated by the director of health ~~or his~~ and the member designated representative by the ombudsman, shall be paid in accordance with section 124.15 of the Revised Code and each member shall be reimbursed for ~~his~~ the member's actual and necessary expenses incurred in the discharge of such duties.

(F) The board shall elect annually from its membership a ~~chairman~~ chairperson and a ~~vice-chairman~~ vice-chairperson.

(G) The board shall hold and conduct meetings quarterly and at such other times as its business requires. A majority of the board shall constitute a quorum. The affirmative vote of a majority of the members of the board is necessary for the board to act.

(H) The board shall appoint a secretary who has no financial interest in a ~~nursing home~~ long-term services and supports setting, and may employ and prescribe the powers and duties of such employees and consultants as are necessary to carry out this chapter and the rules adopted under it. ~~Administrative, technical, or other services shall be performed, insofar as practicable, by personnel of the department of health.~~

Sec. 4751.04. (A) The board of ~~examiners~~ executives of ~~nursing home administrators~~ long-term services and supports shall:

(1) Develop, adopt, impose, and enforce regulations prescribing standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to ensure that nursing home administrators are of good character and are otherwise suitable, and who, by training and experience, are qualified to serve as

nursing home administrators;

(2) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(3) Issue licenses and registrations to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses or registrations previously issued by the board in any case where the individual holding such license or registration is determined to have failed substantially to conform to the requirements of such standards;

(4) Develop, adopt, impose, and enforce regulations and procedures designed to ensure that individuals holding a temporary license, or licensed as nursing home administrators will, during any period that they serve as such, comply with Chapter 4751. of the Revised Code and the regulations adopted thereunder;

(5) Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with Chapter 4751. of the Revised Code and the regulations adopted thereunder;

(6) Take such other actions as may be necessary to enable the state to meet the requirements set forth in the "Social Security Amendments of 1967," 81 Stat. 908 (1968), 42 U.S.C. 1396 g;

(7) Pay all license and registration fees collected under Chapter 4751. of the Revised Code into the ~~general operations~~ board of executives of long-term services and supports fund created by section ~~3701.83~~ 4751.14 of the Revised Code to be used in administering and enforcing this chapter and the rules adopted under it;

(8) Administer, or contract with a government or private entity to administer, examinations for licensure as a nursing home administrator. If the board contracts with a government or private entity to administer the examinations, the contract may authorize the entity to collect and keep, as all or part of the entity's compensation under the contract, any fee an applicant for licensure pays to take an examination. The entity is not required to deposit the fee into the state treasury;

(9) Enter into a contract with the department of aging as required under section 4751.042 of the Revised Code;

(10) Create opportunities for the education, training, and credentialing of nursing home administrators and others in leadership positions who practice in long-term services and supports settings or who direct the practices of others in those settings. In carrying out this function, the board shall do the following:

(a) Identify core competencies and areas of knowledge that are appropriate for nursing home administrators and others working within the long-term services and supports settings system, with an emphasis on all of the following:

(i) Leadership;

(ii) Person-centered care;

(iii) Principles of management within both the business and regulatory environments;

(iv) An understanding of all post-acute settings, including transitions from acute settings and between post-acute settings.

(b) Assist in the development of a strong, competitive market in Ohio for training, continuing education, and degree programs in long-term services and supports settings administration.

(B) In the administration and enforcement of Chapter 4751. of the Revised Code, and the regulations adopted thereunder, the board is subject to Chapter 119. of the Revised Code and sections 4743.01 and 4743.02 of the Revised Code except that a notice of appeal of an order of the board adopting, amending, or rescinding a rule or regulation does not operate as a stay of the effective date of such order as provided in section 119.11 of the Revised Code. The court, at its discretion, may grant a stay of any regulation in its application against the person filing the notice of appeal.

Sec. 4751.041. Except when the board of ~~examiners~~ executives of nursing home administrators long-term services and supports considers it necessary, the board shall not disclose test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer.

Sec. 4751.042. (A) The board of executives of long-term services and supports shall enter into a written agreement with the department of aging for the department to serve as the board's fiscal agent. The fiscal agent shall be responsible for all the board's fiscal matters and financial transactions, as specified in the agreement. The written agreement shall specify the fees that the board shall pay to the fiscal agent for services performed under the agreement, and such fees shall be in proportion to the services performed for the board.

(1) The agreement shall require the fiscal agent to provide the following services:

(a) Preparation and processing of payroll and other personnel documents that the board approves;

(b) Maintenance of ledgers of accounts and reports of account balances, and monitoring of budgets and allotment plans in consultation with the board;

(c) Performance of other routine support services, specified in the agreement, that the fiscal agent considers appropriate to achieve efficiency.

(2) The agreement may require the fiscal agent to provide the following services:

(a) Any shared services between the board and the fiscal agent;

(b) Any other services agreed to by the board and the department, including administrative or technical services.

(B) The board, in conjunction and consultation with the fiscal agent, has the following authority and responsibility relative to fiscal matters:

(1) Sole authority to expend funds from the board's accounts for programs and any other necessary expenses the board may incur;

(2) Responsibility to cooperate with and inform the fiscal agent fully of all financial transactions.

(C) The board shall follow all state procurement, fiscal, human resources, information technology, statutory, and administrative rule requirements.

(D) In its role as fiscal agent for the board, the department shall serve as a contractor of the board, and does not assume responsibility for the debts or fiscal obligations of the board.

Sec. 4751.05. (A) The board of ~~examiners~~ executives of nursing home administrators ~~long-term services and supports~~, or a government or private entity under contract with the board to administer examinations for licensure as a nursing home administrator, shall admit to an examination any candidate who:

(1) Pays the application fee of fifty dollars;

(2) Submits evidence of good moral character and suitability;

(3) Is at least eighteen years of age;

(4) Has completed educational requirements and work experience satisfactory to the board;

(5) Submits an application on forms prescribed by the board;

(6) Pays the examination fee charged by the board or government or private entity.

(B) Nothing in Chapter 4751. of the Revised Code or the rules adopted thereunder shall be construed to require an applicant for licensure or a temporary license, who is employed by an institution for the care and treatment of the sick to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not

in accord with the remedial care and treatment provided by the institution if the institution is all of the following:

(1) Operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs;

(2) Accredited by a national accrediting organization;

(3) Exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended;

(4) Providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(C) If a person fails three times to attain a passing grade on the examination, said person, before the person may again be admitted to examination, shall meet such additional education or experience requirements, or both, as may be prescribed by the board.

Sec. 4751.06. (A) An applicant for licensure as a nursing home administrator who has successfully completed the requirements of section 4751.05 of the Revised Code, passed the examination administered by the board of ~~examiners executives of nursing home administrators~~ long-term services and supports or a government or private entity under contract with the board, and paid to the board an original license fee of two hundred fifty dollars shall be issued a license on a form provided by the board. Such license shall certify that the applicant has met the licensure requirements of Chapter 4751. of the Revised Code and is entitled to practice as a licensed nursing home administrator.

(B) A temporary license for a period not to exceed one hundred eighty days may be issued to an individual temporarily filling the position of a nursing home administrator vacated by reason of death, illness, or other unexpected cause, pursuant to regulations adopted by the board.

(C) The fee for a temporary license is one hundred dollars. Said fee must accompany the application for the temporary license.

(D) Any license or temporary license issued by the board pursuant to this section shall be under the hand of the chairperson and the secretary of the board.

(E) A duplicate of the original certificate of registration or license may be secured to replace one that has been lost or destroyed by submitting to the board a notarized statement explaining the conditions of the loss, mutilation, or destruction of the certificate or license and by paying a fee of twenty-five dollars.

(F) A duplicate certificate of registration and license may be issued in

the event of a legal change of name by submitting to the board a certified copy of the court order or marriage license establishing the change of name, by returning at the same time the original license and certificate of registration, and by paying a fee of twenty-five dollars.

Sec. 4751.07. (A) Every individual who holds a valid license as a nursing home administrator issued under division (A) of section 4751.06 of the Revised Code, shall immediately upon issuance thereof be registered with the board of ~~examiners~~ executives of nursing home administrators long-term services and supports and be issued a certificate of registration. Such individual shall annually apply to the board for a new certificate of registration on forms provided for such purpose prior to the expiration of the certificate of registration and shall at the same time submit satisfactory evidence to the board of having attended such continuing education programs or courses of study as may be prescribed in rules adopted by the board.

(B) Upon making an application for a new certificate of registration such individual shall pay the annual registration fee of three hundred dollars.

(C) Upon receipt of such application for registration and the registration fee required by divisions (A) and (B) of this section, the board shall issue a certificate of registration to such nursing home administrator.

(D) The license of a nursing home administrator who fails to comply with this section shall automatically lapse.

(E) A nursing home administrator who has been licensed and registered in this state who determines to temporarily abandon the practice of nursing home administration shall notify the board in writing immediately; provided, that such individual may thereafter register to resume the practice of nursing home administration within the state upon complying with the requirements of this section regarding annual registration.

(F) Only an individual who has qualified as a licensed and registered nursing home administrator under Chapter 4751. of the Revised Code and the rules adopted thereunder, and who holds a valid current registration certificate pursuant to this section, may use the title "nursing home administrator," or the abbreviation "N.H.A." after the individual's name. No other person shall use such title or such abbreviation or any other words, letters, sign, card, or device tending to indicate or to imply that the person is a licensed and registered nursing home administrator.

(G) Every person holding a valid license entitling the person to practice nursing home administration in this state shall display said license in the nursing home which is the person's principal place of employment, and while engaged in the practice of nursing home administration shall have at

hand the current registration certificate.

(H) Every person holding a valid temporary license shall have such license at hand while engaged in the practice of nursing home administration.

Sec. 4751.08. The board of ~~examiners~~ executives of ~~nursing home administrators~~ long-term services and supports, in its discretion, and otherwise subject to Chapter 4751. of the Revised Code and the rules adopted by the board thereunder prescribing the qualifications for a nursing home administrator license, may license a nursing home administrator without examination if ~~he~~ the nursing home administrator has a valid license issued by the proper authorities of any other state, upon payment of a fee of one hundred fifty dollars, and upon submission of evidence satisfactory to the board both:

(A) That such other state maintained a system and standard of qualifications and examinations for a nursing home administrator license which were substantially equivalent to those required in this state at the time such other license was issued by such other state;

(B) That such other state gives similar recognition to nursing home administrators licensed in this state.

Sec. 4751.10. The license or registration, or both, or the temporary license of any person practicing or offering to practice nursing home administration, shall be revoked or suspended by the board of ~~examiners~~ executives of ~~nursing home administrators~~ long-term services and supports if such licensee or temporary licensee:

(A) Is unfit or incompetent by reason of negligence, habits, or other causes;

(B) Has willfully or repeatedly violated any of the provisions of Chapter 4751. of the Revised Code or the regulations adopted thereunder; or willfully or repeatedly acted in a manner inconsistent with the health and safety of the patients of the nursing home in which ~~he~~ the licensee or temporary licensee is the administrator;

(C) Is guilty of fraud or deceit in the practice of nursing home administration or in ~~his~~ the licensee's or temporary licensee's admission to such practice;

(D) Has been convicted in a court of competent jurisdiction, either within or without this state, of a felony.

Proceedings under this section shall be instituted by the board or shall be begun by filing with the board charges in writing and under oath.

Sec. 4751.11. (A) The board of ~~examiners~~ executives of ~~nursing home administrators~~ long-term services and supports may, in its discretion, reissue

a license or registration, or both, to any person whose license or registration, or both, has been revoked.

(B) Application for the reissuance of a license or registration, or both, shall not be made prior to one year after revocation and shall be made in such manner as the board may direct.

(C) If a person convicted of a felony is subsequently pardoned by the governor of the state where such conviction was had or by the president of the United States, or receives a final release granted by the adult parole authority of this state or its equivalent agency of another state, the board may, in its discretion, on application of such person and on the submission of evidence satisfactory to the board restore to such person the nursing home administrator's license or registration, or both.

Sec. 4751.12. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the board of ~~examiners~~ executives of nursing home administrators long-term services and supports shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license issued pursuant to this chapter.

Sec. 4751.13. The board of ~~examiners~~ executives of nursing home administrators long-term services and supports shall comply with section 4776.20 of the Revised Code.

Sec. 4751.14. There is hereby created in the state treasury the board of executives of long-term services and supports fund. The fund shall consist of license and registration fees collected under this chapter. Money in the fund shall be used by the board of executives of long-term services and supports to administer and enforce this chapter and the rules adopted under it. Investment earnings of the fund shall be credited to the fund.

Sec. 4753.071. A person who is required to meet the supervised professional experience requirement of division (F) of section 4753.06 of the Revised Code shall submit to the board of speech-language pathology and audiology an application for a conditional license. The application shall include a plan for the content of the supervised professional experience on a form the board shall prescribe. The board shall issue the conditional license to the applicant if the applicant meets the requirements of section 4753.06 of the Revised Code, other than the requirement to have obtained the supervised professional experience, and pays to the board the appropriate fee for a conditional license. An applicant may not begin employment until the conditional license has been issued.

A conditional license authorizes an individual to practice speech-language pathology or audiology while completing the supervised

professional experience as required by division (F) of section 4753.06 of the Revised Code. A person holding a conditional license may practice speech-language pathology or audiology while working under the supervision of a person fully licensed in accordance with this chapter. A conditional license is valid for eighteen months unless suspended or revoked pursuant to section 3123.47 or 4753.10 of the Revised Code.

A person holding a conditional license may perform services for which ~~reimbursement~~ payment will be sought under the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended, or the medicaid program established ~~under Chapter 5111. of the Revised Code~~ but all requests for ~~reimbursement~~ payment for such services shall be made by the person who supervises the person performing the services.

Sec. 4755.11. (A) In accordance with Chapter 119. of the Revised Code, the occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board may suspend, revoke, or refuse to issue or renew an occupational therapist license, occupational therapy assistant license, occupational therapist limited permit, occupational therapy assistant limited permit, or reprimand, fine, place a license or limited permit holder on probation, or require the license or limited permit holder to take corrective action courses, for any of the following:

(1) Conviction of an offense involving moral turpitude or a felony, regardless of the state or country in which the conviction occurred;

(2) Violation of any provision of sections 4755.04 to 4755.13 of the Revised Code;

(3) Violation of any lawful order or rule of the occupational therapy section;

(4) Obtaining or attempting to obtain a license or limited permit issued by the occupational therapy section by fraud or deception, including the making of a false, fraudulent, deceptive, or misleading statements in relation to these activities;

(5) Negligence, unprofessional conduct, or gross misconduct in the practice of the profession of occupational therapy;

(6) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;

(7) Communicating, without authorization, information received in professional confidence;

(8) Using controlled substances, habit forming drugs, or alcohol to an extent that it impairs the ability to perform the work of an occupational therapist, occupational therapy assistant, occupational therapist limited

permit holder, or occupational therapy assistant limited permit holder;

(9) Practicing in an area of occupational therapy for which the individual is untrained or incompetent;

(10) Failing the licensing or Ohio jurisprudence examination;

(11) Aiding, abetting, directing, or supervising the unlicensed practice of occupational therapy;

(12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including occupational therapy, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;

(13) Except as provided in division (B) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay.

(14) Working or representing oneself as an occupational therapist, occupational therapy assistant, occupational therapist limited permit holder, or occupational therapy assistant limited permit holder without a current and valid license or limited permit issued by the occupational therapy section;

(15) Engaging in a deceptive trade practice, as defined in section 4165.02 of the Revised Code;

(16) Violation of the standards of ethical conduct in the practice of occupational therapy as identified by the occupational therapy section;

(17) A departure from, or the failure to conform to, minimal standards of care required of licensees or limited permit holders, whether or not actual injury to a patient is established;

(18) An adjudication by a court that the applicant, licensee, or limited permit holder is incompetent for the purpose of holding a license or limited permit and has not thereafter been restored to legal capacity for that purpose;

(19)(a) Except as provided in division (A)(19)(b) of this section, failure to cooperate with an investigation conducted by the occupational therapy section, including failure to comply with a subpoena or orders issued by the section or failure to answer truthfully a question presented by the section at a deposition or in written interrogatories.

(b) Failure to cooperate with an investigation does not constitute

grounds for discipline under this section if a court of competent jurisdiction issues an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence at issue.

(20) Conviction of a misdemeanor reasonably related to the practice of occupational therapy, regardless of the state or country in which the conviction occurred;

(21) Inability to practice according to acceptable and prevailing standards of care because of mental or physical illness, including physical deterioration that adversely affects cognitive, motor, or perception skills;

(22) Violation of conditions, limitations, or agreements placed by the occupational therapy section on a license or limited permit to practice;

(23) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of occupational therapy;

(24) Failure to complete continuing education requirements as prescribed in rules adopted by the occupational therapy section under section 4755.06 of the Revised Code.

(B) Sanctions shall not be imposed under division (A)(13) of this section against any individual who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the section upon request.

(2) For professional services rendered to any other person licensed pursuant to sections 4755.04 to 4755.13 of the Revised Code to the extent allowed by those sections and the rules of the occupational therapy section.

(C) Except as provided in division (D) of this section, the suspension or revocation of a license or limited permit under this section is not effective until either the order for suspension or revocation has been affirmed following an adjudication hearing, or the time for requesting a hearing has elapsed.

When a license or limited permit is revoked under this section, application for reinstatement may not be made sooner than one year after the date of revocation. The occupational therapy section may accept or refuse an application for reinstatement and may require that the applicant pass an examination as a condition of reinstatement.

When a license or limited permit holder is placed on probation under this section, the occupational therapy section's probation order shall be

accompanied by a statement of the conditions under which the individual may be removed from probation and restored to unrestricted practice.

(D) On receipt of a complaint that a person who holds a license or limited permit issued by the occupational therapy section has committed any of the prohibited actions listed in division (A) of this section, the section may immediately suspend the license or limited permit prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that the licensee or limited permit holder poses an immediate threat to the public. The section may review the allegations and vote on the suspension by telephone conference call. If the section votes to suspend a license or limited permit under this division, the section shall ~~notify~~ issue a written order of summary suspension to the licensee or limited permit holder ~~of the suspension~~ in accordance with section 119.07 of the Revised Code. If the individual whose license or limited permit is suspended fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the section shall enter a final order permanently revoking the individual's license or limited permit. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the section's order of summary suspension pending the determination of an appeal filed under that section. Any order of summary suspension issued under this division shall remain in effect, unless reversed on appeal, until a final adjudication order issued by the section pursuant to division (A) of this section becomes effective. The section shall issue its final adjudication order regarding an order of summary suspension issued under this division not later than ninety days after completion of its hearing. Failure to issue the order within ninety days shall result in immediate dissolution of the suspension order, but shall not invalidate any subsequent, final adjudication order.

(E) If any person other than a person who holds a license or limited permit issued under section 4755.08 of the Revised Code has engaged in any practice that is prohibited under sections 4755.04 to 4755.13 of the Revised Code or the rules of the occupational therapy section, the section may apply to the court of common pleas of the county in which the violation occurred, for an injunction or other appropriate order restraining this conduct, and the court shall issue this order.

Sec. 4755.47. (A) In accordance with Chapter 119. of the Revised Code, the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board may refuse to grant a license to an applicant for an initial or renewed license as a physical therapist or physical therapist assistant or, by an affirmative vote of not less than five members,

may limit, suspend, or revoke the license of a physical therapist or physical therapist assistant or reprimand, fine, place a license holder on probation, or require the license holder to take corrective action courses, on any of the following grounds:

(1) Habitual indulgence in the use of controlled substances, other habit-forming drugs, or alcohol to an extent that affects the individual's professional competency;

(2) Conviction of a felony or a crime involving moral turpitude, regardless of the state or country in which the conviction occurred;

(3) Obtaining or attempting to obtain a license issued by the physical therapy section by fraud or deception, including the making of a false, fraudulent, deceptive, or misleading statement;

(4) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the applicant or licensee is incompetent for the purpose of holding the license and has not thereafter been restored to legal capacity for that purpose;

(5) Subject to section 4755.471 of the Revised Code, violation of the code of ethics adopted by the physical therapy section;

(6) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate sections 4755.40 to 4755.56 of the Revised Code or any order issued or rule adopted under those sections;

(7) Failure of one or both of the examinations required under section 4755.43 or 4755.431 of the Revised Code;

(8) Permitting the use of one's name or license by a person, group, or corporation when the one permitting the use is not directing the treatment given;

(9) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including physical therapy, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;

(10) Failure to maintain minimal standards of practice in the administration or handling of drugs, as defined in section 4729.01 of the Revised Code, or failure to employ acceptable scientific methods in the selection of drugs, as defined in section 4729.01 of the Revised Code, or other modalities for treatment;

(11) Willful betrayal of a professional confidence;

(12) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients in relation to the practice of physical therapy;

(13) A departure from, or the failure to conform to, minimal standards

of care required of licensees when under the same or similar circumstances, whether or not actual injury to a patient is established;

(14) Obtaining, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(15) Violation of the conditions of limitation or agreements placed by the physical therapy section on a license to practice;

(16) Failure to renew a license in accordance with section 4755.46 of the Revised Code;

(17) Except as provided in section 4755.471 of the Revised Code, engaging in the division of fees for referral of patients or receiving anything of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Inability to practice according to acceptable and prevailing standards of care because of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perception skills;

(19) The revocation, suspension, restriction, or termination of clinical privileges by the United States department of defense or department of veterans affairs;

(20) Termination or suspension from participation in the medicare or medicaid program established under Title XVIII and Title XIX, respectively, of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, for an act or acts that constitute a violation of sections 4755.40 to 4755.56 of the Revised Code;

(21) Failure of a physical therapist to maintain supervision of a student, physical therapist assistant, unlicensed support personnel, other assistant personnel, or a license applicant in accordance with the requirements of sections 4755.40 to 4755.56 of the Revised Code and rules adopted under those sections;

(22) Failure to complete continuing education requirements as prescribed in section 4755.51 or 4755.511 of the Revised Code or to satisfy any rules applicable to continuing education requirements that are adopted by the physical therapy section;

(23) Conviction of a misdemeanor when the act that constitutes the misdemeanor occurs during the practice of physical therapy;

(24)(a) Except as provided in division (A)(24)(b) of this section, failure to cooperate with an investigation conducted by the physical therapy section, including failure to comply with a subpoena or orders issued by the section or failure to answer truthfully a question presented by the section at a deposition or in written interrogatories.

(b) Failure to cooperate with an investigation does not constitute grounds for discipline under this section if a court of competent jurisdiction issues an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence at issue.

(25) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the physical therapist or physical therapist assistant, in any of the following:

(a) Sexual contact, as defined in section 2907.01 of the Revised Code;

(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.

(26) Failure to notify the physical therapy section of a change in name, business address, or home address within thirty days after the date of change;

(27) Except as provided in division (B) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers physical therapy, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers physical therapy, would otherwise be required to pay;

(28) Violation of any section of this chapter or rule adopted under it.

(B) Sanctions shall not be imposed under division (A)(27) of this section against any individual who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the physical therapy section upon request.

(2) For professional services rendered to any other person licensed pursuant to sections 4755.40 to 4755.56 of the Revised Code to the extent allowed by those sections and the rules of the physical therapy section.

(C) When a license is revoked under this section, application for reinstatement may not be made sooner than one year after the date of revocation. The physical therapy section may accept or refuse an application for reinstatement and may require that the applicant pass an examination as a condition for reinstatement.

When a license holder is placed on probation under this section, the physical therapy section's order for placement on probation shall be accompanied by a statement of the conditions under which the individual may be removed from probation and restored to unrestricted practice.

(D) When an application for an initial or renewed license is refused under this section, the physical therapy section shall notify the applicant in writing of the section's decision to refuse issuance of a license and the reason for its decision.

(E) On receipt of a complaint that a person licensed by the physical therapy section has committed any of the actions listed in division (A) of this section, the physical therapy section may immediately suspend the license of the physical therapist or physical therapist assistant prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that the person poses an immediate threat to the public. The physical therapy section may review the allegations and vote on the suspension by telephone conference call. If the physical therapy section votes to suspend a license under this division, the physical therapy section shall ~~notify~~ issue a written order of summary suspension to the person ~~of the suspension~~ in accordance with section 119.07 of the Revised Code. If the person fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the physical therapy section shall enter a final order permanently revoking the person's license. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the physical therapy section's order of summary suspension pending the determination of an appeal filed under that section. Any order of summary suspension issued under this division shall remain in effect, unless reversed on appeal, until a final adjudication order issued by the physical therapy section pursuant to division (A) of this section becomes effective. The physical therapy section shall issue its final adjudication order regarding an order of summary suspension issued under this division not later than ninety days after completion of its hearing. Failure to issue the order within ninety days shall result in immediate dissolution of the suspension order, but shall not invalidate any subsequent, final adjudication order.

Sec. 4755.481. (A) If a physical therapist evaluates and treats a patient without the prescription of, or the referral of the patient by, a person described in division (G)(1) of section 4755.48 of the Revised Code, all of the following apply:

(1) The physical therapist shall, upon consent of the patient, inform the relevant person described in division (G)(1) of section 4755.48 of the

Revised Code of the evaluation not later than five business days after the evaluation is made.

(2) If the physical therapist determines, based on reasonable evidence, that no substantial progress has been made with respect to that patient during the thirty-day period immediately following the date of the patient's initial visit with the physical therapist, the physical therapist shall consult with or refer the patient to a person described in division (G)(1) of section 4755.48 of the Revised Code, unless either of the following applies:

(a) The evaluation, treatment, or services are being provided for fitness, wellness, or prevention purposes.

(b) The patient previously was diagnosed with chronic, neuromuscular, or developmental conditions and the evaluation, treatment, or services are being provided for problems or symptoms associated with one or more of those previously diagnosed conditions.

(3) If the physical therapist determines that orthotic devices are necessary to treat the patient, the physical therapist shall be limited to the application of the following orthotic devices:

(a) Upper extremity adaptive equipment used to facilitate the activities of daily living;

(b) Finger splints;

(c) Wrist splints;

(d) Prefabricated elastic or fabric abdominal supports with or without metal or plastic reinforcing stays and other prefabricated soft goods requiring minimal fitting;

(e) Nontherapeutic accommodative inlays;

(f) Shoes that are not manufactured or modified for a particular individual;

(g) Prefabricated foot care products;

(h) Custom foot orthotics;

(i) Durable medical equipment.

(4) If, at any time, the physical therapist has reason to believe that the patient has symptoms or conditions that require treatment or services beyond the scope of practice of a physical therapist, the physical therapist shall refer the patient to a licensed health care practitioner acting within the practitioner's scope of practice.

(B) Nothing in sections 4755.40 to 4755.56 of the Revised Code shall be construed to require reimbursement under any health insuring corporation policy, contract, or agreement, any sickness and accident insurance policy, the ~~medical assistance~~ medicaid program ~~as defined in section 5111.01 of the Revised Code~~, or the health partnership program or qualified health

plans established pursuant to sections 4121.44 to 4121.442 of the Revised Code, for any physical therapy service rendered without the prescription of, or the referral of the patient by, a person described in division (G)(1) of section 4755.48 of the Revised Code.

(C) For purposes of this section, "business day" means any calendar day that is not a Saturday, Sunday, or legal holiday. "Legal holiday" has the same meaning as in section 1.14 of the Revised Code.

Sec. 4755.64. (A) In accordance with Chapter 119. of the Revised Code, the athletic trainers section of the Ohio occupational therapy, physical therapy, and athletic trainers board may suspend, revoke, or refuse to issue or renew an athletic trainers license, or reprimand, fine, or place a licensee on probation, for any of the following:

(1) Conviction of a felony or offense involving moral turpitude, regardless of the state or country in which the conviction occurred;

(2) Violation of sections 4755.61 to 4755.65 of the Revised Code or any order issued or rule adopted thereunder;

(3) Obtaining a license through fraud, false or misleading representation, or concealment of material facts;

(4) Negligence or gross misconduct in the practice of athletic training;

(5) Violating the standards of ethical conduct in the practice of athletic training as adopted by the athletic trainers section under section 4755.61 of the Revised Code;

(6) Using any controlled substance or alcohol to the extent that the ability to practice athletic training at a level of competency is impaired;

(7) Practicing in an area of athletic training for which the individual is untrained, incompetent, or practicing without the referral of a practitioner licensed under Chapter 4731. of the Revised Code, a dentist licensed under Chapter 4715. of the Revised Code, a chiropractor licensed under Chapter 4734. of the Revised Code, or a physical therapist licensed under this chapter;

(8) Employing, directing, or supervising a person in the performance of athletic training procedures who is not authorized to practice as a licensed athletic trainer under this chapter;

(9) Misrepresenting educational attainments or the functions the individual is authorized to perform for the purpose of obtaining some benefit related to the individual's athletic training practice;

(10) Failing the licensing examination;

(11) Aiding or abetting the unlicensed practice of athletic training;

(12) Denial, revocation, suspension, or restriction of authority to practice a health care occupation, including athletic training, for any reason

other than a failure to renew, in Ohio or another state or jurisdiction.

(B) If the athletic trainers section places a licensee on probation under division (A) of this section, the section's order for placement on probation shall be accompanied by a written statement of the conditions under which the person may be removed from probation and restored to unrestricted practice.

(C) A licensee whose license has been revoked under division (A) of this section may apply to the athletic trainers section for reinstatement of the license one year following the date of revocation. The athletic trainers section may accept or deny the application for reinstatement and may require that the applicant pass an examination as a condition for reinstatement.

(D) On receipt of a complaint that a person licensed by the athletic trainers section has committed any of the prohibited actions listed in division (A) of this section, the section may immediately suspend the license of a licensed athletic trainer prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that the licensee poses an immediate threat to the public. The section may review the allegations and vote on the suspension by telephone conference call. If the section votes to suspend a license under this division, the section shall ~~notify~~ issue a written order of summary suspension to the licensed athletic trainer of the suspension in accordance with section 119.07 of the Revised Code. If the individual whose license is suspended fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the section shall enter a final order permanently revoking the individual's license. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the section's order of summary suspension pending the determination of an appeal filed under that section. Any order of summary suspension issued under this division shall remain in effect, unless reversed on appeal, until a final adjudication order issued by the section pursuant to division (A) of this section becomes effective. The section shall issue its final adjudication order regarding an order of summary suspension issued under this division not later than ninety days after completion of its hearing. Failure to issue the order within ninety days shall result in immediate dissolution of the suspension order, but shall not invalidate any subsequent, final adjudication order.

Sec. 4758.10. (A) There is hereby created the chemical dependency professionals board.

(B) The governor shall appoint all of the following voting members of the board with the advice and consent of the senate:

(1) Four individuals who hold a valid independent chemical dependency counselor-clinical supervisor license or independent chemical dependency counselor license issued under this chapter, including at least two of whom have received at least a master's degree in a field related to chemical dependency counseling from an accredited educational institution;

(2) Two individuals who hold a valid chemical dependency counselor III license issued under this chapter;

(3) One individual who holds a valid chemical dependency counselor II license issued under this chapter;

(4) Two individuals who hold a valid prevention specialist II certificate or prevention specialist I certificate issued under this chapter;

(5) One individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery and has experience practicing in a field related to chemical dependency counseling;

(6) Two individuals who represent the public and have not practiced chemical dependency counseling or alcohol and other drug prevention services and have not been involved in the delivery of chemical dependency counseling services or alcohol and other drug prevention services. At least one of these individuals shall be at least ~~sixty~~ fifty years of age. During their terms, the public members shall not practice chemical dependency counseling or alcohol and other drug prevention services or be involved in the delivery of chemical dependency counseling services or alcohol and other drug prevention services.

(C) Not later than ninety days after December 23, 2002, the director of ~~alcohol and drug addiction services~~ mental health and addiction services shall appoint an individual who represents the department of ~~alcohol and drug addiction services~~ mental health and addiction services to serve as an ex officio member of the chemical dependency professionals board.

(D) Not more than one-half of the voting members of the board may be of the same gender or members of the same political party. At least two voting members of the board shall be of African, Native American, Hispanic, or Asian descent.

Sec. 4758.11. Of the initial appointees to the chemical dependency professionals board appointed by the governor under division (B) of section 4758.10 of the Revised Code, four shall be appointed for terms ending one year after ~~the effective date of this section~~ December 23, 2002, four shall be appointed for terms ending two years after ~~the effective date of this section~~ December 23, 2002, and four shall be appointed for terms ending three years after ~~the effective date of this section~~ December 23, 2002. After the initial

appointments, terms of office shall be three years, each term ending on the same day of the same month of the year as the term it succeeds.

A voting member of the board shall hold office from the date of appointment until the end of the term for which the member was appointed. A voting member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A voting member shall continue in office after the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. Voting members may be reappointed, except that an individual who has held office for two consecutive full terms shall not be reappointed sooner than one year after the expiration of the second full term.

The ex officio member of the board appointed by the director of ~~alcohol and drug addiction services~~ mental health and addiction services under division (C) of section 4758.10 of the Revised Code shall serve at the pleasure of the director.

Sec. 4761.01. As used in this chapter:

(A) "Respiratory care" means rendering or offering to render to individuals, groups, organizations, or the public any service involving the evaluation of cardiopulmonary function, the treatment of cardiopulmonary impairment, the assessment of treatment effectiveness, and the care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The practice of respiratory care includes:

(1) Obtaining, analyzing, testing, measuring, and monitoring blood and gas samples in the determination of cardiopulmonary parameters and related physiologic data, including flows, pressures, and volumes, and the use of equipment employed for this purpose;

(2) Administering, monitoring, recording the results of, and instructing in the use of medical gases, aerosols, and bronchopulmonary hygiene techniques, including drainage, aspiration, and sampling, and applying, maintaining, and instructing in the use of artificial airways, ventilators, and other life support equipment employed in the treatment of cardiopulmonary impairment and provided in collaboration with other licensed health care professionals responsible for providing care;

(3) Performing cardiopulmonary resuscitation and respiratory rehabilitation techniques;

(4) Administering medications for the testing or treatment of cardiopulmonary impairment.

(B) "Respiratory care professional" means a person who is licensed under this chapter to practice the full range of respiratory care services as

defined in division (A) of this section.

(C) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(D) "Registered nurse" means an individual licensed under Chapter 4723. of the Revised Code to engage in the practice of nursing as a registered nurse.

(E) "Hospital" means a facility that meets the operating standards of section 3727.02 of the Revised Code.

(F) "Nursing facility" has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised Code.

Sec. 4776.01. As used in this chapter:

(A) "License" means an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing agency to a licensee or to an applicant for an initial license by which the licensee or initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity, or, except in the case of the state dental board, to have control of and operate certain specific equipment, machinery, or premises, over which the licensing agency has jurisdiction.

(B) Except as provided in section 4776.20 of the Revised Code, "licensee" means the person to whom the license is issued by a licensing agency.

(C) Except as provided in section 4776.20 of the Revised Code, "licensing agency" means any of the following:

(1) The board authorized by Chapters 4701., 4717., 4725., 4729., 4730., 4731., 4732., 4734., 4740., 4741., 4755., 4757., 4759., 4760., 4761., 4762., ~~and 4779., and 4783.~~ of the Revised Code to issue a license to engage in a specific profession, occupation, or occupational activity, or to have charge of and operate certain specified equipment, machinery, or premises.

(2) The state dental board, relative to its authority to issue a license pursuant to section 4715.12, 4715.16, 4715.21, or 4715.27 of the Revised Code.

(D) "Applicant for an initial license" includes persons seeking a license for the first time and persons seeking a license by reciprocity, endorsement, or similar manner of a license issued in another state.

(E) "Applicant for a restored license" includes persons seeking restoration of a certificate under section 4730.14, 4731.281, 4760.06, or 4762.06 of the Revised Code.

(F) "Criminal records check" has the same meaning as in section

109.572 of the Revised Code.

Sec. 4778.02. (A)(1) Except as provided in division (B) of this section, no person shall practice as a genetic counselor unless the person holds a current, valid license to practice as a genetic counselor issued under this chapter.

(2) No person shall use the title "genetic counselor," or otherwise hold the person out as a genetic counselor, unless the person holds a current, valid license to practice as a genetic counselor issued under this chapter.

(B) Division (A)(1) of this section does not apply to either of the following:

(1) A student performing an activity as part of a genetic counseling graduate program described in division (B)~~(2)~~(1)(b) of section 4778.03 of the Revised Code;

(2) A person who is authorized pursuant to another provision of the Revised Code to perform any of the activities that a genetic counselor is authorized to perform.

Sec. 4778.03. (A) An individual seeking a license to practice as a genetic counselor shall file with the state medical board an application in a manner prescribed by the board. The application shall include all the information the board considers necessary to process the application, including evidence satisfactory to the board that the applicant meets the requirements specified in division (B) of this section.

At the time an application is submitted, the applicant shall pay the board an application fee of two hundred dollars. No part of the fee shall be returned to the applicant or transferred for purposes of another application.

(B)~~(1)~~ To be eligible to receive a license to practice as a genetic counselor, an applicant shall demonstrate to the board that the applicant meets all of the following requirements:

~~(1)~~(a) Is at least eighteen years of age and of good moral character;

~~(2)~~ Has (b) Except as provided in division (B)(2) of this section, has attained a master's degree or higher degree from a genetic counseling graduate program accredited by the American board of genetic counseling, inc.;

~~(3)~~(c) Is a certified genetic counselor;

~~(4)~~(d) Has satisfied any other requirements established by the board in rules adopted under section 4778.12 of the Revised Code.

(2) In the case of an applicant who files an application not later than December 31, 2013, and meets all eligibility requirements other than the requirement specified in division (B)(1)(b) of this section, the applicant is eligible for a license to practice as a genetic counselor if the applicant has

attained a master's or higher degree in education or in a field that the state medical board considers to be closely related to genetic counseling.

(C) The board shall review all applications received under this section. Not later than sixty days after receiving an application it considers complete, the board shall determine whether the applicant meets the requirements for a license to practice as a genetic counselor. The affirmative vote of not fewer than six members of the board is required to determine that the applicant meets the requirements for the license.

Sec. 4781.28. The manufactured homes commission may charge a fee for an annual license to operate a manufactured home park. The fee for a license shall be determined in accordance with section ~~4781.26~~ 4781.27 of the Revised Code and shall include the cost of licensing and all inspections.

Any fees collected shall be transmitted to the treasurer of state and shall be credited to the manufactured homes commission regulatory fund created in section 4781.54 of the Revised Code and used only for the purpose of administering and enforcing sections 4781.26 to 4781.35 of the Revised Code and the rules adopted thereunder.

Sec. 4783.01. As used in this chapter:

(A) "Certified Ohio behavior analyst" means an individual holding a current, valid certificate issued under section 4783.04 of the Revised Code.

(B)(1) "Practice of applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior and includes the following:

(a) The empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis;

(b) Interventions based on scientific research and the direct observation and measurement of behavior and the environment;

(c) Utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.

(2) "Practice of applied behavior analysis" does not include psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.

Sec. 4783.02. (A) Except as otherwise provided in division (B) of this section, no person shall do either of the following:

(1) Engage in the practice of applied behavior analysis in this state

without holding a certificate issued under section 4783.04 of the Revised Code:

(2) Hold the person's self out to be a certified Ohio behavior analyst unless the person holds a certificate issued under section 4783.04 of the Revised Code.

(B) This chapter does not apply to any of the following:

(1) An individual licensed under Chapter 4732. of the Revised Code to practice psychology, if the practice of applied behavior analysis engaged in by the licensed psychologist is within the licensed psychologist's education, training, and experience;

(2) An individual licensed under Chapter 4757. of the Revised Code to practice counseling, social work, or marriage and family therapy, if the practice of applied behavior analysis engaged in by the licensed professional counselor, licensed professional clinical counselor, licensed social worker, or licensed marriage and family therapist is within the licensee's education, training, and experience;

(3) An individual acting under the authority and direction of an individual described in division (B)(1) or (2) of this section;

(4) An individual practicing applied behavior analysis who is supervised by a certified Ohio behavior analyst and acting under the authority and direction of that certified Ohio behavior analyst;

(5) The delivery of interventions by a direct care provider or family member to implement components of an applied behavior analysis treatment plan.

(6) A behavior analyst who practices with nonhuman or nonpatient clients or consumers, including applied animal behaviorists and practitioners of organizational behavior management;

(7) A licensed professional authorized to practice in this state who, in the offering or rendering of services, does not represent oneself in any printed materials or verbally by incorporating the term "applied behavior analyst," if the services of the licensed professional are within the scope of practice of the licensing law governing the licensed professional and the services performed are commensurate with the licensed professional's education, training, and experience;

(8) A matriculated graduate student or postdoctoral trainee whose activities are part of a defined program of study or professional training;

(9) An individual employed by the department of developmental disabilities, a county board of developmental disabilities, or a council of government consisting of county boards of developmental disabilities, when the individual is acting in the scope of that employment;

(10) A professional employed in a school or other setting that falls under the regulation of the state board of education when the professional is acting within the scope of that employment.

(C) For purposes of division (B)(3) or (4) of this section, an individual is not subject to this chapter only if the licensed psychologist, the licensed professional counselor, the licensed professional clinical counselor, the licensed social worker, the licensed marriage and family therapist, or the certified Ohio behavior analyst under whose authority and direction the individual is acting pursuant to division (B)(3) or (4) of this section signs an attestation stating that the licensed psychologist, licensed professional counselor, licensed professional clinical counselor, licensed social worker, licensed marriage and family therapist, or certified Ohio behavior analyst is responsible for the care provided by the individual.

Sec. 4783.03. (A) The state board of psychology shall administer and enforce this chapter. The board shall adopt rules under Chapter 119. of the Revised Code establishing all of the following:

(1) Procedures and requirements for applying for a certificate issued under section 4783.04 of the Revised Code;

(2) Fees for issuance of a certificate;

(3) Reductions of the hours of continuing education required by section 4783.05 of the Revised Code for persons in their first certificate period.

(B) The board may adopt additional rules in accordance with Chapter 119. of the Revised Code as the board determines are necessary to implement and enforce this chapter.

Sec. 4783.04. (A) An individual seeking a certificate to practice as a certified Ohio behavior analyst shall file with the state board of psychology a written application on a form prescribed and supplied by the board. To be eligible for a certificate, the individual shall do all of the following:

(1) Demonstrate that the applicant is of good moral character and conducts the applicant's professional activities in accordance with accepted professional and ethical standards;

(2) Comply with sections 4776.01 to 4776.04 of the Revised Code;

(3) Demonstrate an understanding of the law regarding behavioral health practice;

(4) Demonstrate current certification as a board certified behavior analyst by the behavior analyst certification board or its successor organization or demonstrate completion of equivalent requirements and passage of a psychometrically valid examination administered by a nationally accredited credentialing organization;

(5) Pay the fee established by the state board of psychology.

(B) The state board of psychology shall review all applications received under this section. The state board of psychology shall not grant a certificate to an applicant for an initial certificate unless the applicant complies with sections 4776.01 to 4776.04 of the Revised Code and the state board of psychology, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4783.09 of the Revised Code. If the state board of psychology determines that an applicant satisfies the requirements for a certificate to practice as a certified Ohio behavior analyst, the state board of psychology shall issue the applicant a certificate.

Sec. 4783.05. (A)(1) Except as otherwise provided in this division, a certificate issued under this chapter is valid for a period of two years. On or before the thirty-first day of August of each even-numbered year, each certified Ohio behavior analyst shall do both of the following:

(a) Register with the state board of psychology on a form prescribed by the board, giving the certified Ohio behavior analyst's name, address, certificate number, the continuing education information required under division (B) of this section, and any other reasonable information as the board requires;

(b) Pay to the board secretary a biennial registration fee in an amount of one hundred fifty dollars.

(2) An individual who is issued a certificate under section 4783.04 of the Revised Code for the first time on or before the thirty-first day of August of an even-numbered year shall next be required to register on or before the thirty-first day of August of the next even-numbered year.

(B) Every two years a certified Ohio behavior analyst who wishes to renew the certified Ohio behavior analyst's certificate issued under this chapter shall produce proof of not less than twenty-three hours of continuing education, including not less than four hours in ethics, professional conduct, or cultural competency. Continuing education hours may be earned through providers of continuing education approved by the behavior analyst certification board or its successor organization or other organizations approved by the state board of psychology as providers of continuing education.

Sec. 4783.09. (A) The state board of psychology may refuse to issue a certificate to any applicant, may issue a reprimand, or suspend or revoke the certificate of any certified Ohio behavior analyst, on any of the following grounds:

(1) Conviction of a felony, or of any offense involving moral turpitude, in a court of this or any other state or in a federal court;

(2) Using fraud or deceit in the procurement of the certificate to practice applied behavior analysis or knowingly assisting another in the procurement of such a certificate through fraud or deceit;

(3) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;

(4) Willful, unauthorized communication of information received in professional confidence;

(5) Being negligent in the practice of applied behavior analysis;

(6) Using any controlled substance or alcoholic beverage to an extent that such use impairs the person's ability to perform the work of a certified Ohio behavior analyst with safety to the public;

(7) Violating any rule of professional conduct promulgated by the board;

(8) Practicing in an area of applied behavior analysis for which the person is clearly untrained or incompetent;

(9) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the person is incompetent for the purpose of holding the certificate;

(10) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers applied behavior analysis services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

(11) Advertising that the person will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers applied behavior analysis services, would otherwise be required to pay.

(B) For purposes of division (A)(9) of this section, a person may have the person's certificate issued or restored only upon determination by a court that the person is competent for the purpose of holding the certificate and upon the decision by the board that the certificate be issued or restored. The board may require an examination prior to such issuance or restoration.

(C) Notwithstanding divisions (A)(10) and (11) of this section, sanctions shall not be imposed against any certificate holder who waives deductibles and copayments:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copays shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Such consent shall be made available to the board upon

request.

(2) For professional services rendered to any other person holding a certificate issued pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

(D) Except as provided in section 4783.10 of the Revised Code, before the board may deny, suspend, or revoke a certificate under this section, or otherwise discipline the holder of a certificate, written charges shall be filed with the board by the secretary and a hearing shall be had thereon in accordance with Chapter 119. of the Revised Code.

Sec. 4783.10. On receipt of a complaint that any of the grounds listed in division (A) of section 4783.09 of the Revised Code exist, the state board of psychology may suspend the certificate of the certified Ohio behavior analyst prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that an immediate threat to the public exists.

After suspending a certificate pursuant to this section, the board shall notify the certified Ohio behavior analyst of the suspension in accordance with section 119.07 of the Revised Code. If the individual whose certificate is suspended fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's certificate.

Sec. 4783.11. (A) Except as provided in division (B) of this section, if, at the conclusion of a hearing required by section 4783.09 of the Revised Code, the state board of psychology determines that a certified Ohio behavior analyst has engaged in sexual conduct or had sexual contact with the certified Ohio behavior analyst's patient or client in violation of any prohibition contained in Chapter 2907. of the Revised Code, the board shall do one of the following:

(1) Suspend the certified Ohio behavior analyst's certificate;

(2) Permanently revoke the certified Ohio behavior analyst's certificate.

(B) If the board determines at the conclusion of the hearing that neither of the sanctions described in division (A) of this section is appropriate, the board shall impose another sanction it considers appropriate and issue a written finding setting forth the reasons for the sanction imposed and the reason that neither of the sanctions described in division (A) of this section is appropriate.

Sec. 4783.12. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state board of psychology shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate

issued pursuant to this chapter.

Sec. 4783.13. The state board of psychology shall comply with section 4776.20 of the Revised Code.

Sec. 4783.99. Whoever violates division (A) of section 4783.02 of the Revised Code shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than six months nor more than one year, or both. Each violation shall be a separate offense.

Sec. 4906.20. (A) No person shall commence to construct an economically significant wind farm in this state without first having obtained a certificate from the power siting board. An economically significant wind farm with respect to which such a certificate is required shall be constructed, operated, and maintained in conformity with that certificate and any terms, conditions, and modifications it contains. A certificate shall be issued only pursuant to this section. The certificate may be transferred, subject to the approval of the board, to a person that agrees to comply with those terms, conditions, and modifications.

(B) The board shall adopt rules governing the certificating of economically significant wind farms under this section. Initial rules shall be adopted within one hundred twenty days after June 24, 2008.

(1) The rules shall provide for an application process for certificating economically significant wind farms that is identical to the extent practicable to the process applicable to certificating major utility facilities under sections 4906.06, 4906.07, 4906.08, 4906.09, 4906.10, 4906.11, and 4906.12 of the Revised Code and shall prescribe a reasonable schedule of application filing fees structured in the manner of the schedule of filing fees required for major utility facilities.

(2) Additionally, the rules shall prescribe reasonable regulations regarding any wind turbines and associated facilities of an economically significant wind farm, including, but not limited to, their location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement and including erosion control, aesthetics, recreational land use, wildlife protection, interconnection with power lines and with regional transmission organizations, independent transmission system operators, or similar organizations, ice throw, sound and noise levels, blade shear, shadow flicker, decommissioning, and necessary cooperation for site visits and enforcement investigations. The rules also shall prescribe a minimum setback for a wind turbine of an economically significant wind farm. That minimum shall be equal to a horizontal distance, from the turbine's base to the property line of the wind farm property, equal to one and one-tenth times the total height of the turbine structure as measured from its base to the tip

of its highest blade and be at least ~~seven~~ one thousand one hundred fifty twenty-five feet in horizontal distance from the tip of the turbine's nearest blade at ninety degrees to the exterior of the nearest, habitable, residential structure, if any, located on adjacent property at the time of the certification application. For any existing certificates and amendments thereto, and existing certification applications that have been found by the chairperson to be in compliance with division (A) of section 4906.06 of the Revised Code before the effective date of the amendment of this section by H.B. 59 of the 130th general assembly, the distance shall be seven hundred fifty feet instead of one thousand one hundred twenty-five feet. The setback shall apply in all cases except those in which all owners of property adjacent to the wind farm property waive application of the setback to that property pursuant to a procedure the board shall establish by rule and except in which, in a particular case, the board determines that a setback greater than the minimum is necessary.

Sec. 4906.201. An electric generating plant that consists of wind turbines and associated facilities with a single interconnection to the electrical grid that is designed for, or capable of, operation at an aggregate capacity of fifty megawatts or more is subject to the minimum setback requirements established in rules adopted by the power siting board under division (B)(2) of section 4906.20 of the Revised Code. For any existing certificates and amendments thereto, and existing certification applications that have been found by the chairperson to be in compliance with division (A) of section 4906.06 of the Revised Code before the effective date of the amendment of this section by H.B. 59 of the 130th general assembly, the distance shall be seven hundred fifty feet instead of one thousand one hundred twenty-five feet.

Sec. 4909.157. (A) The public utilities commission may authorize a natural gas company or gas company to recover environmental remediation costs to which both of the following apply:

(1) They are prudently incurred before January 1, 2025.

(2) They are related to real property that, at the time recovery is authorized, is or was used for the provision of public utility service.

(B) Recovery under division (A) of this section may be provided for through the establishment of a mechanism by the commission. Any such mechanism shall set forth the specific terms of the recovery.

(C) If the commission authorizes recovery under this section, the company, upon the sale of the property described in division (A)(2) of this section, shall return to the company's customers the difference between the sale price of the property, minus any reasonable expenses related to the sale,

and the fair market value of the property prior to remediation.

(D) Divisions (A)(1) and (4) of section 4909.15 of the Revised Code do not preclude the recovery of environmental remediation costs as described in this section.

~~Sec. 4955.32. (A) Every company shall attach to each locomotive engine passing upon its railroad a bell of the ordinary size in use on such engines and a steam or compressed air whistle~~ As used in this section, "lite locomotive consist" means a consist of locomotives not attached to any piece of equipment or attached only to a caboose.

~~(B) When an engine~~ the locomotive in motion and the lead of a train, when a lite locomotive consist, or when an individual locomotive is approaching a turnpike, public highway, or street crossing or private a grade crossing where the view of such crossing is obstructed by embankment, trees, curve, or other obstruction to view, upon the same line with the crossing, and in like manner where the railroad crosses any other traveled place, by bridge or otherwise, either of the following shall occur:

~~(1) The engineer or person in charge of such engine~~ the locomotive shall sound such whistle at a distance of at least eighty and not further than one hundred rods from such crossing and ring such bell continuously until the engine passes the crossing the locomotive horn in accordance with 49 C.F.R. part 222;

~~(2) An alternative audible warning system approved by the public utilities commission under section 4955.321 of the Revised Code shall be activated in accordance with guidelines established by the public utilities commission.~~

~~(C) This section shall not interfere with the proper observance of an ordinance passed by the legislative authority of a municipal corporation regulating the management of railroads, locomotives, and steam whistles on locomotives, within the limits of such municipal corporation.~~

~~(D)~~ The establishment of an alternative audible warning system does not preclude the sounding of a whistle locomotive horn by an engineer or other person in charge of an engine a locomotive in an emergency situation, as determined by the sole judgment of the engineer or other person.

Sec. 4955.321. The public utilities commission may evaluate alternative systems for providing an audible warning of an approaching locomotive engine. The commission may approve the use of an audible warning system as an alternative to the whistle and bell horn sounding required under division (B)(1) of section 4955.32 of the Revised Code only if it determines that the alternative audible warning system complies with applicable federal requirements for an audible warning of an approaching train and only if

train-activated warning devices also are present at any public highway or grade crossing at which the alternative audible warning system is installed. The commission shall establish guidelines for the use and operation of any alternative audible warning system it approves.

Sec. 4955.322. The sounding of a locomotive horn at a private crossing or the failure to sound a locomotive horn at a private crossing is not a basis for a civil action against the railroad company that operated the locomotive, a board of county commissioners, or any local authority, or against the employees or agents of the company, board, or authority.

Sec. 4955.34. Every engineer or person in charge of ~~an engine a~~ locomotive who fails to comply with section 4955.32 of the Revised Code is personally liable to a penalty of not less than fifty nor more than one hundred dollars, to be recovered by civil action at the suit of the state in the court of common pleas of a county in which the public highway or grade crossing is located.

The company in whose employ such engineer or person in charge of ~~an engine a locomotive~~ is, as well as the engineer or person himself in charge, is liable in damages to a person or company injured in person or property by such neglect or act of such engineer or person in charge.

Sec. 4955.44. (A) On and after the date of first operation of a railroad quiet zone established pursuant to section 4955.42 of the Revised Code, divisions (B)(1) and (2) of section 4955.32 ~~and division (A)(2) of section 4999.04~~ of the Revised Code do not apply with respect to ~~a public or private grade crossing included in~~ the zone.

(B) The establishment of a railroad quiet zone pursuant to sections 4955.41 to 4955.47 of the Revised Code does not preclude the sounding of a locomotive whistle, horn, bell, or other audible device by an engineer or other person in charge of the locomotive to address a perceived potential for injury, death, or loss to person or property, as determined by the sole judgment of the engineer or other person.

(C) The commission may suspend summarily the operation of a quiet zone established pursuant to section 4955.42 of the Revised Code if the commission, through any source, obtains sufficient, credible evidence showing that a condition at a public grade crossing located within a quiet zone has changed to such an extent that, even with the continuing existence of the supplemental safety measures at the crossing, the quiet zone no longer qualifies as such under federal law or the commission determines that public safety is otherwise compromised at the crossing. Within fifteen days following the quiet zone suspension date described in this division, the commission shall hold a hearing in the general vicinity of the quiet zone in

question to determine whether the quiet zone suspension should be lifted or continued, or whether commission approval of the quiet zone should be rescinded and the quiet zone eliminated.

Sec. 4955.47. No railroad company and no employee or agent of the company shall be charged, or is liable in damages to person or property, for any failure to sound an audible warning by whistle, horn, bell, or other audible warning device at a ~~public or private~~ railroad grade crossing to which any of the following apply:

(A) The crossing is equipped in accordance with division (B)(2) of section 4955.32 of the Revised Code ~~or~~.

(B) The crossing is located in a railroad quiet zone established pursuant to section 4955.42 of the Revised Code ~~or~~.

(C) The crossing is located in a jurisdiction in which such sounding is restricted or prohibited by law.

Sec. 4999.04. (A) No person in charge of a locomotive shall ~~do the following:~~

~~(1) Fail~~ fail to bring the locomotive to a full stop at least two hundred feet before arriving at a crossing with another track, or proceed through the crossing before signaled to do so or before the way is clear;

~~(2) When approaching a grade crossing, fail to sound the locomotive whistle at frequent intervals, beginning not less than thirteen hundred twenty feet from such crossing and continuing until the locomotive has passed the crossing.~~

(B)(1) Whoever violates this section or fails to comply with division (B)(1) of section 4955.32 of the Revised Code is guilty of a misdemeanor of the fourth degree. If the violation of this section or failure to comply causes physical harm to any person, whoever violates this section or fails to comply with division (B)(1) of section 4955.32 of the Revised Code is guilty of a misdemeanor of the third degree.

(2) With respect to a charge of violating division (B)(1) of this section for a failure to comply with division (B)(1) of section 4955.32 of the Revised Code, it is an affirmative defense that an alternative audible warning system described in division (B)(2) of that section was activated.

Sec. 5101.01. (A) As used in the Revised Code, the "department of public welfare" and the "department of human services" mean the department of job and family services and the "director of public welfare" and the "director of human services" mean the director of job and family services. ~~Whenever~~ Except as provided in section 5160.011 of the Revised Code, whenever the department or director of public welfare or the department or director of human services is referred to or designated in any

statute, rule, contract, grant, or other document, the reference or designation shall be deemed to refer to the department or director of job and family services, as the case may be.

(B) As used in this chapter:

(1) References to a county department of job and family services include a joint county department of job and family services established under section 329.40 of the Revised Code.

(2) References to a board of county commissioners include the board of directors of a joint county department of job and family services established under section 329.40 of the Revised Code.

Sec. 5101.101. (A) This section establishes the order of priority to be followed by the department of job and family services when distributing funds for the purpose of providing family planning services, including funds the department receives through Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended, and funds the department receives through Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended, to be used for purposes of providing Title XX social services. This section does not apply to payments made under the medicaid program.

(B) With respect to each period during which funds from a particular source are distributed for the purpose of providing family planning services, the department is subject to both of the following when distributing the funds to applicants seeking those funds:

(1) Foremost priority shall be given to public entities that are operated by state or local government entities and that provide or are able to provide family planning services.

(2) If any funds remain after the department distributes funds to public entities under division (B)(1) of this section, the department may distribute funds to nonpublic entities. If funds are distributed to nonpublic entities, the department shall distribute the funds in the following order of descending priority:

(a) Nonpublic entities that are federally qualified health centers or federally qualified health center look-alikes, both as defined in section 3701.047 of the Revised Code, or community action agencies, as defined in section 122.66 of the Revised Code;

(b) Nonpublic entities that provide comprehensive primary and preventive care services in addition to family planning services;

(c) Nonpublic entities that provide family planning services, but do not provide comprehensive primary and preventive care services.

Sec. 5101.11. This section does not apply to contracts entered into under

~~section 5111.90 or 5111.91 of the Revised Code.~~

(A) As used in this section:

(1) "Entity" includes an agency, board, commission, or department of the state or a political subdivision of the state; a private, nonprofit entity; a school district; a private school; or a public or private institution of higher education.

(2) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing a program administered by the department of job and family services.

(B) At the request of any public entity having authority to implement a program administered by the department of job and family services or any private entity under contract with a public entity to implement a program administered by the department, the department may seek to obtain federal financial participation for costs incurred by the entity. Federal financial participation may be sought from programs operated pursuant to Title IV-A, of the "Social Security Act," 42 U.S.C. 601 et seq.; Title IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended 670 et seq.; the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); and any other statute or regulation under which federal financial participation may be available, except that federal financial participation may be sought only for expenditures made with funds for which federal financial participation is available under federal law.

(C) All funds collected by the department ~~of job and family services~~ pursuant to division (B) of this section shall be distributed to the entities that incurred the costs, except for any amounts retained by the department pursuant to division (D)(3) of this section.

(D) In distributing federal financial participation pursuant to this section, the department may either enter into an agreement with the entity that is to receive the funds or distribute the funds in accordance with rules adopted under division (F) of this section. If the department decides to enter into an agreement to distribute the funds, the agreement may include terms that do any of the following:

(1) Provide for the whole or partial reimbursement of any cost incurred by the entity in implementing the program;

(2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the department ~~of job and family services~~ or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures;

(3) Permit the department to retain not more than five per cent of the

amount of the federal financial participation to be distributed to the entity;

(4) Require the public entity to certify the availability of sufficient unencumbered funds to match the federal financial participation it receives under this section;

(5) Establish the length of the agreement, which may be for a fixed or a continuing period of time;

(6) Establish any other requirements determined by the department to be necessary for the efficient administration of the agreement.

(E) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department ~~of job and family services~~ for the use of the funds to improve and expand the program.

(F) The director of job and family services shall adopt rules as necessary to implement this section, including rules for the distribution of federal financial participation pursuant to this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The director may adopt or amend any statewide plan required by the federal government for a program administered by the department, as necessary to implement this section.

(G) Federal financial participation received pursuant to this section shall not be included in any calculation made under section 5101.16 or 5101.161 of the Revised Code.

Sec. 5101.141. (A) As used in sections 5101.141 to 5101.1410 of the Revised Code, "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended.

(B) The department of job and family services shall act as the single state agency to administer federal payments for foster care and adoption assistance made pursuant to Title IV-E. The director of job and family services shall adopt rules to implement this authority. Rules governing financial and administrative requirements applicable to public children services agencies and government entities that provide Title IV-E reimbursable placement services to children shall be adopted in accordance with section 111.15 of the Revised Code, as if they were internal management rules. Rules governing requirements applicable to private child placing agencies and private noncustodial agencies and rules establishing eligibility, program participation, and other requirements concerning Title IV-E shall be adopted in accordance with Chapter 119. of the Revised Code. A public children services agency to which the department distributes Title IV-E funds shall administer the funds in accordance with those rules.

(C)(1) The county, on behalf of each child eligible for foster care

maintenance payments under Title IV-E, shall make payments to cover the cost of providing all of the following:

(a) The child's food, clothing, shelter, daily supervision, and school supplies;

(b) The child's personal incidentals;

(c) Reasonable travel to the child's home for visitation.

(2) In addition to payments made under division (C)(1) of this section, the county may, on behalf of each child eligible for foster care maintenance payments under Title IV-E, make payments to cover the cost of providing the following:

(a) Liability insurance with respect to the child;

(b) If the county is participating in the demonstration project established under division (A) of section 5101.142 of the Revised Code, services provided under the project.

(3) With respect to a child who is in a child-care institution, including any type of group home designed for the care of children or any privately operated program consisting of two or more certified foster homes operated by a common administrative unit, the foster care maintenance payments made by the county on behalf of the child shall include the reasonable cost of the administration and operation of the institution, group home, or program, as necessary to provide the items described in divisions (C)(1) and (2) of this section.

(D) To the extent that either foster care maintenance payments under division (C) of this section or Title IV-E adoption assistance payments for maintenance costs require the expenditure of county funds, the board of county commissioners shall report the nature and amount of each expenditure of county funds to the department.

(E) The department shall distribute to public children services agencies that incur and report expenditures of the type described in division (D) of this section federal financial participation received for administrative and training costs incurred in the operation of foster care maintenance and adoption assistance programs. The department may withhold not more than three per cent of the federal financial participation received. The funds withheld may be used only to fund the following:

(1) The Ohio child welfare training program established under section 5103.30 of the Revised Code;

(2) The university partnership program for college and university students majoring in social work who have committed to work for a public children services agency upon graduation;

(3) Efforts supporting organizational excellence, including voluntary

activities to be accredited by a nationally recognized accreditation organization.

The funds withheld shall be in addition to any administration and training cost for which the department is reimbursed through its own cost allocation plan.

(F) All federal financial participation funds received by a county pursuant to this section shall be deposited into the county's children services fund created pursuant to section 5101.144 of the Revised Code.

(G) The department shall periodically publish and distribute the maximum amounts that the department will reimburse public children services agencies for making payments on behalf of children eligible for foster care maintenance payments.

(H) The department, by and through its director, is hereby authorized to develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with agencies of any other states, for the provision of ~~medical assistance and other~~ social services to children in relation to whom all of the following apply:

(1) They have special needs.

(2) This state or another state that is a party to the interstate compact is providing adoption assistance on their behalf.

(3) They move into this state from another state or move out of this state to another state.

Sec. 5101.16. (A) As used in this section and sections 5101.161 and 5101.162 of the Revised Code:

(1) "Disability financial assistance" means the financial assistance program established under Chapter 5115. of the Revised Code.

(2) "Supplemental nutrition assistance program" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

~~(3) "Medicaid" means the medical assistance program established by Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.~~

~~(4) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.~~

~~(5)~~(4) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

~~(6)~~(5) "Public assistance expenditures" means expenditures for all of the following:

(a) Ohio works first;

(b) County administration of Ohio works first;

- (c) Prevention, retention, and contingency;
- (d) County administration of prevention, retention, and contingency;
- (e) Disability financial assistance;
- (f) County administration of disability financial assistance;
- (g) County administration of the supplemental nutrition assistance program;
- (h) County administration of medicaid, excluding administrative expenditures for transportation services covered by the medicaid program.

(7) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and county administration of that program during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of the supplemental nutrition assistance program and medicaid (excluding administrative expenditures for transportation services covered by the medicaid program) during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;

(3) A percentage of the actual amount of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of the county share from expenditure reports submitted to the United States department of health and human services. The percentage shall be the percentage established in rules adopted under division (F) of this section.

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred five per cent of the county's share for those expenditures for the immediately

preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred five per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to section 5101.163 of the Revised Code and a sanction under section 5101.24 of the Revised Code. An increase made pursuant to section 5101.163 of the Revised Code may cause the county's share to exceed the limit established by division (C)(1) of this section.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the ~~department of~~ development services agency.

(2) If the percentage of families in a county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state and division (D)(1) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the percentage of families in the state with an annual income of less than three thousand dollars a year and the denominator is the percentage of such families in the county. The department of job and family services shall compute the percentage of families with an annual income of less than three thousand dollars for the state and for each county by multiplying the most recent estimate of such families published by the ~~department of~~ development services agency, by a fraction, the numerator of which is the estimate of average annual personal income published by the bureau of economic analysis of the United States department of commerce for the year on which the census estimate is based and the denominator of which is the most recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater

than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of the supplemental nutrition assistance program and medicaid (excluding administrative expenditures for transportation services covered by the medicaid program) that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

(a) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(b) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

(c) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

(d) The percentage to be used for the purpose of division (B)(3) of this section, which shall, except as provided in section 5101.163 of the Revised Code, meet both of the following requirements:

(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent;

(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7).

(e) Other procedures and requirements necessary to implement this section.

(2) The director of job and family services may amend the rule adopted

under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management.

Sec. 5101.162. Subject to available federal funds and appropriations made by the general assembly, the department of job and family services may, at its sole discretion, use available federal funds to reimburse county expenditures for county administration of the supplemental nutrition assistance program or medicaid (excluding administrative expenditures for transportation services covered by the medicaid program) even though the county expenditures meet or exceed the maximum allowable reimbursement amount established by rules adopted under section 5101.161 of the Revised Code. The director of job and family services may adopt internal management rules in accordance with section 111.15 of the Revised Code to implement this section.

Sec. 5101.18. ~~(A)~~ When the director of job and family services adopts rules under section 5107.05 regarding income requirements for the Ohio works first program and under section 5115.03 of the Revised Code regarding income and resource requirements for the disability financial assistance program, the director shall determine what payments shall be regarded or disregarded. In making this determination, the director shall consider:

- ~~(1)~~(A) The source of the payment;
- ~~(2)~~(B) The amount of the payment;
- ~~(3)~~(C) The purpose for which the payment was made;
- ~~(4)~~(D) Whether regarding the payment as income would be in the public interest;

~~(5)~~(E) Whether treating the payment as income would be detrimental to any of the programs administered in whole or in part by the department of job and family services and whether such determination would jeopardize the receipt of any federal grant or payment by the state or any receipt of aid under Chapter 5107. of the Revised Code.

~~(B) Any recipient of aid under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, whose money payment is discontinued as the result of a general increase in old age, survivors, and disability insurance benefits under such act, shall remain a recipient for the purpose of receiving medical assistance through the medical assistance program established under section 5111.01 of the Revised Code.~~

Sec. 5101.181. (A) As used in this section and section 5101.182 of the

Revised Code:

~~(1) "Public, "public~~ assistance" means any or all of the following:

~~(a)(1)~~ Ohio works first;

~~(b)(2)~~ Prevention, retention, and contingency;

~~(c)(3)~~ Disability financial assistance;

~~(d)(4)~~ General assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.

~~(2) "Medical assistance" means medical assistance provided pursuant to, or under programs established by, section 5101.49, sections 5101.50 to 5101.529, Chapter 5111., or any other provision of the Revised Code.~~

(B) As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5108., or 5115. of the Revised Code, the director of job and family services may furnish quarterly the name and social security number of each individual who receives public assistance to the director of administrative services, the administrator of the bureau of workers' compensation, and each of the state's retirement boards. Within fourteen days after receiving the name and social security number of an individual who receives public assistance, the director of administrative services, administrator, or board shall inform the auditor of state as to whether such individual is receiving wages or benefits, the amount of any wages or benefits being received, the social security number, and the address of the individual. The director of administrative services, administrator, boards, and any agent or employee of those officials and boards shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names, current or most recent addresses, or social security numbers of persons receiving public assistance under Title IV-A of the "Social Security Act," ~~49 Stat. 620 (1935), 42 U.S.C. 301, as amended 601 et seq.~~

(D) The auditor of state shall retain, for not less than two years, at least one copy of all information received under this section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 5101.182, and 5505.04 of the Revised Code.

~~(E) On the request of the director of job and family services, the auditor~~

~~of state may conduct an audit of an individual who receives medical assistance. If the auditor decides to conduct an audit, the auditor shall enter into an interagency agreement with the department of job and family services that specifies that the auditor agrees to comply with section 5101.271 of the Revised Code with respect to any information the auditor receives pursuant to the audit.~~

(F) The auditor shall review the information described in division (D) of this section to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services, the attorney general, and the county director of job and family services and county prosecutor of the county through which public assistance was received.

~~(G)~~(F) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with ~~sections section 5101.27 and 5101.271~~ of the Revised Code and ~~adopts~~ rules ~~of adopted by~~ the director of job and family services restricting the disclosure of information regarding recipients of public assistance ~~or medical assistance~~. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

~~(H)~~(G) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this section shall be borne by the auditor of state.

Sec. 5101.183. (A) ~~Except as provided in section 5111.12 of the Revised Code, the~~ The director of job and family services, in accordance with section 111.15 of the Revised Code, may adopt rules under which county family services agencies shall take action to recover the cost of the following benefits and services available under programs administered by the department of job and family services:

(1) Benefits or services provided to any of the following:

(a) Persons who were not eligible for the benefits or services but who secured the benefits or services through fraud or misrepresentation;

(b) Persons who were eligible for the benefits or services but who intentionally diverted the benefits or services to other persons who were not eligible for the benefits or services.

(2) Any benefits or services provided by a county family services agency for which recovery is required or permitted by federal law for the federal programs administered by the agency.

(B) A county family services agency may bring a civil action against a recipient of benefits or services to recover any costs described in division (A) of this section.

(C) A county family services agency shall retain any money it recovers under division (A) of this section and shall use the money to meet a family services duty, except that, if federal law requires the department of job and family services to return any portion of the money so recovered to the federal government, the county family services agency shall pay that portion to the department of job and family services.

Sec. 5101.184. (A) The director of job and family services shall work with the tax commissioner to collect overpayments of assistance under Chapter 5107., ~~5111.~~, or 5115., former Chapter 5113., or section 5101.54 of the Revised Code from refunds of state income taxes for taxable year 1992 and thereafter that are payable to the recipients of such overpayments.

Any overpayment of assistance, whether obtained by fraud or misrepresentation, as the result of an error by the recipient or by the agency making the payment, or in any other manner, may be collected under this section. Any reduction under section 5747.12 or 5747.121 of the Revised Code to an income tax refund shall be made before a reduction under this section. No reduction shall be made under this section if the amount of the refund is less than twenty-five dollars after any reduction under section 5747.12 of the Revised Code. A reduction under this section shall be made before any part of the refund is contributed under section 5747.113 of the Revised Code, or is credited under section 5747.12 of the Revised Code against tax due in any subsequent year.

The director and the tax commissioner, by rules adopted in accordance with Chapter 119. of the Revised Code, shall establish procedures to implement this division. The procedures shall provide for notice to a recipient of assistance and an opportunity for the recipient to be heard before the recipient's income tax refund is reduced.

(B) The director of job and family services may enter into agreements with the federal government to collect overpayments of assistance from refunds of federal income taxes that are payable to recipients of the overpayments.

Sec. 5101.26. As used in this section and in sections 5101.27 to 5101.30 of the Revised Code:

(A) "County agency" means a county department of job and family services or a public children services agency.

(B) "Fugitive felon" means an individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing or, in the case of New Jersey, a high misdemeanor, regardless of whether the individual has departed from the individual's usual place of residence.

(C) "Information" means records as defined in section 149.011 of the Revised Code, any other documents in any format, and data derived from records and documents that are generated, acquired, or maintained by the department of job and family services, a county agency, or an entity performing duties on behalf of the department or a county agency.

(D) "Law enforcement agency" means the state highway patrol, an agency that employs peace officers as defined in section 109.71 of the Revised Code, the adult parole authority, a county department of probation, a prosecuting attorney, the attorney general, similar agencies of other states, federal law enforcement agencies, and postal inspectors. "Law enforcement agency" includes the peace officers and other law enforcement officers employed by the agency.

~~(E) "Medical assistance" means medical assistance provided pursuant to, or under programs established by, section 5101.49, sections 5101.50 to 5101.529, Chapter 5111., or any other provision of the Revised Code.~~

~~(F) "Medical assistance recipient" means an applicant for or recipient or former recipient of medical assistance.~~

(G) "Public assistance" means financial assistance or social services that are ~~not medical assistance~~ provided under a program administered by the department of job and family services or a county agency pursuant to Chapter 329., 5101., 5104., 5107., 5108., or 5115. of the Revised Code or an executive order issued under section 107.17 of the Revised Code. "Public assistance" does not mean medical assistance provided under a medical assistance program, as defined in section 5160.01 of the Revised Code.

~~(H)~~(F) "Public assistance recipient" means an applicant for or recipient or former recipient of public assistance.

Sec. 5101.272. (A) For the purposes of ~~sections~~ section 5101.27 ~~and 5101.271~~ of the Revised Code, an authorization shall be made on a form that uses language understandable to the average person and contains all of the

following:

(1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;

(2) The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure;

(3) The name or other specific identification of the person or governmental entity to which the information may be released;

(4) A description of each purpose of the requested use or disclosure of the information;

(5) The date on which the authorization expires or an event related either to the individual who is the subject of the request or to the purposes of the requested use or disclosure, the occurrence of which will cause the authorization to expire;

(6) A statement that the information used or disclosed pursuant to the authorization may be disclosed by the recipient of the information and may no longer be protected from disclosure;

(7) The signature of the individual or the individual's authorized representative and the date on which the authorization was signed;

(8) If signed by an authorized representative, a description of the representative's authority to act for the individual;

(9) A statement of the individual or authorized representative's right to prospectively revoke the written authorization in writing, along with one of the following:

(a) A description of how the individual or authorized representative may revoke the authorization;

(b) If the department of job and family services' privacy notice contains a description of how the individual or authorized representative may revoke the authorization, a reference to that privacy notice.

(10) A statement that treatment, payment, enrollment, or eligibility for public assistance ~~or medical assistance~~ cannot be conditioned on signing the authorization unless the authorization is necessary for determining eligibility for the public assistance ~~or medical assistance~~ program.

~~(B) An authorization for the release of information regarding a medical assistance recipient to the recipient's attorney under division (C)(3) of section 5101.271 of the Revised Code may include a provision specifically authorizing the release of the recipient's electronic health records, if any, in accordance with rules the director of job and family services adopts under section 5101.30 of the Revised Code.~~

~~(C) When an individual requests information pursuant to section 5101.27 or 5101.271 of the Revised Code regarding the individual's receipt~~

of public assistance ~~or medical assistance~~ and does not wish to provide a statement of purpose, the statement "at request of the individual" is a sufficient description for purposes of division (A)(4) of this section.

Sec. 5101.273. The department of job and family services shall enter into any necessary agreements with the United States department of health and human services and neighboring states to join and participate as an active member in the public assistance reporting information system. The department may disclose information regarding a public assistance recipient ~~or medical assistance recipient~~ to the extent necessary to participate as an active member in the public assistance reporting information system.

Sec. 5101.30. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code implementing sections 5101.26 to 5101.30 of the Revised Code and governing the custody, use, disclosure, and preservation of the information generated or received by the department of job and family services, county agencies, other state and county entities, contractors, grantees, private entities, or officials participating in the administration of public assistance ~~or medical assistance~~ programs. The rules shall comply with applicable federal statutes and regulations.

(1) The rules shall specify conditions and procedures for the release of information which may include, among other conditions and procedures, both of the following:

(a) Permitting providers of services or assistance under public assistance programs limited access to information that is essential for the providers to render services or assistance or to bill for services or assistance rendered. The department of aging, when investigating a complaint under section 173.20 of the Revised Code, shall be granted any limited access permitted in the rules pursuant to division (A)(1) of this section.

(b) Permitting a contractor, grantee, or other state or county entity limited access to information that is essential for the contractor, grantee, or entity to perform administrative or other duties on behalf of the department or county agency. A contractor, grantee, or entity given access to information pursuant to division (A)(2) of this section is bound by the director's rules, and disclosure of the information by the contractor, grantee, or entity in a manner not authorized by the rules is a violation of section 5101.27 of the Revised Code.

(2) The rules may define who is an "authorized representative" for purposes of sections 5101.27, ~~5101.271~~, and 5101.272 of the Revised Code.

(B) Whenever names, addresses, or other information relating to public assistance recipients is held by any agency other than the department or a

county agency, that other agency shall adopt rules consistent with sections 5101.26 to 5101.30 of the Revised Code to prevent the publication or disclosure of names, lists, or other information concerning those recipients.

Sec. 5101.34. (A) There is hereby created in the department of job and family services the Ohio commission on fatherhood. The commission shall consist of the following members:

(1)(a) Four members of the house of representatives appointed by the speaker of the house, not more than two of whom are members of the same political party. Two of the members must be from legislative districts that include a county or part of a county that is among the one-third of counties in this state with the highest number per capita of households headed by females.

(b) Two members of the senate appointed by the president of the senate, each from a different political party. One of the members must be from a legislative district that includes a county or part of a county that is among the one-third of counties in this state with the highest number per capita of households headed by females.

(2) The governor, or the governor's designee;

(3) One representative of the judicial branch of government appointed by the chief justice of the supreme court;

(4) The directors of health, job and family services, rehabilitation and correction, ~~alcohol and drug addiction services~~ mental health and addiction services, and youth services and the superintendent of public instruction, or their designees;

(5) One representative of the Ohio family and children first cabinet council created under section 121.37 of the Revised Code appointed by the chairperson of the council;

(6) Five representatives of the general public appointed by the governor. These members shall have extensive experience in issues related to fatherhood.

(B) The appointing authorities of the Ohio commission on fatherhood shall make initial appointments to the commission within thirty days after September 29, 1999. Of the initial appointments to the commission made pursuant to divisions (A)(3), (5), and (6) of this section, three of the members shall serve a term of one year and four shall serve a term of two years. Members so appointed subsequently shall serve two-year terms. A member appointed pursuant to division (A)(1) of this section shall serve on the commission until the end of the general assembly from which the member was appointed or until the member ceases to serve in the chamber of the general assembly in which the member serves at the time of

appointment, whichever occurs first. The governor or the governor's designee shall serve on the commission until the governor ceases to be governor. The directors and superintendent or their designees shall serve on the commission until they cease, or the director or superintendent a designee represents ceases, to be director or superintendent. Each member shall serve on the commission from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed.

Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall serve on the commission for the remainder of that term. A member shall continue to serve on the commission subsequent to the expiration date of the member's term until the member's successor is appointed or until a period of sixty days has elapsed, whichever occurs first. Members shall serve without compensation but shall be reimbursed for necessary expenses.

Sec. 5101.35. (A) As used in this section:

(1)(a) "Agency" means the following entities that administer a family services program:

- ~~(a)~~(i) The department of job and family services;
- ~~(b)~~(ii) A county department of job and family services;
- ~~(c)~~(iii) A public children services agency;
- ~~(d)~~(iv) A private or government entity administering, in whole or in part, a family services program for or on behalf of the department of job and family services or a county department of job and family services or public children services agency.

(b) If the department of medicaid contracts with the department of job and family services to hear appeals authorized by section 5160.31 of the Revised Code regarding medical assistance programs, "agency" includes the department of medicaid.

(2) "Appellant" means an applicant, participant, former participant, recipient, or former recipient of a family services program who is entitled by federal or state law to a hearing regarding a decision or order of the agency that administers the program.

(3)(a) "Family services program" means ~~assistance provided under a~~ all of the following:

(i) A Title IV-A program as defined in section 5101.80 of the Revised Code ~~or;~~

(ii) Programs that provide assistance under Chapter 5104., ~~5111.~~, or 5115. ~~or of the Revised Code;~~

(iii) Programs that provide assistance under section 5119.69, 5101.141, 5101.46, 5101.461, 5101.54, 5119.41, 5153.163, or 5153.165 of the Revised Code;

(iv) Title XX social services provided under section 5101.46 of the Revised Code, other than assistance such services provided under section 5101.46 of the Revised Code by the department of mental health and addiction services, the department of developmental disabilities, a board of alcohol, drug addiction, and mental health services, or a county board of developmental disabilities.

(b) If the department of medicaid contracts with the department of job and family services to hear appeals authorized by section 5160.31 of the Revised Code regarding medical assistance programs, "family services program" includes medical assistance programs.

(4) "Medical assistance program" has the same meaning as in section 5160.01 of the Revised Code.

(B) Except as provided by divisions (G) and (H) of this section, an appellant who appeals under federal or state law a decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be recorded, but neither the recording nor a transcript of the recording shall be part of the official record of the proceeding. ~~A~~ Except as provided in section 5160.31 of the Revised Code, a state hearing decision is binding upon the agency and department, unless it is reversed or modified on appeal to the director of job and family services or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. An administrative appeal decision is the final decision of the department and, except as provided in section 5160.31 of the Revised Code, is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

(D) An agency shall comply with a decision issued pursuant to division (B) or (C) of this section within the time limits established by rules adopted under this section. If a county department of job and family services or a public children services agency fails to comply within these time limits, the

department may take action pursuant to section 5101.24 of the Revised Code. If another agency, other than the department of medicaid, fails to comply within the time limits, the department may force compliance by withholding funds due the agency or imposing another sanction established by rules adopted under this section.

(E) An appellant who disagrees with an administrative appeal decision of the director of job and family services or the director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:

(1) The person may appeal to the court of common pleas of the county in which the person resides, or to the court of common pleas of Franklin county if the person does not reside in this state.

(2) The person may apply to the court for designation as an indigent and, if the court grants this application, the appellant shall not be required to furnish the costs of the appeal.

(3) The appellant shall mail the notice of appeal to the department of job and family services and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court.

(4) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued.

(F) The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules governing the following:

(1) State hearings under division (B) of this section. The rules shall include provisions regarding notice of eligibility termination and the opportunity of an appellant appealing a decision or order of a county department of job and family services to request a county conference with the county department before the state hearing is held.

(2) Administrative appeals under division (C) of this section;

(3) Time limits for complying with a decision issued under division (B) or (C) of this section;

(4) Sanctions that may be applied against an agency under division (D) of this section.

(G) The department of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code establishing an appeals process for an appellant who appeals a decision or order regarding a Title IV-A program identified under division (A)(4)(c), (d), (e), ~~or (f)~~, or (g) of section 5101.80 of the Revised Code that is different from the appeals process established by this section. The different appeals process may include having a state agency that administers the Title IV-A program pursuant to an interagency agreement entered into under section 5101.801 of the Revised Code administer the appeals process.

(H) If an appellant receiving medicaid through a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code is appealing a denial of medicaid services based on lack of medical necessity or other clinical issues regarding coverage by the health insuring corporation, the person hearing the appeal may order an independent medical review if that person determines that a review is necessary. The review shall be performed by a health care professional with appropriate clinical expertise in treating the recipient's condition or disease. The department shall pay the costs associated with the review.

A review ordered under this division shall be part of the record of the hearing and shall be given appropriate evidentiary consideration by the person hearing the appeal.

(I) The requirements of Chapter 119. of the Revised Code apply to a state hearing or administrative appeal under this section only to the extent, if any, specifically provided by rules adopted under this section.

Sec. 5101.36. Any application for public assistance gives a right of subrogation to the department of job and family services for any workers' compensation benefits payable to a person who is subject to a support order, as defined in section 3119.01 of the Revised Code, on behalf of the applicant, to the extent of any public assistance payments made on the applicant's behalf. If the director of job and family services, in consultation with a child support enforcement agency and the administrator of the bureau of workers' compensation, determines that a person responsible for support payments to a recipient of public assistance is receiving workers' compensation, the director shall notify the administrator of the amount of the benefit to be paid to the department of job and family services.

For purposes of this section, "public assistance" means ~~medical~~

~~assistance provided through the medical assistance program established under section 5111.01 of the Revised Code;~~ Ohio works first provided under Chapter 5107. of the Revised Code; prevention, retention, and contingency benefits and services provided under Chapter 5108. of the Revised Code; or disability financial assistance provided under Chapter 5115. of the Revised Code.

Sec. 5101.46. (A) As used in this section:

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.

(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of ~~mental health~~ mental health and addiction services, a board of alcohol, drug addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities.

(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(B) The departments of job and family services, mental health, and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(C)(1) All federal funds received under Title XX shall be appropriated

as follows:

(a) Seventy-two and one-half per cent to the department of job and family services;

(b) Twelve and ninety-three one-hundredths per cent to the department of ~~mental health~~ mental health and addiction services;

(c) Fourteen and fifty-seven one-hundredths per cent to the department of developmental disabilities.

(2) Each of the state departments shall, subject to the approval of the controlling board, develop a formula for the distribution of the Title XX funds appropriated to the department to its respective local agencies. The formula developed by each state department shall take into account all of the following for each of its respective local agencies:

(a) The total population of the area that is served by the respective local agency;

(b) The percentage of the population in the area served that falls below the federal poverty guidelines;

(c) The respective local agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend for state administrative costs not more than three per cent of the Title XX funds appropriated to the department.

Each state department shall establish for each of its respective local agencies the maximum percentage of the Title XX funds distributed to the respective local agency that the respective local agency may expend for local administrative costs. The percentage shall be established by rule and shall comply with federal law governing the use of Title XX funds. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

(4) The department of job and family services shall expend for the training of the following not more than two per cent of the Title XX funds appropriated to the department:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services.

(5) Title XX funds distributed for the purpose of providing family planning services shall be distributed by the respective local agencies according to the same order of priority that applies to the department of job and family services under section 5101.101 of the Revised Code.

(D) The department of job and family services shall prepare an annual comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each federal fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of ~~mental health~~ mental health and addiction services and developmental disabilities shall prepare and submit to the department of job and family services the portions of each annual plan and report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of annual plans and reports.

(E) Each county department of job and family services shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or respective local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local

agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit that are the responsibility of the provider.

(G) Except with respect to the matters for which each of the state departments must adopt rules under division (C)(3) of this section, the department of job and family services may adopt any rules it considers necessary to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5101.461. (A) As used in this section:

(1) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

(2) "Title XX" has the same meaning as in section 5101.46 of the Revised Code.

(B) To the extent authorized by federal law, the department of job and family services may use funds received through the Title IV-A temporary assistance for needy families block grant for purposes of providing Title XX social services. The amount used under this section shall not exceed the maximum amount permitted by federal law. The funds and provision of Title XX social services with the funds are not subject to section 5101.46 of the Revised Code.

Funds distributed under this section for the purpose of providing family planning services shall be distributed by a county department of job and family services according to the same order of priority that applies to the department of job and family services under section 5101.101 of the Revised Code.

(C) The department and any county department of job and family services may require an entity under contract to provide Title XX social services with funds used under this section to submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or county department for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the state

department or county department the amount of the adverse findings. The amount shall not be reimbursed with funds received under this section. The state department and county departments may terminate or refuse to enter into a contract with a social services provider to provide services with funds available pursuant to this section if there are adverse findings in an audit that are the responsibility of the provider.

(D) The state department of job and family services may adopt rules to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5101.47. (A) Except as provided in divisions (B) and (C) of this section, the department of job and family services may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for one or more of the following:

(1) ~~The medicaid program established by Chapter 5111. of the Revised Code;~~

~~(2) The children's health insurance program parts I, II, and III provided for under sections 5101.50 to 5101.529 of the Revised Code;~~

(3) Publicly funded child care provided under Chapter 5104. of the Revised Code;

~~(4)~~(2) The supplemental nutrition assistance program administered by the department pursuant to section 5101.54 of the Revised Code;

~~(5)~~(3) Other programs administered by the department that the director of job and family services determines are supportive of children, adults, or families;

~~(6)~~(4) Other programs administered by the department regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities.

~~(B) To the extent permitted by federal law, the department may enter into agreements with one or more other state agencies, local government entities, or political subdivisions to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities on behalf of the department with respect to the medicaid program and the children's health insurance program.~~

~~(E)~~ If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services.

~~(D)~~(C) Subject to division ~~(E)~~(B) of this section, if the department elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply:

(1) An individual seeking services under the program may apply for the program to the department or to the entity that state law governing the program authorizes to accept applications for the program.

(2) The department is subject to federal statutes and regulations and state statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program.

~~(E)~~(D) The director may adopt rules as necessary to implement this section.

Sec. 5101.49. The department of job and family services shall administer funds received under the "Refugee Act of 1980," 94 Stat. 102, 8 U.S.C.A. 1521, as amended. In administering the funds, the department may establish a refugee cash assistance program and a state legalization impact assistance program. The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code and issue appropriate orders as necessary for administration of these funds and programs.

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. An "independent living arrangement" includes a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, but does not include other

institutions or facilities licensed by the state or facilities in which a person resides as a result of voluntary, civil, or criminal commitment.

(C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction.

(D) "Court" means the probate court in the county where an adult resides.

(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(F) "Emergency services" means protective services furnished to an adult in an emergency.

(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain.

(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.

(I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult

who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

Sec. 5101.61. (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;

(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory committee of professional personnel, including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;

(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(e) Maintains clinical records on all patients;

(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty

at all times of clinical operations;

(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;

(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of ~~alcohol and drug addiction services~~ mental health and addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.

(3) "Community mental health facility" means a facility which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.

(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.

(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:

(a) Is primarily engaged in providing home health services;

(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;

(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;

(d) Maintains comprehensive records on all patients;

(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home:

(a) Nursing care provided by or under the supervision of a registered professional nurse;

(b) Physical, occupational, or speech therapy ordered by the patient's attending physician;

(c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician;

(d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse;

(e) Medical supplies and the use of medical appliances;

(f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;

(g) Any of the foregoing items and services which:

(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;

(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment.

Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, member of the clergy, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.

(B) Any person having reasonable cause to believe that an adult has

suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;

(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;

(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this section.

(F) Neither the written or oral report provided for in this section nor the investigatory report provided for in section 5101.62 of the Revised Code shall be considered a public record as defined in section 149.43 of the Revised Code. Information contained in the report shall upon request be made available to the adult who is the subject of the report, to agencies authorized by the department to receive information contained in the report, and to legal counsel for the adult.

Sec. 5101.80. (A) As used in this section and in section 5101.801 of the Revised Code:

(1) "County family services agency" has the same meaning as in section 307.981 of the Revised Code.

(2) "State agency" has the same meaning as in section 9.82 of the Revised Code.

(3) "Title IV-A administrative agency" means both of the following:

(a) A county family services agency or state agency administering a Title IV-A program under the supervision of the department of job and family services;

(b) A government agency or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program created under section 5101.803 of the Revised Code.

(4) "Title IV-A program" means all of the following that are funded in part with funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended:

(a) The Ohio works first program established under Chapter 5107. of the Revised Code;

(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;

(c) A program established by the general assembly or an executive order issued by the governor that is administered or supervised by the department of job and family services pursuant to section 5101.801 of the Revised Code;

(d) The kinship permanency incentive program created under section 5101.802 of the Revised Code;

(e) The Title IV-A demonstration program created under section 5101.803 of the Revised Code;

(f) The Ohio parenting and pregnancy program created under section 5101.804 of the Revised Code;

(g) A component of a Title IV-A program identified under divisions (A)(4)(a) to ~~(e)(f)~~ of this section that the Title IV-A state plan prepared under division (C)(1) of this section identifies as a component.

(B) The department of job and family services shall act as the single state agency to administer and supervise the administration of Title IV-A programs. The Title IV-A state plan and amendments to the plan prepared under division (C) of this section are binding on Title IV-A administrative agencies. No Title IV-A administrative agency may establish, by rule or otherwise, a policy governing a Title IV-A program that is inconsistent with a Title IV-A program policy established, in rule or otherwise, by the director of job and family services.

(C) The department of job and family services shall do all of the following:

(1) Prepare and submit to the United States secretary of health and

human services a Title IV-A state plan for Title IV-A programs;

(2) Prepare and submit to the United States secretary of health and human services amendments to the Title IV-A state plan that the department determines necessary, including amendments necessary to implement Title IV-A programs identified in divisions (A)(4)(c) to ~~(f)~~(g) of this section;

(3) Prescribe forms for applications, certificates, reports, records, and accounts of Title IV-A administrative agencies, and other matters related to Title IV-A programs;

(4) Make such reports, in such form and containing such information as the department may find necessary to assure the correctness and verification of such reports, regarding Title IV-A programs;

(5) Require reports and information from each Title IV-A administrative agency as may be necessary or advisable regarding a Title IV-A program;

(6) Afford a fair hearing in accordance with section 5101.35 of the Revised Code to any applicant for, or participant or former participant of, a Title IV-A program aggrieved by a decision regarding the program;

(7) Administer and expend, pursuant to Chapters 5104., 5107., and 5108. of the Revised Code and sections 5101.801, 5101.802, ~~and~~ 5101.803, and 5101.804 of the Revised Code, any sums appropriated by the general assembly for the purpose of those chapters and sections and all sums paid to the state by the secretary of the treasury of the United States as authorized by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended;

(8) Conduct investigations and audits as are necessary regarding Title IV-A programs;

(9) Enter into reciprocal agreements with other states relative to the provision of Ohio works first and prevention, retention, and contingency to residents and nonresidents;

(10) Contract with a private entity to conduct an independent on-going evaluation of the Ohio works first program and the prevention, retention, and contingency program. The contract must require the private entity to do all of the following:

(a) Examine issues of process, practice, impact, and outcomes;

(b) Study former participants of Ohio works first who have not participated in Ohio works first for at least one year to determine whether they are employed, the type of employment in which they are engaged, the amount of compensation they are receiving, whether their employer provides health insurance, whether and how often they have received benefits or services under the prevention, retention, and contingency program, and whether they are successfully self sufficient;

(c) Provide the department with reports at times the department specifies.

(11) Not later than the last day of each January and July, prepare a report containing information on the following:

(a) Individuals exhausting the time limits for participation in Ohio works first set forth in section 5107.18 of the Revised Code.

(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption.

(D) The department shall provide copies of the reports it receives under division (C)(10) of this section and prepares under division (C)(11) of this section to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The department shall provide copies of the reports to any private or government entity on request.

(E) An authorized representative of the department or a county family services agency or state agency administering a Title IV-A program shall have access to all records and information bearing thereon for the purposes of investigations conducted pursuant to this section. An authorized representative of a government entity or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program shall have access to all records and information bearing on the project for the purpose of investigations conducted pursuant to this section.

Sec. 5101.801. (A) Except as otherwise provided by the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program, a Title IV-A program identified under division (A)(4)(c), (d), (e), ~~or (f)~~, or (g) of section 5101.80 of the Revised Code shall provide benefits and services that are not "assistance" as defined in 45 C.F.R. 260.31(a) and are benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance.

(B)(1) Except as otherwise provided by the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program, the department of job and family services shall do either of the following regarding a Title IV-A program identified under division (A)(4)(c), (d), (e), ~~or (f)~~, or (g) of section 5101.80 of the Revised Code:

(a) Administer the program or supervise a county family services agency's administration of the program;

(b) Enter into an interagency agreement with a state agency for the state agency to administer the program under the department's supervision.

(2) The department may enter into an agreement with a government

entity and, to the extent permitted by federal law, a private, not-for-profit entity for the entity to receive funding for a project under the Title IV-A demonstration program created under section 5101.803 of the Revised Code.

(3) To the extent permitted by federal law, the department may enter into an agreement with a private, not-for-profit entity for the entity to receive funds under the Ohio parenting and pregnancy program created under section 5101.804 of the Revised Code.

(C) The department may adopt rules governing Title IV-A programs identified under divisions (A)(4)(c), (d), (e), ~~and~~ (f), and (g) of section 5101.80 of the Revised Code. Rules governing financial and operational matters of the department or between the department and county family services agencies shall be adopted as internal management rules adopted in accordance with section 111.15 of the Revised Code. All other rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(D) If the department enters into an agreement regarding a Title IV-A program identified under division (A)(4)(c), (e), ~~or~~ (f), or (g) of section 5101.80 of the Revised Code pursuant to division (B)(1)(b) or (2) of this section, the agreement shall include at least all of the following:

(1) A requirement that the state agency or entity comply with the requirements for the program or project, including all of the following requirements established by federal statutes and regulations, state statutes and rules, the United States office of management and budget, and the Title IV-A state plan prepared under section 5101.80 of the Revised Code:

- (a) Eligibility;
- (b) Reports;
- (c) Benefits and services;
- (d) Use of funds;
- (e) Appeals for applicants for, and recipients and former recipients of, the benefits and services;
- (f) Audits.

(2) A complete description of all of the following:

- (a) The benefits and services that the program or project is to provide;
- (b) The methods of program or project administration;
- (c) The appeals process under section 5101.35 of the Revised Code for applicants for, and recipients and former recipients of, the program or project's benefits and services;
- (d) Other requirements that the department requires be included.

(3) Procedures for the department to approve a policy, established by rule or otherwise, that the state agency or entity establishes for the program or project before the policy is established;

(4) Provisions regarding how the department is to reimburse the state agency or entity for allowable expenditures under the program or project that the department approves, including all of the following:

(a) Limitations on administrative costs;

(b) The department, at its discretion, doing either of the following:

(i) Withholding no more than five per cent of the funds that the department would otherwise provide to the state agency or entity for the program or project;

(ii) Charging the state agency or entity for the costs to the department of performing, or contracting for the performance of, audits and other administrative functions associated with the program or project.

(5) If the state agency or entity arranges by contract, grant, or other agreement for another entity to perform a function the state agency or entity would otherwise perform regarding the program or project, the state agency or entity's responsibilities for both of the following:

(a) Ensuring that the other entity complies with the agreement between the state agency or entity and department and federal statutes and regulations and state statutes and rules governing the use of funds for the program or project;

(b) Auditing the other entity in accordance with requirements established by the United States office of management and budget.

(6) The state agency or entity's responsibilities regarding the prompt payment, including any interest assessed, of any adverse audit finding, final disallowance of federal funds, or other sanction or penalty imposed by the federal government, auditor of state, department, a court, or other entity regarding funds for the program or project;

(7) Provisions for the department to terminate the agreement or withhold reimbursement from the state agency or entity if either of the following occur:

(a) The federal government disapproves the program or project or reduces federal funds for the program or project;

(b) The state agency or entity fails to comply with the terms of the agreement.

(8) Provisions for both of the following:

(a) The department and state agency or entity determining the performance outcomes expected for the program or project;

(b) An evaluation of the program or project to determine its success in achieving the performance outcomes determined under division (D)(8)(a) of this section.

(E) To the extent consistent with the law enacted by the general

assembly or executive order issued by the governor establishing the Title IV-A program and subject to the approval of the director of budget and management, the director of job and family services may terminate a Title IV-A program identified under division (A)(4)(c), (d), (e), ~~or (f)~~, or (g) of section 5101.80 of the Revised Code or reduce funding for the program if the director of job and family services determines that federal or state funds are insufficient to fund the program. If the director of budget and management approves the termination or reduction in funding for such a program, the director of job and family services shall issue instructions for the termination or funding reduction. If a Title IV-A administrative agency is administering the program, the agency is bound by the termination or funding reduction and shall comply with the director's instructions.

(F) The director of job and family services may adopt internal management rules in accordance with section 111.15 of the Revised Code as necessary to implement this section. The rules are binding on each Title IV-A administrative agency.

Sec. 5101.803. (A) Subject to division (E) of section 5101.801 of the Revised Code, there is hereby created the Title IV-A demonstration program to provide funding for innovative and promising prevention and intervention projects that meet one or more of the four purposes of the temporary assistance for needy families block grant as specified in 42 U.S.C. 601 and are for individuals with specific and multiple barriers to achieving or maintaining self-sufficiency and personal responsibility. The department of job and family services may provide funding for such projects to government entities and, to the extent permitted by federal law, private, not-for-profit entities with which the department enters into agreements under division (B)(2) of section 5101.801 of the Revised Code.

In accordance with criteria the department develops, the department may solicit proposals ~~for~~ from entities seeking to enter into an agreement with the department under division (B)(2) of section 5101.801 of the Revised Code. The department may enter into such agreements with entities that do both of the following:

- (1) Meet the proposals' criteria;
- (2) If the entity's proposed project does not potentially affect persons in each county of the state, provides the department evidence that the entity has notified, in writing, the county department of job and family services of each county where persons may be affected by the implementation of the project.

(B) In developing the criteria, soliciting the proposals, and entering in the agreements, the department shall comply with all applicable federal and

state laws, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, amendments to the Title IV-A state plan submitted to the United States secretary under that section, and federal waivers the United States secretary grants.

(C) The department shall begin implementation of the Title IV-A demonstration program no later than January 1, 2006.

Sec. 5101.804. (A) Subject to division (E) of section 5101.801 of the Revised Code, there is hereby created the Ohio parenting and pregnancy program to provide services for pregnant women and parents or other relatives caring for children twelve months of age or younger that do both of the following:

(1) Promote childbirth, parenting, and alternatives to abortion;

(2) Meet one or more of the four purposes of the temporary assistance for needy families block grant as specified in 42 U.S.C. 601.

(B) To the extent permitted by federal law, the department of job and family services may provide funds under the program to entities with which the department enters into agreements under division (B)(3) of section 5101.801 of the Revised Code. In accordance with criteria the department develops, the department may solicit proposals from entities seeking to provide services under the program. The department may enter into an agreement with an entity only if it meets all of the following conditions:

(1) Is a private, not-for-profit entity;

(2) Is an entity whose primary purpose is to promote childbirth, rather than abortion, through counseling and other services, including parenting and adoption support;

(3) Provides services to pregnant women and parents or other relatives caring for children twelve months of age or younger, including clothing, counseling, diapers, food, furniture, health care, parenting classes, postpartum recovery, shelter, and any other supportive services, programs, or related outreach;

(4) Does not charge pregnant women and parents or other relatives caring for children twelve months of age or younger a fee for any services received;

(5) Is not involved in or associated with any abortion activities, including providing abortion counseling or referrals to abortion clinics, performing abortion-related medical procedures, or engaging in pro-abortion advertising;

(6) Does not discriminate in its provision of services on the basis of race, religion, color, age, marital status, national origin, disability, or gender.

(C) An entity that has entered into an agreement with the department under division (B)(3) of section 5101.801 of the Revised Code may enter into a subcontract with another entity under which the other entity provides all or part of the services described in division (B)(3) of this section. A subcontract may be entered into with another entity only if that entity meets all of the following conditions:

(1) Is a private, not-for-profit entity;

(2) Is physically and financially separate from any entity, or component of an entity, that engages in abortion activities;

(3) Is not involved in or associated with any abortion activities, including providing abortion counseling or referrals to abortion clinics, performing abortion-related medical procedures, or engaging in pro-abortion advertising.

(D) The director of job and family services shall adopt rules under division (C) of section 5101.801 of the Revised Code as necessary to implement the Ohio parenting and pregnancy program.

Sec. 5103.02. As used in sections 5103.03 to 5103.17 of the Revised Code:

(A)(1) "Association" or "institution" includes ~~any~~ all of the following:

(a) Any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks; ~~any~~

(b) Any individual, including the operator of a foster home, who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to them by blood or marriage; ~~and any~~

(c) Any individual not in the regular employ of a court, or of an institution or association certified in accordance with section 5103.03 of the Revised Code, who in any manner becomes a party to the placing of children in foster homes, unless the individual is related to such children by blood or marriage; or is the appointed guardian of such children; ~~provided, that any.~~

(2) "Association" or "institution" does not include any of the following:

(a) Any organization, society, association, school, agency, child guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the department of education, a local board of education, the department of youth services, the department of ~~mental health~~ mental health and addiction services, or the department of developmental disabilities; ~~or any.~~

(b) Any individual who provides care for only a single-family group, placed there by their parents or other relative having custody, shall not be considered as being within the purview of these sections;

(c) A therapeutic wilderness camp.

(B) "Family foster home" means a foster home that is not a specialized foster home.

(C) "Foster caregiver" means a person holding a valid foster home certificate issued under section 5103.03 of the Revised Code.

(D) "Foster home" means a private residence in which children are received apart from their parents, guardian, or legal custodian, by an individual reimbursed for providing the children nonsecure care, supervision, or training twenty-four hours a day. "Foster home" does not include care provided for a child in the home of a person other than the child's parent, guardian, or legal custodian while the parent, guardian, or legal custodian is temporarily away. Family foster homes and specialized foster homes are types of foster homes.

(E) "Medically fragile foster home" means a foster home that provides specialized medical services designed to meet the needs of children with intensive health care needs who meet all of the following criteria:

(1) Under rules adopted by the ~~department of job and family services~~ medicaid director governing ~~payment under Chapter 5111. of the Revised Code~~ medicaid payments for long-term care services, the children require a skilled level of care.

(2) The children require the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of their medical conditions.

(3) The children require the services of a registered nurse on a daily basis.

(4) The children are at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities.

(F) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency that recommends that the department of job and family services take any of the following actions under section 5103.03 of the Revised Code regarding a foster home:

- (1) Issue a certificate;
- (2) Deny a certificate;
- (3) Renew a certificate;
- (4) Deny renewal of a certificate;

(5) Revoke a certificate.

(G) "Specialized foster home" means a medically fragile foster home or a treatment foster home.

(H) "Treatment foster home" means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and that receives and cares for children who are emotionally or behaviorally disturbed, chemically dependent, mentally retarded, developmentally disabled, or who otherwise have exceptional needs.

(I) "Therapeutic wilderness camp" means a structured, alternative residential setting for children who are experiencing emotional, behavioral, moral, social, or learning difficulties at home or school in which both of the following are the case:

(1) The children spend the majority of their time, including overnight, either outdoors or in a primitive structure;

(2) The children have been placed there by their parents or another relative having custody.

Sec. 5103.0323. (A) As used in this section, ~~"government auditing standards" means the government auditing standards published by the comptroller general of the United States general accounting office~~ "American institute of certified public accountants auditing standards" and "AICPA auditing standards" mean the auditing standards published by the American institute of certified public accountants.

(B) The first time that a private child placing agency or private noncustodial agency seeks renewal of a certificate issued under section 5103.03 of the Revised Code, it shall provide the department of job and family services, as a condition of renewal, evidence of an independent ~~financial statement audit of its first year of certification, unless the auditor of state has audited the agency during that year and the audit sets forth that no money has been illegally expended, converted, misappropriated, or is unaccounted for or sets forth findings that are inconsequential, as defined by~~ government performed by a licensed public accounting firm following applicable AICPA auditing standards for the most recent fiscal year. Thereafter, when an agency seeks renewal of its certificate, it shall provide the department evidence of an independent financial statement audit performed by a licensed public accounting firm following applicable AICPA auditing standards for the two most recent previous fiscal years it is possible for an independent audit to have been conducted, ~~unless the auditor of state has audited the agency during those years and the audit sets forth that no money has been illegally expended, converted, misappropriated, or is~~

~~unaccounted for or sets forth findings that are inconsequential, as defined by government auditing standards.~~

~~(C) For an agency to be eligible for renewal, the independent audits must demonstrate that the agency operated in a fiscally accountable manner in accordance with state laws and rules and any agreement between the agency and a public children services agency.~~

~~All audits required by this section shall be conducted in accordance with generally accepted government auditing standards as determined by the department of job and family services.~~

~~(D) The director of job and family services may adopt rules as necessary to implement this section. The director shall adopt the rules in accordance with section 111.15 of the Revised Code.~~

Sec. 5103.05. (A) A therapeutic wilderness camp annually shall certify in a report to the parents of the children attending the camp that the camp meets the minimum standards for such camps specified in division (B) of this section. The camp shall file a copy of each report with the department of job and family services.

(B) The camp shall comply with the criminal records check requirements that apply to residential camps pursuant to section 2151.86 of the Revised Code.

The camp shall comply with the requirements established in rules adopted by the department of health that apply to camps.

Sec. 5103.13. (A) As used in this section and section 5103.131 of the Revised Code:

(1)(a) "Children's crisis care facility" means a facility that has as its primary purpose the provision of residential and other care to either or both of the following:

(i) One or more preteens voluntarily placed in the facility by the preteen's parent or other caretaker who is facing a crisis that causes the parent or other caretaker to seek temporary care for the preteen and referral for support services;

(ii) One or more preteens placed in the facility by a public children services agency or private child placing agency that has legal custody or permanent custody of the preteen and determines that an emergency situation exists necessitating the preteen's placement in the facility rather than an institution certified under section 5103.03 of the Revised Code or elsewhere.

(b) "Children's crisis care facility" does not include either of the following:

(i) Any organization, society, association, school, agency, child

guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the department of education, a local board of education, the department of youth services, the department of ~~mental health~~ mental health and addiction services, or the department of developmental disabilities;

(ii) Any individual who provides care for only a single-family group, placed there by their parents or other relative having custody.

(2) "Legal custody" and "permanent custody" have the same meanings as in section 2151.011 of the Revised Code.

(3) "Preteen" means an individual under thirteen years of age.

(B) No person shall operate a children's crisis care facility or hold a children's crisis care facility out as a certified children's crisis care facility unless there is a valid children's crisis care facility certificate issued under this section for the facility.

(C) A person seeking to operate a children's crisis care facility shall apply to the director of job and family services to obtain a certificate for the facility. The director shall certify the person's children's crisis care facility if the facility meets all of the certification standards established in rules adopted under division (F) of this section and the person complies with all of the rules governing the certification of children's crisis care facilities adopted under that division. The issuance of a children's crisis care facility certificate does not exempt the facility from a requirement to obtain another certificate or license mandated by law.

(D)(1) No certified children's crisis care facility shall do any of the following:

(a) Provide residential care to a preteen for more than one hundred twenty days in a calendar year;

(b) Subject to division (D)(1)(c) of this section and except as provided in division (D)(2) of this section, provide residential care to a preteen for more than sixty consecutive days;

(c) Except as provided in division (D)(3) of this section, provide residential care to a preteen for more than seventy-two consecutive hours if a public children services agency or private child placing agency placed the preteen in the facility;

(d) Fail to comply with section 2151.86 of the Revised Code.

(2) A certified children's crisis care facility may provide residential care to a preteen for up to ninety consecutive days, other than a preteen placed in the facility by a public children services agency or private child placing agency, if any of the following are the case:

(a) The preteen's parent or other caretaker is enrolled in an alcohol and

drug addiction ~~program certified under section 3793.06 of the Revised Code~~ service or a community mental health service certified under section ~~5119.611~~ 5119.36 of the Revised Code;

(b) The preteen's parent or other caretaker is an inpatient in a hospital;

(c) The preteen's parent or other caretaker is incarcerated;

(d) A physician has diagnosed the preteen's parent or other caretaker as medically incapacitated.

(3) A certified children's crisis care facility may provide residential care to a preteen placed in the facility by a public children services agency or private child placing agency for more than seventy-two consecutive hours if the director of job and family services or the director's designee issues the agency a waiver of the seventy-two consecutive hour limitation. The waiver may authorize the certified children's crisis care facility to provide residential care to the preteen for up to fourteen consecutive days.

(E) The director of job and family services may suspend or revoke a children's crisis care facility's certificate pursuant to Chapter 119. of the Revised Code if the facility violates division (D) of this section or ceases to meet any of the certification standards established in rules adopted under division (F) of this section or the facility's operator ceases to comply with any of the rules governing the certification of children's crisis care facilities adopted under that division.

(F) Not later than ninety days after September 21, 2006, the director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code for the certification of children's crisis care facilities. The rules shall specify that a certificate shall not be issued to an applicant if the conditions at the children's crisis care facility would jeopardize the health or safety of the preteens placed in the facility.

Sec. 5103.42. Prior to the beginning of the fiscal biennium that first follows October 5, 2000, the public children services agencies of Athens, Cuyahoga, Franklin, Greene, Guernsey, ~~Hamilton~~, Lucas, and Summit counties shall each establish and maintain a regional training center. Prior to the beginning of the fiscal biennium that first follows the effective date of this amendment, the public children services agency of Butler county shall establish and maintain a regional training center. At any time after the beginning of ~~that~~ the specified biennium, the department of job and family services, on the recommendation of the Ohio child welfare training program steering committee, may direct a public children services agency to establish and maintain a training center to replace the center established by an agency under this section. There may be no more and no less than eight centers in existence at any time. The department may make a grant to a public children

services agency that establishes and maintains a regional training center under this section for the purpose of wholly or partially subsidizing the operation of the center. The department shall specify in the grant all of the center's duties, including the duties specified in section 5103.422 of the Revised Code.

The regional training center established by the public children services agency of Butler county under this section replaces the regional training center previously established by the public children services agency of Hamilton county under this section.

Sec. 5104.012. (A)(1) At the times specified in this division, the administrator of a child day-care center or a type A family day-care home shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the center or type A home for employment as a person responsible for the care, custody, or control of a child.

The administrator shall request a criminal records check pursuant to this division at the time of the applicant's initial application for employment and every ~~four~~ five years thereafter. When the administrator requests pursuant to this division a criminal records check for an applicant at the time of the applicant's initial application for employment, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrator requests a criminal records check for an applicant pursuant to this division, the administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section. On and after August 14, 2008, the

administrator of a child day-care center or a type A family day-care home shall review the results of the criminal records check before the applicant has sole responsibility for the care, custody, or control of any child.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted under division (E) of this section, no child day-care center or type A family day-care home shall employ or contract with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the center or home shall release the applicant from employment.

(C)(1) Each child day-care center and type A family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the administrator or provider of the center or home.

(2) A child day-care center and type A family day-care home may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the center or home pays under division (C)(1) of this section. If a fee is charged under this division, the center or home shall notify the applicant at the time of the applicant's initial application for

employment of the amount of the fee and that, unless the fee is paid, the center or type A home will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative; the center or type A home requesting the criminal records check or its representative; the department of job and family services or a county department of job and family services; and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a center or home may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment to or employment in a position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child; an in-home aide certified pursuant to section 5104.12 of the Revised Code; or any person who would serve in any position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.013. (A)(1) At the times specified in division (A)(3) of this section, the director of job and family services, as part of the process of licensure of child day-care centers and type A family day-care homes, shall

request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to the following persons:

- (a) Any owner, licensee, or administrator of a child day-care center;
- (b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home.

(2) At the times specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person eighteen years of age or older who resides in a certified type B family day-care home.

(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every ~~four~~ five years thereafter. The director of a county department of job and family services shall request a criminal records check pursuant to division (A)(2) of this section at the time of the initial application for certification and every ~~four~~ five years thereafter at the time of a certification renewal. When the director of job and family services or the director of a county department of job and family services requests pursuant to division (A)(1) or (2) of this section a criminal records check for a person at the time of the person's initial application for licensure or certification, the director shall request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as a part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check. In all other cases in which the director of job and family services or the director of a county department of job and family services requests a criminal records check for an applicant pursuant to division (A)(1) or (2) of this section, the director may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

(4) The director of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(1) and (3) of this section prior to approval of a license. The director of a county department of job and family services shall review the results of a

criminal records check subsequent to a request made pursuant to divisions (A)(2) and (3) of this section prior to approval of certification.

(B) The director of job and family services or the director of a county department of job and family services shall provide to each person for whom a criminal records check is required under this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section, obtain the completed form and impression sheet from that person, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(C) A person who receives pursuant to division (B) of this section a copy of the form and standard impression sheet described in that division and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the person, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the director may consider the failure as a reason to deny licensure or certification.

(D) Except as provided in rules adopted under division (G) of this section, the director of job and family services shall not grant a license to a child day-care center or type A family day-care home and a county director of job and family services shall not certify a type B family day-care home if a person for whom a criminal records check was required in connection with the center or home previously has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code.

(E) Each child day-care center, type A family day-care home, and type B family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (A) of this section.

(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the person who is the subject of the criminal records check or the person's

representative, the director of job and family services, the director of a county department of job and family services, the center, type A home, or type B home involved, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial of licensure or certification related to the criminal records check.

(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying exceptions to the prohibition in division (D) of this section for persons who have been convicted of an offense listed in that division but who meet standards in regard to rehabilitation set by the director.

(H) As used in this section, "criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.02. (A) The director of job and family services is responsible for the licensing of child day-care centers and type A family day-care homes. Each entity operating a head start program shall meet the criteria for, and be licensed as, a child day-care center. The director is responsible for the enforcement of this chapter and of rules promulgated pursuant to this chapter.

No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child day-care center or type A family day-care home without a license issued under section 5104.03 of the Revised Code. The current license shall be posted in a conspicuous place in the center or type A home that is accessible to parents, custodians, or guardians and employees of the center or type A home at all times when the center or type A home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the requirements of this chapter:

(1) A program of child care that operates for two or less consecutive weeks;

(2) Child care in places of worship during religious activities during which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Religious activities which do not provide child care;

(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;

(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility

offering child care and is readily accessible at all times, except that child care provided on the premises at which a parent, custodian, or guardian is employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;

(6)(a) Programs that provide child care funded and regulated or operated and regulated by state departments other than the department of job and family services or the state board of education when the director of job and family services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.

Notwithstanding any exemption from regulation under this chapter, each state department shall submit to the director of job and family services a copy of the rules that govern programs that provide child care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

- (i) The site location of the program;
- (ii) The maximum number of infants, toddlers, preschool-age children, or school-age children served by the program at one time;
- (iii) The number of adults providing child care for the number of infants, toddlers, preschool-age children, or school-age children;
- (iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director.

The director shall maintain a record of the child care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child care to school-age children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

- (a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;
- (b) The nonpublic school continues to be chartered by the state board

for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:

(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.

(b) The program provides informal child care ~~and at least two, which is child care that does not require parental signature, permission, or notice for the child receiving the care to enter or leave the program;~~

(c) The program provides any of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.

~~(e)~~(d) The program is eligible for participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established under section 3313.813 of the Revised Code.

~~(d)~~(e) The community-based center operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

(10) A preschool program operated by a nonchartered, nontax-supported school if the preschool program meets all of the following conditions:

(a) The program complies with state and local health, fire, and safety laws.

(b) The program annually certifies in a report to the parents of its pupils that the school is in compliance with division (B)(10)(a) of this section and files a copy of the report with the department of job and family services on or before the thirtieth day of September of each year.

(c) The program complies with all applicable reporting requirements in the same manner as required by the state board of education for nonchartered, nonpublic primary and secondary schools.

(d) The program is associated with a nonchartered, nontax-supported primary or secondary school.

Sec. 5104.021. The director of job and family services may ~~not~~ issue a child day-care center or type A family day-care home license to a youth development program that is exempted by division (B)(9) of section 5104.02 of the Revised Code from the requirements of this chapter if the youth development program applies for and meets all of the requirements for the license.

Sec. 5104.03. (A) Any person, firm, organization, institution, or agency

desiring to establish a child day-care center or type A family day-care home shall apply for a license to the director of job and family services on such form as the director prescribes. The director shall provide at no charge to each applicant for licensure a copy of the child care license requirements in this chapter and a copy of the rules adopted pursuant to this chapter. The copies may be provided in paper or electronic form.

Fees shall be set by the director pursuant to section 5104.011 of the Revised Code and shall be paid at the time of application for a license to operate a center or type A home. Fees collected under this section shall be paid into the state treasury to the credit of the general revenue fund.

(B) Upon filing of the application for a license, the director shall investigate and inspect the center or type A home to determine the license capacity for each age category of children of the center or type A home and to determine whether the center or type A home complies with this chapter and rules adopted pursuant to this chapter. When, after investigation and inspection, the director is satisfied that this chapter and rules adopted pursuant to it are complied with, subject to division (G) of this section, a provisional license shall be issued as soon as practicable in such form and manner as prescribed by the director. The provisional license shall be valid for twelve months from the date of issuance unless revoked.

(C) The director shall investigate and inspect the center or type A home at least once during operation under the provisional license. If after the investigation and inspection the director determines that the requirements of this chapter and rules adopted pursuant to this chapter are met, subject to division (G) of this section, the director shall issue a license to the center or home.

(D) The license or provisional license shall state the name of the licensee, the name of the administrator, the address of the center or type A home, and the license capacity for each age category of children. The license or provisional license shall include thereon, in accordance with section 5104.011 of the Revised Code, the toll-free telephone number to be used by persons suspecting that the center or type A home has violated a provision of this chapter or rules adopted pursuant to this chapter. A license or provisional license is valid only for the licensee, administrator, address, and license capacity for each age category of children designated on the license. The license capacity specified on the license or provisional license is the maximum number of children in each age category that may be cared for in the center or type A home at one time.

The center or type A home licensee shall notify the director when the administrator of the center or home changes. The director shall amend the

current license or provisional license to reflect a change in an administrator, if the administrator meets the requirements of Chapter 5104. of the Revised Code and rules adopted pursuant to Chapter 5104. of the Revised Code, or a change in license capacity for any age category of children as determined by the director of job and family services.

(E) If the director revokes the license of a center or a type A home, the director shall not issue another license to the owner of the center or type A home until five years have elapsed from the date the license is revoked.

If the director denies an application for a license, the director shall not accept another application from the applicant until five years have elapsed from the date the application is denied.

(F) If during the application for licensure process the director determines that the license of the owner has been revoked, the investigation of the center or type A home shall cease. This action does not constitute denial of the application and may not be appealed under division (G) of this section.

(G) All actions of the director with respect to licensing centers or type A homes, refusal to license, and revocation of a license shall be in accordance with Chapter 119. of the Revised Code. Any applicant who is denied a license or any owner whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

(H) In no case shall the director issue a license or provisional license under this section for a type A home or center if the director, based on documentation provided by the appropriate county department of job and family services, determines that the applicant previously had been certified as a type B family day-care home, that the county department revoked that certification within the immediately preceding five years, that the revocation was based on the applicant's refusal or inability to comply with the criteria for certification, and that the refusal or inability resulted in a risk to the health or safety of children.

Sec. 5104.08. (A) There is hereby created in the department of job and family services a child care advisory council to advise and assist the department in the administration of this chapter and in the development of child care. The council shall consist of twenty-two voting members appointed by the director of job and family services with the approval of the governor. The director of job and family services, the director of developmental disabilities, the director of ~~mental health~~ mental health and addiction services, the superintendent of public instruction, the director of health, the director of commerce, and the state fire marshal shall serve as nonvoting members of the council.

Six members shall be representatives of child care centers subject to licensing, the members to represent a variety of centers, including nonprofit and proprietary, from different geographical areas of the state. At least three members shall be parents, guardians, or custodians of children receiving child care or publicly funded child care in the child's own home, a center, a type A home, a head start program, a certified type B home, or a type B home at the time of appointment. Three members shall be representatives of in-home aides, type A homes, certified type B homes, or type B homes or head start programs. At least six members shall represent county departments of job and family services. The remaining members shall be representatives of the teaching, child development, and health professions, and other individuals interested in the welfare of children. At least six members of the council shall not be employees or licensees of a child day-care center, head start program, or type A home, or providers operating a certified type B home or type B home, or in-home aides.

Appointments shall be for three-year terms. Vacancies shall be filled for the unexpired terms. A member of the council is subject to removal by the director of job and family services for a willful and flagrant exercise of authority or power that is not authorized by law, for a refusal or willful neglect to perform any official duty as a member of the council imposed by law, or for being guilty of misfeasance, malfeasance, nonfeasance, or gross neglect of duty as a member of the council.

There shall be two co-chairpersons of the council. One co-chairperson shall be the director of job and family services or the director's designee, and one co-chairperson shall be elected by the members of the council. The council shall meet as often as is necessary to perform its duties, provided that it shall meet at least once in each quarter of each calendar year and at the call of the co-chairpersons. The co-chairpersons or their designee shall send to each member a written notice of the date, time, and place of each meeting.

Members of the council shall serve without compensation, but shall be reimbursed for necessary expenses.

(B) The child care advisory council shall advise the director on matters affecting the licensing of centers and type A homes and the certification of type B homes and in-home aides. The council shall make an annual report to the director of job and family services that addresses the availability, affordability, accessibility, and quality of child care and that summarizes the recommendations and plans of action that the council has proposed to the director during the preceding fiscal year. The director of job and family services shall provide copies of the report to the governor, speaker and

minority leader of the house of representatives, and the president and minority leader of the senate and, on request, shall make copies available to the public.

(C) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section.

Sec. 5104.11. (A)(1) Every person desiring to receive certification for a type B family day-care home to provide publicly funded child care shall apply for certification to the county director of job and family services on such forms as the director of job and family services prescribes. The county director shall provide at no charge to each applicant a copy of rules for certifying type B family day-care homes adopted pursuant to this chapter.

(2) Except as provided in division (G)(1) of section 5104.011 of the Revised Code, after receipt of an application for certification from a type B family day-care home, the county director of job and family services shall inspect the home. If it complies with this chapter and any applicable rules adopted under this chapter, the county department shall certify the type B family day-care home to provide publicly funded child care pursuant to this chapter and any rules adopted under it. The director of job and family services or a county director of job and family services may contract with a government entity or a private nonprofit entity for that entity to inspect and certify type B family day-care homes pursuant to this section. The county department of job and family services, government entity, or nonprofit entity shall conduct the inspection prior to the issuance of a certificate for the type B home and, as part of that inspection, ensure that the type B home is safe and sanitary.

(3)(a) On receipt of an application for certification for a type B family day-care home to provide publicly funded child care or for renewal of such certification, the county department shall request from ~~both of the following~~ the public children services agency information concerning any abuse or neglect report made pursuant to section 2151.421 of the Revised Code of which the applicant, any other adult residing in the applicant's home, or a person designated by the applicant to be an emergency or substitute caregiver for the applicant is the subject:

(i) ~~The public children services agency, until the county department is notified by the department of job and family services that the uniform statewide automated child welfare information system has been finalized statewide;~~

(ii) ~~Upon receipt of notification under division (D) of section 5101.13 of the Revised Code that the uniform statewide automated child welfare information system has been implemented statewide, the uniform statewide~~

~~automated child welfare information system via the department.~~

(b) The county department shall consider any information provided by the agency ~~or the department~~ pursuant to section 5153.175 of the Revised Code. If the county department determines that the information, when viewed within the totality of the circumstances, reasonably leads to the conclusion that the applicant may directly or indirectly endanger the health, safety, or welfare of children, the county department shall deny the application for certification or renewal of certification, or revoke the certification of an authorized provider.

(c) As used in division (A)(3) of this section, "public children services agency" means either an entity separate from the county department or the part of the county department that serves as the county's public children services agency, as appropriate.

(4) Except as provided in division (A)(5) of this section, an authorized provider of a type B family day-care home that receives a certificate pursuant to this section to provide publicly funded child care is an independent contractor and is not an employee of the county department of job and family services that issues the certificate.

(5) For purposes of Chapter 4141. of the Revised Code, determinations concerning the employment of an authorized provider of a type B family day-care home that receives a certificate pursuant to this section shall be determined under Chapter 4141. of the Revised Code.

(B)(1) If the county director of job and family services determines that the type B family day-care home complies with this chapter and any rules adopted under it, the county director shall issue to the provider a certificate to provide publicly funded child care, ~~which. The~~ certificate is valid for twelve months, unless revoked earlier. ~~The county director may revoke the certificate after determining that revocation is necessary.~~ The authorized provider shall post the certificate in a conspicuous place in the certified type B home that is accessible to parents, custodians, or guardians at all times. The certificate shall state the name and address of the authorized provider, the maximum number of children who may be cared for at any one time in the certified type B home, the expiration date of the certification, and the name and telephone number of the county director who issued the certificate.

(2) The county director may revoke a certificate to provide publicly funded child care in either of the following circumstances:

(a) The county director determines, pursuant to rules adopted under Chapter 119. of the Revised Code, that revocation is necessary:

(b) The authorized provider does not comply with division (D)(2) of

section 5104.32 of the Revised Code.

(C)(1) The county director shall inspect every certified type B family day-care home at least twice within each twelve-month period of the operation of the certified type B home. A minimum of one inspection shall be unannounced and all inspections may be unannounced. Upon receipt of a complaint, the county director shall investigate the certified type B home, and division (C)(2) of this section applies regarding the complaint. The authorized provider shall permit the county director to inspect any part of the certified type B home. The county director shall prepare a written inspection report and furnish one copy to the authorized provider within a reasonable time after the inspection.

(2) Upon receipt of a complaint as described in division (C)(1) of this section, in addition to the investigation that is required under that division, both of the following apply:

(a) If the complaint alleges that a child suffered physical harm while receiving child care at the certified type B family day-care home or that the noncompliance with law or act alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving child care at the home, the county director shall inspect the home.

(b) If division (C)(2)(a) of this section does not apply regarding the complaint, the county director may inspect the certified type B family day-care home.

(3) Division (C)(2) of this section does not limit, restrict, or negate any duty of the county director to inspect a certified type B family day-care home that otherwise is imposed under this section, or any authority of the county director to inspect a home that otherwise is granted under this section when the county director believes the inspection is necessary and it is permitted under the grant.

(D) The county director of job and family services, in accordance with rules adopted pursuant to section 5104.052 of the Revised Code regarding fire safety and fire prevention, shall inspect each type B home that applies to be certified that is providing or is to provide publicly funded child care.

(E) All materials that are supplied by the department of job and family services to type A family day-care home providers, type B family day-care home providers, in-home aides, persons who desire to be type A family day-care home providers, type B family day-care home providers, or in-home aides, and caretaker parents shall be written at no higher than the sixth grade reading level. The department may employ a readability expert to verify its compliance with this division.

Sec. 5104.12. (A) The county director of job and family services may

certify in-home aides to provide publicly funded child care pursuant to this chapter and any rules adopted under it. Any in-home aide who receives a certificate pursuant to this section to provide publicly funded child care is an independent contractor and is not an employee of the county department of job and family services that issues the certificate.

(B) Every person desiring to receive certification as an in-home aide shall apply for certification to the county director of job and family services on such forms as the director of job and family services prescribes. The county director shall provide at no charge to each applicant a copy of rules for certifying in-home aides adopted pursuant to this chapter.

(C)~~(1)~~ If the county director of job and family services determines that public funds are available and that the person complies with this chapter and any rules adopted under it, the county director shall certify the person as an in-home aide and issue the person a certificate to provide publicly funded child care for twelve months. ~~The county director may revoke the certificate after determining that revocation is necessary.~~ The county director shall furnish a copy of the certificate to the parent, custodian, or guardian. The certificate shall state the name and address of the in-home aide, the expiration date of the certification, and the name and telephone number of the county director who issued the certificate.

(2) The county director may revoke the certificate in either of the following circumstances:

(a) The county director determines, pursuant to rules adopted under Chapter 119. of the Revised Code, that revocation is necessary;

(b) The in-home aide does not comply with division (D)(2) of section 5104.32 of the Revised Code.

(D)(1) The county director of job and family services shall inspect every home of a child who is receiving publicly funded child care in the child's own home while the in-home aide is providing the services. Inspections may be unannounced. Upon receipt of a complaint, the county director shall investigate the in-home aide, shall investigate the home of a child who is receiving publicly funded child care in the child's own home, and division (D)(2) of this section applies regarding the complaint. The caretaker parent shall permit the county director to inspect any part of the child's home. The county director shall prepare a written inspection report and furnish one copy each to the in-home aide and the caretaker parent within a reasonable time after the inspection.

(2) Upon receipt of a complaint as described in division (D)(1) of this section, in addition to the investigations that are required under that division, both of the following apply:

(a) If the complaint alleges that a child suffered physical harm while receiving publicly funded child care in the child's own home from an in-home aide or that the noncompliance with law or act alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving publicly funded child care in the child's own home from an in-home aide, the county director shall inspect the home of the child.

(b) If division (D)(2)(a) of this section does not apply regarding the complaint, the county director may inspect the home of the child.

(3) Division (D)(2) of this section does not limit, restrict, or negate any duty of the county director to inspect a home of a child who is receiving publicly funded child care from an in-home aide that otherwise is imposed under this section, or any authority of the county director to inspect such a home that otherwise is granted under this section when the county director believes the inspection is necessary and it is permitted under the grant.

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the department of job and family services. All contracts for publicly funded child care shall be contingent upon the availability of state and federal funds. The department shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child care, regardless of the source of public funds used to purchase the child care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state contracts or contracts involving the expenditure of state or federal funds, all contracts for publicly funded child care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state contracts or contracts involving the expenditure of state or federal funds.

(B) Each contract for publicly funded child care shall specify at least the following:

(1) That the provider of publicly funded child care agrees to be paid for rendering services at the lower of the rate customarily charged by the provider for children enrolled for child care or the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code;

(2) That, if a provider provides child care to an individual potentially eligible for publicly funded child care who is subsequently determined to be

eligible, the department agrees to pay for all child care provided between the date the county department of job and family services receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child care resource and referral service organization will make eligibility determinations, whether the provider or a child care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child care provider, shall continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the state department of job and family services or in some other manner as prescribed by rules adopted under section 5104.42 of the Revised Code;

(7) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law or by rules adopted under section 5104.42 of the Revised Code, the county department of job and family services shall give individuals eligible for publicly funded child care the option of obtaining certificates that the individual may use to purchase services from any provider qualified to provide publicly funded child care under section 5104.31 of the Revised Code. Providers of publicly funded child care may present these certificates for payment in accordance with rules that the director of job and family services shall adopt. Only providers may receive payment for certificates. The value of the certificate shall be based on the lower of the rate customarily charged by the provider or the rate of payment established pursuant to section 5104.30 of the Revised Code. The county department may provide the certificates to the

individuals or may contract with child care providers or child care resource and referral service organizations that make determinations of eligibility for publicly funded child care pursuant to contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the certificates to individuals whom they determine are eligible for publicly funded child care.

For each six-month period a provider of publicly funded child care provides publicly funded child care to the child of an individual given certificates, the individual shall provide the provider certificates for days the provider would have provided publicly funded child care to the child had the child been present. The maximum number of days providers shall be provided certificates shall not exceed ten days in a six-month period during which publicly funded child care is provided to the child regardless of the number of providers that provide publicly funded child care to the child during that period.

(D)(1) The department shall establish the Ohio electronic child care system to track attendance and calculate payments for publicly funded child care. The system shall include issuing an electronic child care card to each caretaker parent to swipe through a point-of-service device issued to an eligible provider, as described in section 5104.31 of the Revised Code.

(2) Each eligible provider that provides publicly funded child care shall participate in the Ohio electronic child care system. A provider participating in the system shall not do any of the following:

(a) Use or have possession of an electronic child care card issued to a caretaker parent;

(b) Falsify attendance records;

(c) Knowingly seek payment for publicly funded child care that was not provided;

(d) Knowingly accept reimbursement for publicly funded child care that was not provided.

Sec. 5107.10. (A) As used in this section:

(1) "Countable income," "gross earned income," and "gross unearned income" have the meanings established in rules adopted under section 5107.05 of the Revised Code.

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code, except that references to a person's family in the definition shall be deemed to be references to the person's assistance group.

(3) "Gross income" means gross earned income and gross unearned income.

(4) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(B) Under the Ohio works first program, an assistance group shall receive, except as otherwise provided by this chapter, time-limited cash assistance. In the case of an assistance group that includes a minor head of household or adult, assistance shall be provided in accordance with the self-sufficiency contract entered into under section 5107.14 of the Revised Code.

(C) To be eligible to participate in Ohio works first, an assistance group must meet all of the following requirements:

(1) The assistance group, except as provided in division (E) of this section, must include at least one of the following:

(a) A minor child who, except as provided in section 5107.24 of the Revised Code, resides with a parent, or specified relative caring for the child, or, to the extent permitted by Title IV-A and federal regulations adopted until Title IV-A, resides with a guardian or custodian caring for the child;

(b) A parent residing with and caring for the parent's minor child who receives supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, or federal, state, or local adoption assistance;

(c) A specified relative residing with and caring for a minor child who is related to the specified relative in a manner that makes the specified relative a specified relative and receives supplemental security income or federal, state, or local foster care or adoption assistance;

(d) A woman at least six months pregnant.

(2) The assistance group must meet the income requirements established by division (D) of this section.

(3) No member of the assistance group may be involved in a strike.

(4) The assistance group must satisfy the requirements for Ohio works first established by this chapter and ~~sections 5101.58, 5101.59, and section 5101.83~~ of the Revised Code.

(5) The assistance group must meet requirements for Ohio works first established by rules adopted under section 5107.05 of the Revised Code.

(D)(1) Except as provided in division (D)(4) of this section, to determine whether an assistance group is initially eligible to participate in Ohio works first, a county department of job and family services shall do the following:

(a) Determine whether the assistance group's gross income exceeds fifty per cent of the federal poverty guidelines. In making this determination, the county department shall disregard amounts that federal statutes or regulations and sections 5101.17 and 5117.10 of the Revised Code require be disregarded. The assistance group is ineligible to participate in Ohio works first if the assistance group's gross income, less the amounts disregarded, exceeds fifty per cent of the federal poverty guidelines.

(b) If the assistance group's gross income, less the amounts disregarded pursuant to division (D)(1)(a) of this section, does not exceed fifty per cent of the federal poverty guidelines, determine whether the assistance group's countable income is less than the payment standard. The assistance group is ineligible to participate in Ohio works first if the assistance group's countable income equals or exceeds the payment standard.

(2) For the purpose of determining whether an assistance group meets the income requirement established by division (D)(1)(a) of this section, the annual revision that the United States department of health and human services makes to the federal poverty guidelines shall go into effect on the first day of July of the year for which the revision is made.

(3) To determine whether an assistance group participating in Ohio works first continues to be eligible to participate, a county department of job and family services shall determine whether the assistance group's countable income continues to be less than the payment standard. In making this determination, the county department shall disregard the first two hundred fifty dollars and fifty per cent of the remainder of the assistance group's gross earned income. No amounts shall be disregarded from the assistance group's gross unearned income. The assistance group ceases to be eligible to participate in Ohio works first if its countable income, less the amounts disregarded, equals or exceeds the payment standard.

(4) If an assistance group reapplies to participate in Ohio works first not more than four months after ceasing to participate, a county department of job and family services shall use the income requirement established by division (D)(3) of this section to determine eligibility for resumed participation rather than the income requirement established by division (D)(1) of this section.

(E)(1) An assistance group may continue to participate in Ohio works first even though a public children services agency removes the assistance

group's minor children from the assistance group's home due to abuse, neglect, or dependency if the agency does both of the following:

(a) Notifies the county department of job and family services at the time the agency removes the children that it believes the children will be able to return to the assistance group within six months;

(b) Informs the county department at the end of each of the first five months after the agency removes the children that the parent, guardian, custodian, or specified relative of the children is cooperating with the case plans prepared for the children under section 2151.412 of the Revised Code and that the agency is making reasonable efforts to return the children to the assistance group.

(2) An assistance group may continue to participate in Ohio works first pursuant to division (E)(1) of this section for not more than six payment months. This division does not affect the eligibility of an assistance group that includes a woman at least six months pregnant.

Sec. 5107.14. (A) An assistance group is ineligible to participate in Ohio works first unless the following enter into a written self-sufficiency contract with the county department of job and family services:

(1) Each adult member of the assistance group;

(2) The assistance group's minor head of household.

(B) A self-sufficiency contract shall set forth the rights and responsibilities of the assistance group as applicants for and participants of Ohio works first. Each self-sufficiency contract shall include, based on appraisals conducted under section 5107.41 of the Revised Code and assessments conducted under section 5107.70 of the Revised Code, the following:

(1) The assistance group's plan, developed under section 5107.41 of the Revised Code, to achieve the goal of self sufficiency and personal responsibility through unsubsidized employment within the time limit for participating in Ohio works first established by section 5107.18 of the Revised Code;

(2) Work activities, developmental activities, and alternative work activities to which members of the assistance group are assigned under sections 5107.40 to 5107.69 of the Revised Code;

(3) The responsibility of a caretaker member of the assistance group to cooperate in establishing a minor child's paternity and establishing, modifying, and enforcing a support order for the child in accordance with section 5107.22 of the Revised Code;

(4) Other responsibilities that members of the assistance group must satisfy to participate in Ohio works first and the consequences for failure or

refusal to satisfy the responsibilities;

(5) An agreement that, except as otherwise provided in a waiver issued under section 5107.714 of the Revised Code, the assistance group will comply with the conditions of participating in Ohio works first established by this chapter and ~~sections 5101.58, 5101.59, and~~ section 5101.83 of the Revised Code;

(6) Assistance and services the county department will provide to the assistance group;

(7) Assistance and services the child support enforcement agency and public children services agency will provide to the assistance group pursuant to a plan of cooperation entered into under section 307.983 of the Revised Code;

(8) Other provisions designed to assist the assistance group in achieving self sufficiency and personal responsibility;

(9) Procedures for assessing whether responsibilities are being satisfied and whether the contract should be amended;

(10) Procedures for amending the contract.

(C) No self-sufficiency contract shall include provisions regarding the LEAP program.

(D) The county department shall provide without charge a copy of the self-sufficiency contract to each assistance group member who signs it.

Sec. 5107.16. (A) If a member of an assistance group fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract entered into under section 5107.14 of the Revised Code, a county department of job and family services shall sanction the assistance group as follows:

(1) For a first failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for one payment month or until the failure or refusal ceases, whichever is longer;

(2) For a second failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for three payment months or until the failure or refusal ceases, whichever is longer;

(3) For a third or subsequent failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for six payment months or until the failure or refusal ceases, whichever is longer.

(B) The director of job and family services shall establish standards for the determination of good cause for failure or refusal to comply in full with

a provision of a self-sufficiency contract in rules adopted under section 5107.05 of the Revised Code.

(C) An assistance group member who fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract must complete all compliance activities specified in rules adopted under section 5107.05 of the Revised Code in order for the failure or refusal to be considered to have ceased.

(D) After sanctioning an assistance group under division (A) of this section, a county department of job and family services shall continue to work with the assistance group.

(E) An adult eligible for medicaid ~~pursuant to division (C)(1)(a) of section 5111.01 of the Revised Code~~ who is sanctioned under division (A)(3) of this section for a failure or refusal, without good cause, to comply in full with a provision of a self-sufficiency contract related to work responsibilities under sections 5107.40 to 5107.69 of the Revised Code loses eligibility for medicaid unless the adult is otherwise eligible for medicaid pursuant to ~~another division of section 5111.01 of the Revised Code~~ an eligibility category other than the category associated with Title IV-A.

An assistance group that would be participating in Ohio works first if not for a sanction under this section shall continue to be eligible for all of the following:

(1) Publicly funded child care in accordance with division (A)(3) of section 5104.30 of the Revised Code;

(2) Support services in accordance with section 5107.66 of the Revised Code;

(3) To the extent permitted by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 201, as amended, to participate in work activities, developmental activities, and alternative work activities in accordance with sections 5107.40 to 5107.69 of the Revised Code.

Sec. 5107.20. As used in this section, "support" means child support, spousal support, and support for a spouse or a former spouse.

Participation in Ohio works first constitutes an assignment to the department of job and family services of any rights members of an assistance group have to support from any other person, ~~excluding medical support assigned pursuant to section 5101.59 of the Revised Code~~. The rights to support assigned to the department pursuant to this section constitute an obligation of the person who is responsible for providing the support to the state for the amount of cash assistance provided to the assistance group.

The office of child support in the department of job and family services

shall collect and distribute support payments owed to Ohio works first participants, whether assigned to the department or unassigned, in accordance with 42 U.S.C. 654 B and 657 and regulations adopted under those statutes, state statutes, and rules adopted under section 5107.05 of the Revised Code.

Upon implementation of centralized collection and disbursement under Chapter 3121. of the Revised Code, in accordance with 42 U.S.C. 654 B and 657 and regulations adopted under those statutes, the department shall deposit support payments it receives pursuant to this section into the state treasury to the credit of the child support collections fund or the child support administrative fund, both of which are hereby created. Money credited to the funds shall be used to make cash assistance payments under Ohio works first.

Sec. 5107.24. (A) As used in this section:

(1) "Adult-supervised living arrangement" means a family setting approved, licensed, or certified by the department of job and family services, the department of ~~mental health~~ mental health and addiction services, the department of developmental disabilities, the department of youth services, a public children services agency, a private child placing agency, or a private noncustodial agency that is maintained by a person age eighteen or older who assumes responsibility for the care and control of a minor parent, pregnant minor, or child of a minor parent or provides the minor parent, pregnant minor, or child of a minor parent supportive services, including counseling, guidance, and supervision. "Adult-supervised living arrangement" does not mean a public institution.

(2) "Child of a minor parent" means a child born to a minor parent, except that the child ceases to be considered a child of minor parent when the minor parent attains age eighteen.

(3) "Minor parent" means a parent who is under age eighteen and is not married.

(4) "Pregnant minor" means a pregnant person who is under age eighteen and not married.

(B)(1) Except as provided in division (B)(2) of this section and to the extent permitted by Title IV-A and federal regulations adopted under Title IV-A, a pregnant minor, minor parent, or child of a minor parent must reside in a place of residence maintained by a parent, guardian, custodian, or specified relative of the pregnant minor or minor parent as the parent's, guardian's, custodian's, or specified relative's own home to be eligible to participate in Ohio works first.

(2) To the extent permitted by Title IV-A and federal regulations

adopted under it, a pregnant minor, minor parent, or child of a minor parent is exempt from the requirement of division (B)(1) of this section if any of the following apply:

(a) The minor parent or pregnant minor does not have a parent, guardian, custodian, or specified relative living or whose whereabouts are known.

(b) No parent, guardian, custodian, or specified relative of the minor parent or pregnant minor will allow the pregnant minor, minor parent, or minor parent's child to live in the parent's, guardian's, custodian's, or specified relative's home.

(c) The department of job and family services, a county department of job and family services, or a public children services agency determines that the physical or emotional health or safety of the pregnant minor, minor parent, or minor parent's child would be in jeopardy if the pregnant minor, minor parent, or minor parent's child lived in the same home as the parent, guardian, custodian, or specified relative.

(d) The department of job and family services, a county department of job and family services, or a public children services agency otherwise determines that it is in the best interest of the pregnant minor, minor parent, or minor parent's child to waive the requirement of division (B)(1) of this section.

(C) A pregnant minor, minor parent, or child of a minor parent exempt from the requirement of division (B)(1) of this section must reside in an adult-supervised living arrangement to be eligible to participate in Ohio works first.

(D) The department of job and family services, whenever possible and to the extent permitted by Title IV-A and federal regulations adopted under it, shall provide cash assistance under Ohio works first to the parent, guardian, custodian, or specified relative of a pregnant minor or minor parent on behalf of the pregnant minor, minor parent, or minor parent's child.

Sec. 5107.26. (A) As used in this section:

~~(1) "Transitional,~~ "transitional child care" means publicly funded child care provided under division (A)(3) of section 5104.34 of the Revised Code.

~~(2) "Transitional medicaid" means the medical assistance provided under section 5111.0115 of the Revised Code.~~

(B) Except as provided in division (C) of this section, ~~each;~~

(1) Each member of an assistance group participating in Ohio works first is ineligible to participate in the program for six payment months if a county department of job and family services determines that a member of

the assistance group terminated the member's employment ~~and each~~.

(2) Each person who, on the day prior to the day a recipient begins to receive transitional child care ~~or transitional medicaid~~, was a member of the recipient's assistance group is ineligible to participate in Ohio works first for six payment months if a county department determines that the recipient terminated the recipient's employment.

(C) No assistance group member shall lose or be denied eligibility to participate in Ohio works first pursuant to division (B) of this section if the termination of employment was because an assistance group member or recipient of transitional child care ~~or transitional medicaid~~ secured comparable or better employment or the county department of job and family services certifies that the member or recipient terminated the employment with just cause.

Just cause includes the following:

(1) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, or national origin;

(2) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(3) Employment that has become unsuitable due to any of the following:

(a) The wage is less than the federal minimum wage;

(b) The work is at a site subject to a strike or lockout, unless the strike has been enjoined under section 208 of the "Labor-Management Relations Act," 61 Stat. 155 (1947), 29 U.S.C.A. 178, as amended, an injunction has been issued under section 10 of the "Railway Labor Act," 44 Stat. 586 (1926), 45 U.S.C.A. 160, as amended, or an injunction has been issued under section 4117.16 of the Revised Code;

(c) The documented degree of risk to the member or recipient's health and safety is unreasonable;

(d) The member or recipient is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.

(4) Documented illness of the member or recipient or of another assistance group member of the member or recipient requiring the presence of the member or recipient;

(5) A documented household emergency;

(6) Lack of adequate child care for children of the member or recipient who are under six years of age.

Sec. 5107.42. (A) Except as provided in divisions (B) and (C) of this section, county departments of job and family services shall assign each minor head of household and adult participating in Ohio works first, other

than a minor head of household participating in the LEAP program, to one or more work activities and developmental activities.

If a county department assigns a minor head of household or adult to the work activity established under division (H) of section 5107.60 of the Revised Code, the county department shall make reasonable efforts to assign the minor head of household or adult to at least one other work activity at the same time. If a county department assigns a minor head of household or adult to the work activity established under section 5107.58 of the Revised Code, the county department shall assign the minor head of household or adult to at least one other work activity at the same time.

A county department may not assign a minor head of household or adult to a work activity established under division (D) of section 5107.60 of the Revised Code for more than twelve months.

(B) If a county department determines that a minor head of household or adult has a temporary or permanent barrier to participation in a work activity, it may assign the minor head of household or adult to one or more alternative work activities instead of assigning the minor head of household or adult to one or more work activities or developmental activities. A county department may not assign more than twenty per cent of minor heads of household and adults participating in Ohio works first to an alternative work activity.

County departments shall establish standards for determining whether a minor head of household or adult has a temporary or permanent barrier to participating in a work activity. The following are examples of circumstances that a county department may consider when it develops its standards:

(1) A minor head of household or adult provides the county department documented evidence that one or more members of the assistance group have been the victim of domestic violence and are in imminent danger of suffering continued domestic violence;

(2) A minor head of household or adult is actively participating in ~~an alcohol or drug~~ a community addiction program services provider certified by the department of ~~alcohol and drug addiction services~~ mental health and addiction services under section ~~3793.06~~ 5119.36 of the Revised Code;

(3) An assistance group is homeless.

(C) A county department may exempt a minor head of household or adult who is unmarried and caring for a minor child under twelve months of age from the work requirements of sections 5107.40 to 5107.69 of the Revised Code for not more than twelve months. While exempt, the minor head of household or adult shall be disregarded in determining whether the

county department is meeting the requirement of section 5107.44 of the Revised Code. The county department shall assign the exempt minor head of household or adult to at least one developmental activity for a number of hours a week the county department determines. The county department may assign the exempt minor head of household or adult to one or more work activities, in addition to developmental activities, for a number of hours the county department determines. Division (B) of section 5107.43 of the Revised Code does not apply to the exempt minor head of household or adult.

(D) A county department may reassign a minor head of household or adult when the county department determines reassignment will aid the assistance group in achieving self sufficiency and personal responsibility and shall make reassignments when circumstances requiring reassignment occur, including when a temporary barrier to participating in a work activity is eliminated.

A county department shall include assignments in the self-sufficiency contract entered into under section 5107.14 of the Revised Code and shall amend the contract when a reassignment is made to include the reassignment in the contract.

Sec. 5107.64. County departments of job and family services shall establish and administer alternative work activities for minor heads of households and adults participating in Ohio works first. In establishing alternative work activities, county departments are not limited by the restrictions Title IV-A imposes on work activities. The following are examples of alternative work activities that a county department may establish:

(A) Parenting classes and life-skills training;

(B) Participation in ~~an alcohol or drug~~ a community addiction program services provider certified by the department of ~~alcohol and drug addiction services~~ mental health and addiction services under section ~~3793.06~~ 5119.36 of the Revised Code;

(C) In the case of a homeless assistance group, finding a home;

(D) In the case of a minor head of household or adult with a disability, active work in an individual written rehabilitation plan with the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency;

(E) In the case of a minor head of household or adult who has been the victim of domestic violence, residing in a domestic violence shelter, receiving counseling or treatment related to the domestic violence, or participating in criminal justice activities against the domestic violence

offender;

(F) An education program under which a participant who does not speak English attends English as a second language course.

Sec. 5115.20. (A) The department of job and family services shall establish a disability advocacy program and each county department of job and family services shall establish a disability advocacy program unit or join with other county departments of job and family services to establish a joint county disability advocacy program unit. Through the program the department and county departments shall cooperate in efforts to assist applicants for and recipients of assistance under the disability financial assistance program, who might be eligible for supplemental security income benefits under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those benefits.

As part of their disability advocacy programs, the state department and county departments may enter into contracts for the services of persons and government entities that in the judgment of the department or county department have demonstrated expertise in representing persons seeking supplemental security income benefits. Each contract shall require the person or entity with which a department contracts to assess each person referred to it by the department to determine whether the person appears to be eligible for supplemental security income benefits, and, if the person appears to be eligible, assist the person in applying and represent the person in any proceeding of the social security administration, including any appeal or reconsideration of a denial of benefits. The department or county department shall provide to the person or entity with which it contracts all records in its possession relevant to the application for supplemental security income benefits. The department shall require a county department with relevant records to submit them to the person or entity.

(B) Each applicant for or recipient of disability financial assistance who, in the judgment of the department of job and family services or a county department of job and family services might be eligible for supplemental security benefits, shall, as a condition of eligibility for assistance, apply for such benefits if directed to do so by the department or county department.

(C) With regard to applicants for and recipients of disability financial assistance, each county department of job and family services shall do all of the following:

(1) Identify applicants and recipients who might be eligible for supplemental security income benefits;

(2) Assist applicants and recipients in securing documentation of disabling conditions or refer them for such assistance to a person or

government entity with which the department of job and family services or county department has contracted under division (A) of this section;

(3) Inform applicants and recipients of available sources of representation, which may include a person or government entity with which the department or county department has contracted under division (A) of this section, and of their right to represent themselves in reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits. The county department may require the applicants and recipients, as a condition of eligibility for assistance, to pursue reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits, and shall assist applicants and recipients as necessary to obtain such benefits or refer them to a person or government entity with which the department or county department has contracted under division (A) of this section.

(4) Require applicants and recipients who, in the judgment of the county department, are or may be aged, blind, or disabled, to apply for ~~medical assistance under Chapter 5111. of the Revised Code~~ the medicaid program, make determinations when appropriate as to eligibility for ~~medical assistance~~ medicaid, and refer their applications when necessary to the disability determination unit established in accordance with division (F) of this section for expedited review;

(5) Require each applicant and recipient who in the judgment of the department or the county department might be eligible for supplemental security income benefits, as a condition of eligibility for disability financial assistance, to execute a written authorization for the secretary of health and human services to withhold benefits due that individual and pay to the director of job and family services or the director's designee an amount sufficient to reimburse the state and county shares of interim assistance furnished to the individual. For the purposes of division (C)(5) of this section, "benefits" and "interim assistance" have the meanings given in Title XVI of the "Social Security Act."

(D) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code for the effective administration of the disability advocacy program. The rules shall include all of the following:

(1) Methods to be used in collecting information from and disseminating it to county departments, including the following:

(a) The number of individuals in the county who are disabled recipients of disability financial assistance;

(b) The final decision made either by the social security administration

or by a court for each application or reconsideration in which an individual was assisted pursuant to this section.

(2) The type and process of training to be provided by the department of job and family services to the employees of the county department of job and family services who perform duties under this section;

(3) Requirements for the written authorization required by division (C)(5) of this section.

(E) The department of job and family services shall provide basic and continuing training to employees of the county department of job and family services who perform duties under this section. Training shall include but not be limited to all processes necessary to obtain federal disability benefits, and methods of advocacy.

(F) The department of medicaid shall establish a disability determination unit and develop guidelines for expediting reviews of applications for ~~medical assistance under Chapter 5111. of the Revised Code~~ the medicaid program for persons who have been referred to the unit under division (C)(4) of this section. The department of medicaid shall make determinations of eligibility for ~~medical assistance~~ medicaid for any such person within the time prescribed by federal regulations.

(G) The department of job and family services may, under rules the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described in division (C)(5) of this section to persons or government entities that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

(H) The director of job and family services shall conduct investigations to determine whether disability advocacy programs are being administered in compliance with the Revised Code and the rules adopted by the director pursuant to this section.

Sec. 5117.10. (A) On or before the fifteenth day of January, the director of development shall pay each applicant determined eligible for a payment under divisions (A) and (B) of section 5117.07 of the Revised Code one hundred twenty-five dollars.

(B) The director may withhold from any payment to which a person would otherwise be entitled under division (A) of this section any amount that the director determines was erroneously received by such person in a preceding year under this or the program established under Am. Sub. H.B. 230, as amended by Am. H.B. 937, Am. Sub. H.B. 1073, Am. Sub. S.B. 493, and Am. Sub. S.B. 523 of the 112th general assembly, provided the

director has employed all other legal methods reasonably available to obtain reimbursement for the erroneous payment or credit prior to the commencement of the current program year.

(C) Payments made under this section and credits granted under section 5117.09 of the Revised Code shall not be considered income for the purpose of determining eligibility or the level of benefits or assistance under section 329.042 or Chapters 5107., ~~5111.~~, and 5115. of the Revised Code; the medicaid program; supplemental security income payments under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended; or any other program under which eligibility or the level of benefits or assistance is based upon need measured by income.

Sec. ~~3793.01~~ 5119.01. (A) As used in this chapter:

(1) "Addiction" means the chronic and habitual use of alcoholic beverages, the use of a drug of abuse as defined in section 3719.011 of the Revised Code, or the use of gambling by an individual to the extent that the individual no longer can control the individual's use of alcohol, the individual becomes physically or psychologically dependent on the drug, the individual's use of alcohol or drugs endangers the health, safety, or welfare of the individual or others, or the individual's gambling causes psychological, financial, emotional, marital, legal, or other difficulties endangering the health, safety, or welfare of the individual or others.

(2) "Addiction services" means services, including intervention, for the treatment of persons with alcohol, drug, or gambling addictions, and for the prevention of such addictions.

(3) "Alcohol and drug addiction services" means services, including intervention, for the treatment of alcoholics or persons who abuse drugs of abuse and for the prevention of alcoholism and drug addiction.

(4) "Alcoholic" means a person suffering from alcoholism.

(5) "Alcoholism" means the chronic and habitual use of alcoholic beverages by an individual to the extent that the individual no longer can control the individual's use of alcohol or endangers the health, safety, or welfare of the individual or others.

~~(2) "Alcoholic" means a person suffering from alcoholism.~~

~~(3)~~(6) "Community addiction services provider" means an agency, association, corporation, individual, or program that provides community alcohol, drug addiction, or gambling addiction services that are certified by the department of mental health and addiction services under section 5119.36 of the Revised Code.

(7) "Community mental health services provider" means an agency, association, corporation, individual, or program that provides community

mental health services that are certified by the department of mental health and addiction services under section 5119.36 of the Revised Code.

(8) "Drug addiction" means the use of a drug of abuse, as defined in section 3719.011 of the Revised Code, by an individual to the extent that the individual becomes physically or psychologically dependent on the drug or endangers the health, safety, or welfare of the individual or others.

~~(4) "Alcohol and drug addiction services" means services, including intervention, for the treatment of alcoholics or persons who abuse drugs of abuse and for the prevention of alcoholism and drug addiction.~~

~~(5) "Alcohol and drug addiction program" means a program that provides alcohol or drug addiction services and includes a facility or entity that operates such a program.~~

~~(6)~~(9) "Gambling addiction" means the use of gambling by an individual to the extent that it causes psychological, financial, emotional, marital, legal, or other difficulties endangering the health, safety, or welfare of the individual or others.

~~(7)~~(10) "Gambling addiction services" means services for the treatment of persons who have a gambling addiction and for the prevention of gambling addiction.

(11) "Hospital" means a hospital or inpatient unit licensed by the department of mental health and addiction services under section 5119.33 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department under Chapter 5119. of the Revised Code.

(12) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(13) "Mental health services" means services for the assessment, care, or treatment of persons who have a mental illness as defined in this section.

(14)(a) "Residence" means a person's physical presence in a county with intent to remain there, except in either of the following circumstances:

(i) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, "residence" means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;

(ii) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, "residence" means the county where the criminal charges were filed.

(b) When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health and addiction services

for investigation and determination. Residence shall not be a basis for a board of alcohol, drug addiction, and mental health services to deny services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.

(B) Any reference in this chapter to a board of alcohol, drug addiction, and mental health services also refers to an alcohol and drug addiction services board or a community mental health board in a service district in which an alcohol and drug addiction services board or a community mental health board has been established under section 340.021 or former section 340.02 of the Revised Code.

Sec. 5119.04. The department of ~~mental health~~ mental health and addiction services and any institutions under its supervision or jurisdiction shall, where applicable, be in substantial compliance with standards set forth for psychiatric facilities by the joint commission ~~on accreditation of health care organizations~~ or medical assistance standards under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or other applicable standards, ~~except that the department and any institution under its supervision or jurisdiction shall be in substantial compliance with standards for physical facilities and equipment by July 1, 1989. The requirements of this section do not apply to any facility designated by the director of mental health for use as a psychiatric rehabilitation center.~~

The requirements of this section are in addition to any other requirements established by the Revised Code and nothing in this section shall be construed to limit any rights, privileges, protections, or immunities which may exist under the constitution and laws of the United States or this state.

Sec. ~~5119.27~~ 5119.05. Subject to the rules of the director of ~~mental health~~ mental health and addiction services, each institution under the jurisdiction of the department shall be under the management and control of a managing officer to be known as a ~~superintendent~~ chief executive officer or by another appropriate title. Such managing officer shall be appointed by the director of ~~mental health~~ mental health and addiction services, and shall be in the unclassified service and serve at the pleasure of the director. Each managing officer shall be of good moral character and have skill, ability, and experience in ~~his~~ the managing officer's profession. ~~Appointment to this position may be made from persons holding positions in the classified service in the department.~~

The managing officer, under the director, shall ~~have entire executive charge~~ serve as the appointing authority of the institution ~~for~~ to which such

managing officer is appointed. Subject to civil service rules, the managing officer shall have the power to appoint the necessary and remove employees and he or the director may remove such employees for cause of the institution. On behalf of the institution, the managing officer has the authority and responsibility for entering into contracts and other agreements for the efficient operations of the institution.

Sec. ~~5119.44~~ 5119.051. The department of ~~mental health~~ mental health and addiction services shall keep in its office a proper and complete set of books and accounts with each institution, which shall clearly show the nature and amount of every expenditure authorized and made at such institution, and which shall contain an account of all appropriations made by the general assembly and of all other funds, together with the disposition of such funds.

The department shall prescribe the form of vouchers, records, and methods of keeping accounts at each of the institutions, which shall be as nearly uniform as possible. The department may examine the records of each institution at any time.

The department may authorize any of its ~~bookkeepers~~ bookkeepers, accountants, or employees to examine and check the records, accounts, and vouchers or take an inventory of the property of any institution, or do whatever is necessary, and pay the actual and reasonable expenses incurred in such service when an itemized account is filed and approved.

Sec. ~~5119.43~~ 5119.06. The department of ~~mental health~~ mental health and addiction services shall keep in its office, accessible only to its employees, except by the consent of the department or the order of the judge of a court of record, a record showing the name, residence, sex, age, nativity, occupation, condition, and date of entrance or commitment of every patient in the institutions governed by it, the date, cause, and terms of discharge and the condition of such person at the time of leaving, and also a record of all transfers from one institution to another, and, if such person dies while in the care or custody of the department, the date and cause of death. These and such other facts as the department requires shall be furnished by the managing officer of each institution within twenty-four hours after the commitment, entrance, death, or discharge of a patient.

In case of an accident or injury or peculiar death of a patient the managing officer shall make a special report to the department within twenty-four hours thereafter, giving the circumstances as fully as possible.

Sec. ~~5119.42~~ 5119.07. A person, firm, or corporation may file a petition in the court of common pleas of the county in which a benevolent institution of the department of mental health and addiction services is located, in

which petition the desire to erect or carry on at a less distance than that prescribed in section 3767.19 of the Revised Code shall be set forth, the business prohibited, the precise point of its establishment, and the reasons and circumstances, in its opinion, why the erection or carrying on ~~thereof~~ of the business would not annoy or endanger the health, convenience, or recovery of the patients of such institution. The petitioner shall give notice in a newspaper of general circulation in the county of the pendency and prayer of the petition for at least six consecutive weeks before the day set for hearing the petition and serve a written notice upon the ~~superintendent~~ managing officer of the institution at least thirty days before the day set for hearing the petition.

If, upon the hearing of the petition, it appears that the notice has been given as required and the court is of the opinion that no good reason exists why such establishment may not be erected or such business carried on and that by the erection or carrying on ~~thereof~~ of the business at the point named, the institution will sustain no detriment, the court may issue an order granting the prayer of the petitioner. Thereafter the petitioner may locate such establishment or carry on such business at the point named in the petition.

Sec. ~~5119.14~~ 5119.08. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) Subject to division (C) of this section, upon the recommendation of the director of ~~mental health~~ mental health and addiction services, the managing officer of an institution under the jurisdiction of the department of ~~mental health~~ mental health and addiction services may designate one or more employees to be special police officers of the department. The special police officers shall take an oath of office, wear the badge of office, and give bond for the proper and faithful discharge of their duties in an amount that the director requires.

(2) In accordance with section 109.77 of the Revised Code, the special police officers shall be required to complete successfully a peace officer basic training program approved by the Ohio peace officer training commission and to be certified by the commission. The cost of the training shall be paid by the department of ~~mental health~~ mental health and addiction services.

(3) Special police officers, on the premises of institutions under the jurisdiction of the department of ~~mental health~~ mental health and addiction services and subject to the rules of the department, shall protect the property of the institutions and the persons and property of patients in the institutions, suppress riots, disturbances, and breaches of the peace, and enforce the laws

of the state and the rules of the department for the preservation of good order. They may arrest any person without a warrant and detain the person until a warrant can be obtained under the circumstances described in division (F) of section 2935.03 of the Revised Code.

(C)(1) The managing officer of an institution under the jurisdiction of the department of ~~mental health~~ mental health and addiction services shall not designate an employee as a special police officer of the department pursuant to division (B)(1) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the employee previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The managing officer of an institution under the jurisdiction of the department of ~~mental health~~ mental health and addiction services shall terminate the employment as a special police officer of the department of an employee designated as a special police officer under division (B)(1) of this section if that employee does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the employee agrees to surrender the certificate awarded to that employee under section 109.77 of the Revised Code.

(b) The managing officer shall suspend from employment as a special police officer of the department an employee designated as a special police officer under division (B)(1) of this section if that employee is convicted, after trial, of a felony. If the special police officer files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the special police officer does not file a timely appeal, the managing officer shall terminate the employment of that special police officer. If the special police officer files an appeal that results in that special police officer's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that special police officer, the managing officer shall reinstate that special police officer. A special police officer of the department who is reinstated under division (C)(2)(b) of this section shall not receive any back pay unless that special police officer's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the special police officer of the felony.

(3) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension from employment, or the termination of the

employment, of a special police officer under division (C)(2) of this section shall be in accordance with ~~Chapter 119. of the Revised Code~~ applicable collective bargaining agreements.

Sec. ~~5119.30~~ 5119.09. The attorney general shall attend to all ~~suits~~ claims instituted on behalf of or against ~~the department of mental health and addiction services or~~ any institution under the jurisdiction of the department ~~of mental health~~ and the managing officer thereof, except such institutions as are privately owned or operated under a license from the department of ~~mental health~~ mental health and addiction services, and shall represent the public hospital in proceedings under section 5122.15 of the Revised Code. The department of ~~mental health~~ mental health and addiction services shall reimburse the attorney general for the compensation of assistant attorneys general required to represent the public hospital in proceedings under section 5122.15 of the Revised code and shall also pay the costs of litigation incurred by the attorney general under that section.

If a writ of habeas corpus is applied for, the clerk of the court shall give notice of the time and place of hearing to the attorney general.

Sec. ~~5119.04~~ 5119.10. (A) The director of ~~mental health~~ mental health and addiction services is the chief executive and ~~administrative officer~~ appointing authority of the department of ~~mental health~~ mental health and addiction services. The director may organize the department for its efficient operation, including creating divisions or offices as necessary. The director may establish procedures for the governance of the department, conduct of its employees and officers, performance of its business, and custody, use, and preservation of departmental records, papers, books, documents, and property. Whenever the Revised Code imposes a duty upon or requires an action of the department or any of its institutions, the director or the director's designee shall perform the action or duty in the name of the department, except that the medical director appointed pursuant to section ~~5119.07~~ 5119.11 of the Revised Code shall be responsible for decisions relating to medical diagnosis, treatment, rehabilitation, quality assurance, and the clinical aspects of the following: licensure of hospitals and residential facilities, research, community addiction and mental health services plans, and certification and delivery of mental health and addiction services.

(B) The director shall:

~~(A)(1)~~ Adopt rules for the proper execution of the powers and duties of the department with respect to the institutions under its control, and require the performance of additional duties by the officers of the institutions as necessary to fully meet the requirements, intents, and purposes of this

chapter. In case of an apparent conflict between the powers conferred upon any managing officer and those conferred by such sections upon the department, the presumption shall be conclusive in favor of the department.

~~(B)~~(2) Adopt rules for the nonpartisan management of the institutions under the department's control. An officer or employee of the department or any officer or employee of any institution under its control who, by solicitation or otherwise, exerts influence directly or indirectly to induce any other officer or employee of the department or any of its institutions to adopt the exerting officer's or employee's political views or to favor any particular person, issue, or candidate for office shall be removed from the exerting officer's or employee's office or position, by the department in case of an officer or employee, and by the governor in case of the director.

~~(C)~~(3) Appoint such employees, including the medical director, as are necessary for the efficient conduct of the department, and prescribe their titles and duties;

~~(D)~~(4) Prescribe the forms of affidavits, applications, medical certificates, orders of hospitalization and release, and all other forms, reports, and records that are required in the hospitalization or admission and release of all persons to the institutions under the control of the department, or are otherwise required under this chapter or Chapter 5122. of the Revised Code;

~~(E) Contract with hospitals licensed by the department under section 5119.20 of the Revised Code for the care and treatment of mentally ill patients, or with persons, organizations, or agencies for the custody, evaluation, supervision, care, or treatment of mentally ill persons receiving services elsewhere than within the enclosure of a hospital operated under section 5119.02 of the Revised Code;~~

~~(F)~~(5) Exercise the powers and perform the duties relating to community addiction and mental health facilities and services that are assigned to the director under this chapter and Chapter 340. of the Revised Code;

~~(G)~~(6) Develop and implement clinical evaluation and monitoring of services that are operated by the department;

~~(H)~~(7) Adopt rules establishing standards for the performance of evaluations by a forensic center or other psychiatric program or facility of the mental condition of defendants ordered by the court under section 2919.271, or 2945.371 of the Revised Code, and for the treatment of defendants who have been found incompetent to stand trial and ordered by the court under section 2945.38, 2945.39, 2945.401, or 2945.402 of the Revised Code to receive treatment in facilities;

~~(H)~~(8) On behalf of the department, have the authority and responsibility for entering into contracts and other agreements; with providers, agencies, institutions, and other entities, both public and private, as necessary for the department to carry out its duties under this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code. Chapter 125. of the Revised Code does not apply to contracts the director enters into under this section for services provided to individuals with mental illness by providers, agencies, institutions, and other entities not owned or operated by the department.

~~(J)~~ Prepare and publish regularly a state mental health plan that describes the department's philosophy, current activities, and long term and short term goals and activities;

~~(K)~~(9) Adopt rules in accordance with Chapter 119. of the Revised Code specifying the supplemental services that may be provided through a trust authorized by section 5815.28 of the Revised Code;

~~(L)~~(10) Adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the maintenance and distribution to a beneficiary of assets of a trust authorized by section 5815.28 of the Revised Code.

(C) The director may contract with hospitals licensed by the department under section 5119.33 of the Revised Code for the care and treatment of mentally ill patients, or with persons, organizations, or agencies for the custody, evaluation, supervision, care, or treatment of mentally ill persons receiving services elsewhere than within the enclosure of a hospital operated under section 5119.14 of the Revised Code.

Sec. ~~5119.07~~ 5119.11. (A) The director of ~~mental health~~ mental health and addiction services shall appoint a medical director who ~~is a psychiatrist as defined in division (E) of section 5122.01 of the Revised Code,~~ is eligible or certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry, and has at least five years of clinical and two years of administrative experience. The medical director shall also have certification or substantial training and experience in the field of addiction medicine or addiction psychiatry. The medical director shall be responsible for decisions relating to medical diagnosis, treatment, prevention, rehabilitation, quality assurance, and the clinical aspects of mental health and addiction services involving all of the following: ~~licensure~~

(1) Licensure of hospitals ~~and,~~ residential facilities, ~~research,~~ community mental health and outpatient facilities;

(2) Research;

(3) Community addiction and mental health services plans;

(4) Certification and delivery of mental health and addiction services.

The

(B) The medical director shall also exercise clinical supervision of the chief clinical officers of hospitals and institutions under the jurisdiction of the department and shall review and approve decisions relating to the employment of the chief clinical officers. The medical director or his the medical director's designee shall advise the director on matters relating to licensure, research, ~~community mental health plans~~, and the certification and delivery of mental health and addiction services and community plans. The medical director shall participate in the development of guidelines for community addiction and mental health services plans. The director of ~~mental health~~ mental health and addiction services may establish other duties of the medical director. ~~The medical director shall participate in the development of guidelines for community mental health plans.~~

~~Sec. 5119.02~~ 5119.14. (A) The department of ~~mental health~~ mental health and addiction services shall maintain, operate, manage, and govern state institutions and other services for the care and treatment of mentally ill persons.

(B)(1) The department of ~~mental health~~ mental health and addiction services may, with the approval of the governor, designate ~~all the name and purpose of any~~ institutions under its jurisdiction by appropriate respective names, regardless of present statutory designation and may change, with the approval of the governor, the designation and name when necessary.

~~(C)(2)~~ The department shall divide the state into districts for the purpose of designating the institution in which mentally ill persons are hospitalized and may change the districts.

(3) Subject to section 5139.08 and pursuant to Chapter 5122. of the Revised Code and on the agreement of the departments of ~~mental health~~ mental health and addiction services and youth services, the department of ~~mental health~~ mental health and addiction services may receive from the department of youth services for psychiatric observation, diagnosis, or treatment any person eighteen years of age or older in the custody of the department of youth services. The departments ~~shall~~ may enter into a written agreement specifying the procedures necessary to implement this division.

~~(D)(C)~~ The department of ~~mental health~~ mental health and addiction services shall designate hospitals, facilities, and community mental health agencies services providers for the custody, care, and special treatment of, and authorize payment for such custody, care, and special treatment provided to, persons who are charged with a crime and who are found

incompetent to stand trial or not guilty by reason of insanity.

~~(E)~~(D) The department of ~~mental health~~ mental health and addiction services may do ~~all~~ any of the following:

(1) Require reports from the managing officer of any institution under the department's jurisdiction, relating to the admission, examination, comprehensive evaluation, diagnosis, release, or discharge of any patient;

(2) Visit each institution regularly to review its operations and to investigate complaints made by any patient or by any person on behalf of a patient, provided these duties may be performed by a person designated by the director.

~~(F) The department of mental health shall divide the state into districts for the purpose of designating the institution in which mentally ill persons are hospitalized, and may change the districts.~~

~~(G)~~(E) The department of mental health and addiction services may provide or contract to provide addiction services for offenders incarcerated in the state prison system.

(F) In addition to the powers expressly conferred, the department of ~~mental health~~ mental health and addiction services shall have all powers and authority necessary for the full and efficient exercise of the executive, administrative, and fiscal supervision over the state institutions described in this section.

~~(H) The department of mental health may provide for the custody, supervision, control, treatment, and training of mentally ill persons hospitalized elsewhere than within the enclosure of a hospital, if the department so determines with respect to any individual or group of individuals. In all such cases, the department shall ensure adequate and proper supervision for the protection of such persons and of the public.~~

Sec. ~~5119.012~~ 5119.141. The department of ~~mental health~~ mental health and addiction services has all the authority necessary to carry out its powers and duties under this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code, including the authority to adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code.

Sec. ~~5119.24~~ 5119.15. The department of ~~mental health~~ mental health and addiction services may make such investigations as are necessary in the performance of its duties and to that end the director of ~~mental health~~ mental health and addiction services shall have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers.

The department shall keep a record of such investigations stating the

time, place, charges or subject, witnesses summoned and examined, and its conclusions.

In matters involving the conduct of an officer, a stenographic report of the evidence shall be taken and a copy of such report, with all documents introduced, kept on file at the office of the department.

The fees of witnesses for attendance and travel shall be the same as in the court of common pleas, but no officer or employee of the institution under investigation is entitled to such fees.

Any judge of the probate court or of the court of common pleas, upon application of the department, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the department, by a judgment for contempt or otherwise, in the same manner as in cases before such courts.

The department of ~~mental health~~ mental health and addiction services may appoint and commission any competent agency or person, to serve without compensation, as a special agent, investigator, or representative to perform a designated duty for the department. Specific credentials shall be given by the department to each person so designated. Each credential shall state the:

- (A) Name of the agent, investigator, or representative;
- (B) Agency with which such person is connected;
- (C) Purpose of appointment;
- (D) Date of expiration of appointment;
- (E) Such information as the department considers proper.

Sec. ~~3793.051~~ 5119.161. The department of ~~alcohol and drug addiction services~~ mental health and addiction services, in conjunction with the department of job and family services, shall develop a joint state plan to improve the accessibility and timeliness of alcohol and drug addiction services for individuals identified by a public children services agency as in need of those services. The plan shall address the fact that Ohio works first participants may be among the persons receiving services under section 340.15 of the Revised Code and shall require the department of job and family services to seek federal funds available under Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, for the provision of the services to Ohio works first participants who are receiving services under section 340.15 of the Revised Code.

The plan shall address the need and manner for sharing information and include a request for the general assembly to appropriate an amount of funds specified in the report to be used by the departments to pay for services under section 340.15 of the Revised Code. The departments shall review and

amend the plan as necessary.

Not later than the first day of July of each even-numbered year, the departments shall submit a report on the progress made under the joint state plan to the governor, president of the senate, and speaker of the house of representatives. The report shall include information on treatment capacity, needs assessments, and number of individuals who received services pursuant to section 340.15 of the Revised Code.

Sec. ~~3793.15~~ 5119.17. (A) The department of ~~alcohol and drug addiction services~~ mental health and addiction services, in accordance with division (B) of this section, shall give priority to developing, and promptly shall develop, with available public and private resources a program that does all of the following:

(1) Provides a manner of identifying the aggregate number of pregnant women in this state who are addicted to a drug of abuse;

(2) Provides for an effective means of intervention to eliminate the addiction of pregnant women to drugs of abuse prior to the birth of their children;

(3) Provides for the continued monitoring of women who were addicted to a drug of abuse during their pregnancies, after the birth of their children, and for the availability of treatment and rehabilitation for those women;

(4) Provides a manner of determining the aggregate number of children who are born in this state to women who are addicted, at the time of birth, to a drug of abuse, and of children who are born in this state with an addiction to or a dependency on a drug of abuse;

(5) Provides for the continued monitoring of children who are born in this state to women who are addicted, at the time of birth, to a drug of abuse, or who are born in this state with an addiction to or dependency on a drug of abuse, after their birth;

(6) Provides for the treatment and rehabilitation of any child who is born to a woman who is addicted, at the time of birth, to a drug of abuse, and of any child who is born with an addiction to or dependency on a drug of abuse.

(B) In developing the program described in division (A) of this section, the department may obtain information from the department of health and the department of job and family services, and those departments shall cooperate with the department of ~~alcohol and drug addiction services~~ mental health and addiction services in its development and implementation of the program.

(C) Immediately upon its development of the program described in division (A) of this section, the department shall implement the program.

(D) Any record or information that is obtained or maintained by the department in connection with the program described in division (A) of this section and could enable the identification of any woman or child described in division (A)(1) or (4) of this section is not a public record subject to inspection or copying under section 149.43 of the Revised Code.

Sec. ~~5119.071~~ 5119.18. An appointing authority may appoint a person who holds a certified or permanent position in the classified service within the department of ~~mental health~~ mental health and addiction services to a position in the unclassified service within the department. A person appointed pursuant to this section to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment to the position in the unclassified service, ~~regardless of the number of positions the person held in the unclassified service.~~ An employee's right to resume a position in the classified service may only be exercised when an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or Chapter 124. of the Revised Code, violation of the rules of the director of administrative services or the director of mental health, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. An employee also forfeits the right to resume a position in the classified service upon transfer to a different agency.

Reinstatement to a position in the classified service shall be to a position substantially equal to that position in the classified service held previously, as certified by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the department that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service as provided in this section, the person is entitled to all

~~rights, status, and benefits accruing to the position in the classified service during the person's time of service in the position in the unclassified service pursuant to division (D) of section 124.11 of the Revised Code.~~

Sec. ~~5119.072~~ 5119.181. (A) No appointing officer shall appoint a person to fill a position in either the classified or unclassified service of the department of ~~mental health~~ mental health and addiction services if the person has been convicted of or pleaded guilty to a violation of the following:

(1) Any felony contained in the Revised Code, if the felony bears a direct and substantial relationship to the position being filled;

(2) Any crime contained in the Revised Code constituting a misdemeanor of the first degree on the first offense and a felony on subsequent offenses, if the crime bears a direct and substantial relationship to the position being filled;

(3) An existing or former law of this state, any other state, or the United States, if the law violated is substantially equivalent to any of the offenses described in division (A)(1) or (2) of this section.

(B) The director of ~~mental health~~ mental health and addiction services shall adopt rules, in accordance with Chapter 119. of the Revised Code, to implement this section.

(C) The director or an appointing officer shall request the bureau of criminal identification and investigation created by section 109.51 of the Revised Code or, at ~~his~~ the director's or appointing officer's discretion, any other state or federal agency, to supply ~~him~~ the director or appointing officer with a written report regarding the criminal records of any applicant. For each investigation undertaken at the department's request under this section, the department shall pay a reasonable fee to the bureau or other state or federal agency conducting the investigation. The amount of the fee shall be determined by the bureau or other state or federal agency conducting the investigation and shall be sufficient to cover the costs of conducting the investigation. The report made by the bureau or other state or federal agency is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person, except the applicant, the director, the appointing officer or his designee the appointing officer's designees, or any hearing officer involved in a case denying employment.

(D) As used in this section, "applicant" means a person who is under final consideration for appointment to a position in the classified or unclassified service of the department of ~~mental health~~ mental health and addiction services.

Sec. ~~5119.08~~ 5119.182. The department of ~~mental health shall~~ mental

health and addiction services may require any of its employees and each officer and employee of every institution under its control who may be charged with custody or control of any money or property belonging to the state or who is required to give bond, to give a surety company bond, properly conditioned, in a sum to be fixed by the department which when approved by the department, shall be filed in the office of the secretary of state. The cost of such bonds, when approved by the department, shall be paid from funds available for the department. The bonds required or authorized by this section may, in the discretion of the director of ~~mental health~~ mental health and addiction services, be individual, schedule, or blanket bonds.

Sec. ~~5119.10~~ 5119.184. The department of ~~mental health~~ mental health and addiction services may provide educational grants or tuition reimbursements to upgrade the education, training, and professional achievement of its employees, whenever it determines that provision of such grants or reimbursements is essential to the achievement of its goals. The department may enter into agreements with its employees for the purposes of this section. The agreements may require, as a condition of each grant or reimbursement, that the employee continue employment with the department or with another federal, state, or local public agency designated by the department for a period of time stated in the agreement. If an employee does not fulfill the employment requirement stated in the agreement, the department may take action to recover the amount of all educational grants or tuition reimbursements paid to the employee under this section, plus interest at the rate of ten per cent per year calculated from the date of payment of each grant or reimbursement.

Sec. ~~5119.101~~ 5119.185. (A) As used in this section, "physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(B) The department of ~~mental health~~ mental health and addiction services may establish a physician recruitment program under which the department agrees to repay all or part of the principal and interest of a government or other educational loan incurred by a physician who agrees to provide services to inpatients and outpatients of institutions under the department's administration. To be eligible to participate in the program, a physician must have attended a school that was, at the time of attendance, a medical school or osteopathic medical school in this country accredited by the liason committee on medical education or the American osteopathic association, or a medical school or osteopathic medical school located outside this country that was acknowledged by the world health organization

and verified by a member state of that organization as operating within that state's jurisdiction.

(C) The department shall enter into a contract with each physician it recruits under this section. Each contract shall include at least the following terms:

(1) The physician agrees to provide a specified scope of medical or osteopathic medical services for a specified number of hours per week and a specified number of years to patients of one or more specified institutions administered by the department.

(2) The department agrees to repay all or a specified portion of the principal and interest of a government or other educational loan taken by the physician for the following expenses if the physician meets the service obligation agreed to and the expenses were incurred while the physician was enrolled in, for up to a maximum of four years, a school that qualifies the physician to participate in the program:

(a) Tuition;

(b) Other educational expenses for specific purposes, including fees, books, and laboratory expenses, in amounts determined to be reasonable in accordance with rules adopted under division (D) of this section;

(c) Room and board, in an amount determined to be reasonable in accordance with rules adopted under division (D) of this section.

(3) The physician agrees to pay the department a specified amount, which shall be not less than the amount already paid by the department pursuant to its agreement, as damages if ~~he~~ the physician fails to complete the service obligation agreed to or fails to comply with other specified terms of the contract. The contract may vary the amount of damages based on the portion of the physician's service obligation that remains uncompleted as determined by the department.

(4) Other terms agreed upon by the parties.

(D) If the department elects to implement the physician recruitment program, it shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Criteria for designating institutions for which physicians will be recruited;

(2) Criteria for selecting physicians for participation in the program;

(3) Criteria for determining the portion of a physician's loan that the department will agree to repay;

(4) Criteria for determining reasonable amounts of the expenses described in divisions (C)(2)(b) and (c) of this section;

(5) Procedures for monitoring compliance by physicians with the terms

of their contracts;

(6) Any other criteria or procedures necessary to implement the program.

Sec. ~~5119.14~~ 5119.186. (A) The director of ~~mental health~~ mental health and addiction services or the managing officer of an institution of the department may enter into an agreement with boards of trustees or boards of directors of one or more institutions of higher education or hospitals licensed pursuant to section ~~5119.20~~ 5119.33 of the Revised Code to establish, manage, and conduct collaborative training efforts for students enrolled in courses of studies for occupations or professions ~~which may be determined by the director upon the approval of the medical director to be in occupations or professions needed to provide adequate~~ that involve the care and treatment for persons receiving mental health or addiction services.

(B) Such collaborative training efforts may include but are not limited to programs in psychiatry, psychology, nursing, social work, counseling professions, and others considered appropriate by the director of ~~mental health~~ mental health and addiction services. Any such program shall be approved or accredited by its respective professional organization or state board having jurisdiction over the profession.

(1) The department shall require that the following be provided for in agreements between the department and institutions of higher education or hospitals licensed pursuant to section ~~5119.20~~ 5119.33 of the Revised Code:

(a) Establishment of inter-disciplinary committees to advise persons responsible for training programs. Each committee shall have representation drawn from the geographical community the institution of higher education or hospital serves and shall include representatives of agencies, boards, targeted populations as determined by the department, racial and ethnic minority groups, and publicly funded programs;

(b) Funding procedures;

(c) Specific outcomes and accomplishments that are expected or required of a program under such agreement;

(d) The types of services to be provided under such agreement.

(2) The department may require that the following be provided for in agreements between the department and institutions of higher education or hospitals licensed pursuant to section ~~5119.20~~ 5119.33 of the Revised Code:

(a) Special arrangements for individual residents or trainees to encourage their employment in publicly funded settings upon completion of their training;

(b) Procedures for the selection of residents or trainees to promote the admission, retention, and graduation of women, minorities, and ~~handicapped~~

disabled persons;

(c) Cross-cultural training and other subjects considered necessary to enhance training efforts and the care and treatment of patients and clients;

(d) Funding of faculty positions oriented toward meeting the needs of publicly funded programs.

Subject to appropriations by the general assembly, the director of ~~mental health~~ mental health and addiction services has final approval of the funding of these collaborative training efforts.

Sec. ~~5119.12~~ 5119.187. The courses of study for the instruction and training of all persons in institutions under the control of the department of ~~mental health~~ mental health and addiction services shall be subject to the approval of the superintendent of public instruction.

All teachers employed in institutions under the control of the department of ~~mental health~~ mental health and addiction services shall possess such educator licenses or have such qualifications and approval as the superintendent of public instruction, after consulting with the officers in charge of the institutions, prescribes for the various types of service in the institutions.

Sec. ~~3793.16~~ 5119.188. (A) As used in this section, "state correctional institution" has the same meaning as in section 2967.01 of the Revised Code.

(B) The department of ~~alcohol and drug addiction services~~ mental health and addiction services shall develop a program that is designed to educate and train the employees of each state correctional institution, the employees of each department of youth services institution, and other persons associated by contract or otherwise with each state correctional institution or each department of youth services institution, who will be responsible for the conduct of, or otherwise providing treatment or rehabilitation services pursuant to, a substance abuse treatment or rehabilitation program offered in the institution to adult prisoners or juvenile offenders. Upon the development of the educational and training program, the department of ~~alcohol and drug addiction services~~ mental health and addiction services promptly shall commence its implementation. The department of ~~alcohol and drug addiction services~~ mental health and addiction services may charge to the department of rehabilitation and correction and to the department of youth services a reasonable annual fee that reflects the expenses incurred by it during the immediately preceding calendar year in preparing and offering the educational and training program during that year to the respective employees and other associated persons described in this division.

The director of rehabilitation and correction and the director of youth

services shall require the respective employees and other associated persons described in this division to attend and successfully complete the educational and training program developed pursuant to this division as a condition of their continuing to have responsibility for the conduct of, or their continuing to provide treatment or rehabilitation services pursuant to, any treatment or rehabilitation program that is offered in a state correctional institution or in a department of youth services institution to adult prisoners or juvenile offenders. If the department of ~~alcohol and drug addiction services~~ mental health and addiction services charges a reasonable annual fee as described in this division, the director involved shall cause that fee to be paid from any available funds of the department of rehabilitation and correction or any available funds of the department of youth services.

(C) The department of rehabilitation and correction and the department of ~~alcohol and drug addiction services~~ mental health and addiction services jointly shall develop program specifications for the alcohol and drug addiction treatment programs offered in state correctional institutions.

Sec. ~~3793.031~~ 5119.201. (A) The director of ~~alcohol and drug addiction services~~ mental health and addiction services may acquire by purchase, lease, or otherwise such real and personal property rights in the name of the state as are necessary for the purposes of the department. ~~The~~

(B) When it is necessary for a state institution under the jurisdiction of the department to acquire any real estate, right-of-way, or easement in real estate in order to accomplish the purposes for which it was organized or is being conducted, and the department is unable to agree with the owner of such property upon the price to be paid for the property, such property may be appropriated in the manner provided for the appropriation of property for other state purposes.

~~(C) The director, with the approval of the governor and the attorney general, may work with the department of administrative services to sell, lease, or exchange portions of real and personal property of the department when the sale, lease, or exchange is advantageous to the state. Money received from such sales, leases, or exchanges shall be credited to the general revenue~~ the department of mental health and addiction services trust fund, created in section 5119.46 of the Revised Code.

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

Sec. ~~5119.06~~ 5119.21. (A) The department of ~~mental health~~ mental health and addiction services shall:

~~(A)(1)~~ (1) To the extent the department has available resources and in

consultation with boards of alcohol, drug addiction, and mental health services, support a ~~community support system~~ continuum of care in accordance with ~~section 340.03~~ Chapter 340, of the Revised Code on a district or multi-district basis. The department shall define the essential elements of a ~~community support system~~ continuum of care, shall assist in identifying resources, and may prioritize support for one or more of the elements.

~~(B)~~ Operate inpatient and other mental health services;

~~(C)~~(2) Provide training, consultation, and technical assistance regarding mental health ~~programs~~ and addiction services and appropriate prevention, recovery, and mental health promotion activities, including those that are culturally sensitive competent, to employees of the department, community mental health ~~agencies~~ and addiction services providers, boards of alcohol, drug addiction, and mental health services, and other agencies providing mental health and addiction services;

~~(D)~~(3) To the extent the department has available resources, promote and support a full range of mental health and addiction services that are available and accessible to all residents of this state, especially for severely mentally disabled children, adolescents, ~~and~~ adults, pregnant women, parents, guardians or custodians of children at risk of abuse or neglect, and other special target populations, including racial and ethnic minorities, as determined by the department;

~~(E)~~(4) Develop standards and measures for evaluating the effectiveness of mental health and addiction services, including services that use methadone treatment, of gambling addiction services, and for increasing the accountability of mental health and alcohol and addiction services providers and of gambling addiction services providers;

(5) Design and set criteria for the determination of ~~severe mental disability~~ priority populations;

~~(F)~~ Establish standards for evaluation of mental health programs;

~~(G)~~(6) Promote, direct, conduct, and coordinate scientific research, taking ethnic and racial differences into consideration, concerning the causes and prevention of mental illness and addiction, methods of providing effective services and treatment, and means of enhancing the mental health of and recovery from addiction of all residents of this state;

~~(H)~~(7) Foster the establishment and availability of vocational rehabilitation services and the creation of employment opportunities for consumers of mental health and addiction services, including members of racial and ethnic minorities;

~~(I)~~(8) Establish a program to protect and promote the rights of persons

receiving mental health and addiction services, including the issuance of guidelines on informed consent and other rights;

~~(J) Establish, in consultation with board of alcohol, drug addiction, and mental health services representatives and after consideration of the recommendations of the medical director, guidelines for the development of community mental health plans and the review and approval or disapproval of such plans submitted pursuant to section 340.03 of the Revised Code;~~

~~(K)(9)~~ Promote the involvement of persons who are receiving or have received mental health or addiction services, including families and other persons having a close relationship to a person receiving ~~mental health~~ those services, in the planning, evaluation, delivery, and operation of mental health and addiction services;

~~(L)(10)~~ Notify and consult with the relevant constituencies that may be affected by rules, standards, and guidelines issued by the department of ~~mental health~~ mental health and addiction services. These constituencies shall include consumers of mental health and addiction services and their families, and may include public and private providers, employee organizations, and others when appropriate. Whenever the department proposes the adoption, amendment, or rescission of rules under Chapter 119. of the Revised Code, the notification and consultation required by this division shall occur prior to the commencement of proceedings under Chapter 119. The department shall adopt rules under Chapter 119. of the Revised Code that establish procedures for the notification and consultation required by this division.

~~(M) In cooperation with board of alcohol, drug addiction, and mental health services representatives, provide training regarding the provision of community-based mental health services to those department employees who are utilized in state-operated, community-based mental health services;~~

~~(N)(11)~~ Provide consultation to the department of rehabilitation and correction concerning the delivery of mental health and addiction services in state correctional institutions.

(12) Promote and coordinate efforts in the provision of alcohol and drug addiction services and of gambling addiction services by other state agencies, as defined in section 1.60 of the Revised Code; courts; hospitals; clinics; physicians in private practice; public health authorities; boards of alcohol, drug addiction, and mental health services; alcohol and drug addiction services providers; law enforcement agencies; gambling addiction services providers; and related groups;

(13) Provide to each court of record, and biennially update, a list of the treatment and education programs within that court's jurisdiction that the

court may require an offender, sentenced pursuant to section 4511.19 of the Revised Code, to attend;

(14) Make the warning sign described in sections 3313.752, 3345.41, and 3707.50 of the Revised Code available on the department's internet web site;

(15) Provide a program of gambling addiction services on behalf of the state lottery commission, pursuant to an agreement entered into with the director of the commission under division (K) of section 3770.02 of the Revised Code, and provide a program of gambling addiction services on behalf of the Ohio casino control commission, under an agreement entered into with the executive director of the commission under section 3772.062 of the Revised Code. Under Section 6(C)(3) of Article XV, Ohio Constitution, the department may enter into agreements with boards of alcohol, drug addiction, and mental health services, including boards with districts in which a casino facility is not located, and nonprofit organizations to provide gambling addiction services and substance abuse services, and with state institutions of higher education or private nonprofit institutions that possess a certificate of authorization issued under Chapter 1713. of the Revised Code to perform related research.

(B) The department may accept and administer grants from public or private sources for carrying out any of the duties enumerated in this section.

(C) Pursuant to Chapter 119. of the Revised Code, the department shall adopt a rule defining the term "intervention" as it is used in this chapter in connection with alcohol and drug addiction services and in connection with gambling addiction services. The department may adopt other rules as necessary to implement the requirements of this chapter.

~~Sec. 5119.61 5119.22. Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also refers to the community mental health board in an alcohol, drug addiction, and mental health service district that has a community mental health board.~~

~~The director of mental health mental health and addiction services with respect to all mental health and addiction facilities and programs services established and operated or provided under Chapter 340. of the Revised Code for mentally ill and emotionally disturbed persons, shall do all of the following:~~

~~(A) Adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of Chapter this chapter and Chapters 340. and sections 5119.61 to 5119.63 5122. of the Revised Code.~~

~~(1) The rules shall include the following:~~

~~(a) Rules governing a community mental health agency's services under~~

~~section 340.091 of the Revised Code to an individual referred to the agency under division (D)(2) of section 5119.69 of the Revised Code;~~

~~(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services regarding referrals of individuals with mental illness or severe mental disability to residential facilities as defined in division (A)(9)(b) of section 5119.22 of the Revised Code and effective arrangements for ongoing mental health services for the individuals.~~

~~(2) Rules may be adopted to govern the method of paying a community mental health facility, as defined in section 5111.023 of the Revised Code, for providing services listed in division (B) of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.~~

~~(B) Review and evaluate, and the continuum of care in each service district, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program submitted under division (A)(4) of section 340.03 of the Revised Code and the requirements and priorities and plans of the state mental health plan department, including the needs of residents of the district now residing in state mental institutions currently receiving services in state-operated hospitals, and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;~~

~~(C) Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;~~

~~(D) At the director's discretion, provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section ~~5119.62~~ 5119.23 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;~~

~~(D) Establish, in consultation with board of alcohol, drug addiction, and mental health service representatives and after consideration of the recommendations of the medical director, guidelines for the development of community mental health and addiction services plans and the review and approval or disapproval of such plans submitted pursuant to section 340.03 of the Revised Code.~~

~~(E) Establish criteria by which a board of alcohol, drug addiction, and~~

mental health services reviews and evaluates the quality, effectiveness, and efficiency of its contracted services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. ~~or section 5119.62~~ of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions.

(F) To the extent the director determines necessary and after consulting with boards of alcohol, drug addiction, and mental health services and community addiction and mental health services providers, develop and operate, or contract for the operation of, a community ~~mental~~ behavioral health information system or systems. The department shall specify the information that must be provided by boards of alcohol, drug addiction, and mental health services and by community addiction and mental health services providers for inclusion in the system or systems.

Boards of alcohol, drug addiction, and mental health services and community addiction and mental health services providers shall submit information requested by the department in the form and manner and in accordance with time frames prescribed by the department. Information collected by the department ~~shall~~ may include, ~~but not be limited to~~, all of the following:

(1) Information ~~regarding units of~~ on services provided ~~in whole or in part under contract with a board, including diagnosis and special needs, demographic information, the number of units of service provided, past treatment, financial status, and service dates in accordance with rules adopted by the department in accordance with Chapter 119. of the Revised Code;~~

(2) Financial information ~~other than price or price-related data~~ regarding expenditures of ~~boards and community mental health agencies, including units of service provided, budgeted and actual expenses by type, and sources of federal, state, or local funds;~~

(3) Information about persons served.

~~Boards shall submit the information specified in division (F)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. The department shall not collect any personal information from the boards except as required or permitted by state or federal law for purposes related to payment, health care operations,~~

program and service evaluation, reporting activities, research, system administration, and oversight.

~~(G)(1) Review each board's community mental health and addiction services plan, budget, and statement of services to be made available submitted pursuant to section sections 340.03 and 340.08 of the Revised Code and approve or disapprove it the plan, the budget, and the statement of services in whole or in part. Periodically, in consultation with representatives of boards and after considering the recommendations of the medical director, the director shall issue criteria for determining when a plan is complete, criteria for plan approval or disapproval, and provisions for conditional approval. The factors that the director considers may include, but are not limited to, the following:~~

~~(1) The mental health needs of all persons residing within the board's service district, especially severely mentally disabled children, adolescents, and adults;~~

~~(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;~~

~~(3) The adequacy of the board's accounting for the expenditure of funds.~~

~~If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.~~

~~If the approval of a plan remains in dispute, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. The director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part. The department may withhold all or part of the funds allocated to a board if it disapproves all or part of a plan, budget, or statement of services. Prior to a final decision to disapprove a plan, budget, or statement of services, or to withhold funds from a board, a representative of the director of mental health and addiction services shall meet with the board and discuss the reason for the action the department proposes to take and any corrective action that should be taken to make the plan, budget, or statement of~~

services acceptable to the department. In addition, the department shall offer technical assistance to the board to assist it to make the plan, budget, or statement of services acceptable. The department shall give the board a reasonable time in which to revise the plan, budget, or statement of services. The board thereafter shall submit a revised plan, budget, or statement of services, or a new plan, budget, or statement of services.

(2) If a board determines that it is necessary to amend the plan, budget, or statement of services that has been approved under this section, the board shall submit the proposed amendment to the department. The department may approve or disapprove all or part of the amendment.

(3) If the director disapproves of all or part of any proposed amendment, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the proposed amendment may be approved. The director shall give the board a reasonable time within which to meet the criteria and shall offer technical assistance to the board to help it meet the criteria.

(4) The department shall establish procedures for the review of plans, budgets, and statements of services, and a timetable for submission and review of plans, budgets, and statements of services and for corrective action and submission of new or revised plans, budgets, and statements of services.

Sec. ~~5119.62~~ 5119.23. (A) The department of ~~mental health~~ mental health and addiction services shall establish a methodology for allocating to boards of alcohol, drug addiction, and mental health services the funds appropriated by the general assembly to the department for the purpose of local mental health ~~systems~~ and addiction services continuums of care. The department shall establish the methodology after notifying and consulting with relevant constituencies as required by division ~~(A)(10)~~ of section ~~5119.06~~ 5119.21 of the Revised Code. The methodology may provide for the funds to be allocated to boards on a district or multi-district basis.

~~Subject~~
(B) Subject to sections 5119.622 and 5119.623 section 5119.25 of the Revised Code, and to required submissions and approvals under section 340.08 of the Revised Code, the department shall allocate the funds to the boards in a manner consistent with the methodology, this section, other state and federal laws, rules, and regulations.

~~(B) The department may allocate to boards a portion of the funds appropriated by the general assembly to the department for the operation of state hospital services. If the department allocates the funds, the department~~

~~shall do all of the following:~~

~~(1) In consultation with the boards:~~

~~(a) Annually determine the unit costs of providing state hospital services; and~~

~~(b) Establish the methodology for allocating the funds to the boards.~~

~~(2) Determine the type of unit costs of providing state hospital services to be included as a factor in the methodology and include that unit cost as a factor in the methodology;~~

~~(3) Subject to sections 5119.622 and 5119.623 of the Revised Code, allocate the funds to the boards in a manner consistent with the methodology, this section, other state and federal laws, rules, and regulations.~~

~~(c) Not later than the first day of April of each year, the department shall notify each board of the department's estimate of the amount of funds to be allocated to the board under this section during the fiscal year beginning on the next July first. If the department makes an allocation under division (B) of this section, the department shall also notify each board of the unit costs of providing state hospital services for the upcoming fiscal year as determined under that division. Not later than the first day of May of each year, each board shall notify the department as to which of the following options it has elected for the upcoming fiscal year:~~

~~(1) The board elects to accept distribution of the amount allocated to it under this section. Funds distributed to each board shall be used to supplement and not to supplant other state, local, or federal funds that are being used to support community based programs for severely mentally disabled children, adolescents, and adults, unless the funds have been specifically designated for the initiation of programs in accordance with the community mental health plan developed and submitted under section 340.03 and approved under section 5119.61 of the Revised Code. Notwithstanding section 131.33 of the Revised Code, any board may expend unexpended funds distributed to the board from appropriations for the purpose of local management of mental health services in the fiscal year following the fiscal year for which the appropriations are made, in accordance with the approved community mental health plan.~~

~~(2) Subject to division (D) of this section, the board elects not to accept the amount allocated to it under this section, authorizes the department to determine the use of its allocation, and agrees to provide the department with a statement of projected utilization of state hospitals and other state-operated services by residents of its service district during the fiscal year.~~

~~(D) No board shall elect the option in division (C)(2) of this section unless all of the following apply:~~

~~(1) Either the total funds estimated by the department to be allocated to the board under this section for the next fiscal year are reduced by a substantial amount, as defined in guidelines adopted by the director of mental health under division (E) of this section, in comparison to the amount allocated for the current fiscal year, for reasons not related to performance or the board has experienced other circumstances specified in the guidelines.~~

~~(2) The board provides the department written confirmation that the board has received input about the impact that the board's election will have on the mental health system in the board's district from all of the following:~~

~~(a) Individuals who receive mental health services and such individuals' families;~~

~~(b) Boards of county commissioners;~~

~~(c) Judges of juvenile and probate courts;~~

~~(d) County sheriffs, jail administrators, and other local law enforcement officials.~~

~~(3) Not later than seven days before notifying the department of its election and after providing the department the written confirmation required by division (D)(2) of this section, the board conducts a public hearing on the issue.~~

~~(E) For the purpose of division (D)(1) of this section, the director of mental health shall consult with the boards and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of funds and what other circumstances qualify a board to elect the option in division (C)(2) of this section.~~

~~(F) No board shall use state funds for the purpose of discouraging employees from seeking collective bargaining representation or encouraging employees to decertify a recognized collective bargaining agent.~~

~~(G) The department shall charge against the allocation made to a board under division (B) of this section, if any, any unreimbursed costs for services provided by the department.~~

~~(H) A board's use of funds allocated under this section is subject to audit by county, state, and federal authorities.~~

(C) In consultation with boards, community mental health and addiction services providers, and persons receiving services, the department shall establish guidelines for the use of funds allocated and distributed under this section.

Sec. 5119.621 5119.24. (A) As used in this section, "administrative function" means a function related to one or more of the following:

- (1) Continuous quality improvement;
- (2) Utilization review;
- (3) Resource development;
- (4) Fiscal administration;
- (5) General administration;
- (6) Any other function related to administration that is required by Chapter 340. of the Revised Code.

(B) Each board of alcohol, drug addiction, and mental health services shall submit an annual report to the department of ~~mental health~~ mental health and addiction services specifying how the board used funds allocated to the board under section ~~5119.62~~ 5119.23 of the Revised Code for administrative functions in the year preceding the report's submission. The director of ~~mental health~~ mental health and addiction services shall establish the date by which the report must be submitted each year.

Sec. ~~5119.622~~ 5119.25. (A) The director of ~~mental health~~ mental health and addiction services, in whole or in part, may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under section ~~5119.62~~ 5119.23 of the Revised Code if the board fails to comply with Chapter 340. or section ~~5119.61, 5119.611, 5119.612, or 5119.624~~ 5119.22, 5119.24, 5119.36, or 5119.37 of the Revised Code or rules of the department of ~~mental health regarding a community mental health service~~ mental health and addiction services. The

(B) The director of mental health and addiction services may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under section 5119.23 of the Revised Code if the board denies available service on the basis of race, color, religion, creed, sex, age, national origin, disability as defined in section 4112.01 of the Revised Code, or developmental disability.

(C) The director shall identify issue a notice identifying the areas of noncompliance and the action necessary to achieve compliance. The director shall may offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or shall have ten days from receipt of the notice of noncompliance to present its position that it is in compliance. Before withholding funds, the director or the director's designee shall hold a hearing shall be conducted within ten days of receipt of the board's position to determine if there are continuing violations and that either assistance is rejected or the board is unable to achieve compliance. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to a public or private agency to provide the

community mental health or community addiction service for which the board is not in compliance until the time that there is compliance. The director ~~shall~~ may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. ~~3793.14~~ 5119.26. Any person treated under this chapter or rules adopted under it shall retain ~~his~~ the person's civil rights and liberties, including the right not to be experimented upon with treatment not accepted as good medical practice without ~~his~~ the person's fully informed consent, the right as a ~~patient~~ person receiving services to maintain the confidentiality of health and medical records, the right as a person detained for medical purposes to receive adequate and appropriate treatment, and the right to vote.

Sec. ~~3793.13~~ 5119.27. (A) Records or information, other than court journal entries or court docket entries, pertaining to the identity, diagnosis, or treatment of any ~~patient~~ person seeking or receiving services that are maintained in connection with the performance of any drug treatment program or services licensed by, or certified by, the director of ~~alcohol and drug addiction services, mental health and addiction services~~ under section 3793.11 of the Revised Code, this chapter shall be kept confidential, may be disclosed only for the purposes and under the circumstances expressly authorized under this section, and may not otherwise be divulged in any civil, criminal, administrative, or legislative proceeding.

(B) When the ~~patient~~ person, with respect to whom any record or information referred to in division (A) of this section is maintained, gives consent in the form of a written release signed by the ~~patient~~ person, the content of the record or information may be disclosed if the written release conforms to all of the following:

(1) Specifically identifies the person, official, or entity to whom the information is to be provided;

(2) Describes with reasonable specificity the record, records, or information to be disclosed; and

(3) Describes with reasonable specificity the purposes of the disclosure and the intended use of the disclosed information.

(C) A ~~patient~~ person who is subject to a community control sanction, parole, or a post-release control sanction or who is ordered to rehabilitation in lieu of conviction, and who has agreed to participate in a drug treatment or rehabilitation program as a condition of the community control sanction, post-release control sanction, parole, or order to rehabilitation, shall be considered to have consented to the release of records and information relating to the progress of treatment, frequency of treatment, adherence to

treatment requirements, and probable outcome of treatment. Release of information and records under this division shall be limited to the court or governmental personnel having the responsibility for supervising the ~~patient's~~ person's community control sanction, post-release control sanction, parole, or order to rehabilitation. A ~~patient~~ person, described in this division, who refuses to allow disclosure may be considered in violation of the conditions of the ~~patient's~~ person's community control sanction, post-release control sanction, parole, or order to rehabilitation.

(D) Disclosure of a ~~patient's~~ person's record may be made without the ~~patient's~~ person's consent to qualified personnel for the purpose of conducting scientific research, management, financial audits, or program evaluation, but these personnel may not identify, directly or indirectly, any individual ~~patient~~ person in any report of the research, audit, or evaluation, or otherwise disclose a ~~patient's~~ person's identity in any manner.

(E) Upon the request of a prosecuting attorney or the director of ~~alcohol and drug addiction services~~ mental health and addiction services, a court of competent jurisdiction may order the disclosure of records or information referred to in division (A) of this section if the court has reason to believe that a treatment program or facility is being operated or used in a manner contrary to law. The use of any information or record so disclosed shall be limited to the prosecution of persons who are or may be charged with any offense related to the illegal operation or use of the drug treatment program or facility, or to the decision to withdraw the authority of a drug treatment program or facility to continue operation. For purposes of this division the court shall:

(1) Limit disclosure to those parts of the ~~patient's~~ person's record considered essential to fulfill the objective for which the order was granted;

(2) Require, where appropriate, that all information be disclosed in chambers;

(3) Include any other appropriate measures to keep disclosure to a minimum, consistent with the protection of the ~~patients~~ persons seeking or receiving services, the physician-patient relationship, and the administration of the drug treatment and rehabilitation program.

(F) As used in this section:

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

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

Sec. 5119.28. (A) All records, and reports, other than court journal entries or court docket entries, identifying a person and pertaining to the

person's mental health condition, assessment, provision of care or treatment, or payment for assessment, care or treatment that are maintained in connection with any services certified by the department of mental health and addiction services, or any hospitals or facilities licensed or operated by the department, shall be kept confidential and shall not be disclosed by any person except:

(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents;

(2) When disclosure is provided for in this chapter or Chapter 340. or 5122. of the Revised Code or in accordance with other provisions of state or federal law authorizing such disclosure;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, licensed facilities, and community mental health services providers may release necessary information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the person;

(4) Pursuant to a court order signed by a judge;

(5) That a person shall be granted access to the person's own psychiatric and medical records, unless access specifically is restricted in a person's treatment plan for clear treatment reasons;

(6) That the department of mental health and addiction services may exchange psychiatric records and other pertinent information with community mental health services providers and boards of alcohol, drug addiction, and mental health services relating to the person's care or services. Records and information that may be exchanged pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(7) That the department of mental health and addiction services, hospitals and community providers operated by the department, hospitals licensed by the department under section 5119.33 of the Revised Code, and community mental health services providers may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for the person or for the emergency treatment of the person;

(8) That the department of mental health and addiction services and community mental health services providers may exchange psychiatric records and other pertinent information with boards of alcohol, drug addiction, and mental health services for purposes of any board function set

forth in Chapter 340. of the Revised Code. Boards of alcohol, drug addiction, and mental health services shall not access any personal information from the department or providers except as required or permitted by this section, or Chapter 340. or 5122. of the Revised Code for purposes related to payment, care coordination, health care operations, program and service evaluation, reporting activities, research, system administration, oversight, or other authorized purposes.

(9) That a person's family member who is involved in the provision, planning, and monitoring of services to the person may receive medication information, a summary of the person's diagnosis and prognosis, and a list of the services and personnel available to assist the person and the person's family, if the person's treatment provider determines that the disclosure would be in the best interests of the person. No such disclosure shall be made unless the person is notified first and receives the information and does not object to the disclosure.

(10) That community mental health services providers may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other providers in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(11) That information may be disclosed to the executor or the administrator of an estate of a deceased person when the information is necessary to administer the estate;

(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health and addiction services for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any person.

(13) That records pertaining to the person's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the person was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under Chapter 5122. of the Revised Code.

(14) That the department of mental health and addiction services may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of

rehabilitation and correction and with the department of youth services to ensure continuity of care for inmates and offenders who are receiving mental health services in an institution of the department of rehabilitation and correction or the department of youth services and may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with boards of alcohol, drug addiction, and mental health services and community mental health services providers to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution and are scheduled for release within six months. The release of records under this division is limited to records regarding an inmate's or offender's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(15) That a community mental health services provider that ceases to operate may transfer to either a community mental health services provider that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the person resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the person's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), and (10) of this section, the custodian of the records shall attempt to obtain the person's consent for the disclosure.

(C) No person shall reveal the content of a medical record of a person that is confidential pursuant to this section, except as authorized by law.

~~Sec. 5119.57~~ 5119.29. ~~No later than January 1, 1998, the~~ The department of ~~mental health~~ mental health and addiction services, in conjunction with boards of alcohol, drug addiction, and mental health services and community mental health boards, shall develop a coordinated system for tracking and monitoring persons found not guilty by reason of insanity and committed pursuant to section 2945.40 of the Revised Code who have been granted a conditional release and persons found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code who have been granted a conditional release. The system shall do all of the following:

(A) Centralize responsibility for the tracking of those persons;

(B) Develop uniformity in monitoring those persons;

(C) Develop a mechanism to allow prompt rehospitalization, reinstitutionalization, or detention when a violation of the conditional release or decompensation occurs.

~~Sec. 3793.18~~ 5119.30. The department of ~~alcohol and drug addiction~~

~~services~~ mental health and addiction services promptly shall develop and maintain a program that continually provides the courts of this state with relevant information pertaining to ~~alcohol and drug~~ addiction services and programs available both within their jurisdictions and statewide in order to facilitate the ability of the courts to utilize treatment and rehabilitation alternatives in addition to or in lieu of imposing sentences of imprisonment upon appropriate offenders.

Sec. ~~5119.23~~ 5119.31. The department of ~~mental health~~ mental health and addiction services may examine into, with or without expert assistance, the question of the mental and physical condition of any person committed to or involuntarily confined in any hospital for the mentally ill, or restrained of ~~his~~ liberty at any place within this state by reason of alleged mental illness and may order and compel the discharge of any such person who is not a mentally ill person subject to hospitalization by court order as defined in division (B) of section 5122.01 of the Revised Code and direct what disposition shall be made of ~~him~~ the person. The order of discharge shall be signed by the director of ~~mental health~~ mental health and addiction services. Upon receipt of such order by the superintendent or other person in charge of the building in which the person named in such order is confined, such person shall forthwith be discharged or otherwise disposed of according to the terms of said order, and any further or other detention of such person is unlawful. No such order shall be made in favor of any person committed and held for trial on a criminal charge, in confinement by an order of a judge or court made in a criminal proceeding, or in any case unless notice is given to the superintendent or other person having charge of the building in which the alleged mentally ill person is detained, and a reasonable opportunity is allowed the person in charge to justify further detention of the person confined.

Sec. ~~5119.60~~ 5119.32. The department of ~~mental health~~ mental health and addiction services is hereby designated as the state administrative agency for the ~~alcohol, drug abuse and mental health services~~ substance abuse prevention treatment block grant and the community mental health services block grant authorized by the "Public Health Services Act," 95 Stat. 357, 543, 42 U.S.C. 300x, as amended, and similar alcohol, drug abuse, or mental health programs that are specified in an appropriations act. ~~The department shall establish and administer an annual plan to utilize federal block grant funds. The department shall consult with the department of alcohol and drug addiction services on the allocation of funds for alcohol and drug addiction services pursuant to Chapter 3793. of the Revised Code and shall notify the controlling board, which shall authorize the transfer of~~

~~funds allocated to the department of alcohol and drug addiction services.~~

Sec. ~~5119.20~~ 5119.33. The department of ~~mental health~~ mental health and addiction services shall inspect and license all hospitals that receive mentally ill persons, except those hospitals managed by the department. No hospital may receive for care or treatment, either at public or private expense, any person who is or appears to be mentally ill, whether or not so adjudicated, unless the hospital has received a license from the department authorizing it to receive for care or treatment persons who are mentally ill or the hospital is managed by the department.

No such license shall be granted to a hospital for the treatment of mentally ill persons unless the department is satisfied, after investigation, that the hospital is managed and operated by qualified persons and has on its staff one or more qualified physicians responsible for the medical care of the patients confined there. At least one such physician shall be a psychiatrist.

The department shall adopt rules under Chapter 119. of the Revised Code prescribing minimum standards for the operation of hospitals for the care and treatment of mentally ill persons and establishing standards and procedures for the issuance, renewal, or revocation of full, probationary, and interim licenses. No license shall be granted to any hospital established or used for the care of mentally ill persons unless such hospital is operating in accordance with this section and rules adopted pursuant to this section. A full license shall expire one year after the date of issuance, a probationary license shall expire at the time prescribed by rule adopted pursuant to Chapter 119. of the Revised Code by the director of ~~mental health~~ mental health and addiction services, and an interim license shall expire ninety days after the date of issuance. A full, probationary, or interim license may be renewed, except that an interim license may be renewed only twice. The department may fix reasonable fees for licenses and for license renewals. Such hospitals are subject to inspection and ~~visitation~~ on-site review by the department.

Except as otherwise provided in Chapter 5122. of the Revised Code, neither the director of ~~the department of mental health~~ mental health and addiction services; an employee of the department; a board of alcohol, drug addiction, and mental health services or ~~agency~~ employee of a community mental health services provider; nor any other public official shall hospitalize any mentally ill person for care or treatment in any hospital that is not licensed in accordance with this section.

Any license issued by the department under this section may be revoked by the department for any of the following reasons:

(A) The hospital is no longer a suitable place for the care or treatment of

mentally ill persons.

(B) The hospital refuses to be subject to inspection or ~~visitation~~ on-site review by the department.

(C) The hospital has failed to furnish humane, kind, and adequate treatment and care.

(D) The hospital fails to comply with the licensure rules of the department.

The department may inspect, ~~visit~~ conduct an on-site review, and review the records of any hospital that the department has reason to believe is operating without a license.

Sec. ~~5119.201~~ 5119.331. If the department of ~~mental health~~ mental health and addiction services determines that a hospital not licensed by the department is receiving for care or treatment any person who is or appears to be mentally ill, the department may request in writing that the attorney general petition the court of common pleas in the county where the hospital is located to enjoin the hospital from continued operation in violation of section ~~5119.20~~ 5119.33 of the Revised Code.

Sec. ~~5119.202~~ 5119.332. No third-party payer shall directly or indirectly reimburse, nor shall any person be obligated to pay any hospital for psychiatric services for which a license is required under section ~~5119.20~~ 5119.33 of the Revised Code unless the hospital is licensed by the department of ~~mental health~~ mental health and addiction services.

As used in this section, "third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5101. of the Revised Code, or any self-insurance plan.

Sec. ~~5119.21~~ 5119.333. No person shall keep or maintain a hospital for the care or treatment of mentally ill persons unless it is licensed by the department of ~~mental health~~ mental health and addiction services, as provided by section ~~5119.20~~ 5119.33 of the Revised Code.

Sec. ~~5119.22~~ 5119.34. (A) As used in this section and ~~section 5119.221~~ sections 5119.341 and 5119.342 of the Revised Code:

(1) "Accommodations" means housing, daily meal preparation, laundry, housekeeping, arranging for transportation, social and recreational activities, maintenance, security, and other services that do not constitute personal care services or skilled nursing care.

(2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services.

(3) "Adult" means a person who is eighteen years of age or older, other than a person described in division (A)(4) of this section who is between eighteen and twenty-one years of age.

(4) "Child" means a person who is under eighteen years of age or a person with a mental disability who is under twenty-one years of age.

(5) "Community mental health ~~agency~~ services provider" means a community mental health ~~agency~~ services provider as defined in ~~division (H) of section 5122.01~~ 5119.01 of the Revised Code.

(6) "Community mental health services" means any ~~of the~~ mental health services listed in ~~certified by the department pursuant to section 340.09~~ 5119.36 of the Revised Code.

(7) "Operator" means the person or persons, firm, partnership, agency, governing body, association, corporation, or other entity that is responsible for the administration and management of a residential facility and that is the applicant for a residential facility license.

(8) "Personal care services" means services including, but not limited to, the following:

(a) Assisting residents with activities of daily living;

(b) Assisting residents with self-administration of medication in accordance with rules adopted under this section;

(c) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under this section.

"Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(8) of this section to be considered to be providing personal care services.

(9) "Residential facility" means a publicly or privately operated home or facility that provides one of the following:

(a) Accommodations, supervision, personal care services, and community mental health services for one or more ~~of the following~~ unrelated persons adults with mental illness or severe mental disabilities or to one or more unrelated children and adolescents with a serious emotional disturbance or who are in need of mental health services who are referred by or are receiving community mental health services from a community mental health ~~agency, services provider, hospital, or practitioner~~:

(i) ~~Adults with mental illness;~~

(ii) ~~Persons of any age with severe mental disabilities;~~

(iii) ~~Children with serious emotional disturbances or in need of mental health services.~~

~~(b) Accommodations, supervision, and personal care services for only one or two unrelated adults; accommodations, supervision, and personal care services for three to sixteen unrelated adults; or accommodations, supervision, and personal care services for one or two of the following unrelated persons:~~

~~(i) Persons of any age with mental illness who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;~~

~~(ii) Persons of any age with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner to any of the following:~~

~~(i) One or two unrelated persons with mental illness or persons with severe mental disabilities who are referred by or are receiving mental health services from a community mental health services provider, hospital, or practitioner;~~

~~(ii) One or two unrelated adults who are receiving residential state supplement payments;~~

~~(iii) Three to sixteen unrelated adults.~~

~~(c) Room and board for five or more of the following unrelated persons:~~

~~(i) Adults adults with mental illness or severe mental disability who are referred by or are receiving community mental health services from a community mental health agency, services provider, hospital, or practitioner;~~

~~(ii) Adults with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.~~

~~(10) "Residential facility" does not include any of the following:~~

~~(a) A hospital subject to licensure under section ~~5119.20~~ 5119.33 of the Revised Code;~~

~~(b) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;~~

~~(c) An institution or association subject to certification under section 5103.03 of the Revised Code;~~

~~(d) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;~~

~~(e) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;~~

~~(f)~~ A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;

~~(g)~~ ~~An alcohol~~ (f) Alcohol or drug addiction program as defined in services certified pursuant to section ~~3793.04~~ 5119.36 of the Revised Code;

~~(h)~~(g) A facility licensed to provide methadone treatment under section ~~3793.11~~ 5119.39 of the Revised Code;

~~(i)~~(h) Any facility that receives funding for operating costs from the ~~department of development~~ services agency under any program established to provide emergency shelter housing or transitional housing for the homeless;

~~(j)~~(i) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;

~~(k)~~(j) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans.

(11) "Room and board" means the provision of sleeping and living space, meals or meal preparation, laundry services, housekeeping services, or any combination thereof.

(12) "Residential state supplement" means the program administered under section 5119.41 of the Revised Code and related provisions of the Administrative Code under which the state supplements the supplemental security income payments received by aged, blind, or disabled adults under Title XVI of the Social Security Act. Residential state supplement payments are used for the provision of accommodations, supervision, and personal care services to supplemental security income recipients the department of mental health and addition services determines are at risk of needing institutional care.

(13) "Supervision" means any of the following:

(a) Observing a resident to ensure the resident's health, safety, and welfare while the resident engages in activities of daily living or other activities;

(b) Reminding a resident to perform or complete an activity, such as reminding a resident to engage in personal hygiene or other self-care activities;

(c) Assisting a resident in making or keeping an appointment.

~~(13)~~(14) "Unrelated" means that a resident is not related to the owner or operator of a residential facility or to the owner's or operator's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece,

nephew, aunt, or uncle, or as the child of an aunt or uncle.

(B) Nothing in division (A)(9) of this section shall be construed to permit personal care services to be imposed on a resident who is capable of performing the activity in question without assistance.

(C) Except in the case of a residential facility described in division (A)(9)(a) of this section, members of the staff of a residential facility shall not administer medication to the facility's residents, but may do any of the following:

(1) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(2) Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this section, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(3) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(D)(1) Except as provided in division (D)(2) of this section, a person operating or seeking to operate a residential facility shall apply for licensure of the facility to the department of ~~mental health~~ mental health and addiction services. The application shall be submitted by the operator. When applying for the license, the applicant shall pay to the department the application fee specified in rules adopted under division ~~(L)~~(K) of this section. The fee is nonrefundable.

The department shall send a copy of an application to the ADAMHS board serving the county in which the person operates or seeks to operate the facility. The ADAMHS board shall review the application and provide to the department any information about the applicant or the facility that the board would like the department to consider in reviewing the application.

(2) A person may not apply for a license to operate a residential facility if the person is or has been the owner, operator, or manager of a residential facility for which a license to operate was revoked or for which renewal of a license was refused for any reason other than nonpayment of the license renewal fee, unless both of the following conditions are met:

(a) A period of not less than two years has elapsed since the date the

director of ~~mental health~~ mental health and addiction services issued the order revoking or refusing to renew the facility's license.

(b) The director's revocation or refusal to renew the license was not based on an act or omission at the facility that violated a resident's right to be free from abuse, neglect, or exploitation.

~~(E)(1) Any person may operate a residential facility providing accommodations and personal care services for one to five unrelated persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of this section as a permitted use in any residential district or zone, including any single family residential district or zone of any political subdivision. Such facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single family residences within the district or zone.~~

~~(2) Any person may operate a residential facility providing accommodations and personal care services for six to sixteen persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of this section as a permitted use in any multiple family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts as defined in section 519.021 of the Revised Code may exclude such facilities from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate such facilities in multiple family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:~~

~~(a) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;~~

~~(b) Require compliance with yard, parking, and sign regulation.~~

~~(3) Divisions (E)(1) and (2) of this section do not affect any right of a political subdivision to permit a person to operate a residential facility licensed under this section in a single-family residential district or zone under conditions established by the political subdivision.~~

~~(4)(a) Notwithstanding divisions (E)(1) and (2) of this section and except as provided in division (E)(4)(b) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of licensed residential facilities that meet the criteria specified in division (A)(9)(b) of this section.~~

~~(b) Division (E)(4)(a) of this section does not authorize a political subdivision to prevent or limit the continued existence and operation of residential facilities existing and operating on September 10, 2012, and that meet the criteria specified in division (A)(9)(b) of this section. A political subdivision may consider the existence of such facilities for the purpose of limiting the excessive concentration of such facilities that meet the criteria specified in division (A)(9)(b) of this section that are not existing and operating on September 10, 2012.~~

~~(F)(1)~~ The department of ~~mental health~~ mental health and addiction services shall inspect and license the operation of residential facilities. The department shall consider the past record of the facility and the applicant or licensee in arriving at its licensure decision.

The department may issue full, probationary, and interim licenses. A full license shall expire ~~two~~ up to three years after the date of issuance, a probationary license shall expire in a shorter period of time as specified in rules adopted by the director of mental health under division ~~(L)(K)~~ of this section, and an interim license shall expire ninety days after the date of issuance. A license may be renewed in accordance with rules adopted by the director under division ~~(L)(K)~~ of this section. The renewal application shall be submitted by the operator. When applying for renewal of a license, the applicant shall pay to the department the renewal fee specified in rules adopted under division ~~(L)(K)~~ of this section. The fee is nonrefundable.

(2) The department may issue an order suspending the admission of residents to the facility or refuse to issue or renew and may revoke a license if it finds the facility is not in compliance with rules adopted by the director pursuant to division ~~(L)(K)~~ of this section or if any facility operated by the applicant or licensee has been cited for repeated violations of statutes or rules during the period of previous licenses. Proceedings initiated to deny applications for full or probationary licenses or to revoke such licenses are governed by Chapter 119. of the Revised Code.

~~(G)(F)~~ The department may issue an interim license to operate a residential facility if both of the following conditions are met:

(1) The department determines that the closing of or the need to remove residents from another residential facility has created an emergency situation requiring immediate removal of residents and an insufficient number of licensed beds are available.

(2) The residential facility applying for an interim license meets standards established for interim licenses in rules adopted by the director under division ~~(L)(K)~~ of this section.

An interim license shall be valid for ninety days and may be renewed by

the director no more than twice. Proceedings initiated to deny applications for or to revoke interim licenses under this division are not subject to Chapter 119. of the Revised Code.

~~(H)~~(G)(1) The department of ~~mental health~~ mental health and addiction services may conduct an inspection of a residential facility as follows:

- (a) Prior to issuance of a license for the facility;
- (b) Prior to renewal of the license;
- (c) To determine whether the facility has completed a plan of correction required pursuant to division ~~(H)~~(G)(2) of this section and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;
- (d) Upon complaint by any individual or agency;
- (e) At any time the director considers an inspection to be necessary in order to determine whether the facility is in compliance with this section and rules adopted pursuant to this section.

(2) In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility and its personnel, activities, and services. The department shall have access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents, and shall have access to the facility in order to conduct interviews with the operator, staff, and residents. Following each inspection and review, the department shall complete a report listing any deficiencies, and including, when appropriate, a time table within which the operator shall correct the deficiencies. The department may require the operator to submit a plan of correction describing how the deficiencies will be corrected.

~~(H)~~(H) No person shall do any of the following:

- (1) Operate a residential facility unless the facility holds a valid license;
- (2) Violate any of the conditions of licensure after having been granted a license;
- (3) Interfere with a state or local official's inspection or investigation of a residential facility;
- (4) Violate any of the provisions of this section or any rules adopted pursuant to this section.

~~(J)~~(I) The following may enter a residential facility at any time:

- (1) Employees designated by the director of ~~mental health~~ mental health and addiction services;
- (2) Employees of an ADAMHS board under either of the following circumstances:
 - (a) When a resident of the facility is receiving services from a

community mental health ~~agency services provider~~ under contract with that ADAMHS board or another ADAMHS board;

(b) When authorized by section 340.05 of the Revised Code.

(3) Employees of a community mental health ~~agency services provider~~ under either of the following circumstances:

(a) When the ~~agency services provider~~ has a ~~client~~ person receiving services residing in the facility;

(b) When the ~~agency services provider~~ is acting as an agent of an ADAMHS board other than the board with which it is under contract.

(4) Representatives of the state long-term care ~~ombudsman~~ ombudsman program when the facility provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or to one or two unrelated adults who are recipients under the residential state supplement program.

The persons specified in division ~~(H)~~(I) of this section shall be afforded access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents.

~~(K)~~(J) Employees of the department of ~~mental health~~ mental health and addiction services may enter, for the purpose of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as a residential facility without a valid license.

~~(L)~~(K) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code governing the licensing and operation of residential facilities. The rules shall establish all of the following:

(1) Minimum standards for the health, safety, adequacy, and cultural competency of treatment of and services for persons in residential facilities;

(2) Procedures for the issuance, renewal, or revocation of the licenses of residential facilities;

(3) Procedures for conducting criminal records checks for prospective or current operators, staff employees, and other individuals volunteers who, ~~if employed by a residential facility, would~~ may have ~~unsupervised direct~~ access to facility residents;

(4) The fee to be paid when applying for a new residential facility license or renewing the license;

(5) Procedures for the operator of a residential facility to follow when notifying the ADAMHS board serving the county in which the facility is located when the facility is serving residents with mental illness or severe

mental disability, including the circumstances under which the operator is required to make such a notification;

(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;

(7) Measures to be taken by residential facilities relative to residents' medication;

(8) Requirements relating to preparation of special diets;

(9) The maximum number of residents who may be served in a residential facility;

(10) The rights of residents of residential facilities and procedures to protect such rights;

(11) Procedures for obtaining an affiliation agreement approved by the board between a residential facility and a community mental health ~~agency~~ services provider;

(12) Standards and procedures under which the director may waive the requirements of any of the rules adopted.

~~(M)~~(L)(1) The department may withhold the source of any complaint reported as a violation of this section when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction.

(2) Any person who makes a complaint under division ~~(M)~~(L)(1) of this section, or any person who participates in an administrative or judicial proceeding resulting from such a complaint, is immune from civil liability and is not subject to criminal prosecution, other than for perjury, unless the person has acted in bad faith or with malicious purpose.

~~(N)~~(M)(1) The director of ~~mental health~~ mental health and addiction services may petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a residential facility without a license or from operating a licensed facility when, in the director's judgment, there is a present danger to the health or safety of any of the occupants of the facility. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a facility without a license or there is a present danger to the health or safety of any residents of the facility.

(2) When the court grants injunctive relief in the case of a facility operating without a license, the court shall issue, at a minimum, an order enjoining the facility from admitting new residents to the facility and an

order requiring the facility to assist with the safe and orderly relocation of the facility's residents.

(3) If injunctive relief is granted against a facility for operating without a license and the facility continues to operate without a license, the director shall refer the case to the attorney general for further action.

~~(N)~~ The director may fine a person for violating division ~~(H)~~ of this section. The fine shall be five hundred dollars for a first offense; for each subsequent offense, the fine shall be one thousand dollars. The director's actions in imposing a fine shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 5119.341. (A) Any person may operate a residential facility providing accommodations and personal care services for one to five unrelated persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of section 5119.34 of the Revised Code as a permitted use in any residential district or zone, including any single-family residential district or zone of any political subdivision. Such facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(B) Any person may operate a residential facility providing accommodations and personal care services for six to sixteen persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of section 5119.34 of the Revised Code as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned-unit developments as defined in section 519.021 of the Revised Code may exclude such facilities from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate such facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation.

(C) Divisions (A) and (B) of this section do not affect any right of a political subdivision to permit a person to operate a residential facility licensed under section 5119.34 of the Revised Code in a single-family

residential district or zone under conditions established by the political subdivision.

(D)(1) Notwithstanding divisions (A) and (B) of this section and except as provided in division (D)(2) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of licensed residential facilities that meet the criteria specified in division (A)(9)(b) of section 5119.34 of the Revised Code.

(2) Division (D)(1) of this section does not authorize a political subdivision to prevent or limit the continued existence and operation of residential facilities existing and operating on September 10, 2012, and that meet the criteria specified in division (A)(9)(b) of section 5119.34 of the Revised Code. A political subdivision may consider the existence of such facilities for the purpose of limiting the excessive concentration of such facilities that meet the criteria specified in division (A)(9)(b) of section 5119.34 of the Revised Code that are not existing and operating on September 10, 2012.

Sec. ~~5119.221~~ 5119.342. (A) Upon petition by the director of ~~mental health~~ mental health and addiction services, the court of common pleas or the probate court may appoint a receiver to take possession of and operate a residential facility licensed pursuant to section ~~5119.22~~ 5119.34 of the Revised Code, when conditions existing at the residential facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents.

Petitions filed pursuant to this section shall include:

(1) A description of the specific conditions existing at the residential facility which present a substantial risk of physical or mental harm to residents;

(2) A statement of the absence of other adequate remedies at law;

(3) The number of individuals residing at the facility;

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the residential facility as a pattern or practice; and

(5) The name and address of the person holding the license for the residential facility.

(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility of the filing. The department shall send notice of the filing to the following, as appropriate:

the Ohio protection and advocacy system as defined in section 5123.60 of the Revised Code; facility owner; facility operator; board of alcohol, drug addiction, and mental health services; board of health; department of developmental disabilities; department of job and family services; facility residents; and residents' families and guardians. The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action.

Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of ~~mental health~~ mental health and addiction services and appropriate persons of this action.

In setting forth the powers of the receiver, the court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver and shall require regular and detailed reports.

(C) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility;

(2) Circumstances no longer exist at the residential facility which present a substantial risk of physical or mental harm to residents, and there is no deficiency in the residential facility that is likely to create a future risk of harm.

Notwithstanding division (C)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of ~~mental health~~ mental health and addiction services.

(D) Except for the department of ~~mental health~~ mental health and addiction services or appropriate board of alcohol, drug addiction, and mental health services, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of ~~the department of mental health~~ mental health and

addiction services shall maintain a list of the names of such persons. The department of ~~mental health~~ mental health and addiction services, the department of job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Before entering upon the duties of receiver, the receiver must be sworn to perform the duties faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(1) Under the control of the appointing court, a receiver may do the following:

- (a) Bring and defend actions in the appointee's name as receiver;
- (b) Take and keep possession of property.

(2) The court shall authorize the receiver to do the following:

(a) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

(b) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession, but, in the case of a rental agreement only to the extent of payments that are for the use of the property during the period of the receivership, or, in the case of a purchase agreement, only to the extent that payments come due during the period of the receivership;

(c) If transfer of residents is necessary, provide for the orderly transfer of residents by:

(i) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;

(ii) Providing for the transportation of residents' belongings and records;

(iii) Helping to locate alternative placements and develop plans for transfer;

(iv) Encouraging residents or guardians to participate in transfer planning except when an emergency exists and immediate transfer is necessary.

(d) Make periodic reports on the status of the residential facility to the court; the appropriate state agencies; and the board of alcohol, drug addiction, and mental health services. Each report shall be made available to residents, their guardians, and families.

(e) Compromise demands or claims; and

(f) Generally do such acts respecting the residential facility as the court authorizes.

Notwithstanding any other provision of law, contracts which are necessary to carry out the powers and duties of the receiver need not be competitively bid.

Sec. ~~5119.611~~ 5119.36. (A) A community mental health ~~agency services provider applicant or community addiction services provider applicant~~ that seeks certification of its community mental health services or community addiction services shall submit an application to the director of ~~mental health~~ mental health and addiction services. On receipt of the application, the director may ~~visit~~ conduct an on-site review and shall evaluate the ~~agency provider~~ to determine whether its services satisfy the standards established by rules adopted under division ~~(C)~~(E) of this section. The director shall make the evaluation, and, if the director ~~visits~~ conducts an on-site review of the agency provider, ~~shall~~ may make the ~~visit~~ review, in cooperation with the board of alcohol, drug addiction, and mental health services with which the ~~agency provider~~ seeks to contract under division (A)(8)(a) of section 340.03 of the Revised Code.

(B) Subject to section ~~5119.612~~ 5119.37 of the Revised Code, the director shall determine whether the services of an ~~applicant's community mental health agency applicant~~ satisfy the standards for certification of the services. If the director determines that a community mental health ~~agency's~~ services provider's or a community addiction services provider's services satisfy the standards for certification and the ~~agency provider~~ has paid the fee required under division (D) of this section, the director shall certify the services. No community mental health services provider or community addiction services provider shall be eligible to receive state or federal funds, or funds administered by a board of alcohol, drug addiction, and mental health services unless its services have been certified by the department.

(C) If the director determines that a community mental health ~~agency's~~ services provider's or a community addiction services provider's services do not satisfy the standards for certification, the director shall identify the areas of noncompliance, specify what action is necessary to satisfy the standards, and may offer technical assistance to the provider and to the board of alcohol, drug addiction, and mental health services so that the board may assist the ~~agency provider~~ in satisfying the standards. The director shall give the ~~agency provider~~ a reasonable time within which to demonstrate that its services satisfy the standards or to bring the services into compliance with the standards. If the director concludes that the services continue to fail to satisfy the standards, the director may request that the board reallocate ~~the~~

any funds for the ~~community~~ mental health or addiction services the agency provider was to provide to another community mental health agency or addiction services provider whose community mental health or community addiction services satisfy the standards. If the board does not reallocate those such funds in a reasonable period of time, the director may withhold state and federal funds for the ~~community mental health~~ services and allocate those funds directly to a community mental health agency or community addiction services provider whose ~~community mental health~~ services satisfy the standards.

(D) Each community mental health agency services provider or community addiction services provider seeking certification of its ~~community mental health or addiction~~ services under this section shall pay a fee for the certification required by this section, unless the provider is exempt under rules adopted under division (E) of this section. Fees shall be paid into the state treasury to the credit of the sale of goods and services fund created pursuant to section ~~5119.161~~ 5119.45 of the Revised Code.

(E) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall do all of the following:

(1) Establish certification standards for ~~community~~ mental health services, ~~including assertive community treatment and intensive home-based mental health services,~~ and addiction services that are consistent with nationally recognized applicable standards and facilitate participation in federal assistance programs. The rules shall include as certification standards only requirements that improve the quality of services or the health and safety of ~~clients of~~ persons receiving community mental health and addiction services. The standards shall address at a minimum all of the following:

- (a) Reporting major unusual incidents to the director;
- (b) Procedures for applicants for and ~~clients of~~ persons receiving community mental health and addiction services to file grievances and complaints;
- (c) Seclusion;
- (d) Restraint;
- (e) Requirements regarding physical facilities of service delivery sites;
- (f) Requirements with regard to health, safety, adequacy, and cultural specificity and sensitivity;
- (g) Standards for evaluating services;
- (h) Standards and procedures for granting full or conditional certification to a service provider;

(i) Standards and procedures for revoking the certification of a provider's services that do not continue to meet the minimum standards established pursuant to this section;

(j) The limitations to be placed on a provider that is granted conditional certification;

(k) Development of written policies addressing the rights of clients persons receiving services, including all of the following:

(i) The right to a copy of the written policies addressing client the rights of persons receiving services;

(ii) The right at all times to be treated with consideration and respect for the client's person's privacy and dignity;

(iii) The right to have access to the client's person's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's person's treatment plan for clear treatment reasons;

(iv) The right to have a client rights officer provided by the agency services provider or board of alcohol, drug addiction, and mental health services advise the client person of the client's person's rights, including the client's person's rights under Chapter 5122. of the Revised Code if the client person is committed to the agency provider or board.

~~(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;~~

~~(3) Establish the process for certification of community mental health and addiction services;~~

~~(4)(3) Set the amount of certification review fees based on a portion of the cost of performing the review;~~

~~(5)(4) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.~~

(F) The department shall maintain a current list of providers whose addiction services are certified by the department under division (B) of this section and shall provide a copy of the list to a judge of a court of common pleas who requests a copy for the use of the judge under division (H) of section 2925.03 of the Revised Code. The list of certified addiction services shall identify each provider by its name, its address, and the county in which it is located.

(G) No person shall represent in any manner that a provider is certified by the department if the provider is not certified at the time the representation is made.

Sec. 5119.613 5119.361. The director of mental health mental health and addiction services shall require that each board of alcohol, drug

addiction, and mental health services ensure that each community mental health ~~agency~~ services provider and community addiction services provider with which it contracts under division (A)(8)(a) of section 340.03 of the Revised Code to provide community mental health or addiction services establish grievance procedures consistent with rules adopted under section ~~5119.611~~ 5119.36 of the Revised Code that are available to all ~~applicants for and clients of the~~ persons seeking or receiving services from a community mental health or addiction services provider.

Sec. ~~5119.612~~ 5119.37. (A) In lieu of a determination by the director of ~~mental health~~ mental health and addiction services of whether the services of a community mental health ~~agency~~ services provider or a community addiction services provider satisfy the standards for certification under section ~~5119.611~~ 5119.36 of the Revised Code, the director shall accept appropriate accreditation of an applicant's mental health services, alcohol and drug addiction services, integrated mental health and alcohol and other drug addiction services, ~~or~~ integrated mental health and physical health services, or integrated alcohol and other drug addiction and physical health services being provided in this state from any of the following national accrediting organizations as evidence that the applicant satisfies the standards for certification:

- (1) The joint commission;
- (2) The commission on accreditation of rehabilitation facilities;
- (3) The council on accreditation;
- (4) Other behavioral health accreditation as determined by the director.

(B) If the director determines that an applicant's accreditation is current, is appropriate for the services for which the applicant is seeking certification, and the applicant meets any other requirements established under this section or in rules adopted under this section, the director shall certify the applicant's services that are accredited. Except as provided in division (C)(2) of this section, the director shall issue the certification without further evaluation of the services.

(C) For purposes of this section, all of the following apply:

(1) The director may review the accrediting organizations listed in division (A) of this section to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the director considers appropriate for mental health services, alcohol or other drug addiction services, physical health services, or both. The director may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.

(2) The director may ~~visit~~ conduct an on-site review or otherwise

evaluate a community mental health agency services provider or a community addiction services provider at any time based on cause, including complaints made by or on behalf of consumers persons receiving services and confirmed or alleged deficiencies brought to the attention of the director.

(3) The director shall require a community mental health agency services provider and a community addiction services provider to notify the director not later than ten days after any change in the agency's provider's accreditation status. The agency provider may notify the director by providing a copy of the relevant document the agency provider received from the accrediting organization.

(4) The director shall require a community mental health agency services provider and a community addiction services provider to submit to the director reports of major unusual incidents.

(5) The director may require a community mental health agency services provider or a community addiction services provider to submit to the director cost reports pertaining to the agency provider.

(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. In adopting the rules, the director shall do all of the following:

(1) Specify the documentation that must be submitted as evidence of holding appropriate accreditation;

(2) Establish a process by which the director may review the accreditation standards and processes used by the national accrediting organizations listed in division (A) of this section;

(3) Specify the circumstances under which reports of major unusual incidents and agency provider cost reports must be submitted to the director;

(4) Specify the circumstances under which the director may visit conduct an on-site review or otherwise evaluate a community mental health agency services provider and a community addiction services provider for cause;

(5) Establish a process by which the director, based on deficiencies identified as a result of visiting conducting an on-site review or evaluating a community mental health agency services provider or a community addiction services provider under division (C)(2) of this section, may take any of a range of corrective actions, with the most stringent being revocation of the certification of the agency's provider's services.

Sec. ~~3793.10~~ 5119.38. A drivers' intervention program may be used as an alternative to a term of imprisonment for an offender sentenced pursuant to division (G)(1)(a) of section 4511.19 of the Revised Code, if it is certified

by the director of ~~alcohol and drug addiction services~~ mental health and addiction services pursuant to this section. No drivers' intervention program shall be used as an alternative to a term of imprisonment that is imposed pursuant to division (G)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code.

To qualify for certification by the director and to receive funds from the statewide treatment and prevention fund created by section 4301.30 of the Revised Code in any amounts and at any times that the director determines are appropriate, a drivers' intervention program shall meet state minimum standards that the director shall establish by rule. The rules shall include, but are not limited to, standards governing program course hours and content, qualifications of program personnel, methods of identifying and testing participants to isolate participants with alcohol and drug abuse problems, referral of such persons to ~~alcohol and drug~~ community addiction programs services providers, the prompt notification of courts by program operators of the completion of the programs by persons required by courts to attend them, and record keeping, including methods of tracking participants for a reasonable time after they have left the program.

The director shall issue a certificate to any qualified drivers' intervention program. The certificate is valid for three years.

Sec. ~~3793.11~~ 5119.39. (A) No ~~alcohol and drug~~ community addiction program services provider shall employ methadone treatment or prescribe, dispense, or administer methadone unless the program is licensed under this section. No ~~alcohol and drug~~ community addiction program services provider licensed under this section shall maintain methadone treatment in a manner inconsistent with this section and the rules adopted under it.

(B) ~~An alcohol and drug~~ A community addiction program services provider may apply to the department of ~~alcohol and drug addiction services~~ mental health and addiction services for a license to maintain methadone treatment. The department shall review all applications received.

(C) The department may issue a license to maintain methadone treatment to ~~an alcohol and drug~~ community addiction program services provider only if all of the following apply:

(1) The ~~program~~ provider is operated by a private, nonprofit organization or by a government entity;

(2) For at least two years immediately preceding the date of application, the ~~program~~ provider has been fully certified under section ~~3793.06~~ 5119.36 of the Revised Code;

(3) The ~~program~~ provider has not been denied a license to maintain methadone treatment or had its license withdrawn or revoked within the

five-year period immediately preceding the date of application;

(4) It affirmatively appears to the department that the ~~program~~ provider is adequately staffed and equipped to maintain methadone treatment;

(5) It affirmatively appears to the department that the ~~program~~ provider will maintain methadone treatment in strict compliance with section 3719.61 of the Revised Code, all other laws relating to drug abuse, and the rules adopted by the department;

(6) Except as provided in division (D) of this section, there is no public or private school, licensed child day-care center, or other child-serving agency within a radius of five hundred feet of the location where the program is to maintain methadone treatment.

(D) The department may waive the requirement of division (C)(6) of this section if it receives, from each public or private school, licensed child day-care center, or other child-serving agency that is within the applicable radius of the location where the program is to maintain methadone treatment, a letter of support for the location. The department shall determine whether a letter of support is satisfactory for purposes of waiving the requirement.

(E) A license to maintain methadone treatment shall expire one year from the date of issuance. Licenses may be renewed.

(F) The department shall establish procedures and adopt rules for licensing, inspection, and supervision of ~~alcohol and drug~~ community addiction programs services providers that maintain methadone treatment. The rules shall establish standards for the control, storage, furnishing, use, and dispensing of methadone, prescribe minimum standards for the operation of the methadone treatment component of the ~~program,~~ provider's operations and comply with federal laws and regulations.

All rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code. All actions taken by the department regarding the licensing of ~~programs providers~~ to maintain methadone treatment shall be conducted in accordance with Chapter 119. of the Revised Code, except as provided in division (L) of this section.

(G) The department of ~~alcohol and drug addiction services~~ mental health and addiction services shall inspect all ~~alcohol and drug~~ community addiction programs services providers licensed to maintain methadone treatment. Inspections shall be conducted at least annually and may be conducted more frequently. No person or government entity shall interfere with a state or local government official acting on behalf of the department while conducting an inspection.

(H) An ~~alcohol and drug~~ community addiction program services

provider shall not administer or dispense methadone in a tablet, powder, or intravenous form. Methadone shall be administered or dispensed only in a liquid form intended for ingestion. A ~~program services provider~~ shall not administer or dispense methadone to an individual for pain or other medical reasons.

(I) As used in this division, "program sponsor" means a person who assumes responsibility for the operation and employees of the methadone treatment component of ~~an alcohol and drug a community addiction program services provider~~.

~~An alcohol and drug~~ A community addiction program services provider shall not employ an individual who receives methadone treatment from that ~~program services provider~~. A program shall not permit an individual to act as a ~~program provider~~ sponsor, medical director, or director of the ~~program provider~~ if the individual is receiving methadone treatment from any ~~alcohol and drug community addiction program services provider~~.

(J) The department may issue orders to assure compliance with section 3719.61 of the Revised Code, all other laws relating to drug abuse, and the rules adopted under this section. Subject to section ~~3793.13~~ 5119.27 of the Revised Code, the department may hold hearings, require the production of relevant matter, compel testimony, issue subpoenas, and make adjudications. Upon failure of a person without lawful excuse to obey a subpoena or to produce relevant matter, the department may apply to a court of common pleas for an order compelling compliance.

(K) The department may refuse to issue, or may withdraw or revoke, a license to maintain methadone treatment. A license may be refused if ~~an alcohol and drug a community addiction program services provider~~ does not meet the requirements of division (C) of this section. A license may be withdrawn at any time the department determines that the program no longer meets the requirements for receiving the license. A license may be revoked in accordance with division (L) of this section.

In the case of a license issued prior to ~~the effective date of this amendment~~ December 20, 2012, the department shall not consider the requirement of division (C)(6) of this section in determining whether to renew, withdraw, or revoke the license.

(L) If the department of ~~alcohol and drug addiction services~~ mental health and addiction services finds reasonable cause to believe that ~~an alcohol and drug a community addiction program services provider~~ licensed under this section is in violation of any provision of section 3719.61 of the Revised Code, or of any other state or federal law or rule relating to drug abuse, the department may issue an order immediately revoking the license,

subject to division (M) of this section. The department shall set a date not more than fifteen days later than the date of the order of revocation for a hearing on the continuation or cancellation of the revocation. For good cause, the department may continue the hearing on application of any interested party. In conducting hearings, the department has all the authority and power set forth in division (J) of this section. Following the hearing, the department shall either confirm or cancel the revocation. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code, except that the ~~program provider~~ shall not be permitted to maintain methadone treatment pending the hearing or pending any appeal from an adjudication made as a result of the hearing. Notwithstanding any provision of Chapter 119. of the Revised Code to the contrary, a court shall not stay or suspend any order of revocation issued by the director under this division pending judicial appeal.

(M) The department shall not revoke a license to maintain methadone treatment unless all ~~clients~~ services recipients receiving methadone treatment from the ~~alcohol and drug community addiction program~~ services provider are provided adequate substitute treatment. For purposes of this division, the department may transfer the ~~clients~~ services recipients to other programs licensed to maintain methadone treatment or replace any or all of the administrators and staff of the ~~program provider~~ with representatives of the department who shall continue on a provisional basis the methadone treatment component of the program.

(N) Each time the department receives an application from ~~an alcohol and drug~~ a community addiction program services provider for a license to maintain methadone treatment, issues or refuses to issue a license, or withdraws or revokes a license, the department shall notify the board of alcohol, drug addiction, and mental health services of each alcohol, drug addiction, and mental health service district in which the ~~program is operated~~ provider operates.

(O) Whenever it appears to the department from files, upon complaint, or otherwise, that ~~an alcohol and drug~~ a community addiction program services provider has engaged in any practice declared to be illegal or prohibited by section 3719.61 of the Revised Code, or any other state or federal laws or regulations relating to drug abuse, or when the department believes it to be in the best interest of the public and necessary for the protection of the citizens of the state, the department may request criminal proceedings by laying before the prosecuting attorney of the proper county any evidence of criminality which may come to its knowledge.

(P) The department shall maintain a current list of ~~alcohol and drug~~

community addiction programs services providers licensed by the department under this section and shall provide a copy of the current list to a judge of a court of common pleas who requests a copy for the use of the judge under division (H) of section 2925.03 of the Revised Code. The list of licensed ~~alcohol and drug~~ community addiction programs services providers shall identify each licensed ~~program provider~~ by its name, its address, and the county in which it is located.

Sec. ~~5119.061~~ 5119.40. (A) As used in this section, "mentally ill individual" and "specialized services" have the same meanings as in section ~~5111.202~~ 5165.03 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section and rules adopted under division (E)(3) of this section, for purposes of section ~~5111.202~~ 5165.03 of the Revised Code, the department of ~~mental health~~ mental health and addiction services shall determine in accordance with ~~section 1919(e)(7) of the "Social Security Act," 49 Stat. 620 (1935)~~ section 1919(e)(7), 42 U.S.C.A. 301 1396r(e)(7), as amended, and regulations adopted under section 1919(f)(8)(A) of that act, 42 U.S.C. 1396r(f)(8)(A), whether, because of the individual's physical and mental condition, a mentally ill individual seeking admission to a nursing facility requires the level of services provided by a nursing facility and, if the individual requires that level of services, whether the individual requires specialized services for mental illness. The determination required by this division shall be based on an independent physical and mental evaluation performed by a person or entity other than the department.

(2) ~~A~~ Except as provided in division (B)(3) of this section, a determination under this division (B)(1) of this section is not required for any of the following:

(a) An individual seeking readmission to a nursing facility after having been transferred from a nursing facility to a hospital for care;

(b) An individual who meets all of the following conditions:

(i) The individual is admitted to the nursing facility directly from a hospital after receiving inpatient care at the hospital;

(ii) The individual requires nursing facility services for the condition for which care in the hospital was received;

(iii) The individual's attending physician has certified, before admission to the nursing facility, that the individual is likely to require less than thirty days of nursing facility services.

(c) An individual transferred from one nursing facility to another nursing facility, with or without an intervening hospital stay.

(3) A determination under division (B)(1) of this section is required for

an individual described in division (B)(2)(a) or (b) of this section if the hospital from which the individual is transferred or directly admitted to a nursing facility is either of the following:

(a) A hospital that the department maintains, operates, manages, and governs under section 5119.14 of the Revised Code for the care and treatment of mentally ill persons;

(b) A free-standing hospital, or unit of a hospital, licensed by the department under section 5119.33 of the Revised Code.

(C) Except as provided in rules adopted under division ~~(F)~~(E)(3) of this section, the department of ~~mental health~~ mental health and addiction services shall review and determine for each resident of a nursing facility who is mentally ill, whether the resident, because of the resident's physical and mental condition, requires the level of services provided by a nursing facility and whether the resident requires specialized services for mental illness. The review and determination shall be conducted in accordance with section 1919(e)(7) of the "Social Security Act" and the regulations adopted under section 1919(f)(8)(A) of the act and based on an independent physical and mental evaluation performed by a person or entity other than the department. The review and determination shall be completed promptly after a nursing facility has notified the department that there has been a significant change in the resident's mental or physical condition.

(D)(1) In the case of a nursing facility resident who has continuously resided in a nursing facility for at least thirty months before the date of a review and determination under division (C) of this section, if the resident is determined not to require the level of services provided by a nursing facility, but is determined to require specialized services for mental illness, the department, in consultation with the resident's family or legal representative and care givers, shall do all of the following:

(a) Inform the resident of the institutional and noninstitutional alternatives covered under the state plan for medical assistance;

(b) Offer the resident the choice of remaining in the nursing facility or receiving covered services in an alternative institutional or noninstitutional setting;

(c) Clarify the effect on eligibility for services under the state plan for medical assistance if the resident chooses to leave the facility, including its effect on readmission to the facility;

(d) Provide for or arrange for the provision of specialized services for the resident's mental illness in the setting chosen by the resident.

(2) In the case of a nursing facility resident who has continuously resided in a nursing facility for less than thirty months before the date of the

review and determination under division (C) of this section, if the resident is determined not to require the level of services provided by a nursing facility, but is determined to require specialized services for mental illness, or if the resident is determined to require neither the level of services provided by a nursing facility nor specialized services for mental illness, the department shall act in accordance with its alternative disposition plan approved by the United States department of health and human services under section 1919(e)(7)(E) of the "Social Security Act."

(3) In the case of an individual who is determined under division (B) or (C) of this section to require both the level of services provided by a nursing facility and specialized services for mental illness, the department of ~~mental health~~ mental health and addiction services shall provide or arrange for the provision of the specialized services needed by the individual or resident while residing in a nursing facility.

(E) The department of ~~mental health~~ mental health and addiction services shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Establish criteria to be used in making the determinations required by divisions (B) and (C) of this section. The criteria shall not exceed the criteria established by regulations adopted by the United States department of health and human services under section 1919(f)(8)(A) of the "Social Security Act."

(2) Specify information to be provided by the individual or nursing facility resident being assessed;

(3) Specify any circumstances, in addition to circumstances listed in division (B) of this section, under which determinations under divisions (B) and (C) of this section are not required to be made.

Sec. ~~5119.69~~ 5119.41. (A) As used in this section and section ~~5119.691~~ 5119.411 of the Revised Code:

(1) "~~Long term care consultation program~~" means ~~the program the department of aging is required to develop under section 173.42 of the Revised Code.~~

(2) "~~Long term care consultation program administrator~~" or "~~administrator~~" means ~~the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long term care consultation program for a particular area, that agency or entity.~~

(3) "Nursing facility" has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised Code.

(4)(2) "Residential state supplement administrative agency" means the

department of ~~mental health~~ mental health and addiction services or, if the department designates an entity under division (C) of this section for a particular area, the designated entity.

(~~5~~)(3) "Residential state supplement program" means the program administered pursuant to this section.

(B) The department of ~~mental health~~ mental health and addiction services shall implement the residential state supplement program under which the state supplements the supplemental security income payments received by aged, blind, or disabled adults under Title XVI of the "Social Security Act," ~~49 Stat. 620 (1935)~~, 42 U.S.C.A., as amended 1381 et seq. Residential state supplement payments shall be used for the provision of accommodations, supervision, and personal care services to social security, supplemental security income, and social security disability insurance recipients who the department determines are at risk of needing institutional care.

(C) In implementing the program, the department may designate one or more entities to be responsible for providing administrative services regarding the program. The department may designate an entity to be a residential state supplement administrative agency under this division either by entering into a contract with the entity to serve in that capacity or by otherwise delegating to the entity the responsibility to serve in that capacity.

(D) For an individual to be eligible for residential state supplement payments, all of the following must be the case:

(1) Except as provided by division (H) of this section, the individual must reside in one of the following:

(a) A ~~home or residential care facility, other than a nursing home or nursing home unit of a home for the aging,~~ licensed by the department of health under Chapter 3721. of the Revised Code or an assisted living program as defined in section 5111.89 of the Revised Code;

(b) A residential facility as defined in division (A)(9)(b) of section ~~5119.22~~ 5119.34 of the Revised Code licensed by the department of ~~mental health~~ mental health and addiction services;

(c) An apartment or room used to provide community mental health housing services certified by the department of ~~mental health~~ mental health and addiction services under section ~~5119.614~~ 5119.36 of the Revised Code and approved by a board of alcohol, drug addiction, and mental health services under division (A)(14) of section 340.03 of the Revised Code.

(2) A residential state supplement administrative agency must have determined that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. If the

individual is eligible for social security payments, supplemental security income payments, or social security disability insurance benefits because of a mental disability, the residential state supplement administrative agency shall refer the individual to a community mental health ~~agency~~ services provider for an assessment under division (A) of section 340.091 of the Revised Code.

(3) The individual satisfies all eligibility requirements established by rules adopted under division (E) of this section.

(E) The ~~directors~~ director of mental health ~~mental health and addiction services~~ and ~~job and family services~~ medicaid director shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement the residential state supplement program.

To the extent permitted by Title XVI of the "Social Security Act," and any other provision of federal law, the medicaid director ~~of job and family services~~ may adopt rules establishing standards for adjusting the eligibility requirements concerning the level of impairment a person must have so that the amount appropriated for the program by the general assembly is adequate for the number of eligible individuals. The rules shall not limit the eligibility of disabled persons solely on a basis classifying disabilities as physical or mental. The medicaid director ~~of job and family services~~ also may adopt rules that establish eligibility standards for aged, blind, or disabled individuals who reside in one of the homes or facilities specified in division (D)(1) of this section but who, because of their income, do not receive supplemental security income payments. The rules may provide that these individuals may include individuals who receive other types of benefits, including, social security payments or social security disability insurance benefits provided under Title II of the "Social Security Act," ~~49 Stat. 620 (1935)~~, 42 U.S.C.A. 401, ~~as amended et seq.~~ Notwithstanding division (B) of this section, such payments may be made if funds are available for them.

The director of ~~mental health~~ mental health and addiction services may adopt rules establishing the method to be used to determine the amount an eligible individual will receive under the program. The amount the general assembly appropriates for the program may be a factor included in the method that director establishes.

(F) The county department of job and family services of the county in which an applicant for the residential state supplement program resides shall determine whether the applicant meets income and resource requirements for the program.

(G) The department of ~~mental health~~ mental health and addiction

services shall maintain a waiting list of any individuals eligible for payments under this section but not receiving them because moneys appropriated to the department for the purposes of this section are insufficient to make payments to all eligible individuals. An individual may apply to be placed on the waiting list even though the individual does not reside in one of the homes or facilities specified in division (D)(1) of this section at the time of application. The director of ~~mental health~~ mental health and addiction services, by rules adopted in accordance with Chapter 119. of the Revised Code, may specify procedures and requirements for placing an individual on the waiting list and priorities for the order in which individuals placed on the waiting list are to begin to receive residential state supplement payments. The rules specifying priorities may give priority to individuals placed on the waiting list on or after July 1, 2006, who receive social security payments, social security disability insurance, or supplemental security income benefits under Title XVI of the "Social Security Act," ~~86 Stat. 1475 (1972)~~, 42 U.S.C. 1381, ~~as amended et seq.~~ The rules shall not affect the place on the waiting list of any person who was on the list on July 1, 2006. The rules specifying priorities may also set additional priorities based on living arrangement, such as whether an individual resides in a facility listed in division (D)(1) of this section or has been admitted to a nursing facility.

(H) An individual in a licensed or certified living arrangement receiving state supplementation on November 15, 1990, under former section 5101.531 of the Revised Code shall not become ineligible for payments under this section solely by reason of the individual's living arrangement as long as the individual remains in the living arrangement in which the individual resided on November 15, 1990.

(I) The ~~department of mental health~~ county department of job and family services from which the person is receiving benefits shall notify each person denied approval for payments under this section of the person's right to a hearing. On request, the hearing shall be provided in accordance with Chapter 119. of the Revised Code.

Sec. ~~5119.691~~ 5119.411. On a periodic schedule determined by the department of ~~mental health~~ mental health and addiction services, each residential state supplement administrative agency shall determine whether individuals who reside in the area that the agency serves and are on a waiting list for the residential state supplement program have been admitted to a nursing facility. ~~¶ The department shall have a process in place to ensure that if~~ a residential state supplement administrative agency determines that such an individual has been admitted to a nursing facility, ~~the agency shall notify the long term care consultation program~~

~~administrator serving the area in which the individual resides about the determination. The administrator shall determine~~ there shall be a determination whether the residential state supplement program is appropriate for the individual and whether the individual would rather participate in the program than continue residing in the nursing facility. If ~~the administrator determines it is determined~~ that the residential state supplement program is appropriate for the individual and the individual would rather participate in the program than continue residing in the nursing facility, ~~the administrator shall so notify the department of mental health. On receipt of the notice from the administrator, the department of mental health~~ mental health and addiction services shall approve the individual's enrollment in the residential state supplement program in accordance with the priorities specified in rules adopted under division (G) of section ~~5119.69~~ 5119.41 of the Revised Code. Each quarter in which a waiting list is in place, the department of ~~mental health~~ mental health and addiction services shall certify to the director of budget and management the estimated increase in costs of the residential state supplement program resulting from enrollment of individuals in the program pursuant to this section.

Sec. ~~5119.63~~ 5119.42. (A) As used in this section, "private, nonprofit organization" means a private association, organization, corporation, or other entity that is tax exempt under section 501(a) and described in section 501(c) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501.

(B) To the extent funds are available and on application by boards of alcohol, drug addiction, and mental health services, the director of ~~mental health~~ mental health and addiction services may approve state reimbursement of, or state grants for, community ~~mental health~~ construction programs including residential housing for severely mentally disabled persons and persons with substance use disorders. The director may also approve an application for reimbursement or a grant for such programs submitted by other governmental entities or by private, nonprofit organizations, after the application has been reviewed and recommended for approval or disapproval by the board of alcohol, drug addiction, and mental health services for the district from which the application came, and the application is consistent with the plan submitted by the board under division (A) of section 340.03 of the Revised Code and the budget and statement of services submitted by the board under divisions (A) and (B) of section 340.08 of the Revised Code.

(C)(1) The director of ~~mental health~~ mental health and addiction services shall adopt rules in accordance with Chapter 119. of the Revised

Code that specify procedures for applying for state reimbursement of and state grants for community construction programs, including residential housing for severely mentally disabled persons and persons with substance use disorders and procedures and criteria for approval of such reimbursement and grants.

(2) The director of ~~mental health~~ mental health and addiction services shall not approve state reimbursement or a state grant unless all of the following conditions are met:

(a) The applicant includes with the application a plan specifying the services, in addition to housing, that will be provided to persons who will reside in the residential housing. Services specified may include any of the services ~~listed~~ described in section 340.09 of the Revised Code.

(b) The director is satisfied that the residential housing for severely mentally disabled persons will be developed to promote the maximum practical integration of severely mentally disabled persons with persons at the same site who are not severely mentally disabled.

(c) The use of any funds distributed pursuant to the reimbursement or grant will not subject any obligation from which the funds are derived to federal income taxation.

(3) The director may enter into an agreement establishing terms for any reimbursement or grant approved under this division with the organization, board, or other government entity that is the recipient of the reimbursement or grant. Any such agreement is subject to any covenant or agreement pertaining to any obligation issued to provide funds for the reimbursement or grant.

Sec. ~~5119.631~~ 5119.421. (A) This section applies to a board of alcohol, drug addiction, and mental health services, another governmental entity, or a private, nonprofit organization that received a grant or reimbursement under section ~~5119.63~~ 5119.42 of the Revised Code for a facility on which the department of ~~mental health~~ mental health and addiction services holds a security interest.

(B) A board of alcohol, drug addiction, and mental health services, another governmental entity, or a private, nonprofit organization to which this section applies may apply to the director of ~~mental health~~ mental health and addiction services for approval to sell its facility and acquire, construct, or renovate a replacement facility pursuant to this section. The director shall prescribe the form of the application. Before submitting an application to the director, a governmental entity or private, nonprofit organization must obtain approval of the application from the board of alcohol, drug addiction, and mental health services with jurisdiction over the service district in which

the existing facility is located. The director shall approve an application for a replacement project upon determining that the project provides for the continuation of appropriate mental health and addiction services to the population served by the board, entity, or organization.

(C) A board, entity, or organization that obtains approval for a project under division (B) of this section shall pay the proceeds of the sale of its facility to the director of ~~mental health~~ mental health and addiction services. The director shall deposit the proceeds to the credit of the community capital replacement facilities fund.

(D) When a board, entity, or organization that has sold its facility notifies the director of ~~mental health~~ mental health and addiction services that it is ready to acquire, construct, or renovate a replacement facility, the director shall do one of the following:

(1) If the replacement facility is located in the same alcohol, drug addiction, and mental health service district as the original facility, and if the purposes for which the replacement facility will be used are the same as or similar to those for the original facility, the director shall pay to the board, entity, or organization from the community capital replacement facilities fund an amount equal to the lesser of an amount equal to the proceeds of the sale of the original facility or the amount of the state's agreed-upon participation (as a per cent of the total cost) in the cost of the replacement facility. If the amount of the state's agreed-upon participation in the cost of the replacement facility is less than the value of the state's security interest in the original facility, the difference between the state's agreed-upon participation in the cost of the replacement facility and the value of the state's security interest in the original facility shall be retained in the community capital replacement facilities fund, and any excess proceeds shall be paid to the board, entity, or organization.

(2) If the replacement facility is located in a different alcohol, drug addiction, and mental health service district than the original facility, or if the purposes for which the replacement facility will be used are not the same as or similar to those for the original facility, the director shall request controlling board approval for release of funds for the project. If the controlling board so approves, the director shall pay to the board, entity, or organization from the community capital replacement facilities fund the lesser of an amount equal to the proceeds of the sale of the original facility or the amount of the state's agreed-upon participation (as a per cent of the total cost) in the cost of the replacement facility. ~~if~~ If the amount of the state's agreed-upon participation in the cost of the replacement facility is less than the value of the state's security interest in the original facility, the

difference between the state's agreed-upon participation in the cost of the replacement facility and the value of the state's security interest in the original facility shall be retained in the community capital replacement facilities fund, and any excess proceeds shall be paid to the board, entity, or organization.

(E) The director of ~~mental health~~ mental health and addiction services and a board, entity, or organization shall enter into an agreement specifying the terms of any payment made to the board, entity, or organization under division (D) of this section. The terms may include provision for the department of ~~mental health~~ mental health and addiction services to hold a security interest in the facility.

(F)(1) When approving an application under division (B) of this section, the director of ~~mental health~~ mental health and addiction services shall establish a deadline by which the board, entity, or organization must notify the director that it is ready to acquire, construct, or renovate a replacement facility. If the board, entity, or organization does not notify the director on or before the deadline, the director may cancel the project. Upon canceling the project, the director shall pay to the board, entity, or organization from the community capital replacement facilities fund an amount equal to the portion of the proceeds of the sale of the original facility that exceeds the value of the state's security interest in the facility.

(2) Notwithstanding the deadline established under division (F)(1) of this section, if at any time a board, entity, or organization notifies the director that it does not intend to acquire, construct, or renovate a replacement facility under this section, the director shall cancel the replacement project and pay to the board, entity, or organization from the community capital replacement facilities fund an amount equal to the portion of the proceeds of the sale of the original facility that exceeds the value of the state's security interest in the facility.

(G) If a replacement project is canceled after the sale of the original facility, the director of ~~mental health~~ mental health and addiction services shall use funds equal to the value of the state's security interest in the original facility for additional grants or reimbursements under section ~~5119.63~~ 5119.42 of the Revised Code. The director shall obtain the approval of the controlling board before releasing the additional grants or reimbursements.

(H) The community capital replacement facilities fund is hereby created in the state treasury. The director of ~~mental health~~ mental health and addiction services shall use the fund for the purposes of this section.

Sec. ~~5119.16~~ 5119.44. As used in this section, "free clinic" has the same

meaning as in section 2305.2341 of the Revised Code.

(A) The department of ~~mental health~~ mental health and addiction services may provide certain goods and services for the department of ~~mental health~~ mental health and addiction services, the department of developmental disabilities, the department of rehabilitation and correction, the department of youth services, and other state, county, or municipal agencies requesting such goods and services when the department of ~~mental health~~ mental health and addiction services determines that it is in the public interest, and considers it advisable, to provide these goods and services. The department of ~~mental health~~ mental health and addiction services also may provide goods and services to agencies operated by the United States government and to public or private nonprofit agencies, other than free clinics, that are funded in whole or in part by the state if the public or private nonprofit agencies are designated for participation in this program by the director of ~~mental health~~ mental health and addiction services for community addiction services providers and community mental health agencies services providers, the director of developmental disabilities for community mental retardation and developmental disabilities agencies, the director of rehabilitation and correction for community rehabilitation and correction agencies, or the director of youth services for community youth services agencies.

Designated community agencies or services providers shall receive goods and services through the department of ~~mental health~~ mental health and addiction services only in those cases where the designating state agency certifies that providing such goods and services to the agency or services provider will conserve public resources to the benefit of the public and where the provision of such goods and services is considered feasible by the department of ~~mental health~~ mental health and addiction services.

(B) The department of ~~mental health~~ mental health and addiction services may permit free clinics to purchase certain goods and services to the extent the purchases fall within the exemption to the Robinson-Patman Act, 15 U.S.C. 13 et seq., applicable to nonprofit institutions, in 15 U.S.C. 13c, as amended.

(C) The goods and services that may be provided by the department of ~~mental health~~ mental health and addiction services under divisions (A) and (B) of this section may include:

- (1) Procurement, storage, processing, and distribution of food and professional consultation on food operations;
- (2) Procurement, storage, and distribution of medical and laboratory supplies, dental supplies, medical records, forms, optical supplies, and

sundries, subject to section 5120.135 of the Revised Code;

(3) Procurement, storage, repackaging, distribution, and dispensing of drugs, the provision of professional pharmacy consultation, and drug information services;

(4) Other goods and services.

(D) The department of ~~mental health~~ mental health and addiction services may provide the goods and services designated in division (C) of this section to its institutions and to state-operated community-based mental health or addiction services providers.

(E) After consultation with and advice from the director of developmental disabilities, the director of rehabilitation and correction, and the director of youth services, the department of ~~mental health~~ mental health and addiction services may provide the goods and services designated in division (C) of this section to the department of developmental disabilities, the department of rehabilitation and correction, and the department of youth services.

(F) The cost of administration of this section shall be determined by the department of ~~mental health~~ mental health and addiction services and paid by the agencies, services providers, or free clinics receiving the goods and services to the department for deposit in the state treasury to the credit of the ~~mental health~~ office of support services fund, which is hereby created. The fund shall be used to pay the cost of administration of this section to the department.

(G) Whenever a state agency fails to make a payment for goods and services provided under this section within thirty-one days after the date the payment was due, the office of budget and management may transfer moneys from the state agency to the department of ~~mental health~~ mental health and addiction services. The amount transferred shall not exceed the amount of overdue payments. Prior to making a transfer under this division, the office of budget and management shall apply any credits the state agency has accumulated in payments for goods and services provided under this section.

(H) Purchases of goods and services under this section are not subject to section 307.86 of the Revised Code.

Sec. ~~5119.16~~ 5119.45. Unless otherwise specifically provided by law, all moneys received by the department of ~~mental health~~ mental health and addiction services from the sale of goods and services, including, but not limited to, shared service agreements with other governmental entities and nongovernmental entities, employee housing and cafeteria receipts, fees for copying services, and sales of other tangible personal property under the

department's control, shall be paid into the state treasury to the credit of the sale of goods and services fund, which is hereby created. Moneys received by the department pursuant to section ~~5119.16~~ 5119.44 of the Revised Code shall not be paid into the fund. The department shall use the moneys in the fund for paying operating expenses of the department.

Sec. ~~5119.18~~ 5119.46. There is hereby created in the state treasury the department of ~~mental health~~ mental health and addiction services trust fund. Not later than the first day of September of each year, the director of ~~mental health~~ mental health and addiction services shall certify to the director of budget and management the amount of all of the unexpended, unencumbered balances of general revenue fund appropriations made to the department of ~~mental health~~ mental health and addiction services for the previous fiscal year, excluding funds appropriated for rental payments to the Ohio public facilities commission. On receipt of the certification, the director of budget and management shall transfer cash to the trust fund in an amount up to, but not exceeding, the total of the amounts certified by the director of ~~mental health~~ mental health and addiction services.

In addition, the trust fund shall receive all amounts, subject to any provisions in bond documents, received from the sale or lease of lands and facilities by the department.

All moneys in the trust fund shall be used by the department of ~~mental health~~ mental health and addiction services to pay for expenditures the department incurs in performing any of its duties under this chapter. The use of moneys in the trust fund pursuant to this section does not represent an ongoing commitment to the continuation of the trust fund or to the use of moneys in the trust fund.

Sec. ~~3793.032~~ 5119.47. The director of ~~alcohol and drug addiction services~~ mental health and addiction services shall administer the problem casino gambling and addictions fund. The director shall use the money in the fund to support ~~programs that provide~~ gambling addiction services, alcohol and drug addiction ~~programs that provide alcohol and drug addiction services, other programs~~ services that relate to gambling addiction and substance abuse, and research that relates to gambling addiction and substance abuse. Treatment and prevention services ~~provided under programs~~ supported by money in the fund under this section shall be services that are ~~provided by alcohol and drug addiction treatment programs certified by the department of alcohol and drug addiction services or provided by counselors who are certified by the department~~ mental health and addiction services. Prevention services ~~provided under programs supported by money in the fund under this section shall be services that are~~

~~provided by alcohol and drug addiction prevention programs certified by the department of alcohol and drug addiction services.~~

The director shall prepare an annual report describing the use of the fund for these purposes. The director shall submit the report to the Ohio casino control commission, the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the governor, and the joint committee on gaming and wagering.

Sec. ~~3793.22~~ 5119.49. (A) The director of ~~alcohol and drug addiction services~~ mental health and addiction services shall collaborate with the state board of pharmacy and attorney general in the establishment and administration of a drug take-back program, as provided under section 4729.69 of the Revised Code.

(B) The department may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.

Sec. ~~5119.34~~ 5119.50. The director of ~~mental health~~ mental health and addiction services may accept, hold, and administer in trust on behalf of the state, if it is for the public interest, any grant, gift, devise, or bequest of money or property made to the state for the use or benefit of any institution described in section ~~5119.02~~ 5119.14 of the Revised Code or for the use and benefit of mentally ill persons under its control. If the trust so provides, the money or property may be used for any work which the department of ~~mental health~~ mental health and addiction services is authorized to undertake.

The department shall keep such gift, grant, devise, or bequest as a distinct property or fund and, if it is in money, shall invest it in the manner provided by law. The department may deposit in a proper trust company or savings bank any money left in trust during a specified life or lives and shall adopt rules governing the deposit, transfer, withdrawal, or investment of such money and the income thereof.

The department shall, in the manner prescribed by the director of budget and management pursuant to section 126.21 of the Revised Code, account for all money or property received or expended under this section. The records, together with a statement certified by the depository showing the funds deposited there to the credit of the trust, shall be open to public inspection. The director of budget and management may require the department to file a report with ~~him~~ the director on any particular portion, or the whole, of any trust property received or expended by it.

The department shall, upon the expiration of any trust according to its

terms, dispose of the funds or property held thereunder in the manner provided in the instrument creating the trust. If the instrument creating the trust failed to make any terms of disposition, or if no trust was in evidence, then the decedent patient's money, saving or commercial deposits, dividends or distributions, bonds, or any other interest-bearing debt certificate or stamp issued by the United States government shall escheat to the state. All such unclaimed intangible personal property of a former patient shall be retained by the managing officer in such institution for the period of one year, during which time every possible effort shall be made to find such former patient or ~~his~~ the former patient's legal representative.

If, after a period of one year from the time the patient has left the institution or has died, the managing officer has been unable to locate such person or ~~his~~ the person's legal representative, then upon proper notice of such fact the director shall at that time formulate in writing a method of disposition on the minutes of the department authorizing the managing officer to convert such intangible personal property to cash to be paid into the state treasury to the credit of the general revenue fund.

The department shall include in its annual report a statement of all money and property and the terms and conditions relating thereto.

Sec. ~~5119.47~~ 5119.51. (A) As used in this section, "supplemental services" has the same meaning as in section 5815.28 of the Revised Code.

(B) There is hereby created in the state treasury the services fund for individuals with mental illness. On the death of the beneficiary of a trust created pursuant to section 5815.28 of the Revised Code, the portion of the remaining assets of the trust specified in the trust instrument shall be deposited to the credit of the fund. Money credited to the fund shall be used for individuals with mental illness.

Supplemental services may be provided through the department or boards of alcohol, drug addiction, and mental health services. In accordance with Chapter 119. of the Revised Code, the department of ~~mental health~~ mental health and addiction services may adopt any rules necessary to implement this section.

Sec. ~~5119.36~~ 5119.52. Each managing officer of an institution under the jurisdiction of the department of ~~mental health~~ mental health and addiction services as described in section ~~5119.02~~ 5119.14 of the Revised Code, with the approval of the director of ~~mental health~~ mental health and addiction services, may establish local institution funds designated as follows:

(A) Industrial and entertainment fund created and maintained for the entertainment and welfare of the patients of the institution. The director shall establish rules for the operation of the industrial and entertainment

fund.

(B) Commissary fund created and maintained for the benefit of patients in the institution. Commissary revenue over and above operating costs and reserve shall be considered profits. All profits from the commissary fund operations shall be paid into the industrial and entertainment fund and used only for the entertainment and ~~wel-fare~~ welfare of patients. The director shall establish rules for the operation of the commissary fund.

Sec. ~~5119.33~~ 5119.54. The treasurer of state shall have charge of all funds under the jurisdiction of the department of ~~mental health~~ mental health and addiction services and shall pay out the same only in accordance with this chapter.

The department shall cause to be furnished a contract of indemnity to cover all funds received by it or by its managing officers, employees, or agents while the funds are in the possession of such managing officers, employees or agents. Such funds are designated as follows:

(A) Funds which are due and payable to the treasurer of state as provided by Chapter 131. of the Revised Code;

(B) Those funds which are held in trust by the managing officers, employees, or agents of the institution as local funds or accounts under the jurisdiction of the department.

Such contract of indemnity shall be made payable to the state and the premium for such contract of indemnity may be paid from any of the moneys received for the use of the department under this chapter and Chapters 5121. and 5122. of the Revised Code.

Funds collected from various sources, such as the sale of goods, and all miscellaneous articles, shall be transmitted on or before Monday of each week to the treasurer of state and a detailed statement of such collections shall be made to the department.

Sec. ~~5119.351~~ 5119.55. The department of ~~mental health~~ mental health and addiction services may pay an amount for personal use to each individual residing in a state institution as described in section ~~5119.02~~ 5119.14 of the Revised Code who would be eligible for supplemental security income benefits at the reduced rate established by Title XVI of the "Social Security Act," ~~49 Stat. 620 (1935), 42 U.S.C.A. 1382, as amended 1381 et seq.,~~ if the ~~state plan for providing medical assistance under section 5111.01 of the Revised Code included reimbursement of~~ medicaid program covers services provided in such institutions. The amount paid by the department shall not exceed the reduced supplemental security income benefit rate established by Title XVI of the "Social Security Act."

Sec. ~~5119.35~~ 5119.56. Money or property deposited with managing

officers of institutions under the jurisdiction of the department of ~~mental health~~ mental health and addiction services by any patient under the department's control or by relatives, guardians, conservators, and others for the special benefit of such patient, as well as all other funds and all other income paid to the patient, ~~his~~ the patient's estate, or on ~~his~~ the patient's behalf, or paid to the managing officer or to the institution as representative payee or otherwise paid on the patient's behalf, shall remain in the hands of such officers in appropriate accounts for use accordingly. The managing officer shall keep itemized book accounts of the receipt and disposition of such money and property, which book shall be open at all times to the inspection of the department. The director of ~~mental health~~ mental health and addiction services shall adopt rules governing the deposit, transfer, withdrawal, or investment of the funds and the income thereof, as well as rules under which such funds and income shall be paid by managing officers for the support of the patients pursuant to Chapter 5121. of the Revised Code, or for their other needs.

Whenever any patient confined in any state institution subject to the jurisdiction of the department dies, escapes, or is discharged from such institution, and any personal funds of such person remain in the hands of the managing officer thereof and no demand for such funds is made upon such managing officer by the owner of the funds or ~~his~~ the owner's legally appointed representative, the managing officer shall hold the funds in the personal deposit fund for a period of at least one year during which time the managing officer shall make every effort possible to locate the owner or ~~his~~ the owner's legally appointed representative.

If at the end of this period no demand has been made for the funds, the managing officer shall dispose of the funds as follows:

(A) All money in a personal deposit fund in excess of ten dollars due for the support of a patient shall be paid in accordance with the provisions of Chapter 5121. of the Revised Code.

(B) All money in a personal deposit fund in excess of ten dollars not due for the support of a patient shall be placed to the credit of the institution's local account designated as the "industrial and entertainment" fund.

(C) The first ten dollars to the credit of a patient shall be placed to the credit of the institution's local account designated as the "industrial and entertainment" fund.

Whenever any patient in any state institution subject to the jurisdiction of the department dies, escapes, or is discharged from such institution, and any personal effects of such person remain in the hands of the managing officer thereof, and no demand is made upon such managing officer by the

owner of the property or ~~his~~ the owner's legally appointed representative, the managing officer shall hold and dispose of such property in the following manner.

All the miscellaneous personal effects shall be held for a period of at least one year, during which time the managing officer shall make every effort possible to locate the owner or ~~his~~ the owner's legal representative. If at the end of this period, no demand has been made by the owner of the property or ~~his~~ the owner's legal representative, the managing officer shall file with the county recorder of the county of commitment of such owner, all deeds, wills, contract mortgages, or assignments. The balance of the personal effects shall be sold at public auction after being duly advertised, and the funds turned over to the treasurer of state for credit to the general revenue fund. If any of the property is not of a type to be filed with the county recorder and is not salable at public auction, then the managing officer of the institution shall destroy such property.

~~Sec. 5119.46~~ 5119.60. ~~In its annual report, the~~ The department of mental health and addiction services shall submit an annual report to the governor that shall describe the services the department offers and how appropriated funds have been spent. The report shall include ~~the~~ all of the following:

(A) The utilization of state hospitals by each alcohol, drug addiction, and mental health service district, ~~the~~;

(B) The number of persons served by community addiction services providers that receive funds distributed by the department, with a breakdown into categories including age, sex, race, the type of drug to which the person is addicted, and any other categories the director of mental health and addiction services considers significant;

(C) The number of severely mentally disabled persons served in each district, ~~and the~~;

(D) The number and types of services provided to severely mentally disabled persons through state-operated services and community mental health ~~agencies~~ services providers;

(E) A report measuring the success of community addiction services providers, based on the measures for accountability developed by the department, including the percentage of persons served by such community addiction services providers who have not relapsed;

(F) Any other information that the director considers significant or is requested by the governor.

~~Sec. 3793.12~~ 5119.61. (A) The department of ~~alcohol and drug addiction services~~ mental health and addiction services shall collect and

compile statistics and other information on the care and treatment of mentally disabled persons, and the care, treatment, and rehabilitation of alcoholics, drug dependent persons, and persons in danger of drug dependence in this state, including, without limitation, information on the number of such persons, the type of drug involved, the type of care, treatment, or rehabilitation prescribed or undertaken, and the success or failure of the care, treatment, or rehabilitation. The department shall collect information about services delivered and persons served as required for reporting and evaluation relating to state and federal funds expended for such purposes.

(B) No alcohol ~~or~~ drug addiction ~~program~~, or mental health services provider shall fail to supply statistics and other information within its knowledge and with respect to its ~~programs~~ services, upon request of the department.

(C) Communications by a person seeking aid in good faith for alcoholism or drug dependence are confidential, and this section does not require the collection or permit the disclosure of information which reveals or comprises the identity of any person seeking aid.

(D) Based on the information collected and compiled under division (A) of this section, the department shall develop a project to assess the outcomes of persons served by alcohol and drug addiction ~~programs~~ services providers and mental health services providers that receive funds distributed by the department.

Sec. ~~5119.50~~ 5119.70. The "interstate compact on mental health" is hereby ratified, enacted into law, and entered into by the state of Ohio as a party thereto with any other state which has legally joined in the compact as follows:

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally retarded can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the

mentally ill and mentally retarded under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental retardation.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, or convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental retardation" shall mean mental retardation as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental retardation, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due

regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or

supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

Article VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care or treatment of the mentally ill or mentally retarded, or any statutory authority pursuant to which such agreements may be made.

Article VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental retardation, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental retardation.

Article X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving

state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental retardation. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such states shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII (b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the

constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Sec. ~~5119.51~~ 5119.71. Pursuant to Article X of the compact set forth in section ~~5119.50~~ 5119.70 of the Revised Code, the director of ~~mental health~~ mental health and addiction services and the director of developmental disabilities each shall designate an officer who shall be the compact administrator for the department and who, acting jointly with like officers of other party states, shall adopt rules to carry out more effectively the terms of the compact. The compact administrators of each department shall serve subject to the pleasure of the governor and shall cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreements entered into by this state thereunder.

Sec. ~~5119.52~~ 5119.72. The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to articles VII and XI of the compact set forth in section ~~5119.50~~ 5119.70 of the Revised Code. In the event that such supplementary agreements require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction the institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Sec. ~~5119.53~~ 5119.73. Any payments necessary to discharge any financial obligations imposed upon the state of Ohio by the compact or by any supplementary agreement entered into thereunder, as provided in sections ~~5119.50~~ 5119.70 to ~~5119.52~~ 5119.72 of the Revised Code, shall be made from appropriated funds upon presentation to the director of budget and management of itemized vouchers approved by the compact administrator.

Sec. ~~3793.31~~ 5119.90. As used in sections ~~3793.31~~ 5119.90 to ~~3793.39~~ 5119.98 of the Revised Code:

(A) "Alcohol and other drug abuse" means alcoholism or drug addiction.

(B) "Another drug" means a controlled substance as defined in section 3719.01 of the Revised Code or a harmful intoxicant as defined in section 2925.01 of the Revised Code.

(C) "Board of alcohol, drug addiction, and mental health services" means a board of alcohol, drug addiction, and mental health services

established under section 340.02 or 340.021 of the Revised Code.

(D) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others.

(E) "Hospital" has the same meaning as in section 3701.01 or 3727.01 of the Revised Code but does not include either a hospital operated by the department of ~~mental health~~ mental health and addiction services or an inpatient unit licensed by the department.

(F) "Intoxicated" means being under the influence of alcohol, another drug, or both alcohol and another drug and, as a result, having a significantly impaired ability to function.

(G) "Petitioner" means a person who institutes a proceeding under sections ~~3793.32~~ 5119.91 to ~~3793.39~~ 5119.98 of the Revised Code.

(H) "Probate court" means the probate division of the court of common pleas.

(I) "Qualified health professional" means a person that is properly credentialed or licensed to conduct a drug and alcohol assessment and diagnosis under Ohio law.

(J) "Residence" means the legal residence of a person as determined by applicable principles governing conflicts of law.

(K) "Respondent" means a person alleged in a petition filed or hearing under sections ~~3793.32~~ 5119.91 to ~~3793.39~~ 5119.98 of the Revised Code to be a person who is suffering from alcohol and other drug abuse and who may be ordered under those sections to undergo treatment.

(L) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and persons suffering from alcohol and other drug abuse. "Treatment" includes residential treatment, a halfway house setting, and an intensive outpatient or outpatient level of care.

Sec. ~~3793.32~~ 5119.91. A probate court may order involuntary treatment for a person suffering from alcohol and other drug abuse pursuant to the procedures set forth in sections ~~3793.34~~ 5119.90 to ~~3793.39~~ 5119.98 of the Revised Code.

Sec. ~~3793.33~~ 5119.92. No person shall be ordered to undergo treatment under sections ~~3793.34~~ 5119.90 to ~~3793.39~~ 5119.98 of the Revised Code unless all of the following apply to that person:

(A) The person suffers from alcohol and other drug abuse.

(B) The person presents an imminent danger or imminent threat of danger to self, family, or others as a result of alcohol and other drug abuse, or there exists a substantial likelihood of such a threat in the near future.

(C) The person can reasonably benefit from treatment.

Sec. ~~3793.34~~ 5119.93. (A) A person may initiate proceedings for treatment for an individual suffering from alcohol and other drug abuse by filing a verified petition in the probate court and paying a filing fee in the same amount, if any, that is charged for the filing under section 5122.11 of the Revised Code of an affidavit seeking the hospitalization of a person. The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)." A spouse, relative, or guardian of the individual concerning whom the petition is filed shall file the petition.

(B) A petition filed under division (A) of this section shall set forth all of the following:

- (1) The petitioner's relationship to the respondent;
- (2) The respondent's name, residence address, and current location, if known;
- (3) The name and residence of the respondent's parents, if living and if known, or of the respondent's legal guardian, if any and if known;
- (4) The name and residence of the respondent's spouse, if any and if known;
- (5) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or a statement that the person is unknown;
- (6) The petitioner's belief, including the factual basis for the belief, that the respondent is suffering from alcohol and other drug abuse and presents an imminent danger or imminent threat of danger to self, family, or others if not treated for alcohol or other drug abuse.

(C)(1) Any petition filed pursuant to divisions (A) and (B) of this section shall be accompanied by a certificate of a physician who has examined the respondent within two days prior to the day that the petition is filed in the probate court. The physician shall be authorized to practice medicine and surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code. The physician's certificate shall set forth the physician's findings in support of the need to treat the respondent for alcohol or other drug abuse. The certificate shall indicate if the respondent presents an imminent danger or imminent threat of danger to self, family, or others if not treated. Further, the certificate shall indicate the type and length of treatment required and if the respondent can reasonably benefit from treatment. If the physician's certificate indicates that inpatient treatment is required, the certificate shall identify any inpatient facilities known to the physician that are able and willing to provide the recommended inpatient treatment.

If the respondent refuses to undergo an examination with a physician

concerning the respondent's possible need for treatment for alcohol or other drug abuse, the petition shall state that the respondent has refused all requests made by the petitioner to undergo a physician's examination. In that case, the petitioner shall not be required to provide a physician's certificate with the petition.

(2) Any petition filed pursuant to divisions (A) and (B) of this section shall contain a statement that the petitioner has arranged for treatment of the respondent. Further, the petition shall be accompanied by a statement from the person or facility who has agreed to provide the treatment that verifies that the person or facility has agreed to provide the treatment and the estimated cost of the treatment.

(D) Any petition filed pursuant to divisions (A) and (B) of this section shall be accompanied by both of the following:

(1) A security deposit to be deposited with the clerk of the probate court that will cover half of the estimated cost of treatment of the respondent;

(2) A guarantee, signed by the petitioner or another person authorized to file the petition obligating the guarantor to pay the costs of the examinations of the respondent conducted by the physician and qualified health professional under division (B)(5) of section ~~3793.35~~ 5119.94 of the Revised Code, the costs of the respondent that are associated with a hearing conducted in accordance with section ~~3793.35~~ 5119.94 of the Revised Code and that the court determines to be appropriate, and the costs of any treatment ordered by the court.

Sec. ~~3793.35~~ 5119.94. (A) Upon receipt of a petition filed under section ~~3793.34~~ 5119.93 of the Revised Code and the payment of the appropriate filing fee, if any, the probate court shall examine the petitioner under oath as to the contents of the petition.

(B) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the probate court that there is probable cause to believe the respondent may reasonably benefit from treatment, the court shall do all of the following:

(1) Schedule a hearing to be held within seven days to determine if there is clear and convincing evidence that the respondent may reasonably benefit from treatment for alcohol and other drug abuse;

(2) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and of the date and purpose of the hearing;

(3) Notify the respondent that the respondent may retain counsel and, if the person is unable to obtain an attorney, that the respondent may be

represented by court-appointed counsel at public expense if the person is indigent. Upon the appointment of an attorney to represent an indigent respondent, the court shall notify the respondent of the name, address, and telephone number of the attorney appointed to represent the respondent.

(4) Notify the respondent that the court shall cause the respondent to be examined not later than twenty-four hours before the hearing date by a physician for the purpose of a physical examination and by a qualified health professional for the purpose of a drug and alcohol addiction assessment and diagnosis. In addition, the court shall notify the respondent that the respondent may have an independent expert evaluation of the person's physical and mental condition conducted at the respondent's own expense.

(5) Cause the respondent to be examined not later than twenty-four hours before the hearing date by a physician for the purpose of a physical examination and by a qualified health professional for the purpose of a drug and alcohol addiction assessment and diagnosis;

(6) Conduct the hearing.

(C) The physician and qualified health professional who examine the respondent pursuant to division (B)(5) of this section or who are obtained by the respondent at the respondent's own expense shall certify their findings to the court within twenty-four hours of the examinations. The findings of each qualified health professional shall include a recommendation for treatment if the qualified health professional determines that treatment is necessary.

(D)(1) If upon completion of the hearing held under this section the probate court finds by clear and convincing evidence that the respondent may reasonably benefit from treatment, the court may order the treatment after considering the qualified health professionals' recommendations for treatment that have been submitted to the court under division (C) of this section. If the court orders the treatment under this division, the court shall order the treatment to be provided through ~~an alcohol and drug~~ a community addiction program services provider certified under section ~~3793.06~~ 5119.36 of the Revised Code or by an individual licensed or certified by the state medical board under Chapter 4731. of the Revised Code, the chemical dependency professionals board under Chapter 4758. of the Revised Code, the counselor, social worker, and marriage and family therapist board under Chapter 4757. of the Revised Code, or a similar board of another state authorized to provide substance abuse treatment.

(2) Failure of a respondent to undergo and complete any treatment ordered pursuant to this division is contempt of court. Any alcohol and drug addiction program or person providing treatment under this division shall

notify the probate court of a respondent's failure to undergo or complete the ordered treatment.

(E) If, at any time after a petition is filed under section ~~3793.34~~ 5119.93 of the Revised Code, the probate court finds that there is not probable cause to continue treatment or if the petitioner withdraws the petition, then the court shall dismiss the proceedings against the respondent.

Sec. ~~3793.36~~ 5119.95. (A) Following an examination by a qualified health professional and a certification by that professional that the person meets the criteria specified in section ~~3793.33~~ 5119.92 of the Revised Code, a probate court may order the person hospitalized for a period not to exceed seventy-two hours if the court finds by clear and convincing evidence that the person presents an imminent threat of danger to self, family, or others as a result of alcohol and other drug abuse. However, if the hearing to be held under section ~~3793.35~~ 5119.94 of the Revised Code will not be held within seventy-two hours, the court may order the person hospitalized until the hearing. In making its order, the court shall inform the person that the person may immediately make a reasonable number of telephone calls or use other reasonable means to contact an attorney, a licensed physician, or a qualified health professional, to contact any other person or persons to secure representation by counsel, or to obtain medical or psychological assistance and that the person will be provided assistance in making calls if the assistance is needed and requested.

(B) Any person who has been admitted to a hospital under division (A) of this section shall be released from the hospital immediately upon the expiration of the time period established by the court for the hospitalization.

(C) No person ordered hospitalized under this section shall be held in jail pending transportation to the hospital or evaluation unless the probate court previously has found the person to be in contempt of court for either failure to undergo treatment or failure to appear at the evaluation ordered pursuant to section ~~3793.35~~ 5119.94 of the Revised Code.

Sec. ~~3793.37~~ 5119.96. When a probate court is authorized to issue an order that the respondent be transported to a hospital, the court may issue a summons. If the respondent fails to attend an examination scheduled before the hearing under section ~~3793.35~~ 5119.94 of the Revised Code, the court shall issue a summons. A summons so issued shall be directed to the respondent and shall command the respondent to appear at a time and place specified in the summons. If a respondent who has been summoned fails to appear at the hospital or the examination, the probate court may order the sheriff or any other peace officer to transport the respondent to a hospital on the list provided under section ~~3793.38~~ 5119.97 of the Revised Code for

treatment. The sheriff or any other peace officer, upon agreement of a person authorized by the peace officer, may authorize a board of alcohol, drug addiction, and mental health services, a private ~~agency~~ services provider under contract with a board of alcohol, drug addiction, and mental health services, or an ambulance service designated by a board of alcohol, drug addiction, and mental health services to transport the respondent to the hospital. The transportation costs of the sheriff, other peace officer, ambulance service, or other private ~~agency~~ services provider under contract with the board of alcohol, drug addiction, and mental health services shall be included in the costs of treatment for alcohol and other drug abuse to be paid by the petitioner.

Sec. ~~3793.38~~ 5119.97. Each board of alcohol, drug addiction, and mental health services on at least an annual basis shall submit each of the following lists to the clerk of the probate court in each county served by the board:

(A) A list of all hospitals in the counties served by the board that are able and willing to take respondents ordered to undergo seventy-two hours of treatment and observation pursuant to section ~~3793.36~~ 5119.95 of the Revised Code;

(B) A list of hospitals and treatment providers in the counties served by the board that are able and willing to provide treatment for alcohol and other drug abuse ordered pursuant to section ~~3793.35~~ 5119.94 of the Revised Code.

Sec. ~~3793.39~~ 5119.98. Sections ~~3793.12, 3793.13~~ 5119.26, 5119.27, and ~~3793.14~~ 5119.61 of the Revised Code apply to a person who is ordered to undergo treatment under sections ~~3793.31 to 3793.39~~ 5119.90 to 5119.98 of the Revised Code.

Sec. 5119.99. (A) Whoever violates section ~~5119.24~~ 5119.333 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (B) of section 5119.61 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(C) Whoever violates section 5119.27 or 5119.28 or division (G) of section 5119.36 of the Revised Code is guilty of a felony of the fifth degree.

Sec. 5120.07. (A) There is hereby created the ex-offender reentry coalition consisting of the following ~~eighteen~~ seventeen members or their designees:

(1) The director of rehabilitation and correction;

(2) The director of aging;

(3) The director of ~~alcohol and drug addiction services~~ mental health and addiction services;

- (4) The director of development services;
- (5) The superintendent of public instruction;
- (6) The director of health;
- (7) The director of job and family services;
- (8) ~~The director of mental health~~;
- ~~(9)~~ The director of developmental disabilities;
- ~~(10)~~(9) The director of public safety;
- ~~(11)~~(10) The director of youth services;
- ~~(12)~~(11) The chancellor of the Ohio board of regents;
- ~~(13)~~(12) A representative or member of the governor's staff;
- ~~(14)~~(13) The executive director of the ~~rehabilitation—services~~ commission opportunities for Ohioans with disabilities agency;
- ~~(15)~~(14) The director of the department of commerce;
- ~~(16)~~(15) The executive director of a health care licensing board created under Title XLVII of the Revised Code, as appointed by the chairperson of the coalition;
- ~~(17)~~(16) The director of veterans services;
- ~~(18)~~(17) An ex-offender appointed by the director of rehabilitation and correction.

(B) The members of the coalition shall serve without compensation. The director of rehabilitation and correction or the director's designee shall be the chairperson of the coalition.

(C) In consultation with persons interested and involved in the reentry of ex-offenders into the community, including but not limited to, services providers, community-based organizations, and local governments, the coalition shall identify and examine social service barriers and other obstacles to the reentry of ex-offenders into the community. Not later than one year after April 7, 2009, and on or before the same date of each year thereafter, the coalition shall submit to the speaker of the house of representatives and the president of the senate a report, including recommendations for legislative action, the activities of the coalition, and the barriers affecting the successful reentry of ex-offenders into the community. The report shall analyze the effects of those barriers on ex-offenders and on their children and other family members in various areas, including but not limited to, the following:

- (1) Admission to public and other housing;
- (2) Child support obligations and procedures;
- (3) Parental incarceration and family reunification;
- (4) Social security benefits, veterans' benefits, food stamps, and other forms of public assistance;

(5) Employment;
(6) Education programs and financial assistance;
(7) Substance abuse, ~~mental health~~, and sex offender treatment programs and financial assistance and mental health services and financial assistance;

(8) Civic and political participation;

(9) Other collateral consequences under the Revised Code or the Ohio administrative code law that may result from a criminal conviction.

(D)(1) The report shall also include the following information:

(a) Identification of state appropriations for reentry programs;

(b) Identification of other funding sources for reentry programs that are not funded by the state;

(2) The coalition shall gather information about reentry programs in a repository maintained and made available by the coalition. Where available, the information shall include the following:

(a) The amount of funding received;

(b) The number of program participants;

(c) The composition of the program, including program goals, methods for measuring success, and program success rate;

(d) The type of post-program tracking that is utilized;

(e) Information about employment rates and recidivism rates of ex-offenders.

(E) The coalition shall cease to exist on December 31, 2014.

Sec. 5120.09. Under the supervision and control of the director of rehabilitation and correction, the division of business administration shall do all of the following:

(A) Submit the budgets for the several divisions of the department of rehabilitation and correction, as prepared by the respective chiefs of those divisions, to the director. The director, with the assistance of the chief of the division of business administration, shall compile a departmental budget that contains all proposals submitted by the chiefs of the divisions and shall forward the departmental budget to the governor with comments and recommendations that the director considers necessary.

(B) Maintain accounts and records and compile statistics that the director prescribes;

(C) Under the control of the director, coordinate and make the necessary purchases and requisitions for the department and its divisions, except when goods and services are provided to the department as described in section ~~5119.16~~ 5119.44 of the Revised Code;

(D) Administer within this state federal criminal justice acts that the

governor requires the department to administer. In order to improve the criminal justice system of this state, the division of business administration shall apply for, allocate, disburse, and account for grants that are made available pursuant to those federal criminal justice acts and grants that are made available from other federal government sources, state government sources, or private sources. As used in this division, "criminal justice system" and "federal criminal justice acts" have the same meanings as in section 5502.61 of the Revised Code.

(E) Audit the activities of governmental entities, persons as defined in section 1.59 of the Revised Code, and other types of nongovernmental entities that are financed in whole or in part by funds that the department allocates or disburses and that are derived from grants described in division (D) of this section;

(F) Enter into contracts, including contracts with federal, state, or local governmental entities, persons as defined in section 1.59 of the Revised Code, foundations, and other types of nongovernmental entities, that are necessary for the department to carry out its duties and that neither the director nor another section of the Revised Code authorizes another division of the department to enter;

(G) Exercise other powers and perform other duties that the director may assign to the division of business administration.

Sec. 5120.135. (A) As used in this section, "laboratory services" includes the performance of medical laboratory analysis; professional laboratory and pathologist consultation; the procurement, storage, and distribution of laboratory supplies; and the performance of phlebotomy services.

(B) The department of rehabilitation and correction may provide laboratory services to the departments of ~~mental health~~ mental health and addiction services, developmental disabilities, youth services, and rehabilitation and correction. The department of rehabilitation and correction may also provide laboratory services to other state, county, or municipal agencies and to private persons that request laboratory services if the department of rehabilitation and correction determines that the provision of laboratory services is in the public interest and considers it advisable to provide such services. The department of rehabilitation and correction may also provide laboratory services to agencies operated by the United States government and to public and private entities funded in whole or in part by the state if the director of rehabilitation and correction designates them as eligible to receive such services.

The department of rehabilitation and correction shall provide laboratory

services from a laboratory that complies with the standards for certification set by the United States department of health and human services under the "Clinical Laboratory Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. In addition, the laboratory shall maintain accreditation or certification with an appropriate accrediting or certifying organization as considered necessary by the recipients of its laboratory services and as authorized by the director of rehabilitation and correction.

(C) The cost of administering this section shall be determined by the department of rehabilitation and correction and shall be paid by entities that receive laboratory services to the department for deposit in the state treasury to the credit of the laboratory services fund, which is hereby created. The fund shall be used to pay the costs the department incurs in administering this section.

(D) Whenever a state agency fails to make a payment for laboratory services provided to it by the department of rehabilitation and correction under this section within thirty-one days after the date the payment was due, the office of budget and management may transfer moneys from that state agency to the department of rehabilitation and correction for deposit to the credit of the laboratory services fund. The amount transferred shall not exceed the amount of the overdue payments. Prior to making a transfer under this division, the office shall apply any credits the state agency has accumulated in payment for laboratory services provided under this section.

Sec. 5120.17. (A) As used in this section:

(1) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(2) "Mentally ill person subject to hospitalization" means a mentally ill person to whom any of the following applies because of the person's mental illness:

(a) The person represents a substantial risk of physical harm to the person as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm.

(b) The person represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness.

(c) The person represents a substantial and immediate risk of serious physical impairment or injury to the person as manifested by evidence that the person is unable to provide for and is not providing for the person's basic

physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the correctional institution in which the inmate is currently housed.

(d) The person would benefit from treatment in a hospital for the person's mental illness and is in need of treatment in a hospital as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(3) "Psychiatric hospital" means all or part of a facility that is operated and managed by the department of ~~mental health~~ mental health and addiction services to provide psychiatric hospitalization services in accordance with the requirements of this section pursuant to an agreement between the directors of rehabilitation and correction and ~~mental health~~ mental health and addiction services or, is licensed by the department of ~~mental health~~ mental health and addiction services pursuant to section ~~5119.20~~ 5119.33 of the Revised Code as a psychiatric hospital and is accredited by a ~~healthcare~~ health care accrediting organization approved by the department of ~~mental health~~ mental health and addiction services and the psychiatric hospital is any of the following:

(a) Operated and managed by the department of rehabilitation and correction within a facility that is operated by the department of rehabilitation and correction;

(b) Operated and managed by a contractor for the department of rehabilitation and correction within a facility that is operated by the department of rehabilitation and correction;

(c) Operated and managed in the community by an entity that has contracted with the department of rehabilitation and correction to provide psychiatric hospitalization services in accordance with the requirements of this section.

(4) "Inmate patient" means an inmate who is admitted to a psychiatric hospital.

(5) "Admitted" to a psychiatric hospital means being accepted for and staying at least one night at the psychiatric hospital.

(6) "Treatment plan" means a written statement of reasonable objectives and goals for an inmate patient that is based on the needs of the inmate patient and that is established by the treatment team, with the active participation of the inmate patient and with documentation of that participation. "Treatment plan" includes all of the following:

(a) The specific criteria to be used in evaluating progress toward achieving the objectives and goals;

(b) The services to be provided to the inmate patient during the inmate

patient's hospitalization;

(c) The services to be provided to the inmate patient after discharge from the hospital, including, but not limited to, housing and mental health services provided at the state correctional institution to which the inmate patient returns after discharge or community mental health services.

(7) "Mentally retarded person subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code.

(8) "Emergency transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate presents an immediate danger to self or others and requires hospital-level care.

(9) "Uncontested transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate has the mental capacity to, and has waived, the hearing required by division (B) of this section.

(10)(a) "Independent decision-maker" means a person who is employed or retained by the department of rehabilitation and correction and is appointed by the chief or chief clinical officer of mental health services as a hospitalization hearing officer to conduct due process hearings.

(b) An independent decision-maker who presides over any hearing or issues any order pursuant to this section shall be a psychiatrist, psychologist, or attorney, shall not be specifically associated with the institution in which the inmate who is the subject of the hearing or order resides at the time of the hearing or order, and previously shall not have had any treatment relationship with nor have represented in any legal proceeding the inmate who is the subject of the order.

(B)(1) Except as provided in division (C) of this section, if the warden of a state correctional institution or the warden's designee believes that an inmate should be transferred from the institution to a psychiatric hospital, the department shall hold a hearing to determine whether the inmate is a mentally ill person subject to hospitalization. The department shall conduct the hearing at the state correctional institution in which the inmate is confined, and the department shall provide qualified independent assistance to the inmate for the hearing. An independent decision-maker provided by the department shall preside at the hearing and determine whether the inmate is a mentally ill person subject to hospitalization.

(2) Except as provided in division (C) of this section, prior to the hearing held pursuant to division (B)(1) of this section, the warden or the warden's designee shall give written notice to the inmate that the department is considering transferring the inmate to a psychiatric hospital, that it will hold a hearing on the proposed transfer at which the inmate may be present, that at the hearing the inmate has the rights described in division (B)(3) of

this section, and that the department will provide qualified independent assistance to the inmate with respect to the hearing. The department shall not hold the hearing until the inmate has received written notice of the proposed transfer and has had sufficient time to consult with the person appointed by the department to provide assistance to the inmate and to prepare for a presentation at the hearing.

(3) At the hearing held pursuant to division (B)(1) of this section, the department shall disclose to the inmate the evidence that it relies upon for the transfer and shall give the inmate an opportunity to be heard. Unless the independent decision-maker finds good cause for not permitting it, the inmate may present documentary evidence and the testimony of witnesses at the hearing and may confront and cross-examine witnesses called by the department.

(4) If the independent decision-maker does not find clear and convincing evidence that the inmate is a mentally ill person subject to hospitalization, the department shall not transfer the inmate to a psychiatric hospital but shall continue to confine the inmate in the same state correctional institution or in another state correctional institution that the department considers appropriate. If the independent decision-maker finds clear and convincing evidence that the inmate is a mentally ill person subject to hospitalization, the decision-maker shall order that the inmate be transported to a psychiatric hospital for observation and treatment for a period of not longer than thirty days. After the hearing, the independent decision-maker shall submit to the department a written decision that states one of the findings described in division (B)(4) of this section, the evidence that the decision-maker relied on in reaching that conclusion, and, if the decision is that the inmate should be transferred, the reasons for the transfer.

(C)(1) The department may transfer an inmate to a psychiatric hospital under an emergency transfer order if the chief clinical officer of mental health services of the department or that officer's designee and either a psychiatrist employed or retained by the department or, in the absence of a psychiatrist, a psychologist employed or retained by the department determines that the inmate is mentally ill, presents an immediate danger to self or others, and requires hospital-level care.

(2) The department may transfer an inmate to a psychiatric hospital under an uncontested transfer order if both of the following apply:

(a) A psychiatrist employed or retained by the department determines all of the following apply:

(i) The inmate has a mental illness or is a mentally ill person subject to hospitalization.

(ii) The inmate requires hospital care to address the mental illness.

(iii) The inmate has the mental capacity to make a reasoned choice regarding the inmate's transfer to a hospital.

(b) The inmate agrees to a transfer to a hospital.

(3) The written notice and the hearing required under divisions (B)(1) and (2) of this section are not required for an emergency transfer or uncontested transfer under division (C)(1) or (2) of this section.

(4) After an emergency transfer under division (C)(1) of this section, the department shall hold a hearing for continued hospitalization within five working days after admission of the transferred inmate to the psychiatric hospital. The department shall hold subsequent hearings pursuant to division (F) of this section at the same intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section.

(5) After an uncontested transfer under division (C)(2) of this section, the inmate may withdraw consent to the transfer in writing at any time. Upon the inmate's withdrawal of consent, the hospital shall discharge the inmate, or, within five working days, the department shall hold a hearing for continued hospitalization. The department shall hold subsequent hearings pursuant to division (F) of this section at the same time intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section.

(D)(1) If an independent decision-maker, pursuant to division (B)(4) of this section, orders an inmate transported to a psychiatric hospital or if an inmate is transferred pursuant to division (C)(1) or (2) of this section, the staff of the psychiatric hospital shall examine the inmate patient when admitted to the psychiatric hospital as soon as practicable after the inmate patient arrives at the hospital and no later than twenty-four hours after the time of arrival. The attending physician responsible for the inmate patient's care shall give the inmate patient all information necessary to enable the patient to give a fully informed, intelligent, and knowing consent to the treatment the inmate patient will receive in the hospital. The attending physician shall tell the inmate patient the expected physical and medical consequences of any proposed treatment and shall give the inmate patient the opportunity to consult with another psychiatrist at the hospital and with the inmate advisor.

(2) No inmate patient who is transported or transferred pursuant to division (B)(4) or (C)(1) or (2) of this section to a psychiatric hospital within a facility that is operated by the department of rehabilitation and correction shall be subjected to any of the following procedures:

(a) Convulsive therapy;

- (b) Major aversive interventions;
- (c) Any unusually hazardous treatment procedures;
- (d) Psychosurgery.

(E) The department of rehabilitation and correction shall ensure that an inmate patient hospitalized pursuant to this section receives or has all of the following:

(1) Receives sufficient professional care within twenty days of admission to ensure that an evaluation of the inmate patient's current status, differential diagnosis, probable prognosis, and description of the current treatment plan have been formulated and are stated on the inmate patient's official chart;

(2) Has a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals of treatment;

(3) Receives treatment consistent with the treatment plan;

(4) Receives periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed thirty days;

(5) Is provided with adequate medical treatment for physical disease or injury;

(6) Receives humane care and treatment, including, without being limited to, the following:

(a) Access to the facilities and personnel required by the treatment plan;

(b) A humane psychological and physical environment;

(c) The right to obtain current information concerning the treatment program, the expected outcomes of treatment, and the expectations for the inmate patient's participation in the treatment program in terms that the inmate patient reasonably can understand;

(d) Opportunity for participation in programs designed to help the inmate patient acquire the skills needed to work toward discharge from the psychiatric hospital;

(e) The right to be free from unnecessary or excessive medication and from unnecessary restraints or isolation;

(f) All other rights afforded inmates in the custody of the department consistent with rules, policy, and procedure of the department.

(F) The department shall hold a hearing for the continued hospitalization of an inmate patient who is transported or transferred to a psychiatric hospital pursuant to division (B)(4) or (C)(1) of this section prior to the expiration of the initial thirty-day period of hospitalization. The department shall hold any subsequent hearings, if necessary, not later than ninety days after the first thirty-day hearing and then not later than each one hundred and eighty days after the immediately prior hearing. An

independent decision-maker shall conduct the hearings at the psychiatric hospital in which the inmate patient is confined. The inmate patient shall be afforded all of the rights set forth in this section for the hearing prior to transfer to the psychiatric hospital. The department may not waive a hearing for continued commitment. A hearing for continued commitment is mandatory for an inmate patient transported or transferred to a psychiatric hospital pursuant to division (B)(4) or (C)(1) of this section unless the inmate patient has the capacity to make a reasoned choice to execute a waiver and waives the hearing in writing. An inmate patient who is transferred to a psychiatric hospital pursuant to an uncontested transfer under division (C)(2) of this section and who has scheduled hearings after withdrawal of consent for hospitalization may waive any of the scheduled hearings if the inmate has the capacity to make a reasoned choice and executes a written waiver of the hearing.

If upon completion of the hearing the independent decision-maker does not find by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order the inmate patient's discharge from the psychiatric hospital. If the independent decision-maker finds by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order that the inmate patient remain at the psychiatric hospital for continued hospitalization until the next required hearing.

If at any time prior to the next required hearing for continued hospitalization, the medical director of the hospital or the attending physician determines that the treatment needs of the inmate patient could be met equally well in an available and appropriate less restrictive state correctional institution or unit, the medical director or attending physician may discharge the inmate to that facility.

(G) An inmate patient is entitled to the credits toward the reduction of the inmate patient's stated prison term pursuant to Chapters 2967. and 5120. of the Revised Code under the same terms and conditions as if the inmate patient were in any other institution of the department of rehabilitation and correction.

(H) The adult parole authority may place an inmate patient on parole or under post-release control directly from a psychiatric hospital.

(I) If an inmate patient who is a mentally ill person subject to hospitalization is to be released from a psychiatric hospital because of the expiration of the inmate patient's stated prison term, the director of rehabilitation and correction or the director's designee, at least fourteen days

before the expiration date, may file an affidavit under section 5122.11 or 5123.71 of the Revised Code with the probate court in the county where the psychiatric hospital is located or the probate court in the county where the inmate will reside, alleging that the inmate patient is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, whichever is applicable. The proceedings in the probate court shall be conducted pursuant to Chapter 5122. or 5123. of the Revised Code except as modified by this division.

Upon the request of the inmate patient, the probate court shall grant the inmate patient an initial hearing under section 5122.141 of the Revised Code or a probable cause hearing under section 5123.75 of the Revised Code before the expiration of the stated prison term. After holding a full hearing, the probate court shall make a disposition authorized by section 5122.15 or 5123.76 of the Revised Code before the date of the expiration of the stated prison term. No inmate patient shall be held in the custody of the department of rehabilitation and correction past the date of the expiration of the inmate patient's stated prison term.

(J) The department of rehabilitation and correction shall set standards for treatment provided to inmate patients.

(K) A certificate, application, record, or report that is made in compliance with this section and that directly or indirectly identifies an inmate or former inmate whose hospitalization has been sought under this section is confidential. No person shall disclose the contents of any certificate, application, record, or report of that nature or any other psychiatric or medical record or report regarding a mentally ill inmate unless one of the following applies:

(1) The person identified, or the person's legal guardian, if any, consents to disclosure, and the chief clinical officer or designee of mental health services of the department of rehabilitation and correction determines that disclosure is in the best interests of the person.

(2) Disclosure is required by a court order signed by a judge.

(3) An inmate patient seeks access to the inmate patient's own psychiatric and medical records, unless access is specifically restricted in the treatment plan for clear treatment reasons.

(4) Hospitals and other institutions and facilities within the department of rehabilitation and correction may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, but the information that may be released about an inmate patient is limited to medication history, physical health status and history, summary of course of treatment in the hospital, summary of treatment

needs, and a discharge summary, if any.

(5) An inmate patient's family member who is involved in planning, providing, and monitoring services to the inmate patient may receive medication information, a summary of the inmate patient's diagnosis and prognosis, and a list of the services and personnel available to assist the inmate patient and family if the attending physician determines that disclosure would be in the best interest of the inmate patient. No disclosure shall be made under this division unless the inmate patient is notified of the possible disclosure, receives the information to be disclosed, and does not object to the disclosure.

(6) The department of rehabilitation and correction may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with county sheriffs' offices, hospitals, institutions, and facilities of the department of ~~mental health~~ mental health and addiction services and with community mental health ~~agencies~~ services providers and boards of alcohol, drug addiction, and mental health services with which the department of ~~mental health~~ mental health and addiction services has a current agreement for patient care or services to ensure continuity of care. Disclosure under this division is limited to records regarding a mentally ill inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any. No office, department, agency, provider, or board shall disclose the records and other information unless one of the following applies:

(a) The mentally ill inmate is notified of the possible disclosure and consents to the disclosure.

(b) The mentally ill inmate is notified of the possible disclosure, an attempt to gain the consent of the inmate is made, and the office, department, agency, or board documents the attempt to gain consent, the inmate's objections, if any, and the reasons for disclosure in spite of the inmate's objections.

(7) Information may be disclosed to staff members designated by the director of rehabilitation and correction for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards.

The name of an inmate patient shall not be retained with the information obtained during the evaluations.

(L) The director of rehabilitation and correction may adopt rules setting forth guidelines for the procedures required under divisions (B), (C)(1), and (C)(2) of this section.

Sec. 5120.171. (A) The department of rehabilitation and correction shall have exclusive direction and control of the care and treatment of seriously mentally ill inmates who are in the department's custody. The department shall enter into any arrangements it considers desirable on such matters, including but not limited to both of the following:

- (1) The monitoring of such services by another state agency or agencies;
- (2) Adopting joint standards for the provision and monitoring of mental health services with the department of ~~mental health~~ mental health and addiction services and other state agencies.

(B) In order to implement its duties imposed by division (A) of this section, the department of rehabilitation and correction may enter into a contract for the provision of the mental health services described in that division.

Sec. 5120.652. To participate in the prison nursery program, each eligible inmate selected by the department shall do all the following:

- (A) Agree in writing to do all the following:
- (1) Comply with any program, educational, counseling, and other requirements established for the program by the department of rehabilitation and correction;
 - (2) If eligible, have the child participate in the medicaid program or a health insurance program;
 - (3) Accept the normal risks of childrearing;
 - (4) Abide by any court decisions regarding the allocation of parental rights and responsibilities with respect to the child.

(B) Assign to the department any rights to support from any other person, excluding support assigned pursuant to section 5107.20 of the Revised Code and medical support assigned pursuant to section ~~5101.59~~ 5160.38 of the Revised Code;

(C) Specify with whom the child is to be placed in the event the inmate's participation in the program is terminated for a reason other than release from imprisonment.

Sec. 5120.654. (A) The rights to support assigned by an inmate pursuant to section 5120.652 of the Revised Code constitute an obligation of the person who is responsible for providing the support to the department of rehabilitation and correction for the support provided the inmate and child pursuant to the prison nursery program. The division of child support in the department of job and family services shall collect support payments made pursuant to the assignment and forward them to the department of rehabilitation and correction.

(B) The department of rehabilitation and correction may receive the

following:

(1) Money that is assigned or donated on behalf of, and ~~public~~ assistance provided under Ohio works first to, a specific inmate or child participating in the prison nursery program;

(2) Money assigned or donated to establish and maintain the prison nursery program.

(C) The amounts described in division (B)(1) of this section shall be placed in the individual nursery account created and maintained under section 5120.655 of the Revised Code for the inmate and child for whom the money was received. The money described in division (B)(2) of this section shall be deposited in the appropriate prison nursery program fund.

Sec. 5121.051. All outstanding liability of relatives for the support of any patient or resident in a benevolent institution under the control of the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities accrued prior to January 1, 1956, including the liability of the patient personally, is hereby canceled, provided that this section does not abrogate any written agreements or security arrangement for the payment of support charges entered into between the state and any patient or liable relative prior to such date.

Sec. 5121.30. As used in sections 5121.30 to 5121.56 of the Revised Code:

(A) ~~"Community mental health services client" or "client" means a person receiving state-operated community mental health services.~~

~~(B)~~ "Countable assets" means all of the following:

- (1) Cash;
- (2) Bank deposits;
- (3) Securities;
- (4) Individual retirement accounts;
- (5) Qualified employer plans, including 401(k) and Keogh plans;
- (6) Annuities;
- (7) Funds in a trust created under section 5815.28 of the Revised Code;
- (8) Investment property and income;
- (9) The cash surrender values of life insurance policies;
- (10) Assets acquired by gift, bequest, devise, or inheritance;

(11) Any other asset determined by the department of ~~mental health~~ mental health and addiction services to be equivalent to the assets enumerated in this division.

~~(C)~~(B) "Federal poverty level" or "FPL" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section

673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

~~(D)~~(C) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

~~(E)~~(D) "Hospital" means an institution, hospital, or other place established, controlled, or supervised by the department of ~~mental health~~ mental health and addiction services under Chapter 5119. of the Revised Code.

~~(F)~~(E) "Liable relative" means all of the following:

- (1) A patient's spouse;
- (2) A patient's mother or father, or both, if the patient is under eighteen years of age;
- (3) A patient's guardian.

~~(G)~~(F) "Patient" means a person admitted to a hospital for inpatient care or treatment, including a person transferred to a hospital from a state correctional institution or a person under indictment or conviction who has been transferred to a hospital.

Sec. 5121.32. On an annual basis, the department of ~~mental health~~ mental health and addiction services shall determine both of the following using generally accepted governmental accounting principles:

- (A) The applicable per diem charge for each hospital operated by the department;
- (B) The ancillary per diem rate for each hospital operated by the department.

In determining a hospital's applicable per diem charge and ancillary per diem rate, the department shall consider the average actual per diem cost of maintaining and treating a patient at the hospital or, at the department's discretion, the average actual per diem cost of maintaining and treating a patient in a unit of the hospital.

Sec. 5121.33. Except as provided in sections 5121.35, 5121.43, 5121.46, 5121.47, 5121.49, and 5121.52 of the Revised Code, the department of ~~mental health~~ mental health and addiction services shall, for each billing cycle, charge a patient, patient's estate, or liable relative an amount equal to the sum of the following:

- (A) The applicable per diem charge multiplied by the number of days

the patient was admitted to the hospital;

(B) An amount that was previously billed but not paid.

Sec. 5121.34. (A) A patient, patient's estate, and patient's liable relatives shall be jointly and severally liable for amounts charged by the department of ~~mental health~~ mental health and addiction services in accordance with section 5121.33 or 5121.35 of the Revised Code. In no case shall any of the foregoing persons be liable for more than one hundred per cent of the full sum charged under section 5121.33 of the Revised Code.

(B) Collections of support payments shall be made by the department and, subject to meeting prior requirements for payment and crediting of such collections and other available receipts, in accordance with the bond proceedings applicable to obligations issued pursuant to section 154.20 of the Revised Code. The collections and other available receipts designated by the director of ~~mental health~~ mental health and addiction services for deposit in the special accounts, together with insurance contract payments provided for in section 5121.43 of the Revised Code, shall be remitted to the treasurer of state for deposit in the state treasury to the credit of the mental health operating fund, which is hereby created, to be used for the general purposes of the department. The department shall make refunds of overpayment of support charges from the mental health operating fund.

Sec. 5121.35. The department of ~~mental health~~ mental health and addiction services shall charge a patient, patient's estate, or liable relative an amount discounted from the amount the department charges under section 5121.33 of the Revised Code if the department determines through the application process described in section 5121.36 of the Revised Code or through the financial assessment process described in section 5121.37 of the Revised Code that the patient, estate, or relative is eligible for a discount.

Sec. 5121.36. (A) A patient, patient's estate, or liable relative may apply for a discount by completing an application form prescribed by the director of ~~mental health~~ mental health and addiction services. The department of ~~mental health~~ mental health and addiction services may require a patient, estate, or relative to furnish any of the following with an application form:

(1) A copy of the patient's, estate's, or liable relative's federal income tax return for the year preceding the date of application or, if that is not yet available, the preceding year;

(2) A copy of the patient's, estate's, or liable relative's employee tax withholding return (form W-2) for the year preceding the date of application;

(3) Any other relevant documents prescribed by the director of ~~mental health~~ mental health and addiction services.

(B) To be considered, an application must be submitted to the department not later than ninety days after the date the patient is admitted to a hospital.

(C) From the information provided by a patient, estate, or relative, the department shall determine whether the department will charge the person a discounted amount in accordance with sections 5121.40 and 5121.41 of the Revised Code. In making this determination, the department shall consider whether the patient is covered by an insurance policy or other contract that provides for payment of expenses and treatment for mental illness. If the department determines that the patient has coverage, the department shall require payment in accordance with section 5121.43 of the Revised Code.

(D) The department shall notify the patient, executor or administrator of the patient's estate, or liable relative who submitted the application form in writing regarding whether that person will be charged a discounted amount and the per diem rate to be charged.

(E) In accordance with section 5121.42 of the Revised Code, the department may, at any time, modify an amount charged or change the per diem rate to be charged if the department learns of countable assets or income that was not previously disclosed or was acquired after the application form was submitted. Within a reasonable time, the department shall notify in writing any person affected by a modification or change.

Sec. 5121.37. After a patient's admittance to a hospital, the department of ~~mental health~~ mental health and addiction services shall conduct a financial assessment to determine whether the patient, patient's estate, or liable relative will be charged an amount discounted from the amount the department charges under section 5121.33 of the Revised Code. The department shall make the determination in accordance with sections 5121.40 and 5121.41 of the Revised Code.

If a discounted rate is to be charged, the department shall notify the person whose financial condition was assessed. The notice shall specify the per diem rate to be charged.

In accordance with section 5121.42 of the Revised Code, the department may, at any time, modify an amount charged or change the per diem rate to be charged if the department learns of countable assets or income that was not previously disclosed or was acquired after the assessment was conducted. Within a reasonable time, the department shall notify in writing any person affected by a modification or change.

Sec. 5121.38. The department of ~~mental health~~ mental health and addiction services may subpoena witnesses, take testimony under oath, and examine any public records relating to the income and other assets of a

patient or of a relative liable for such patient's support. All information, conclusions, and recommendations shall be submitted to the department by the investigating agent of the department.

Sec. 5121.40. (A) A patient, patient's estate, or liable relative may be eligible to be charged an amount discounted from the amount the department of ~~mental health~~ mental health and addiction services charges under section 5121.33 of the Revised Code if the patient, estate, or relative has countable assets with a total value that is not greater than an amount equal to fifty per cent of the difference between the following:

(1) The gross annual income that corresponds with a family size of two persons at one hundred per cent of the federal poverty level for the state;

(2) The gross annual income that corresponds with a family size of one person at one hundred per cent of the federal poverty level for the state. For purposes of determining family size, the patient is one dependent. One additional dependent shall be included for each of the following circumstances and persons:

(a) The patient or liable relative is legally blind or deaf.

(b) The patient or liable relative is ~~of~~ sixty-five years of age or older.

(c) Each child under eighteen years of age for which the patient or liable relative has legal custody;

(d) The patient's or liable relative's spouse.

(B) A patient, estate, or relative may, not later than ninety days after the patient's admission to a hospital, surrender the value of countable assets sufficient to reduce countable assets to not more than the limit described in division (A) of this section.

Sec. 5121.42. (A) Except as provided in division (B) of this section, a patient, patient's estate, or liable relative shall cease to be eligible for a discount under ~~sections~~ section 5121.36 or 5121.37 of the Revised Code on accumulation of countable assets in excess of an amount equal to fifty per cent of the difference between the following:

(1) The gross annual income that corresponds with a family size of two persons at one hundred per cent of the federal poverty level for the state;

(2) The gross annual income that corresponds with a family size of one person at one hundred per cent of the federal poverty level for the state.

(B) Money needed to meet the patient's needs and burial fund as determined by a needs assessment conducted by the department of ~~mental health~~ mental health and addiction services pursuant to rules adopted under section ~~5119.01~~ 5119.10 of the Revised Code shall be excluded from any determination the department makes under division (A) of this section.

Sec. 5121.43. If a patient is covered by an insurance policy or other

contract that provides for payment of expenses for care and treatment for mental illness at or from a hospital under the jurisdiction of the department of ~~mental health~~ mental health and addiction services, sections 5121.33 to 5121.55 of the Revised Code are inapplicable to the extent that the policy or contract is in force. Any insurance carrier or other third party payor providing coverage for such care and treatment shall pay for the patient's support obligation in amounts equal to the lesser of amounts charged by the department under section 5121.33 of the Revised Code or the benefits provided under the policy or other contract. Whether or not an insured, owner of, or other person having an interest in such policy or other contract is liable for support payments, the insured, policy owner, or other person shall assign payment directly to the department of all assignable benefits under the policy or other contract and shall pay to the department, within ten days of receipt, all insurance or other benefits received as reimbursement or payment for expenses incurred by the patient or for any other reason. If the insured, policy owner, or other person refuses to assign payment to the department or refuses to pay received reimbursements or payments to the department within ten days of receipt, the total liability of the insured, policy owner, or other person for the services is an amount equal to the per diem charge for the hospital where the patient was admitted multiplied by the number of days the patient was admitted.

In no event shall this total liability exceed the department's actual cost of providing care and treatment to a patient. The department may disqualify patients and liable relatives who have retained third party funds from future discounts. The department may request that the attorney general petition a court of competent jurisdiction to compel the insured, owner of, or other person having an interest in the policy or contract to comply with the assignment requirements in this section.

Sec. 5121.44. The department of ~~mental health~~ mental health and addiction services may enter into an extended payment agreement with a patient, patient's estate, or liable relative who has notified the department that the patient, estate, or relative cannot reasonably pay an amount the department has charged. In no case shall the department take a security interest, mortgage, or lien against the principal family residence of a patient or liable relative.

Sec. 5121.45. (A) For purposes of this section, "delinquent payment" means an amount owed by a patient, patient's estate, or liable relative to the department of ~~mental health~~ mental health and addiction services for which the person has failed to do either of the following not later than ninety days after the service associated with the charge was incurred:

(1) Make payment in full;

(2) Make a payment in accordance with the terms of an agreement entered into under section 5121.44 of the Revised Code.

(B) An action to enforce the collection of a delinquent payment shall be commenced not later than six years after the later of the following:

(1) The last date the department received money to satisfy the delinquent payment;

(2) The date the charge was due.

(C) In all actions to enforce the collection of delinquent payments, a court of record shall receive into evidence the proof of claim document made by the state together with all debts and credits. The proof of claim document shall be prima-facie evidence of the facts stated in the document.

Sec. 5121.46. The department of ~~mental health~~ mental health and addiction services shall not charge a liable relative under sections 5121.33 and 5121.35 of the Revised Code who has done either of the following:

(A) Paid all amounts charged by the department for the care and treatment of a particular patient for fifteen consecutive years;

(B) Paid amounts charged by the department for the care and treatment of more than one patient for a total of fifteen consecutive years.

Sec. 5121.47. Irrespective of the number of patients for which the department of ~~mental health~~ mental health and addiction services may charge a liable relative under sections 5121.33 ~~or~~ and 5121.35 of the Revised Code, the department shall not charge a liable relative or group of liable relatives who are members of the same family unit for the support of more than one patient during the same period of time.

Sec. 5121.49. (A) Any person who has been charged under section 5121.33 or 5121.35 of the Revised Code may petition the department of ~~mental health~~ mental health and addiction services to do the following:

(1) Release the person from a charge;

(2) Modify or cancel a charge.

(B) The department shall respond to a petition in writing and inform the petitioner of whether a release, modification, or cancellation has been approved.

Sec. 5121.50. When a patient is committed to a hospital pursuant to judicial proceedings, the judge ordering the commitment shall:

(A) Make a reliable report on the financial condition of the patient and of each liable relative, as provided in rules adopted by the director of ~~mental health~~ mental health and addiction services;

(B) Certify the report required under division (A) of this section to the managing officer of the hospital. The managing officer shall thereupon enter

in the managing officer's records the name and address of any guardian appointed and of any relative liable for the patient's support.

Sec. 5121.51. In case the estate of any patient in a hospital is sufficient for the patient's support and no guardian has been appointed for such estate, the agent of the department of ~~mental health~~ mental health and addiction services shall petition the probate court of the proper county to appoint a guardian.

Sec. 5121.52. On the death of a person who is a patient, or has been a patient in a hospital, or on the death of a person responsible under section 5121.34 of the Revised Code for the support of a patient, the department of ~~mental health~~ mental health and addiction services may waive the presentation of any claim for support against the estate of such decedent, when in its judgment an otherwise dependent person will be directly benefited by the estate. Claims against an estate for support of a patient are subject to section 5815.28 and Chapter 2117. of the Revised Code, and shall be treated, and may be barred, the same as the claims of other creditors of the estate, pursuant to that section or chapter.

The department of ~~mental health~~ mental health and addiction services may accept from a guardian or trustee of a patient a contract agreeing to pay to the state from the property of the guardian's or trustee's ward before or at the death of the ward a fixed annual amount for the support of the ward while the ward is a patient, with interest at four per cent per annum. A copy of the contract shall be filed in the probate court of the proper county and duly entered as a part of the records concerning the ward.

Sec. 5121.55. The cost for support of a client of state-operated community mental health services is an amount determined using guidelines the department of ~~mental health~~ mental health and addiction services shall issue. The guidelines shall be based on cost findings and rate-settings applicable to such services.

Sec. 5122.01. As used in this chapter and Chapter 5119. of the Revised Code:

(A) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(B) "Mentally ill person subject to hospitalization by court order" means a mentally ill person who, because of the person's illness:

(1) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

(2) Represents a substantial risk of physical harm to others as

manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;

(3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; or

(4) Would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(C)(1) "Patient" means, subject to division (C)(2) of this section, a person who is admitted either voluntarily or involuntarily to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter, who is under observation or receiving treatment in such place.

(2) "Patient" does not include a person admitted to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to patient, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(D) "Licensed physician" means a person licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of the person's official duties.

(E) "Psychiatrist" means a licensed physician who has satisfactorily completed a residency training program in psychiatry, as approved by the residency review committee of the American medical association, the committee on post-graduate education of the American osteopathic association, or the American osteopathic board of neurology and psychiatry, or who on July 1, 1989, has been recognized as a psychiatrist by the Ohio state medical association or the Ohio osteopathic association on the basis of formal training and five or more years of medical practice limited to psychiatry.

(F) "Hospital" means a hospital or inpatient unit licensed by the department of ~~mental health~~ mental health and addiction services under section ~~5449.20~~ 5119.33 of the Revised Code, and any institution, hospital,

or other place established, controlled, or supervised by the department under Chapter 5119. of the Revised Code.

(G) "Public hospital" means a facility that is tax-supported and under the jurisdiction of the department of ~~mental health~~ mental health and addiction services.

(H) "Community mental health ~~agency services provider~~" means an agency, association, corporation, individual, or program that provides community mental health services that are certified by the director of ~~mental health~~ mental health and addiction services under section ~~5119.611~~ 5119.36 of the Revised Code.

(I) "Licensed clinical psychologist" means a person who holds a current valid psychologist license issued under section 4732.12 or 4732.15 of the Revised Code, and in addition, meets either of the following criteria:

(1) Meets the educational requirements set forth in division (B) of section 4732.10 of the Revised Code and has a minimum of two years' full-time professional experience, or the equivalent as determined by rule of the state board of psychology, at least one year of which shall be a predoctoral internship, in clinical psychological work in a public or private hospital or clinic or in private practice, diagnosing and treating problems of mental illness or mental retardation under the supervision of a psychologist who is licensed or who holds a diploma issued by the American board of professional psychology, or whose qualifications are substantially similar to those required for licensure by the state board of psychology when the supervision has occurred prior to enactment of laws governing the practice of psychology;

(2) Meets the educational requirements set forth in division (B) of section 4732.15 of the Revised Code and has a minimum of four years' full-time professional experience, or the equivalent as determined by rule of the state board of psychology, in clinical psychological work in a public or private hospital or clinic or in private practice, diagnosing and treating problems of mental illness or mental retardation under supervision, as set forth in division (I)(1) of this section.

(J) "Health officer" means any public health physician; public health nurse; or other person authorized by or designated by a city health district; a general health district; or a board of alcohol, drug addiction, and mental health services to perform the duties of a health officer under this chapter.

(K) "Chief clinical officer" means the medical director of a hospital, or a community mental health ~~agency services provider~~, or a board of alcohol, drug addiction, and mental health services, or, if there is no medical director, the licensed physician responsible for the treatment a hospital or

community mental health ~~agency~~ services provider provides. The chief clinical officer may delegate to the attending physician responsible for a patient's care the duties imposed on the chief clinical officer by this chapter. Within a community mental health ~~agency~~ services provider, the chief clinical officer shall be designated by the governing body of the ~~agency~~ services provider and shall be a licensed physician or licensed clinical psychologist who supervises diagnostic and treatment services. A licensed physician or licensed clinical psychologist designated by the chief clinical officer may perform the duties and accept the responsibilities of the chief clinical officer in the chief clinical officer's absence.

(L) "Working day" or "court day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday.

(M) "Indigent" means unable without deprivation of satisfaction of basic needs to provide for the payment of an attorney and other necessary expenses of legal representation, including expert testimony.

(N) "Respondent" means the person whose detention, commitment, hospitalization, continued hospitalization or commitment, or discharge is being sought in any proceeding under this chapter.

(O) "Ohio protection and advocacy system" has the same meaning as in section 5123.60 of the Revised Code.

(P) "Independent expert evaluation" means an evaluation conducted by a licensed clinical psychologist, psychiatrist, or licensed physician who has been selected by the respondent or the respondent's counsel and who consents to conducting the evaluation.

(Q) "Court" means the probate division of the court of common pleas.

(R) "Expunge" means:

(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;

(2) The reporting to the person of the nature and extent of any information about the person transmitted to any other person by the court;

(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;

(4) That all rights and privileges are restored, and that the person, the court, and any other person may properly reply that no such record exists, as to any matter expunged.

(S) "Residence" means a person's physical presence in a county with intent to remain there, except that:

(1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained the person's primary place of residence at

the time the person entered the facility;

(2) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, residence means the county where the criminal charges were filed.

When the residence of a person is disputed, the matter of residence shall be referred to the department of ~~mental health~~ mental health and addiction services for investigation and determination. Residence shall not be a basis for a board's denying services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.

(T) "Admission" to a hospital or other place means that a patient is accepted for and stays at least one night at the hospital or other place.

(U) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(V) "Treatment plan" means a written statement of reasonable objectives and goals for an individual established by the treatment team, with specific criteria to evaluate progress towards achieving those objectives. The active participation of the patient in establishing the objectives and goals shall be documented. The treatment plan shall be based on patient needs and include services to be provided to the patient while the patient is hospitalized and after the patient is discharged. The treatment plan shall address services to be provided upon discharge, including but not limited to housing, financial, and vocational services.

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

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

Sec. 5122.03. A patient admitted under section 5122.02 of the Revised Code who requests release in writing, or whose release is requested in writing by the patient's counsel, legal guardian, parent, spouse, or adult next of kin shall be released forthwith, except that when:

(A) The patient was admitted on the patient's own application and the request for release is made by a person other than the patient, release may be conditional upon the agreement of the patient; or

(B) The chief clinical officer of the hospital, within three court days

from the receipt of the request for release, files or causes to be filed with the court of the county where the patient is hospitalized or of the county where the patient is a resident, an affidavit under section 5122.11 of the Revised Code. Release may be postponed until the hearing held under section 5122.141 of the Revised Code. A telephone communication within three court days from the receipt of the request for release from the chief clinical officer to the court, indicating that the required affidavit has been mailed, is sufficient compliance with the time limit for filing such affidavit.

Unless the patient is released within three days from the receipt of the request by the chief clinical officer, the request shall serve as a request for an initial hearing under section 5122.141 of the Revised Code. If the court finds that the patient is a mentally ill person subject to hospitalization by court order, all provisions of this chapter with respect to involuntary hospitalization apply to such person.

Judicial proceedings for hospitalization shall not be commenced with respect to a voluntary patient except pursuant to this section.

Sections 5121.30 to 5121.56 of the Revised Code apply to persons received in a hospital operated by the department of ~~mental health~~ mental health and addiction services on a voluntary application.

The chief clinical officer of the hospital shall provide reasonable means and arrangements for informing patients of their rights to release as provided in this section and for assisting them in making and presenting requests for release or for a hearing under section 5122.141 of the Revised Code.

Before a patient is released from a public hospital, the chief clinical officer shall, when possible, notify the board of the patient's county of residence of the patient's pending release after the chief clinical officer has informed the patient that the board will be so notified.

Sec. 5122.10. Any psychiatrist, licensed clinical psychologist, licensed physician, health officer, parole officer, police officer, or sheriff may take a person into custody, or the chief of the adult parole authority or a parole or probation officer with the approval of the chief of the authority may take a parolee, an offender under a community control sanction or a post-release control sanction, or an offender under transitional control into custody and may immediately transport the parolee, offender on community control or post-release control, or offender under transitional control to a hospital or, notwithstanding section ~~5119.20~~ 5119.33 of the Revised Code, to a general hospital not licensed by the department of ~~mental health~~ mental health and addiction services where the parolee, offender on community control or post-release control, or offender under transitional control may be held for the period prescribed in this section, if the psychiatrist, licensed clinical

psychologist, licensed physician, health officer, parole officer, police officer, or sheriff has reason to believe that the person is a mentally ill person subject to hospitalization by court order under division (B) of section 5122.01 of the Revised Code, and represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination.

A written statement shall be given to such hospital by the transporting psychiatrist, licensed clinical psychologist, licensed physician, health officer, parole officer, police officer, chief of the adult parole authority, parole or probation officer, or sheriff stating the circumstances under which such person was taken into custody and the reasons for the psychiatrist's, licensed clinical psychologist's, licensed physician's, health officer's, parole officer's, police officer's, chief of the adult parole authority's, parole or probation officer's, or sheriff's belief. This statement shall be made available to the respondent or the respondent's attorney upon request of either.

Every reasonable and appropriate effort shall be made to take persons into custody in the least conspicuous manner possible. A person taking the respondent into custody pursuant to this section shall explain to the respondent: the name; and professional designation; and ~~agency~~ affiliation of the person taking the respondent into custody; that the custody-taking is not a criminal arrest; and that the person is being taken for examination by mental health professionals at a specified mental health facility identified by name.

If a person taken into custody under this section is transported to a general hospital, the general hospital may admit the person, or provide care and treatment for the person, or both, notwithstanding section ~~5119.20~~ 5119.33 of the Revised Code, but by the end of twenty-four hours after arrival at the general hospital, the person shall be transferred to a hospital as defined in section 5122.01 of the Revised Code.

A person transported or transferred to a hospital or community mental health ~~agency services provider~~ under this section shall be examined by the staff of the hospital or ~~agency services provider~~ within twenty-four hours after arrival at the hospital or ~~agency services provider~~. If to conduct the examination requires that the person remain overnight, the hospital or ~~agency services provider~~ shall admit the person in an unclassified status until making a disposition under this section. After the examination, if the chief clinical officer of the hospital or ~~agency services provider~~ believes that the person is not a mentally ill person subject to hospitalization by court order, the chief clinical officer shall release or discharge the person immediately unless a court has issued a temporary order of detention applicable to the person under section 5122.11 of the Revised Code. After

the examination, if the chief clinical officer believes that the person is a mentally ill person subject to hospitalization by court order, the chief clinical officer may detain the person for not more than three court days following the day of the examination and during such period admit the person as a voluntary patient under section 5122.02 of the Revised Code or file an affidavit under section 5122.11 of the Revised Code. If neither action is taken and a court has not otherwise issued a temporary order of detention applicable to the person under section 5122.11 of the Revised Code, the chief clinical officer shall discharge the person at the end of the three-day period unless the person has been sentenced to the department of rehabilitation and correction and has not been released from the person's sentence, in which case the person shall be returned to that department.

Sec. 5122.11. Proceedings for the hospitalization of a person pursuant to sections 5122.11 to 5122.15 of the Revised Code shall be commenced by the filing of an affidavit in the manner and form prescribed by the department of ~~mental health~~ mental health and addiction services, by any person or persons with the court, either on reliable information or actual knowledge, whichever is determined to be proper by the court. This section does not apply to the hospitalization of a person pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code.

The affidavit shall contain an allegation setting forth the specific category or categories under division (B) of section 5122.01 of the Revised Code upon which the jurisdiction of the court is based and a statement of alleged facts sufficient to indicate probable cause to believe that the person is a mentally ill person subject to hospitalization by court order. The affidavit may be accompanied, or the court may require that the affidavit be accompanied, by a certificate of a psychiatrist, or a certificate signed by a licensed clinical psychologist and a certificate signed by a licensed physician stating that the person who issued the certificate has examined the person and is of the opinion that the person is a mentally ill person subject to hospitalization by court order, or shall be accompanied by a written statement by the applicant, under oath, that the person has refused to submit to an examination by a psychiatrist, or by a licensed clinical psychologist and licensed physician.

Upon receipt of the affidavit, if a judge of the court or a referee who is an attorney at law appointed by the court has probable cause to believe that the person named in the affidavit is a mentally ill person subject to hospitalization by court order, the judge or referee may issue a temporary order of detention ordering any health or police officer or sheriff to take into custody and transport the person to a hospital or other place designated in

section 5122.17 of the Revised Code, or may set the matter for further hearing.

The person may be observed and treated until the hearing provided for in section 5122.141 of the Revised Code. If no such hearing is held, the person may be observed and treated until the hearing provided for in section 5122.15 of the Revised Code.

Sec. 5122.12. After receipt of the affidavit required by section 5122.11 of the Revised Code, the court shall cause written notice by mail or otherwise of any hearing as the court directs to be given to the following persons:

(A) The respondent;

(B) The respondent's legal guardian, if any, the respondent's spouse, if any, and the respondent's parents, if the respondent is a minor, if these persons' addresses are known to the court or can be obtained through exercise of reasonable diligence;

(C) The person who filed the affidavit;

(D) Any one person designated by the respondent; but if the respondent does not make a selection, the notice shall be sent to the adult next of kin other than the person who filed the affidavit if that person's address is known to the court or can be obtained through exercise of reasonable diligence;

(E) The respondent's counsel;

(F) The director, chief clinical officer, or the respective designee of the hospital, board, ~~agency~~ community mental health services provider, or facility to which the person has been committed;

(G) The board of alcohol, drug addiction, and mental health services serving the respondent's county of residence or ~~an agency~~ a services provider the board designates.

Any person entitled to notice under this section, with the exception of the respondent, may waive the notice.

A copy of the affidavit and temporary order of detention shall be served with the notice to the parties and to respondent's counsel, if counsel has been appointed or retained.

Sec. 5122.13. Upon receipt of the affidavit required by section 5122.11 of the Revised Code, the court shall refer the affidavit to the board of alcohol, drug addiction, and mental health services or ~~an agency~~ community mental health services provider the board designates to assist the court in determining whether the respondent is subject to hospitalization and whether alternative services are available, unless the ~~agency~~ services provider or board has already performed such screening. The board or ~~agency~~ services

provider shall review the allegations of the affidavit and other information relating to whether or not the person named in the affidavit or statement is a mentally ill person subject to hospitalization by court order, and the availability of appropriate treatment alternatives.

The person who conducts the investigation shall promptly make a report to the court, in writing, in open court or in chambers, as directed by the court and a full record of the report shall be made by the court. The report is not admissible as evidence for the purpose of establishing whether or not the respondent is a mentally ill person subject to hospitalization by court order, but shall be considered by the court in its determination of an appropriate placement for any person after that person is found to be a mentally ill person subject to hospitalization.

The court, prior to the hearing under section 5122.141 of the Revised Code, shall release a copy of the investigative report to the respondent's counsel.

Nothing in this section precludes a judge or referee from issuing a temporary order of detention pursuant to section 5122.11 of the Revised Code.

Sec. 5122.15. (A) Full hearings shall be conducted in a manner consistent with this chapter and with due process of law. The hearings shall be conducted by a judge of the probate court or a referee designated by a judge of the probate court and may be conducted in or out of the county in which the respondent is held. Any referee designated under this division shall be an attorney.

(1) With the consent of the respondent, the following shall be made available to counsel for the respondent:

(a) All relevant documents, information, and evidence in the custody or control of the state or prosecutor;

(b) All relevant documents, information, and evidence in the custody or control of the hospital in which the respondent currently is held, or in which the respondent has been held pursuant to this chapter;

(c) All relevant documents, information, and evidence in the custody or control of any hospital, facility, or person not included in division (A)(1)(a) or (b) of this section.

(2) The respondent has the right to attend the hearing and to be represented by counsel of the respondent's choice. The right to attend the hearing may be waived only by the respondent or counsel for the respondent after consultation with the respondent.

(3) If the respondent is not represented by counsel, is absent from the hearing, and has not validly waived the right to counsel, the court shall

appoint counsel immediately to represent the respondent at the hearing, reserving the right to tax costs of appointed counsel to the respondent, unless it is shown that the respondent is indigent. If the court appoints counsel, or if the court determines that the evidence relevant to the respondent's absence does not justify the absence, the court shall continue the case.

(4) The respondent shall be informed that the respondent may retain counsel and have independent expert evaluation. If the respondent is unable to obtain an attorney, the respondent shall be represented by court-appointed counsel. If the respondent is indigent, court-appointed counsel and independent expert evaluation shall be provided as an expense under section 5122.43 of the Revised Code.

(5) The hearing shall be closed to the public, unless counsel for the respondent, with the permission of the respondent, requests that the hearing be open to the public.

(6) If the hearing is closed to the public, the court, for good cause shown, may admit persons who have a legitimate interest in the proceedings. If the respondent, the respondent's counsel, or the designee of the director or of the chief clinical officer objects to the admission of any person, the court shall hear the objection and any opposing argument and shall rule upon the admission of the person to the hearing.

(7) The affiant under section 5122.11 of the Revised Code shall be subject to subpoena by either party.

(8) The court shall examine the sufficiency of all documents filed and shall inform the respondent, if present, and the respondent's counsel of the nature and content of the documents and the reason for which the respondent is being detained, or for which the respondent's placement is being sought.

(9) The court shall receive only reliable, competent, and material evidence.

(10) Unless proceedings are initiated pursuant to section 5120.17 or 5139.08 of the Revised Code ~~or proceedings are initiated regarding a resident of the service district of a board of alcohol, drug addiction, and mental health services that elects under division (C)(2) of section 5119.62 of the Revised Code not to accept the amount allocated to it under that section,~~ an attorney that the board designates shall present the case demonstrating that the respondent is a mentally ill person subject to hospitalization by court order. The attorney shall offer evidence of the diagnosis, prognosis, record of treatment, if any, and less restrictive treatment plans, if any. In proceedings pursuant to section 5120.17 or 5139.08 of the Revised Code

~~and in proceedings in which the respondent is a resident of a service district of a board that elects under division (C)(2) of section 5119.62 of the Revised Code not to accept the amount allocated to it under that section,~~ the attorney general shall designate an attorney who shall present the case demonstrating that the respondent is a mentally ill person subject to hospitalization by court order. The attorney shall offer evidence of the diagnosis, prognosis, record of treatment, if any, and less restrictive treatment plans, if any.

(11) The respondent or the respondent's counsel has the right to subpoena witnesses and documents and to examine and cross-examine witnesses.

(12) The respondent has the right, but shall not be compelled, to testify, and shall be so advised by the court.

(13) On motion of the respondent or the respondent's counsel for good cause shown, or on the court's own motion, the court may order a continuance of the hearing.

(14) If the respondent is represented by counsel and the respondent's counsel requests a transcript and record, or if the respondent is not represented by counsel, the court shall make and maintain a full transcript and record of the proceeding. If the respondent is indigent and the transcript and record is made, a copy shall be provided to the respondent upon request and be treated as an expense under section 5122.43 of the Revised Code.

(15) To the extent not inconsistent with this chapter, the Rules of Civil Procedure are applicable.

(B) Unless, upon completion of the hearing the court finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, it shall order the respondent's discharge immediately.

(C) If, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, the court shall order the respondent for a period not to exceed ninety days to any of the following:

(1) A hospital operated by the department of ~~mental health~~ mental health and addiction services if the respondent is committed pursuant to section 5139.08 of the Revised Code;

(2) A nonpublic hospital;

(3) The veterans' administration or other agency of the United States government;

(4) A board of alcohol, drug addiction, and mental health services or ~~agency services provider~~ the board designates;

(5) Receive private psychiatric or psychological care and treatment;

(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent.

(D) Any order made pursuant to division (C)(2), (3), (5), or (6) of this section shall be conditioned upon the receipt by the court of consent by the hospital, facility, agency, or person to accept the respondent.

(E) In determining the place to which, or the person with whom, the respondent is to be committed, the court shall consider the diagnosis, prognosis, preferences of the respondent and the projected treatment plan for the respondent and shall order the implementation of the least restrictive alternative available and consistent with treatment goals. If the court determines that the least restrictive alternative available that is consistent with treatment goals is inpatient hospitalization, the court's order shall so state.

(F) During such ninety-day period the hospital; facility; board of alcohol, drug addiction, and mental health services; ~~agency services provider~~ the board designates; or person shall examine and treat the individual. If, at any time prior to the expiration of the ninety-day period, it is determined by the hospital, facility, board, ~~agency services provider~~, or person that the respondent's treatment needs could be equally well met in an available and appropriate less restrictive environment, both of the following apply:

(1) The respondent shall be released from the care of the hospital, ~~agency services provider~~, facility, or person immediately and shall be referred to the court together with a report of the findings and recommendations of the hospital, ~~agency services provider~~, facility, or person; and

(2) The hospital, ~~agency services provider~~, facility, or person shall notify the respondent's counsel or the attorney designated by a board of alcohol, drug addiction, and mental health services or, if the respondent was committed to a board or ~~an agency a services provider~~ designated by the board, it shall place the respondent in the least restrictive environment available consistent with treatment goals and notify the court and the respondent's counsel of the placement.

The court shall dismiss the case or order placement in the least restrictive environment.

(G)(1) Except as provided in divisions (G)(2) and (3) of this section, any person who has been committed under this section, or for whom proceedings for hospitalization have been commenced pursuant to section 5122.11 of the Revised Code, may apply at any time for voluntary

admission to the hospital, facility, ~~agency~~ or services provider that the board designates, or person to which the person was committed. Upon admission as a voluntary patient the chief clinical officer of the hospital, ~~agency~~ services provider, or other facility, or the person immediately shall notify the court, the patient's counsel, and the attorney designated by the board, if the attorney has entered the proceedings, in writing of that fact, and, upon receipt of the notice, the court shall dismiss the case.

(2) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily commit the person pursuant to this section until after the final termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

(H) If, at the end of the first ninety-day period or any subsequent period of continued commitment, there has been no disposition of the case, either by discharge or voluntary admission, the hospital, facility, board, ~~agency~~ services provider, or person shall discharge the patient immediately, unless at least ten days before the expiration of the period the attorney the board designates or the prosecutor files with the court an application for continued commitment. The application of the attorney or the prosecutor shall include a written report containing the diagnosis, prognosis, past treatment, a list of alternative treatment settings and plans, and identification of the treatment setting that is the least restrictive consistent with treatment needs. The attorney the board designates or the prosecutor shall file the written report at least three days prior to the full hearing. A copy of the application and written report shall be provided to the respondent's counsel immediately.

The court shall hold a full hearing on applications for continued commitment at the expiration of the first ninety-day period and at least every two years after the expiration of the first ninety-day period.

Hearings following any application for continued commitment are mandatory and may not be waived.

Upon request of a person who is involuntarily committed under this section, or the person's counsel, that is made more than one hundred eighty days after the person's last full hearing, mandatory or requested, the court shall hold a full hearing on the person's continued commitment. Upon the application of a person involuntarily committed under this section, supported by an affidavit of a psychiatrist or licensed clinical psychologist, alleging that the person no longer is a mentally ill person subject to hospitalization by court order, the court for good cause shown may hold a full hearing on the person's continued commitment prior to the expiration of

one hundred eighty days after the person's last full hearing. Section 5122.12 of the Revised Code applies to all hearings on continued commitment.

If the court, after a hearing for continued commitment finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, the court may order continued commitment at places specified in division (C) of this section.

(I) Unless the admission is pursuant to section 5120.17 or 5139.08 of the Revised Code, the chief clinical officer of the hospital or ~~agency~~ services provider admitting a respondent pursuant to a judicial proceeding, within ten working days of the admission, shall make a report of the admission to the board of alcohol, drug addiction, and mental health services serving the respondent's county of residence.

(J) A referee appointed by the court may make all orders that a judge may make under this section and sections 5122.11 and 5122.141 of the Revised Code, except an order of contempt of court. The orders of a referee take effect immediately. Within fourteen days of the making of an order by a referee, a party may file written objections to the order with the court. The filed objections shall be considered a motion, shall be specific, and shall state their grounds with particularity. Within ten days of the filing of the objections, a judge of the court shall hold a hearing on the objections and may hear and consider any testimony or other evidence relating to the respondent's mental condition. At the conclusion of the hearing, the judge may ratify, rescind, or modify the referee's order.

(K) An order of the court under division (C), (H), or (J) of this section is a final order.

(L) Before a board, or ~~an agency~~ a services provider the board designates, may place an unconsenting respondent in an inpatient setting from a less restrictive placement, the board or ~~agency~~ services provider shall do all of the following:

(1) Determine that the respondent is in immediate need of treatment in an inpatient setting because the respondent represents a substantial risk of physical harm to the respondent or others if allowed to remain in a less restrictive setting;

(2) On the day of placement in the inpatient setting or on the next court day, file with the court a motion for transfer to an inpatient setting or communicate to the court by telephone that the required motion has been mailed;

(3) Ensure that every reasonable and appropriate effort is made to take the respondent to the inpatient setting in the least conspicuous manner possible;

(4) Immediately notify the board's designated attorney and the respondent's attorney.

At the respondent's request, the court shall hold a hearing on the motion and make a determination pursuant to division (E) of this section within five days of the placement.

(M) Before a board, or ~~an agency~~ a services provider the board designates, may move a respondent from one residential placement to another, the board or ~~agency~~ services provider shall consult with the respondent about the placement. If the respondent objects to the placement, the proposed placement and the need for it shall be reviewed by a qualified mental health professional who otherwise is not involved in the treatment of the respondent.

Sec. 5122.17. Pending ~~his~~ removal to a hospital, a person taken into custody or ordered to be hospitalized pursuant to this chapter may be detained for not more than forty-eight hours in a licensed rest or nursing home, a licensed or unlicensed hospital, a community mental health ~~agency~~ services provider, or a county home, but ~~he~~ the person shall not be detained in a nonmedical facility used for detention of persons charged with or convicted of penal offenses unless the court finds that a less restrictive alternative cannot be made available.

Sec. 5122.18. Whenever a person has been involuntarily detained at or admitted to a hospital, community mental health ~~agency~~ services provider, or other facility at the request of anyone other than the person's legal guardian, spouse, or next of kin under this chapter, the chief clinical officer of the hospital, ~~agency~~ services provider, or other facility in which the person is temporarily detained under section 5122.17 of the Revised Code shall immediately notify the person's legal guardian, spouse or next of kin, and counsel, if these persons can be ascertained through exercise of reasonable diligence. If a person voluntarily remains at or is admitted to a hospital, ~~agency~~ services provider, or other facility, such notification shall not be given without ~~his~~ the person's consent. The chief clinical officer of the hospital, ~~agency~~ services provider, or other facility shall inform a person voluntarily remaining at or admitted to a hospital, ~~agency~~ services provider, or other facility that ~~he~~ the person may authorize such notification.

Sec. 5122.19. Every person transported to a hospital or community mental health ~~agency~~ services provider pursuant to sections 5122.11 to 5122.16 of the Revised Code, shall be examined by the staff of the hospital or ~~agency~~ services provider as soon as practicable after ~~his~~ arrival at the hospital or ~~agency~~ services provider. Such an examination shall be held within twenty-four hours after the time of arrival, and if the chief clinical

officer fails after such an examination to certify that in ~~his~~ the chief clinical officer's opinion the person is a mentally ill person subject to hospitalization by court order, the person shall be immediately released.

Sec. 5122.20. The director of ~~mental health~~ mental health and addiction services or the director's designee may transfer, or authorize the transfer of, an involuntary patient, or a consenting voluntary patient hospitalized pursuant to section 5122.02 or sections 5122.11 to 5122.15 of the Revised Code, from one public hospital to another, or to a hospital, community mental health ~~agency services provider~~, or other facility offering treatment or other services for mental illness, if the medical director of the department of ~~mental health~~ mental health and addiction services determines that it would be consistent with the medical needs of the patient to do so. If such a transfer is made to a private facility, the transfer shall be conditioned upon the consent of the facility.

Before an involuntary patient may be transferred to a more restrictive setting, the chief clinical officer shall file a motion with the court requesting the court to amend its order of placement issued under section 5122.15 of the Revised Code. At the patient's request, the court shall hold a hearing on the motion at which the patient has the same rights as at a full hearing under section 5122.15 of the Revised Code. The hearing shall be held within ten days after the date on which the respondent was transferred to the more restrictive setting or on which the motion was filed, whichever is earlier. On the motion of the respondent, the respondent's counsel, or the chief clinical officer, or on its own motion, and for good cause shown, the court may order a continuance of the hearing for up to ten days.

Whenever an involuntary patient is transferred, written notice of the transfer shall be given to the patient's legal guardian, parents, spouse, and counsel, or, if none is known, to the patient's nearest known relative or friend. If the patient is a minor, the department, before making such a transfer, shall make a minute of the order for the transfer and the reason for it upon its record and shall send a certified copy at least seven days prior to the transfer to the person shown by its record to have had the care or custody of the minor immediately prior to the minor's commitment. Whenever a consenting voluntary patient is transferred, the notification shall be given only at the patient's request. The chief clinical officer shall advise a voluntary patient who is being transferred that the patient may decide if the notification shall be given. In all such transfers, due consideration shall be given to the wishes of the patient, and the relationship of the patient to the patient's family, legal guardian, or friends, so as to maintain the relationship and encourage visits beneficial to the patient.

When a voluntary patient whose medical or psychological needs are found by the chief clinical officer to warrant a transfer refuses to be transferred to an alternate facility, the chief clinical officer may file an affidavit for a hearing under section 5122.11 of the Revised Code.

Sec. 5122.21. (A) The chief clinical officer shall as frequently as practicable, and at least once every thirty days, examine or cause to be examined every patient, and, whenever the chief clinical officer determines that the conditions justifying involuntary hospitalization or commitment no longer obtain, shall discharge the patient not under indictment or conviction for crime and immediately make a report of the discharge to the department of ~~mental health~~ mental health and addiction services. The chief clinical officer may discharge a patient who is under an indictment, a sentence of imprisonment, a community control sanction, or a post-release control sanction or on parole ten days after written notice of intent to discharge the patient has been given by personal service or certified mail, return receipt requested, to the court having criminal jurisdiction over the patient. Except when the patient was found not guilty by reason of insanity and the defendant's commitment is pursuant to section 2945.40 of the Revised Code, the chief clinical officer has final authority to discharge a patient who is under an indictment, a sentence of imprisonment, a community control sanction, or a post-release control sanction or on parole.

(B) After a finding pursuant to section 5122.15 of the Revised Code that a person is a mentally ill person subject to hospitalization by court order, the chief clinical officer of the hospital or ~~agency~~ community mental health services provider to which the person is ordered or to which the person is transferred under section 5122.20 of the Revised Code, may grant a discharge without the consent or authorization of any court.

Upon discharge, the chief clinical officer shall notify the court that caused the judicial hospitalization of the discharge from the hospital.

Sec. 5122.23. The chief clinical officer of a public hospital shall immediately report to the department of ~~mental health~~ mental health and addiction services and the board of alcohol, drug addiction, and mental health services serving the patient's county of residence the removal, death, escape, discharge, or trial visit of any patient hospitalized under section 5122.15 of the Revised Code, or the return of such an escaped or visiting patient to the department, the probate judge of the county from which such patient was hospitalized, and the probate judge of the county of residence of such patient. In case of death, the chief clinical officer also shall notify one or more of the nearest relatives of the deceased patient, if known to ~~him~~ the chief clinical officer, by letter, telegram, or telephone. If the place of

residence of such relative is unknown to the chief clinical officer, immediately upon receiving notification the probate judge shall in the speediest manner possible notify such relatives, if known to ~~him~~ the probate judge.

The chief clinical officer of a public hospital, upon the request of the probate judge of the county from which a patient was hospitalized or the probate judge of the county of residence of such a patient, shall make a report to the judge of the condition of any patient under the care, treatment, custody, or control of the chief clinical officer.

Sec. 5122.25. Upon the request of a hospital, person, board, ~~agency~~ community mental health services provider, or facility who has custody of a patient hospitalized pursuant to section 5122.15 of the Revised Code, or on the order of the court, such patient may be called for a rehearing at such place within the county of ~~his~~ the patient's residence or the county where such patient is hospitalized as the court designates. The hearing shall be conducted pursuant to section 5122.15 of the Revised Code.

Sec. 5122.26. (A) If a patient is absent without leave, on a verbal or written order issued within five days of the time of the unauthorized absence by the department of ~~mental health~~ mental health and addiction services, the chief clinical officer of the hospital from which the patient is absent without leave, or the court of either the county from which the patient was committed or in which the patient is found, any health or police officer or sheriff may take the patient into custody and transport the patient to the hospital in which the patient was hospitalized or to a place that is designated in the order. The officer immediately shall report such fact to the ~~agency~~ entity that issued the order.

The chief clinical officer of a hospital may discharge a patient who is under an indictment, a sentence of imprisonment, a community control sanction, or a post-release control sanction or on parole and who has been absent without leave for more than thirty days but shall give written notice of the discharge to the court with criminal jurisdiction over the patient. The chief clinical officer of a hospital may discharge any other patient who has been absent without leave for more than fourteen days.

The chief clinical officer shall take all proper measures for the apprehension of an escaped patient. The expense of the return of an escaped patient shall be borne by the hospital where the patient is hospitalized.

(B)(1) Subject to division (B)(2) of this section, no patient hospitalized under Chapter 5122. of the Revised Code whose absence without leave was caused or contributed to by the patient's mental illness shall be subject to a charge of escape.

(2) Division (B)(1) of this section does not apply to any person who was hospitalized, institutionalized, or confined in a facility under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code and who escapes from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside the facility, in violation of section 2921.34 of the Revised Code.

Sec. 5122.27. The chief clinical officer of the hospital or the chief clinical officer's designee shall assure that all patients hospitalized or committed pursuant to this chapter shall:

(A) Receive, within twenty days of their admission sufficient professional care to assure that an evaluation of current status, differential diagnosis, probable prognosis, and description of the current treatment plan is stated on the official chart;

(B) Have a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals which shall be provided, upon request of the patient or patient's counsel, to the patient's counsel and to any private physician or licensed clinical psychologist designated by the patient or the patient's counsel or to the Ohio protection and advocacy system;

(C) Receive treatment consistent with the treatment plan. The department of ~~mental health~~ mental health and addiction services shall set standards for treatment provided to such patients, consistent wherever possible with standards set by the joint commission ~~on accreditation of health care organizations~~.

(D) Receive periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed ninety days;

(E) Be provided with adequate medical treatment for physical disease or injury;

(F) Receive humane care and treatment, including without limitation, the following:

(1) The least restrictive environment consistent with the treatment plan;

(2) The necessary facilities and personnel required by the treatment plan;

(3) A humane psychological and physical environment;

(4) The right to obtain current information concerning the patient's treatment program and expectations in terms that the patient can reasonably understand;

(5) Participation in programs designed to afford the patient substantial

opportunity to acquire skills to facilitate return to the community or to terminate an involuntary commitment;

(6) The right to be free from unnecessary or excessive medication;

(7) Freedom from restraints or isolation unless it is stated in a written order by the chief clinical officer or the chief clinical officer's designee, or the patient's individual physician or psychologist in a private or general hospital.

If the chief clinical officer of the hospital is unable to provide the treatment required by divisions (C), (E), and (F) of this section for any patient hospitalized pursuant to Chapter 5122. of the Revised Code, the chief clinical officer shall immediately notify the patient, the court, the Ohio protection and advocacy system, the director of ~~mental health~~ mental health and addiction services, and the patient's counsel and legal guardian, if known. If within ten days after receipt of such notification by the director, the director is unable to effect a transfer of the patient, pursuant to section 5122.20 of the Revised Code, to a hospital, community mental health ~~agency services provider~~, or other medical facility where treatment is available, or has not received an order of the court to the contrary, the involuntary commitment of any patient hospitalized pursuant to Chapter 5122. of the Revised Code and defined as a mentally ill person subject to hospitalization by court order under division (B)(4) of section 5122.01 of the Revised Code shall automatically be terminated.

Sec. 5122.271. (A) Except as provided in divisions (C), (D), and (E) of this section, the chief clinical officer or, in a nonpublic hospital, the attending physician responsible for a patient's care shall provide all information, including expected physical and medical consequences, necessary to enable any patient of a hospital for the mentally ill to give a fully informed, intelligent, and knowing consent, the opportunity to consult with independent specialists and counsel, and the right to refuse consent for any of the following:

- (1) Surgery;
- (2) Convulsive therapy;
- (3) Major aversive interventions;
- (4) Sterilizations;
- (5) Any unusually hazardous treatment procedures;
- (6) Psycho-surgery.

(B) No patient shall be subjected to any of the procedures listed in divisions (A)(4) to (6) of this section until both the patient's informed, intelligent, and knowing consent and the approval of the court have been obtained, except that court approval is not required for a legally competent

and voluntary patient in a nonpublic hospital.

(C) If, after providing the information required under division (A) of this section to the patient, the chief clinical officer or attending physician concludes that a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section, or has been adjudicated incompetent, the information may be provided to the patient's natural or court-appointed guardian, who may give an informed, intelligent, and knowing written consent.

If a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section and has no guardian, the information, the recommendation of the chief clinical officer, and the concurring judgment of a licensed physician who is not a full-time employee of the state may be provided to the court in the county in which the hospital is located, which may approve the surgery. Before approving the surgery, the court shall notify the Ohio protection and advocacy system created by section 5123.60 of the Revised Code, and shall notify the patient of the rights to consult with counsel, to have counsel appointed by the court if the patient is indigent, and to contest the recommendation of the chief clinical officer.

(D) If, in a medical emergency, and after providing the information required under division (A) of this section to the patient, it is the judgment of one licensed physician that delay in obtaining surgery would create a grave danger to the health of the patient, it may be administered without the consent of the patient or the patient's guardian if the necessary information is provided to the patient's spouse or next of kin to enable that person to give informed, intelligent, and knowing written consent. If no spouse or next of kin can reasonably be contacted, or if the spouse or next of kin is contacted, but refuses to consent, the surgery may be performed upon the written authorization of the chief clinical officer or, in a nonpublic hospital, upon the written authorization of the attending physician responsible for the patient's care, and after the approval of the court has been obtained. However, if delay in obtaining court approval would create a grave danger to the life of the patient, the chief clinical officer or, in a nonpublic hospital, the attending physician responsible for the patient's care may authorize surgery, in writing, without court approval. If the surgery is authorized without court approval, the chief clinical officer or the attending physician who made the authorization and the physician who performed the surgery shall each execute an affidavit describing the circumstances constituting the emergency and warranting the surgery and the circumstances warranting their not obtaining prior court approval. The affidavit shall be filed with the

court with which the request for prior approval would have been filed within five court days after the surgery, and a copy of the affidavit shall be placed in the patient's file and be given to the guardian, spouse, or next of kin of the patient, to the hospital at which the surgery was performed, and to the Ohio protection and advocacy system as defined in section 5123.60 of the Revised Code.

(E) Major aversive interventions shall not be used unless a patient continues to engage in behavior destructive to self or others after other forms of therapy have been attempted. Major aversive interventions may be applied if approved by the director of ~~mental health~~ mental health and addiction services. Major aversive interventions shall not be applied to a voluntary patient without the informed, intelligent, and knowing written consent of the patient or the patient's guardian.

(F) Unless there is substantial risk of physical harm to self or others, or other than under division (D) of this section, this chapter does not authorize any form of compulsory medical, psychological, or psychiatric treatment of any patient who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing without specific court authorization.

(G) For purposes of this section, "convulsive therapy" does not include defibrillation.

Sec. 5122.31. (A) All certificates, applications, records, and reports made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

(2) When disclosure is provided for in this chapter ~~or section 5123.601~~ or Chapters 340. or 5119. of the Revised Code or in accordance with other provisions of state or federal law authorizing such disclosure;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health ~~agencies~~ services providers may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and

authorizing payment, to obtain payment for goods and services furnished to the patient;

(4) Pursuant to a court order signed by a judge;

(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

(6) That hospitals and other institutions and facilities within the department of ~~mental health~~ mental health and addiction services may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health ~~agencies~~ services providers and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(7) That hospitals within the department; and other institutions and facilities within the department, ~~hospitals licensed by the department under section 5119.20 of the Revised Code, and community mental health agencies~~ may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient or for the emergency treatment of an individual;

(8) That a patient's family member who is involved in the provision, planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

(9) That community mental health ~~agencies~~ services providers may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other ~~agencies~~ services providers in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

(11) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

~~(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.~~

(13) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

~~(14)~~(13) That the department of ~~mental health~~ mental health and addiction services may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction and with the department of youth services to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution of the department of rehabilitation and correction or the department of youth services and may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with boards of alcohol, drug addiction, and mental health services and community mental health services providers to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution and are scheduled for release within six months. The department shall not disclose those records unless the inmate or offender is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's or offender's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

~~(15) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time~~

~~services were most recently provided any treatment records that have not been transferred elsewhere at the patient's request.~~

(B) Before records are disclosed pursuant to divisions (A)(3), (6), and (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

Sec. 5122.311. (A) Notwithstanding any provision of the Revised Code to the contrary, if, on or after ~~the effective date of this section~~ April 8, 2004, an individual is found by a court to be a mentally ill person subject to hospitalization by court order or becomes an involuntary patient other than one who is a patient only for purposes of observation, the probate judge who made the adjudication or the chief clinical officer of the hospital, ~~agency~~ community mental health services provider, or facility in which the person is an involuntary patient shall notify the bureau of criminal identification and investigation, on the form described in division (C) of this section, of the identity of the individual. The notification shall be transmitted by the judge or the chief clinical officer not later than seven days after the adjudication or commitment.

(B) The bureau of criminal identification and investigation shall compile and maintain the notices it receives under division (A) of this section and shall use them for the purpose of conducting incompetency records checks pursuant to section 311.41 of the Revised Code. The notices and the information they contain are confidential, except as provided in this division, and are not public records.

(C) The attorney general, by rule adopted under Chapter 119. of the Revised Code, shall prescribe and make available to all probate judges and all chief clinical officers a form to be used by them for the purpose of making the notifications required by division (A) of this section.

Sec. 5122.32. (A) As used in this section:

(1) "Quality assurance committee" means a committee that is appointed in the central office of the department of ~~mental health~~ mental health and addiction services by the director of ~~mental health~~ mental health and addiction services, a committee of a hospital or community setting program, ~~a committee established pursuant to section 5119.47 of the Revised Code of the department of mental health appointed by the managing officer of the hospital or program~~, or a duly authorized subcommittee of a committee of

that nature and that is designated to carry out quality assurance program activities.

(2) "Quality assurance program" means a comprehensive program within the department of ~~mental health~~ mental health and addiction services to systematically review and improve the quality of medical and mental health services within the department and its hospitals and community setting programs, the safety and security of persons receiving medical and mental health services within the department and its hospitals and community setting programs, and the efficiency and effectiveness of the utilization of staff and resources in the delivery of medical and mental health services within the department and its hospitals and community setting programs. "Quality assurance program" includes the central office quality assurance committees, morbidity and mortality review committees, quality assurance programs of community setting programs, quality assurance committees of hospitals operated by the department of ~~mental health~~ mental health and addiction services, and the office of licensure and certification of the department.

(3) "Quality assurance program activities" include collecting or compiling information and reports required by a quality assurance committee, receiving, reviewing, or implementing the recommendations made by a quality assurance committee, and credentialing, privileging, infection control, tissue review, peer review, utilization review including access to patient care records, patient care assessment records, and medical and mental health records, medical and mental health resource management, mortality and morbidity review, and identification and prevention of medical or mental health incidents and risks, whether performed by a quality assurance committee or by persons who are directed by a quality assurance committee.

(4) "Quality assurance records" means the proceedings, discussion, records, findings, recommendations, evaluations, opinions, minutes, reports, and other documents or actions that emanate from quality assurance committees, quality assurance programs, or quality assurance program activities. "Quality assurance records" does not include aggregate statistical information that does not disclose the identity of persons receiving or providing medical or mental health services in department of ~~mental health institutions~~ mental health and addiction services hospitals or community setting programs.

(B)(1) Except as provided in division (E) of this section, quality assurance records are confidential and are not public records under section 149.43 of the Revised Code, and shall be used only in the course of the

proper functions of a quality assurance program.

(2) Except as provided in division (E) of this section, no person who possesses or has access to quality assurance records and who knows that the records are quality assurance records shall willfully disclose the contents of the records to any person or entity.

(C)(1) Except as provided in division (E) of this section, no quality assurance record shall be subject to discovery ~~in~~, and is not admissible in evidence, in any judicial or administrative proceeding.

(2) Except as provided in division (E) of this section, no member of a quality assurance committee or a person who is performing a function that is part of a quality assurance program shall be permitted or required to testify in a judicial or administrative proceeding with respect to quality assurance records or with respect to any finding, recommendation, evaluation, opinion, or other action taken by the committee, member, or person.

(3) Information, documents, or records otherwise available from original sources are not to be construed as being unavailable for discovery or admission in evidence in a judicial or administrative proceeding merely because they were presented to a quality assurance committee. No person testifying before a quality assurance committee or person who is a member of a quality assurance committee shall be prevented from testifying as to matters within the person's knowledge, but the witness cannot be asked about the witness' testimony before the quality assurance committee or about an opinion formed by the person as a result of the quality assurance committee proceedings.

(D)(1) A person who, without malice and in the reasonable belief that the information is warranted by the facts known to the person, provides information to a person engaged in quality assurance program activities is not liable for damages in a civil action for injury, death, or loss to person or property to any person as a result of providing the information.

(2) A member of a quality assurance committee, a person engaged in quality assurance program activities, and an employee of the department of ~~mental health~~ mental health and addiction services shall not be liable in damages in a civil action for injury, death, or loss to person or property to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of the quality assurance program.

(3) Nothing in this section shall relieve any institution or individual from liability arising from the treatment of a patient.

(E) Quality assurance records may be disclosed, and testimony may be provided concerning quality assurance records, only to the following persons or entities:

(1) Persons who are employed or retained by the department of ~~mental health~~ mental health and addiction services and who have authority to evaluate or implement the recommendations of a state-operated hospital, community setting program, or central office quality assurance committee;

(2) Public or private agencies or organizations if needed to perform a licensing or accreditation function related to department of ~~mental health~~ mental health and addiction services hospitals or community setting programs, or to perform monitoring of a hospital or program of that nature as required by law.

(F) A disclosure of quality assurance records pursuant to division (E) of this section does not otherwise waive the confidential and privileged status of the disclosed quality assurance records.

(G) Nothing in this section shall limit the access of the Ohio protection and advocacy system to records or personnel as required under section 5123.601 of the Revised Code. Nothing in this section shall limit the admissibility of documentary or testimonial evidence in an action brought by the Ohio protection and advocacy system in its own name or on behalf of a client.

Sec. 5122.33. The department of ~~mental health~~ mental health and addiction services may prescribe the form of applications, reports, records, and medical certificates provided for under this chapter, and the information required to be contained therein; require reports from the chief clinical officer of any public hospital relating to the admission, examination, diagnosis, release, or discharge of any patient; visit each such hospital regularly to review the admission procedures of all new patients admitted between visits; investigate by personal visit complaints made by any patient or by any person on behalf of a patient; and adopt such rules as are reasonably necessary to effectuate the provisions of this chapter.

Sec. 5122.34. (A) Persons, including, but not limited to, boards of alcohol, drug addiction, and mental health services and community mental health ~~agencies~~ services providers, acting in good faith, either upon actual knowledge or information thought by them to be reliable, who procedurally or physically assist in the hospitalization or discharge, determination of appropriate placement, or in judicial proceedings of a person under this chapter, do not come within any criminal provisions, and are free from any liability to the person hospitalized or to any other person.

(B) Regardless of whether any affirmative action has been taken under this chapter with respect to a mental health client or patient and except as otherwise provided in section 2305.51 of the Revised Code, no person shall be liable for any harm that results to any other person as a result of failing to

disclose any confidential information about the mental health client or patient, or failing to otherwise attempt to protect such other person from harm by such client or patient.

(C) This section applies to expert witnesses who testify at hearings under this chapter.

(D) The immunity from liability conferred by this section is in addition to and not in limitation of any immunity conferred by any other section of the Revised Code or by judicial precedent.

Sec. 5122.341. (A) As used in this section:

(1) "Facility or ~~agency provider~~" means, in the context of a person committed to the department of ~~mental health~~ mental health and addiction services under sections 2945.37 to 2945.402 of the Revised Code, any entity in which the department of ~~mental health~~ mental health and addiction services places such a person.

(2) "Person committed to the department" means a person committed to the department of ~~mental health~~ mental health and addiction services under sections 2945.37 to 2945.402 of the Revised Code.

(B) No member of a board of directors, or employee, of a facility or ~~agency provider~~ in which the department of ~~mental health~~ mental health and addiction services places a person committed to the department is liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or employee's employment relating to the commitment of, and services provided to, the person committed to the department, unless the action or inaction constitutes willful or wanton misconduct. A board member's or employee's action or inaction does not constitute willful or wanton misconduct if the board member or employee acted in good faith and reasonably under the circumstances and with the knowledge reasonably attributable to the board member or employee.

The immunity from liability conferred by this section is in addition to and not in limitation of any immunity conferred by any other section of the Revised Code or by judicial precedent.

Sec. 5122.39. (A) Mentally ill minors shall remain under the natural guardianship of their parents, notwithstanding hospitalization pursuant to this chapter, unless parental rights have been terminated pursuant to a court finding that the minor is neglected or dependent. Where a mentally ill minor is found to be dependent or neglected, the public children's services agency in the county of residence has final guardianship authority and responsibility.

(B) In no case shall the guardianship of a mentally ill person be assigned to the chief medical officer or any staff member of a hospital, board, or

~~agency~~ provider from which the person is receiving mental health services.

Sec. 5122.43. (A) Costs, fees, and expenses of all proceedings held under this chapter shall be paid as follows:

(1) To police and health officers, other than sheriffs or their deputies, the same fees allowed to constables, to be paid upon the approval of the probate judge;

(2) To sheriffs or their deputies, the same fees allowed for similar services in the court of common pleas;

(3) To physicians or licensed clinical psychologists acting as expert witnesses and to other expert witnesses designated by the court, an amount determined by the court;

(4) To other witnesses, the same fees and mileage as for attendance at the court of common pleas, to be paid upon the approval of the probate judge;

(5) To a person, other than the sheriff or the sheriff's deputies, for taking a mentally ill person to a hospital or removing a mentally ill person from a hospital, the actual necessary expenses incurred, specifically itemized, and approved by the probate judge;

(6) To assistants who convey mentally ill persons to the hospital when authorized by the probate judge, a fee set by the probate court, provided the assistants are not drawing a salary from the state or any political subdivision of the state, and their actual necessary expenses incurred, provided that the expenses are specifically itemized and approved by the probate judge;

(7) To an attorney appointed by the probate division for an indigent who allegedly is a mentally ill person pursuant to any section of this chapter, the fees that are determined by the probate division. When those indigent persons are before the court, all filing and recording fees shall be waived.

(8) To a referee who is appointed to conduct proceedings under this chapter that involve a respondent whose domicile is or, before the respondent's hospitalization, was not the county in which the proceedings are held, compensation as fixed by the probate division, but not more than the compensation paid for similar proceedings for respondents whose domicile is in the county in which the proceedings are held;

(9) To a court reporter appointed to make a transcript of proceedings under this chapter, the compensation and fees allowed in other cases under section 2101.08 of the Revised Code.

(B) A county shall pay for the costs, fees, and expenses described in division (A) of this section with money appropriated pursuant to section 2101.11 of the Revised Code. A county may seek reimbursement from the department of ~~mental health~~ mental health and addiction services by

submitting a request and certification by the county auditor of the costs, fees, and expenses to the department within two months of the date the costs, fees, and expenses are incurred by the county.

Each fiscal year, based on past allocations, historical utilization, and other factors the department considers appropriate, the department shall allocate for each county an amount for reimbursements under this section. The total of all the allocations shall equal the amount appropriated for the fiscal year to the department specifically for the purposes of this section.

On receipt, the department shall review each request for reimbursement and prepare a voucher for the amount of the costs, fees, and expenses incurred by the county, provided that the total amount of money paid to all counties in each fiscal year shall not exceed the total amount of moneys specifically appropriated to the department for these purposes.

The department's total reimbursement to each county shall be the lesser of the full amount requested or the amount allocated for the county under this division. In addition, the department shall distribute any surplus remaining from the money appropriated for the fiscal year to the department for the purposes of this section as follows to counties whose full requests exceed their allocations:

(1) If the surplus is sufficient to reimburse such counties the full amount of their requests, each such county shall receive the full amount of its request;

(2) If the surplus is insufficient, each such county shall receive a percentage of the surplus determined by dividing the difference between the county's full request and its allocation by the difference between the total of the full requests of all such counties and the total of the amounts allocated for all such counties.

The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement the payment of costs, fees, and expenses under this section.

Sec. 5122.44. As used in sections 5122.44 to 5122.47 of the Revised Code:

(A) "Compilation" means a written list of the following information, as the department of ~~mental health~~ mental health and addiction services is able to reasonably ascertain, for every patient who was buried, entombed, or inurned prior to ~~the effective date of this section~~ March 31, 2005, in a cemetery located on the grounds of or adjacent to the grounds of a public hospital:

(1) Name;

(2) Date of birth;

(3) Date of death or burial;

(4) Specific physical location of the burial, entombment, or inurnment, including the plot or grave site number if available.

(B) "Patient" means an individual who died while admitted to a public hospital that was under the control of the department of ~~mental health~~ mental health and addiction services.

(C) "Record" has the same meaning as in section 149.011 of the Revised Code.

(D) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government.

Sec. 5122.45. The department of ~~mental health~~ mental health and addiction services shall create a separate compilation for each cemetery located on the grounds of or adjacent to the grounds of a public hospital that is under the control of the department on ~~the effective date of this section~~ March 31, 2005. The compilation shall be created within a reasonable time not exceeding three years after ~~the effective date of this section~~ March 31, 2005. The department shall use its best efforts to create the most complete compilations possible using records in the department's possession and records obtained in accordance with section 5122.46 of the Revised Code.

Sec. 5122.46. The Ohio historical society and each state agency shall, at the request of the department of ~~mental health~~ mental health and addiction services, provide the department access to records and information in the possession of the historical society or state agency for purposes of creating compilations.

Sec. 5122.47. The department of ~~mental health~~ mental health and addiction services shall deposit a copy of each compilation with the Ohio historical society and the state library as soon as a compilation is completed. The department shall not disclose any record or information used to create a compilation except as provided in sections 149.43 and 5122.31 of the Revised Code.

Sec. 5123.01. As used in this chapter:

(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for the mentally retarded with the approval of the director of developmental disabilities to provide medical treatment for residents of the institution.

(B) "Chief program director" means a person with special training and experience in the diagnosis and management of the mentally retarded, certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for

the mentally retarded with the approval of the director to provide habilitation and care for residents of the institution.

(C) "Comprehensive evaluation" means a study, including a sequence of observations and examinations, of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions if any, by a group of persons with special training and experience in the diagnosis and management of persons with mental retardation or a developmental disability, which group shall include individuals who are professionally qualified in the fields of medicine, psychology, and social work, together with such other specialists as the individual case may require.

(D) "Education" means the process of formal training and instruction to facilitate the intellectual and emotional development of residents.

(E) "Habilitation" means the process by which the staff of the institution assists the resident in acquiring and maintaining those life skills that enable the resident to cope more effectively with the demands of the resident's own person and of the resident's environment and in raising the level of the resident's physical, mental, social, and vocational efficiency. Habilitation includes but is not limited to programs of formal, structured education and training.

(F) "Health officer" means any public health physician, public health nurse, or other person authorized or designated by a city or general health district.

(G) "Home and community-based services" means medicaid-funded home and community-based services specified in division ~~(B)~~(A)(1) of section ~~5111.87~~ 5166.20 of the Revised Code provided under the medicaid waiver components the department of developmental disabilities administers pursuant to section ~~5111.871~~ 5166.21 of the Revised Code. Except as provided in section 5123.0412 of the Revised Code, home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver are to be considered to be home and community-based services for the purposes of this chapter, and Chapters 5124. and 5126. of the Revised Code, only to the extent, if any, provided by the contract required by section ~~5111.871~~ 5166.21 of the Revised Code regarding the waiver.

(H) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(I) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an attorney and for other necessary expenses of legal representation, including expert testimony.

~~(J)~~(J) "Institution" means a public or private facility, or a part of a public

or private facility, that is licensed by the appropriate state department and is equipped to provide residential habilitation, care, and treatment for the mentally retarded.

~~(J)~~(K) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties.

~~(K)~~(L) "Managing officer" means a person who is appointed by the director of developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department.

~~(L)~~ "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(N) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

(P) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

(Q) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(R) "Developmentally disabled person" means a person with a developmental disability.

(S) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

(T) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to

licensing by the department of job and family services, the department of ~~mental health~~ mental health and addiction services, or the department of developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or home. Settlement once acquired shall continue until a person has been continuously absent from Ohio for a period of one year or has acquired a legal residence in another state. A woman who marries a man with legal settlement in any county immediately acquires the settlement of her husband. The legal settlement of a minor is that of the parents, surviving parent, sole parent, parent who is designated the residential parent and legal custodian by a court, other adult having permanent custody awarded by a court, or guardian of the person of the minor, provided that:

(1) A minor female who marries shall be considered to have the legal settlement of her husband and, in the case of death of her husband or divorce, she shall not thereby lose her legal settlement obtained by the marriage.

(2) A minor male who marries, establishes a home, and who has resided in this state for one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given shall be considered to have obtained a legal settlement in this state.

(3) The legal settlement of a child under eighteen years of age who is in the care or custody of a public or private child caring agency shall not change if the legal settlement of the parent changes until after the child has been in the home of the parent for a period of one year.

No person, adult or minor, may establish a legal settlement in this state for the purpose of gaining admission to any state institution.

(U)(1) "Resident" means, subject to division ~~(R)~~(U)(2) of this section, a person who is admitted either voluntarily or involuntarily to an institution or other facility pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(V) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

(W) "Working day" and "court day" mean Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a legal holiday.

(X) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(Y) "Court" means the probate division of the court of common pleas.

(Z) "Supported living" and "residential services" have the same meanings as in section 5126.01 of the Revised Code.

Sec. 5123.021. (A) As used in this section, "mentally retarded individual" and "specialized services" have the same meanings as in section ~~5111.202~~ 5165.03 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section and rules adopted under division (E)(3) of this section, for purposes of section ~~5111.202~~ 5165.03 of the Revised Code, the department of developmental disabilities shall determine in accordance with section 1919(e)(7) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and regulations adopted under section 1919(f)(8)(A) of that act whether, because of the individual's physical and mental condition, a mentally retarded individual seeking admission to a nursing facility requires the level of services provided by a nursing facility and, if the individual requires that level of services, whether the individual requires specialized services for mental retardation.

(2) A determination under this division is not required for any of the following:

(a) An individual seeking readmission to a nursing facility after having been transferred from a nursing facility to a hospital for care;

(b) An individual who meets all of the following conditions:

(i) The individual is admitted to the nursing facility directly from a hospital after receiving inpatient care at the hospital;

(ii) The individual requires nursing facility services for the condition for which the individual received care in the hospital;

(iii) The individual's attending physician has certified, before admission to the nursing facility, that the individual is likely to require less than thirty days of nursing facility services.

(c) An individual transferred from one nursing facility to another

nursing facility, with or without an intervening hospital stay.

(C) Except as provided in rules adopted under division (F)(3) of this section, the department of developmental disabilities shall review and determine, for each resident of a nursing facility who is mentally retarded, whether the resident, because of the resident's physical and mental condition, requires the level of services provided by a nursing facility and whether the resident requires specialized services for mental retardation. The review and determination shall be conducted in accordance with section 1919(e)(7) of the "Social Security Act" and the regulations adopted under section 1919(f)(8)(A) of the act. The review and determination shall be completed promptly after a nursing facility has notified the department that there has been a significant change in the resident's mental or physical condition.

(D)(1) In the case of a nursing facility resident who has continuously resided in a nursing facility for at least thirty months before the date of a review and determination under division (C) of this section, if the resident is determined not to require the level of services provided by a nursing facility, but is determined to require specialized services for mental retardation, the department, in consultation with the resident's family or legal representative and care givers, shall do all of the following:

(a) Inform the resident of the institutional and noninstitutional alternatives covered under the state plan for medical assistance;

(b) Offer the resident the choice of remaining in the nursing facility or receiving covered services in an alternative institutional or noninstitutional setting;

(c) Clarify the effect on eligibility for services under the state plan for medical assistance if the resident chooses to leave the facility, including its effect on readmission to the facility;

(d) Provide for or arrange for the provision of specialized services for the resident's mental retardation in the setting chosen by the resident.

(2) In the case of a nursing facility resident who has continuously resided in a nursing facility for less than thirty months before the date of the review and determination under division (C) of this section, if the resident is determined not to require the level of services provided by a nursing facility, but is determined to require specialized services for mental retardation, or if the resident is determined to require neither the level of services provided by a nursing facility nor specialized services for mental retardation, the department shall act in accordance with its alternative disposition plan approved by the United States department of health and human services under section 1919(e)(7)(E) of the "Social Security Act."

(3) In the case of an individual who is determined under division (B) or (C) of this section to require both the level of services provided by a nursing facility and specialized services for mental retardation, the department of developmental disabilities shall provide or arrange for the provision of the specialized services needed by the individual or resident while residing in a nursing facility.

(E) The department of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Establish criteria to be used in making the determinations required by divisions (B) and (C) of this section. The criteria shall not exceed the criteria established by regulations adopted by the United States department of health and human services under section 1919(f)(8)(A) of the "Social Security Act."

(2) Specify information to be provided by the individual or nursing facility resident being assessed;

(3) Specify any circumstances, in addition to circumstances listed in division (B) of this section, under which determinations under divisions (B) and (C) of this section are not required to be made.

Sec. 5123.022. ~~¶~~ (A) As used in this section:

(1) "Community employment" means competitive employment that takes place in an integrated setting.

(2) "Competitive employment" means full-time or part-time work in the competitive labor market in which payment is at or above the minimum wage but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by persons who are not disabled.

(3) "Integrated setting" means a setting typically found in the community where individuals with developmental disabilities interact with individuals who do not have disabilities to the same extent that individuals in comparable positions who are not disabled interact with other individuals, including in employment settings in which employees interact with the community through technology.

(B) It is hereby declared to be the policy of this state that employment services for individuals with developmental disabilities be directed at placement whenever possible of each individual in a position in the community in which the individual is integrated with the employer's other workers who are not developmentally disabled employment. The Every individual with a developmental disability is presumed capable of community employment.

The departments of developmental disabilities, education, ~~medicaid~~, job and family services, and ~~mental health~~ mental health and addiction services; the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency; and each other state agency that provides employment services to individuals with developmental disabilities shall implement ~~this~~ the policy of this state and ensure that it is followed whenever employment services are provided to individuals with developmental disabilities.

The department of developmental disabilities shall coordinate the actions taken by state agencies to comply with the state's policy. Agencies shall collaborate within their divisions and with each other to ensure that state programs, policies, procedures, and funding support competitive and integrated employment of individuals with developmental disabilities. State agencies shall share information with the department, and the department shall track progress toward full implementation of the policy. The department, in coordination with any task force established by the governor, shall compile data and annually submit to the governor a report on implementation of the policy.

The department and state agencies may adopt rules to implement the state's policy.

(C) The state's policy articulated in this section is intended to promote the right of each individual with a developmental disability to informed choice; however, nothing in this section requires any employer to give preference in hiring to an individual because the individual has a disability.

Sec. 5123.023. (A) The director of developmental disabilities may establish an employment first task force consisting of the departments of developmental disabilities, education, ~~medicaid~~, job and family services, and ~~mental health~~ and addiction services; and the opportunities for Ohioans with disabilities agency. The purpose of the task force shall be to improve the coordination of the state's efforts to address the needs of individuals with developmental disabilities who seek community employment as defined in section 5123.022 of the Revised Code.

(B) The department of developmental disabilities may enter into interagency agreements with any of the government entities on the task force. The interagency agreements may specify either or both of the following:

(1) The roles and responsibilities of the government entities that are members of the task force, including any money to be contributed by those entities;

(2) The projects and activities of the task force.

(C) There is hereby created in the state treasury the employment first

taskforce fund. Any money received by the task force from its members shall be credited to the fund. The department of developmental disabilities shall use the fund to support the work of the task force.

(D) The task force shall cease to exist on January 1, 2020. Any money, assets, or employees of the department of developmental disabilities that on that date are dedicated to the work of the task force shall be reallocated by the department for employment services for individuals with developmental disabilities.

Sec. 5123.03. (A) The department of developmental disabilities shall do all of the following:

(1) Maintain, operate, manage, and govern all state institutions for the care, treatment, and training of the mentally retarded;

(2) Designate all such institutions by appropriate names;

(3) Provide and designate facilities for the custody, care, and special treatment of persons of the following classes:

(a) Dangerous persons in state institutions for the mentally retarded who represent a serious threat to the safety of the other patients of the institution;

(b) Persons charged with crimes who are found incompetent to stand trial or not guilty by reason of insanity and who are also mentally retarded persons subject to institutionalization by court order.

(4) Have control of all institutions maintained in part by the state for the care, treatment, and training of the mentally retarded;

(5) Administer the laws relative to persons in such institutions in an efficient, economical, and humane manner;

(6) Ascertain by actual examinations and inquiry whether institutionalizations are made according to law.

(B) The department may do any of the following:

(1) Subject to section 5139.08 of the Revised Code, receive from the department of youth services for observation, diagnosis, care, habilitation, or placement any children in the custody of the department of youth services;

(2) Receive for observation any minor from a public institution other than an institution under the jurisdiction of the department of developmental disabilities, from a private charitable institution, or from a person having legal custody of such a minor, upon such terms as are proper;

(3) Receive from the department of ~~mental health~~ mental health and addiction services any patient in the custody of the department who is transferred to the department of developmental disabilities upon such terms and conditions as may be agreed upon by the two departments.

(C) In addition to the powers and duties expressly conferred by this section, the department may take any other action necessary for the full and

efficient executive, administrative, and fiscal supervision of the state institutions described in this section.

Sec. 5123.0412. (A) The department of developmental disabilities shall charge each county board of developmental disabilities an annual fee equal to one and one-quarter per cent of the total value of all medicaid paid claims for home and community-based services provided during the year to an individual eligible for services from the county board. However, the department shall not charge the fee for home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver. No county board shall pass the cost of a fee charged to the county board under this section on to another provider of these services.

(B) The fees collected under this section shall be deposited into the ODDD administration and oversight fund ~~and the ODJFS administration and oversight fund, both of~~ which are ~~is~~ hereby created in the state treasury. ~~The portion of the fees to be deposited into the ODDD administration and oversight fund and the portion of the fees to be deposited into the ODJFS administration and oversight fund shall be the portion specified in an interagency agreement entered into under division (C) of this section.~~ The department of developmental disabilities shall use the money in the ODDD administration and oversight fund ~~and the department of job and family services shall use the money in the ODJFS administration and oversight fund~~ for both of the following purposes:

(1) Medicaid administrative costs, including administrative and oversight costs of medicaid case management services and home and community-based services. The administrative and oversight costs of medicaid case management services and home and community-based services shall include costs for staff, systems, and other resources ~~the departments need~~ department needs and ~~dedicate~~ dedicates solely to the following duties associated with the services:

- (a) Eligibility determinations;
- (b) Training;
- (c) Fiscal management;
- (d) Claims processing;
- (e) Quality assurance oversight;
- (f) Other duties ~~the departments identify~~ department identifies.

(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.

(C) ~~The departments of developmental disabilities and job and family services shall enter into an interagency agreement to do both of the~~

following:

~~(1) Specify which portion of the fees collected under this section is to be deposited into the ODDD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;~~

~~(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund.~~

~~(D)~~ The ~~departments~~ department shall submit an annual report to the director of budget and management certifying how the ~~departments~~ department spent the money in the ODDD administration and oversight fund ~~and the ODJFS administration and oversight fund~~ for the purposes specified in division (B) of this section.

Sec. 5123.0417. (A) The director of developmental disabilities shall establish one or more programs for individuals under twenty-two years of age who have intensive behavioral needs, including such individuals with a primary diagnosis of autism spectrum disorder. The programs may include one or more medicaid waiver components that the director administers pursuant to section ~~5111.871~~ 5166.21 of the Revised Code. The programs may do one or more of the following:

(1) Establish models that incorporate elements common to effective intervention programs and evidence-based practices in services for children with intensive behavioral needs;

(2) Design a template for individualized education plans and individual service plans that provide consistent intervention programs and evidence-based practices for the care and treatment of children with intensive behavioral needs;

(3) Disseminate best practice guidelines for use by families of children with intensive behavioral needs and professionals working with such families;

(4) Develop a transition planning model for effectively mainstreaming school-age children with intensive behavioral needs to their public school district;

(5) Contribute to the field of early and effective identification and intervention programs for children with intensive behavioral needs by providing financial support for scholarly research and publication of clinical findings.

(B) The director of developmental disabilities shall collaborate with the medicaid director ~~of job and family services~~ and consult with the executive director of the Ohio center for autism and low incidence and university-based programs that specialize in services for individuals with

developmental disabilities when establishing programs under this section.

Sec. 5123.09. Subject to the rules of the department of developmental disabilities, each institution under the jurisdiction of the department shall be under the control of a managing officer to be known as a superintendent or by other appropriate title. The managing officer shall be appointed by the director of developmental disabilities and shall be in the unclassified service and serve at the pleasure of the director. Each managing officer shall be of good moral character and have skill, ability, and experience in the managing officer's profession. Appointment to the position of managing officer of an institution may be made from persons holding positions in the classified service in the department.

The managing officer, under the director, shall have entire executive charge of the institution for which the managing officer is appointed, except as provided in section ~~5119.16~~ 5119.44 of the Revised Code. Subject to civil service rules and rules adopted by the department, the managing officer shall appoint the necessary employees, and the managing officer or the director may remove those employees for cause. A report of all appointments, resignations, and discharges shall be filed with the appropriate division at the close of each month.

After conference with the managing officer of each institution, the director shall determine the number of employees to be appointed to the various institutions and clinics.

Sec. 5123.171. As used in this section, "respite care" means appropriate, short-term, temporary care provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family.

The department of developmental disabilities shall provide respite care services to persons with mental retardation or a developmental disability for the purpose of promoting self-sufficiency and normalization, preventing or reducing inappropriate institutional care, and furthering the unity of the family by enabling the family to meet the special needs of a mentally retarded or developmentally disabled person.

In order to be eligible for respite care services under this section, the mentally retarded or developmentally disabled person must be in need of habilitation services as defined in section 5126.01 of the Revised Code.

Respite care may be provided in a residential facility licensed under section 5123.19 of the Revised Code ~~including a residential facility certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 344 (1965), 42 U.S.C. 1396, et seq., as amended~~) ICF/IID, and a respite care home certified under section

5126.05 of the Revised Code.

The department shall develop a system for locating vacant beds that are available for respite care and for making information on vacant beds available to users of respite care services. ~~Facilities certified as intermediate care facilities for the mentally retarded~~ ICFs/IID shall report vacant beds to the department but shall not be required to accept respite care clients.

The director of developmental disabilities shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code for both of the following:

(A) Certification by county boards of developmental disabilities of respite care homes;

(B) Provision of respite care services authorized by this section. Rules adopted under this division shall establish all of the following:

(1) A formula for distributing funds appropriated for respite care services;

(2) Standards for supervision, training and quality control in the provision of respite care services;

(3) Eligibility criteria for emergency respite care services.

Sec. 5123.19. (A) As used in sections 5123.19 to 5123.20 of the Revised Code:

(1) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

~~(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 1905(d) of the "Social Security Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended.~~

~~(3)~~ "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

~~(4)~~~~(3)~~ "Political subdivision" means a municipal corporation, county, or township.

~~(5)~~~~(4)~~ "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential facility, rather than a person or government entity certified to provide supported living.

~~(6)(5)~~(a) Except as provided in division (A)~~(6)(5)~~(b) of this section, "residential facility" means a home or facility, including a facility certified as an intermediate care facility for the mentally retarded an ICF/IID, in which an individual with mental retardation or a developmental disability resides.

(b) "Residential facility" does not mean any of the following:

(i) The home of a relative or legal guardian in which an individual with mental retardation or a developmental disability resides;

(ii) A respite care home certified under section 5126.05 of the Revised Code;

(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(iv) A dwelling in which the only residents with mental retardation or developmental disabilities are in independent living arrangements or are being provided supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, 5103.03, ~~5119.20~~ 5119.33, or division (A)(9)(b) of section ~~5119.22~~ 5119.34 of the Revised Code.

(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision.

(6) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. The county board shall send a copy of the letter to each of the following:

- (a) Each resident who receives services from the licensee;
- (b) The guardian of each resident who receives services from the licensee if the resident has a guardian;
- (c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor.

(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director

shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities. The rules for residential facilities that are ~~intermediate care facilities for the mentally retarded~~ ICFs/IID may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Requirements for the training of residential facility personnel;

(6) Classifications for the various types of residential facilities;

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under this section.

(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in

connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section 5123.197 of the Revised Code.

(K) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised

Code.

(L) A county board of developmental disabilities and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(N) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a

family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(P) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from those districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(R) Divisions (O) and (P) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient

licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986.

(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.192. (A) A person or government agency operating, on ~~the effective date of this section~~ September 10, 2012, an ~~intermediate care facility for the mentally retarded~~ ICF/IID pursuant to a nursing home license issued under Chapter 3721. of the Revised Code shall do both of the following as a condition of continuing to operate the ~~facility~~ ICF/IID on and

after July 1, 2013:

(1) Not later than February 1, 2013, apply to the director of developmental disabilities for a residential facility license under section 5123.19 of the Revised Code for the ~~facility~~ ICF/IID;

(2) Not later than July 1, 2013, obtain the residential facility license for the ~~facility~~ ICF/IID.

(B) The nursing home license of an ~~intermediate care facility for the mentally retarded~~ ICF/IID shall cease to be valid at the earliest of the following:

(1) The date that the ~~facility's~~ ICF/IID's nursing home license is revoked or voided under section 3721.07 of the Revised Code;

(2) The date that a residential facility license is obtained for the ~~facility~~ ICF/IID under section 5123.19 of the Revised Code;

(3) July 1, 2013.

(C) Except for existing nursing home beds not certified as ~~intermediate care facility for the mentally retarded~~ ICF/IID beds and relocated in accordance with a move authorized by a certificate of need under Chapter 3702. of the Revised Code, no bed that is part of an ~~intermediate care facility for the mentally retarded~~ ICF/IID that is licensed as a nursing home on ~~the effective date of this section~~ September 10, 2012, may be used as part of a nursing home on and after the earlier of the following:

(1) The date that a residential facility license is obtained for the ~~facility~~ ICF/IID under section 5123.19 of the Revised Code;

(2) July 1, 2013.

Sec. 5123.197. Neither an applicant for an initial residential facility license under section 5123.19 of the Revised Code nor an applicant for a modification of an existing residential facility license under that section is required to obtain approval of a plan for the proposed new residential facility or modification to the existing residential facility pursuant to section 5123.042 of the Revised Code if all of the following apply:

(A) The new residential facility or modification to the existing residential facility is to serve individuals who have diagnoses or special care needs for which a medicaid ~~reimbursement~~ payment rate is set pursuant to section ~~5111.258~~ 5124.152 of the Revised Code;

(B) The ~~directors of job and family services~~ medicaid director and director of developmental disabilities determine that there is a need under the medicaid program for the proposed new residential facility or modification to the existing residential facility and that approving the application for the initial residential facility license or modification to the existing residential facility license is fiscally prudent for the medicaid

program;

(C) The director of budget and management notifies the ~~directors of job and family services~~ medicaid director and director of developmental disabilities that the director of budget and management agrees with the directors' determination under division (B) of this section.

Sec. 5123.198. (A) As used in this section, "date of the commitment" means the date that an individual specified in division (B) of this section begins to reside in a state-operated ~~intermediate care facility for the mentally retarded~~ ICF/IID after being committed to the ~~facility~~ ICF/IID pursuant to sections 5123.71 to 5123.76 of the Revised Code.

(B) Except as provided in division (C) of this section, whenever a resident of a residential facility is committed to a state-operated ~~intermediate care facility for the mentally retarded~~ ICF/IID pursuant to sections 5123.71 to 5123.76 of the Revised Code, the department of developmental disabilities, pursuant to an adjudication order issued in accordance with Chapter 119. of the Revised Code, shall reduce by one the number of residents for which the residential facility in which the resident resided is licensed.

(C) The department shall not reduce under division (B) of this section the number of residents for which a residential facility is licensed if any of the following are the case:

(1) The resident of the residential facility who is committed to a state-operated ~~intermediate care facility for the mentally retarded~~ ICF/IID resided in the residential facility because of the closure, on or after June 26, 2003, of another state-operated ~~intermediate care facility for the mentally retarded~~ ICF/IID;

(2) The residential facility admits within ninety days of the date of the commitment an individual who resides on the date of the commitment in a state-operated ~~intermediate care facility for the mentally retarded~~ ICF/IID or another residential facility;

(3) The department fails to do either of the following within ninety days of the date of the commitment:

(a) Identify an individual to whom all of the following applies:

(i) Resides on the date of the commitment in a state-operated ~~intermediate care facility for the mentally retarded~~ ICF/IID or another residential facility;

(ii) Has indicated to the department an interest in relocating to the residential facility or has a parent or guardian who has indicated to the department an interest for the individual to relocate to the residential facility;

(iii) The department determines the individual has needs that the residential facility can meet.

(b) Provide the residential facility with information about the individual identified under division (C)(2)(a) of this section that the residential facility needs in order to determine whether the facility can meet the individual's needs.

(4) If the department completes the actions specified in divisions (C)(3)(a) and (b) of this section not later than ninety days after the date of the commitment and except as provided in division (D) of this section, the residential facility does all of the following not later than ninety days after the date of the commitment:

(a) Evaluates the information provided by the department;

(b) Assesses the identified individual's needs;

(c) Determines that the residential facility cannot meet the identified individual's needs.

(5) If the department completes the actions specified in divisions (C)(3)(a) and (b) of this section not later than ninety days after the date of the commitment and the residential facility determines that the residential facility can meet the identified individual's needs, the individual, or a parent or guardian of the individual, refuses placement in the residential facility.

(D) The department may reduce under division (B) of this section the number of residents for which a residential facility is licensed even though the residential facility completes the actions specified in division (C)(4) of this section not later than ninety days after the date of the commitment if all of the following are the case:

(1) The department disagrees with the residential facility's determination that the residential facility cannot meet the identified individual's needs.

(2) The department issues a written decision pursuant to the uniform procedures for admissions, transfers, and discharges established by rules adopted under division (H)(9) of section 5123.19 of the Revised Code that the residential facility should admit the identified individual.

(3) After the department issues the written decision specified in division (D)(2) of this section, the residential facility refuses to admit the identified individual.

(E) A residential facility that admits, refuses to admit, transfers, or discharges a resident under this section shall comply with the uniform procedures for admissions, transfers, and discharges established by rules adopted under division (H)(9) of section 5123.19 of the Revised Code.

~~(F) The department of developmental disabilities may notify the department of job and family services of any reduction under this section in~~

~~the number of residents for which a residential facility that is an intermediate care facility for the mentally retarded is licensed. On receiving the notice, the department of job and family services may transfer to the department of developmental disabilities the savings in the nonfederal share of medicaid expenditures for each fiscal year after the year of the commitment to be used for costs of the resident's care in the state-operated intermediate care facility for the mentally retarded. In determining the amount saved, the department of job and family services shall consider medicaid payments for the remaining residents of the facility in which the resident resided.~~

Sec. 5123.38. (A) Except as provided in division (B) of this section, if an individual receiving supported living or home and community-based services funded by a county board of developmental disabilities is committed to a state-operated ~~intermediate care facility for the mentally retarded~~ ICF/IID pursuant to sections 5123.71 to 5123.76 of the Revised Code, the county board is responsible for the nonfederal share of medicaid expenditures for the individual's care in the state-operated ~~facility~~ ICF/IID. The department of developmental disabilities shall collect the amount of the nonfederal share from the county board by either withholding that amount from funds the department has otherwise allocated to the county board or submitting an invoice for payment of that amount to the county board.

(B) Division (A) of this section does not apply under any of the following circumstances:

(1) The county board, not later than ninety days after the date of the commitment of a person receiving supported living, commences funding of supported living for an individual who resides in a state-operated ~~intermediate care facility for the mentally retarded~~ ICF/IID on the date of the commitment or another eligible individual designated by the department.

(2) The county board, not later than ninety days after the date of the commitment of a person receiving home and community-based services, commences funding of home and community-based services for an individual who resides in a state-operated ~~intermediate care facility for the mentally retarded~~ ICF/IID on the date of the commitment or another eligible individual designated by the department.

(3) The director of developmental disabilities, after determining that circumstances warrant granting a waiver in an individual's case, grants the county board a waiver that exempts the county board from responsibility for the nonfederal share for that case.

Sec. 5123.61. (A) As used in this section:

(1) "Law enforcement agency" means the state highway patrol, the

police department of a municipal corporation, or a county sheriff.

(2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section.

(3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code.

(B) The department of developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports received from county boards of developmental disabilities under section 5126.31 of the Revised Code. The department shall establish committees to review reports of abuse, neglect, and other major unusual incidents.

(C)(1) Any person listed in division (C)(2) of this section, having reason to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of that person, shall immediately report or cause reports to be made of such information to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or to the county board of developmental disabilities. If the report concerns a resident of a facility operated by the department of developmental disabilities the report shall be made either to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(2) All of the following persons are required to make a report under division (C)(1) of this section:

(a) Any physician, including a hospital intern or resident, any dentist, podiatrist, chiropractor, practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, hospital administrator or employee of a hospital, nurse licensed under Chapter 4723. of the Revised Code, employee of an ambulatory health facility as defined in section 5101.61 of the Revised Code, employee of a home health agency, employee of a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and person care services for three to sixteen unrelated adults, or employee of a community mental health facility;

(b) Any school teacher or school authority, social worker, psychologist,

attorney, peace officer, coroner, or residents' rights advocate as defined in section 3721.10 of the Revised Code;

(c) A superintendent, board member, or employee of a county board of developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code;

(e) A member of the clergy who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability, while acting in an official or professional capacity in that position, or a person who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability and who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion.

(3)(a) The reporting requirements of this division do not apply to employees of the Ohio protection and advocacy system.

(b) An attorney or physician is not required to make a report pursuant to division (C)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding, except that the client or patient is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to that communication and the attorney or physician shall make a report pursuant to division (C)(1) of this section, if both of the following apply:

(i) The client or patient, at the time of the communication, is a person with mental retardation or a developmental disability.

(ii) The attorney or physician knows or suspects, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(4) Any person who fails to make a report required under division (C) of this section and who is an MR/DD employee, as defined in section 5123.50 of the Revised Code, shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by MR/DD employees established under section 5123.52 of the Revised Code.

(D) The reports required under division (C) of this section shall be made forthwith by telephone or in person and shall be followed by a written report. The reports shall contain the following:

(1) The names and addresses of the person with mental retardation or a developmental disability and the person's custodian, if known;

(2) The age of the person with mental retardation or a developmental disability;

(3) Any other information that would assist in the investigation of the report.

(E) When a physician performing services as a member of the staff of a hospital or similar institution has reason to believe that a person with mental retardation or a developmental disability has suffered injury, abuse, or physical neglect, the physician shall notify the person in charge of the institution or that person's designated delegate, who shall make the necessary reports.

(F) Any person having reasonable cause to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering abuse or neglect may report or cause a report to be made of that belief to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or the county board of developmental disabilities. If the person is a resident of a facility operated by the department of developmental disabilities, the report shall be made to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(G)(1) Upon the receipt of a report concerning the possible abuse or neglect of a person with mental retardation or a developmental disability, the law enforcement agency shall inform the county board of developmental disabilities or, if the person is a resident of a facility operated by the department of developmental disabilities, the director of the department or the director's designee.

(2) On receipt of a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law

of this state, the department of developmental disabilities shall notify the law enforcement agency.

(3) When a county board of developmental disabilities receives a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the superintendent of the board or an individual the superintendent designates under division (H) of this section shall notify the law enforcement agency. The superintendent or individual shall notify the department of developmental disabilities when it receives any report under this section.

(4) When a county board of developmental disabilities receives a report under this section and believes that the degree of risk to the person is such that the report is an emergency, the superintendent of the board or an employee of the board the superintendent designates shall attempt a face-to-face contact with the person with mental retardation or a developmental disability who allegedly is the victim within one hour of the board's receipt of the report.

(H) The superintendent of the board may designate an individual to be responsible for notifying the law enforcement agency and the department when the county board receives a report under this section.

(I) An adult with mental retardation or a developmental disability about whom a report is made may be removed from the adult's place of residence only by law enforcement officers who consider that the adult's immediate removal is essential to protect the adult from further injury or abuse or in accordance with the order of a court made pursuant to section 5126.33 of the Revised Code.

(J) A law enforcement agency shall investigate each report of abuse or neglect it receives under this section. In addition, the department, in cooperation with law enforcement officials, shall investigate each report regarding a resident of a facility operated by the department to determine the circumstances surrounding the injury, the cause of the injury, and the person responsible. The investigation shall be in accordance with the memorandum of understanding prepared under section 5126.058 of the Revised Code. The department shall determine, with the registry office which shall be maintained by the department, whether prior reports have been made concerning an adult with mental retardation or a developmental disability or other principals in the case. If the department finds that the report involves action or inaction that may constitute a crime under federal law or the law of this state, it shall submit a report of its investigation, in writing, to the law enforcement agency. If the person with mental retardation or a developmental disability is an adult, with the consent of the adult, the

department shall provide such protective services as are necessary to protect the adult. The law enforcement agency shall make a written report of its findings to the department.

If the person is an adult and is not a resident of a facility operated by the department, the county board of developmental disabilities shall review the report of abuse or neglect in accordance with sections 5126.30 to 5126.33 of the Revised Code and the law enforcement agency shall make the written report of its findings to the county board.

(K) Any person or any hospital, institution, school, health department, or agency participating in the making of reports pursuant to this section, any person participating as a witness in an administrative or judicial proceeding resulting from the reports, or any person or governmental entity that discharges responsibilities under sections 5126.31 to 5126.33 of the Revised Code shall be immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of such actions except liability for perjury, unless the person or governmental entity has acted in bad faith or with malicious purpose.

(L) No employer or any person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, reduce pay or benefits, terminate work privileges, or take any other action detrimental to an employee or retaliate against an employee as a result of the employee's having made a report under this section. This division does not preclude an employer or person with authority from taking action with regard to an employee who has made a report under this section if there is another reasonable basis for the action.

(M) Reports made under this section are not public records as defined in section 149.43 of the Revised Code. Information contained in the reports on request shall be made available to the person who is the subject of the report, to the person's legal counsel, and to agencies authorized to receive information in the report by the department or by a county board of developmental disabilities.

(N) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding the injuries or physical neglect of a person with mental retardation or a developmental disability or the cause thereof in any judicial proceeding resulting from a report submitted pursuant to this section.

Sec. 5123.86. (A) Except as provided in divisions (C), (D), (E), and (F) of this section, the chief medical officer shall provide all information, including expected physical and medical consequences, necessary to enable any resident of an institution for the mentally retarded to give a fully

informed, intelligent, and knowing consent if any of the following procedures are proposed:

- (1) Surgery;
- (2) Convulsive therapy;
- (3) Major aversive interventions;
- (4) Sterilization;
- (5) Experimental procedures;
- (6) Any unusual or hazardous treatment procedures.

(B) No resident shall be subjected to any of the procedures listed in division (A)(4), (5), or (6) of this section without the resident's informed consent.

(C) If a resident is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section, or has been adjudicated incompetent, the information may be provided to the resident's natural or court-appointed guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code, who may give the informed, intelligent, and knowing written consent for surgery. Consent for surgery shall not be provided by a guardian who is an officer or employee of the department of ~~mental health~~ mental health and addiction services or the department of developmental disabilities.

If a resident is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section and has no guardian, then the information, the recommendation of the chief medical officer, and the concurring judgment of a licensed physician who is not a full-time employee of the state may be provided to the court in the county in which the institution is located, which may approve the surgery. Before approving the surgery, the court shall notify the Ohio protection and advocacy system created by section 5123.60 of the Revised Code, and shall notify the resident of the resident's rights to consult with counsel, to have counsel appointed by the court if the resident is indigent, and to contest the recommendation of the chief medical officer.

(D) If, in the judgment of two licensed physicians, delay in obtaining consent for surgery would create a grave danger to the health of a resident, emergency surgery may be performed without the consent of the resident if the necessary information is provided to the resident's guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code, or to the resident's spouse or next of kin to enable that person or agency to give an informed, intelligent, and knowing written

consent.

If the guardian, spouse, or next of kin cannot be contacted through exercise of reasonable diligence, or if the guardian, spouse, or next of kin is contacted, but refuses to consent, then the emergency surgery may be performed upon the written authorization of the chief medical officer and after court approval has been obtained. However, if delay in obtaining court approval would create a grave danger to the life of the resident, the chief medical officer may authorize surgery, in writing, without court approval. If the surgery is authorized without court approval, the chief medical officer who made the authorization and the physician who performed the surgery shall each execute an affidavit describing the circumstances constituting the emergency and warranting the surgery and the circumstances warranting their not obtaining prior court approval. The affidavit shall be filed with the court with which the request for prior approval would have been filed within five court days after the surgery, and a copy of the affidavit shall be placed in the resident's file and shall be given to the guardian, spouse, or next of kin of the resident, to the hospital at which the surgery was performed, and to the Ohio protection and advocacy system created by section 5123.60 of the Revised Code.

(E)(1) If it is the judgment of two licensed physicians, as described in division (E)(2) of this section, that a medical emergency exists and delay in obtaining convulsive therapy creates a grave danger to the life of a resident who is both mentally retarded and mentally ill, convulsive therapy may be administered without the consent of the resident if the resident is physically or mentally unable to receive the information required for convulsive therapy and if the necessary information is provided to the resident's natural or court-appointed guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code, or to the resident's spouse or next of kin to enable that person or agency to give an informed, intelligent, and knowing written consent. If neither the resident's guardian, spouse, nor next of kin can be contacted through exercise of reasonable diligence, or if the guardian, spouse, or next of kin is contacted, but refuses to consent, then convulsive therapy may be performed upon the written authorization of the chief medical officer and after court approval has been obtained.

(2) The two licensed physicians referred to in division (E)(1) of this section shall not be associated with each other in the practice of medicine or surgery by means of a partnership or corporate arrangement, other business arrangement, or employment. At least one of the physicians shall be a

psychiatrist as defined in division (E) of section 5122.01 of the Revised Code.

(F) Major aversive interventions shall not be used unless a resident continues to engage in behavior destructive to self or others after other forms of therapy have been attempted. Major aversive interventions shall not be applied to a voluntary resident without the informed, intelligent, and knowing written consent of the resident or the resident's guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code.

(G)(1) This chapter does not authorize any form of compulsory medical or psychiatric treatment of any resident who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing.

(2) For purposes of this section, "convulsive therapy" does not include defibrillation.

Sec. 5124.01. As used in this chapter:

(A) "Affiliated operator" means an operator affiliated with either of the following:

(1) The exiting operator for whom the affiliated operator is to assume liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;

(2) The entering operator involved in the change of operator with the exiting operator specified in division (A)(1) of this section.

(B) "Allowable costs" means an ICF/IID's costs that the department of developmental disabilities determines are reasonable. Fines paid under section 5124.99 of the Revised Code are not allowable costs.

(C) "Capital costs" means an ICF/IID's costs of ownership and costs of nonextensive renovation.

(D) "Case-mix score" means the measure determined under section 5124.192 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to an ICF/IID resident.

(E) "Change of operator" means an entering operator becoming the operator of an ICF/IID in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the

operation of the ICF/IID to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the ICF/IID is also transferred;

(c) A lease of the ICF/IID to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage an ICF/IID as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with an ICF/IID if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(F) "Cost center" means the following:

(1) Capital costs;

(2) Direct care costs;

(3) Indirect care costs;

(4) Other protected costs.

(G) "Costs of nonextensive renovations" means the actual expense incurred by an ICF/IID for depreciation or amortization and interest on renovations that are not extensive renovations.

(H)(1) "Costs of ownership" means the actual expenses incurred by an ICF/IID for all of the following:

(a) Subject to division (H)(2) of this section, depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings:

(ii) Building improvements that are not approved as nonextensive renovations under section 5124.17 of the Revised Code;

(iii) Equipment;

(iv) Extensive renovations;

(v) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Except as provided in division (Z) of this section, lease and rent of land, building, and equipment.

(2) The costs of capital assets of less than five hundred dollars per item may be considered costs of ownership in accordance with an ICF/IID provider's practice.

(D)(1) "Date of licensure" means the following:

(a) In the case of an ICF/IID that was originally licensed as a nursing home under Chapter 3721. of the Revised Code, the date that it was originally so licensed, regardless that it was subsequently licensed as a residential facility under section 5123.19 of the Revised Code;

(b) In the case of an ICF/IID that was originally licensed as a residential facility under section 5123.19 of the Revised Code, the date it was originally so licensed;

(c) In the case of an ICF/IID that was not required by law to be licensed as a nursing home or residential facility when it was originally operated as a residential facility, the date it first was operated as a residential facility, regardless of the date the ICF/IID was first licensed as a nursing home or residential facility.

(2) If, after an ICF/IID's original date of licensure, more residential facility beds are added to the ICF/IID or all or part of the ICF/IID undergoes an extensive renovation, the ICF/IID has a different date of licensure for the additional beds or extensively renovated portion of the ICF/IID. This does not apply, however, to additional beds when both of the following apply:

(a) The additional beds are located in a part of the ICF/IID that was constructed at the same time as the continuing beds already located in that part of the ICF/IID;

(b) The part of the ICF/IID in which the additional beds are located was constructed as part of the ICF/IID at a time when the ICF/IID was not required by law to be licensed as a nursing home or residential facility.

(3) The definition of "date of licensure" in this section applies in determinations of ICFs/IID's medicaid payment rates but does not apply in

determinations of ICFs/IID's franchise permit fees under sections 5168.60 to 5168.71 of the Revised Code.

(J) "Desk-reviewed" means that an ICF/IID's costs as reported on a cost report filed under section 5124.10 or 5124.101 of the Revised Code have been subjected to a desk review under section 5124.108 of the Revised Code and preliminarily determined to be allowable costs.

(K) "Developmental center" means a residential facility that is maintained and operated by the department of developmental disabilities.

(L) "Direct care costs" means all of the following costs incurred by an ICF/IID:

(1) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the ICF/IID;

(2) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified intellectual disability professionals, program directors, social services staff, activities staff, off-site day programming, psychologists, psychology assistants, social workers, counselors, and other persons holding degrees qualifying them to provide therapy;

(3) Costs of purchased nursing services;

(4) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5124.03 of the Revised Code, for personnel listed in divisions (L)(1), (2), and (3) of this section;

(5) Costs of quality assurance;

(6) Costs of consulting and management fees related to direct care;

(7) Allocated direct care home office costs;

(8) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5124.03 of the Revised Code.

(M) "Downsized ICF/IID" means an ICF/IID that permanently reduced its medicaid-certified capacity pursuant to a plan approved by the department of developmental disabilities under section 5123.042 of the Revised Code.

(N) "Effective date of a change of operator" means the day the entering operator becomes the operator of the ICF/IID.

(O) "Effective date of a facility closure" means the last day that the last of the residents of the ICF/IID resides in the ICF/IID.

(P) "Effective date of an involuntary termination" means the date the

department of medicaid terminates the operator's provider agreement for the ICF/IID or the last day that such a provider agreement is in effect when the department cancels or refuses to revalidate it.

(Q) "Effective date of a voluntary termination" means the day the ICF/IID ceases to accept medicaid recipients.

(R) "Entering operator" means the person or government entity that will become the operator of an ICF/IID when a change of operator occurs or following an involuntary termination.

(S) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of an ICF/IID on the effective date of a change of operator;

(2) An operator that will cease to be the operator of an ICF/IID on the effective date of a facility closure;

(3) An operator of an ICF/IID that is undergoing or has undergone a voluntary termination;

(4) An operator of an ICF/IID that is undergoing or has undergone an involuntary termination.

(T)(1) "Extensive renovation" means the following:

(a) An ICF/IID's betterment, improvement, or restoration to which both of the following apply:

(i) It was started before July 1, 1993;

(ii) It meets the definition of "extensive renovation" established in rules that were adopted by the director of job and family services and in effect on December 22, 1992.

(b) An ICF/IID's betterment, improvement, or restoration to which all of the following apply:

(i) It was started on or after July 1, 1993;

(ii) Except as provided in division (T)(2) of this section, it costs more than sixty-five per cent and not more than eighty-five per cent of the cost of constructing a new bed;

(iii) It extends the useful life of the assets for at least ten years.

(2) The department of developmental disabilities may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.

(3) For the purpose of division (T)(1)(b)(ii) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the extensive renovation is completed, using the consumer price index for shelter costs for all urban consumers for

the north central region, as published by the United States bureau of labor statistics.

(U)(1) Subject to divisions (U)(2) and (3) of this section, "facility closure" means either of the following:

(a) Discontinuance of the use of the building, or part of the building, that houses the facility as an ICF/IID that results in the relocation of all of the facility's residents;

(b) Conversion of the building, or part of the building, that houses an ICF/IID to a different use with any necessary license or other approval needed for that use being obtained and one or more of the facility's residents remaining in the facility to receive services under the new use.

(2) A facility closure occurs regardless of any of the following:

(a) The operator completely or partially replacing the ICF/IID by constructing a new ICF/IID or transferring the ICF/IID's license to another ICF/IID;

(b) The ICF/IID's residents relocating to another of the operator's ICFs/IID;

(c) Any action the department of health takes regarding the ICF/IID's medicaid certification that may result in the transfer of part of the ICF/IID's survey findings to another of the operator's ICFs/IID;

(d) Any action the department of developmental disabilities takes regarding the ICF/IID's license under section 5123.19 of the Revised Code.

(3) A facility closure does not occur if all of the ICF/IID's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the ICF/IID not later than thirty days after the evacuation occurs.

(V) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(W) "Franchise permit fee" means the fee imposed by sections 5168.60 to 5168.71 of the Revised Code.

(X) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

(Y) "ICF/IID services" has the same meaning as in 42 C.F.R. 440.150.

(Z)(1) "Indirect care costs" means all reasonable costs incurred by an ICF/IID other than capital costs, direct care costs, and other protected costs. "Indirect care costs" includes costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications,

travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repair expenses, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs, as specified in rules adopted under section 5124.03 of the Revised Code, for personnel listed in this division. Notwithstanding division (H) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the ICF/IID's cost report for the cost reporting period ending December 31, 1992.

(2) For the purpose of division (Z)(1) of this section, an operating lease shall be construed in accordance with generally accepted accounting principles.

(AA) "Inpatient days" means both of the following:

(1) All days during which a resident, regardless of payment source, occupies a bed in an ICF/IID that is included in the ICF/IID's medicaid-certified capacity;

(2) All days for which payment is made under section 5124.34 of the Revised Code.

(BB) "Intermediate care facility for individuals with disabilities" and "ICF/IID" mean an intermediate care facility for the mentally retarded as defined in the "Social Security Act," section 1905(d), 42 U.S.C. 1396d(d).

(CC) "Involuntary termination" means the department of medicaid's termination of, cancellation of, or refusal to revalidate the operator's provider agreement for the ICF/IID when such action is not taken at the operator's request.

(DD) "Maintenance and repair expenses" means, except as provided in division (TT)(2)(b) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes the costs of ordinary repairs such as painting and wallpapering.

(EE) "Medicaid-certified capacity" means the number of an ICF/IID's beds that are certified for participation in medicaid as ICF/IID beds.

(FF) "Medicaid days" means both of the following:

(1) All days during which a resident who is a medicaid recipient eligible for ICF/IID services occupies a bed in an ICF/IID that is included in the

ICF/IID's medicaid-certified capacity:

(2) All days for which payment is made under section 5124.34 of the Revised Code.

(GG)(1) "New ICF/IID" means an ICF/IID for which the provider obtains an initial provider agreement following the director of health's medicaid certification of the ICF/IID, including such an ICF/IID that replaces one or more ICFs/IID for which a provider previously held a provider agreement.

(2) "New ICF/IID" does not mean either of the following:

(a) An ICF/IID for which the entering operator seeks a provider agreement pursuant to section 5124.511 or 5124.512 or (pursuant to section 5124.515) section 5124.07 of the Revised Code;

(b) A downsized ICF/IID or partially converted ICF/IID.

(HH) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(II) "Operator" means the person or government entity responsible for the daily operating and management decisions for an ICF/IID.

(JJ) "Other protected costs" means costs incurred by an ICF/IID for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted under section 5124.03 of the Revised Code.

(KK)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding an ICF/IID:

(a) The land on which the ICF/IID is located;

(b) The structure in which the ICF/IID is located;

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the ICF/IID is located;

(d) Any lease or sublease of the land or structure on or in which the ICF/IID is located.

(2) "Owner" does not mean a holder of a debenture or bond related to an ICF/IID and purchased at public issue or a regulated lender that has made a loan related to the ICF/IID unless the holder or lender operates the ICF/IID directly or through a subsidiary.

(LL) "Partially converted ICF/IID" means an ICF/IID that converted some, but not all, of its beds to providing home and community-based services under the individual options waiver pursuant to section 5124.60 or

5124.61 of the Revised Code.

(MM)(1) Except as provided in divisions (MM)(2) and (3) of this section, "per diem" means an ICF/IID's desk-reviewed, actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(2) When determining capital costs for the purpose of section 5124.17 of the Revised Code, "per diem" means an ICF/IID's actual, allowable capital costs in a cost-reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the ICF/IID would have had during that period if its occupancy rate had been ninety-five per cent.

(3) When determining indirect care costs for the purpose of section 5124.21 of the Revised Code, "per diem" means an ICF/IID's actual, allowable indirect care costs in a cost-reporting period divided by the greater of the ICF/IID's inpatient days for that period or the number of inpatient days the ICF/IID would have had during that period if its occupancy rate had been eighty-five per cent.

(NN) "Provider" means an operator with a valid provider agreement.

(OO) "Provider agreement" means a provider agreement, as defined in section 5164.01 of the Revised Code, that is between the department of medicaid and the operator of an ICF/IID for the provision of ICF/IID services under the medicaid program.

(PP) "Purchased nursing services" means services that are provided in an ICF/IID by registered nurses, licensed practical nurses, or nurse aides who are not employees of the ICF/IID.

(QQ) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of resident care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(RR) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, a provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an

individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other ICFs/IID from outside organizations and are not a basic element of resident care ordinarily furnished directly to residents by the ICFs/IID.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

(SS) "Relative of owner" means an individual who is related to an owner of an ICF/IID by one of the following relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

(4) Stepparent, stepchild, stepbrother, or stepsister;

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;

(6) Grandparent or grandchild;

(7) Foster caregiver, foster child, foster brother, or foster sister.

(TT)(1) "Renovation" means the following:

(a) An ICF/IID's betterment, improvement, or restoration to which both of the following apply:

(i) It was started before July 1, 1993;

(ii) It meets the definition of "renovation" established in rules that were adopted by the director of job and family services and in effect on December 22, 1992.

(b) An ICF/IID's betterment, improvement, or restoration to which both of the following apply:

(i) It was started on or after July 1, 1993;

(ii) It better, improves, or restores the ICF/IID beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed.

(2) A renovation started on or after July 1, 1993, may include both of the following:

(a) A betterment, improvement, restoration, or replacement of assets that are affixed to a building and have a useful life of at least five years;

(b) Costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project.

(3) "Renovation" does not mean construction of additional space for beds that will be added to an ICF/IID's licensed capacity or medicaid-certified capacity.

(UU) "Residential facility" has the same meaning as in section 5123.19 of the Revised Code.

(VV) "Sponsor" means an adult relative, friend, or guardian of an ICF/IID resident who has an interest or responsibility in the resident's welfare.

(WW) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396, et seq.

(XX) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395, et seq.

(YY) "Voluntary termination" means an operator's voluntary election to terminate the participation of an ICF/IID in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code.

~~Sec. 5111.226 5124.02. Subject, if needed, to the approval of the United States secretary of health and human services, the~~ The department of job and family services medicaid shall enter into a contract with the department of developmental disabilities under section ~~5111.91 5162.35~~ of the Revised Code that provides for the department of developmental disabilities to assume the powers and duties of the department of ~~job and family services~~ medicaid with regard to the medicaid program's coverage of ICF/IID services ~~provided by intermediate care facilities for the mentally retarded.~~ The contract shall include a schedule for the assumption of the powers and duties. The contract may provide for the department of medicaid to perform one or more duties of the department of developmental disabilities under sections 5124.50 to 5124.53 of the Revised Code. Except as otherwise authorized by the United States secretary of health and human services, no provision of the contract may violate a federal law or regulation governing

~~the medicaid program. Once the contract goes into effect, all references to the department of job and family services, and all references to the director of job and family services, with regard to intermediate care facilities for the mentally retarded that are in law enacted by the general assembly shall be deemed to be references to the department of developmental disabilities and director of developmental disabilities, respectively, to the extent necessary to implement the terms of the contract.~~

Sec. 5124.03. To the extent authorized by rules authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this chapter.

Sec. 5124.05. The medicaid program shall cover ICF/IID services when all of the following apply:

(A) The ICF/IID services are provided to a medicaid recipient eligible for the services.

(B) The ICF/IID services are provided by an ICF/IID for which the provider has a valid provider agreement.

(C) Federal financial participation is available for the ICF/IID services.

Sec. 5124.06. (A) Subject to section 5124.072 of the Revised Code, an ICF/IID operator is eligible to enter into a provider agreement for an ICF/IID if all of the following apply:

(1) The ICF/IID is certified by the director of health for participation in medicaid;

(2) The ICF/IID is licensed by the director of developmental disabilities as a residential facility;

(3) Subject to division (B) of this section, the operator and ICF/IID comply with all applicable state and federal statutes and rules.

(B) A state rule that requires an ICF/IID operator to have received approval of a plan for the proposed ICF/IID pursuant to section 5123.042 of the Revised Code as a condition of the operator being eligible to receive medicaid payments for ICF/IID services the ICF/IID provides does not apply if, under former section 5123.193 of the Revised Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly or section 5123.197 of the Revised Code, a residential facility license was obtained or modified for the ICF/IID without obtaining approval of such a plan.

Sec. 5124.07. (A) Except as provided in section 5124.072 of the Revised Code, the department of medicaid shall enter into a provider agreement with an ICF/IID operator who applies, and is eligible, for the provider agreement.

(B) A provider agreement shall require the department of developmental

disabilities, pursuant to its agreement with the department of medicaid under section 5124.02 of the Revised Code, to make medicaid payments to the provider in accordance with this chapter for ICF/IID services the ICF/IID provides to its residents who are medicaid recipients eligible for ICF/IID services.

(C) A provider agreement shall require the provider to do all of the following:

(1) Maintain eligibility for the provider agreement as provided in section 5124.06 of the Revised Code;

(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department of developmental disabilities issues an audit report in accordance with section 5124.109 of the Revised Code, six years after all appeal rights relating to the audit report are exhausted;

(3) File reports as the department of developmental disabilities requires;

(4) Open all records relating to the costs of the ICF/IID's services for inspection and audit by the department of developmental disabilities;

(5) Open its premises for inspection by the department of developmental disabilities, department of health, and any other state or local authority having authority to inspect;

(6) Supply to the department of developmental disabilities such information as it requires concerning the ICF/IID's services to residents who are, or are eligible to be, medicaid recipients;

(7) Comply with section 5124.08 of the Revised Code.

(D) A provider agreement may contain other provisions that are consistent with law and considered necessary by the department of medicaid or the department of developmental disabilities.

Sec. 5124.071. An ICF/IID operator may enter into provider agreements for more than one ICF/IID.

Sec. 5124.072. The department of medicaid shall not revalidate an ICF/IID provider agreement if the provider fails to maintain eligibility for the provider agreement as provided in section 5124.06 of the Revised Code.

Sec. 5124.08. (A) Every provider agreement with an ICF/IID provider shall do both of the following:

(1) Except as provided by division (B) of this section, include any part of the ICF/IID that meets federal and state standards for medicaid certification;

(2) Prohibit the provider from doing either of the following:

(a) Discriminating against a resident on the basis of race, color, sex, creed, or national origin;

(b) Subject to division (D) of this section, failing or refusing to do either of the following:

(i) Admit as a resident of the ICF/IID an individual because the individual is, or may (as a resident of the ICF/IID) become, a medicaid recipient if less than eighty per cent of the ICF/IID's residents are medicaid recipients;

(ii) Retain as a resident of the ICF/IID an individual because the individual is, or may (as a resident of the ICF/IID) become, a medicaid recipient.

(B) Unless otherwise required by federal law, an ICF/IID bed is not required to be included in a provider agreement if the bed is designated for respite care under a medicaid waiver component operated pursuant to a waiver sought under section 5166.20 of the Revised Code.

(C) For the purpose of division (A)(2)(b)(ii) of this section, a medicaid recipient who is a resident of an ICF/IID shall be considered a resident of the ICF/IID during any hospital stays totaling less than twenty-five days during any twelve-month period. A medicaid recipient identified by the department of developmental disabilities or its designee as requiring the level of care of an ICF/IID shall not be subject to a maximum period of absences during which the recipient is considered to be an ICF/IID resident if prior authorization of the department for visits with relatives and friends and participation in therapeutic programs is obtained in accordance with rules adopted under section 5124.03 of the Revised Code.

(D) Nothing in this section shall bar a provider from doing any of the following:

(1) If the provider is a religious organization operating a religious or denominational ICF/IID, giving preference to persons of the same religion or denomination;

(2) Giving preference to persons with whom the provider has contracted to provide continuing care;

(3) Retaining residents who have resided in the provider's ICF/IID for not less than one year as private pay residents and who subsequently become medicaid recipients but refusing to admit as a resident an individual who is, or may (as a resident of the ICF/IID) become, a medicaid recipient, if all of the following apply:

(a) The provider does not refuse to retain a resident who has resided in the provider's ICF/IID for not less than one year as a private pay resident because the resident becomes a medicaid recipient, except as necessary to comply with division (D)(3)(b) of this section.

(b) The number of medicaid recipients retained under division (D)(3) of

this section does not at any time exceed ten per cent of all the ICF/IID's residents.

(c) On July 1, 1980, all the ICF/IID's residents were private pay residents.

(E) No provider shall violate the provider agreement obligations imposed by this section.

Sec. 5124.081. An ICF/IID resident has a cause of action against the provider of the ICF/IID for breach of the provider agreement obligations or other duties imposed by section 5124.08 of the Revised Code. The action may be commenced by the resident, or on the resident's behalf by the resident's sponsor, by the filing of a civil action in the court of common pleas of the county in which the ICF/IID is located or in the court of common pleas of Franklin county.

If a court of common pleas finds that a provider has breached a provider agreement obligation or other duty imposed by section 5124.08 of the Revised Code, the court may do one or more of the following:

(A) Enjoin the provider from engaging in the practice;

(B) Order such affirmative relief as may be necessary;

(C) Award to a resident and a sponsor that brings the action on behalf of a resident actual damages, costs, and reasonable attorney's fees.

Sec. 5124.10. (A) Except as provided in division (D) of this section and division (E)(2) of section 5124.101 of the Revised Code, each ICF/IID provider shall file with the department of developmental disabilities an annual cost report for each of the provider's ICFs/IID for which the provider has a valid provider agreement. The cost report for a year shall cover the calendar year or portion of the calendar year during which the ICF/IID participated in the medicaid program. Except as provided in division (E) of this section, the cost report is due not later than ninety days after the end of the calendar year, or portion of the calendar year, that the cost report covers.

(B)(1) If an ICF/IID undergoes a change of provider that the department determines, in accordance with rules adopted under section 5124.03 of the Revised Code, is not an arms length transaction, the new provider shall file the ICF/IID's cost report in accordance with division (A) of this section and the cost report shall cover the portion of the calendar year during which the new provider operated the ICF/IID and the portion of the calendar year during which the previous provider operated the ICF/IID.

(2) If an ICF/IID undergoes a change of provider that the department determines, in accordance with rules adopted under section 5124.03 of the Revised Code, is an arms length transaction, the new provider shall file with the department a cost report for the ICF/IID not later than, except as

provided in division (E) of this section, ninety days after the end of the ICF/IID's first three full calendar months of operation under the new provider. The cost report shall cover the period that begins with the ICF/IID's first day of operation under the new provider and ends on the first day of the month immediately following the first three full months of operation under the new provider.

(C) If the medicaid payment rate for a new ICF/IID was most recently determined in accordance with section 5124.151 of the Revised Code, the provider shall file with the department a cost report for the new ICF/IID not later than, except as provided in division (E) of this section, ninety days after the end of the new ICF/IID's first three full calendar months of operation. The cost report shall cover the period that begins with the ICF/IID's first day of operation and ends on the first day of the month immediately following the first three full months of operation.

(D) An ICF/IID provider is not required to file a cost report for an ICF/IID for a calendar year in accordance with division (A) of this section if the provider files a cost report for the ICF/IID under division (B)(2) or (C) of this section and that cost report covers a period that begins after the first day of October of that calendar year. The provider shall file a cost report for the ICF/IID in accordance with division (A) of this section for the immediately following calendar year.

(E) The department may grant to a provider a fourteen-day extension to file a cost report under this section or section 5124.101 of the Revised Code if the provider provides the department a written request for the extension and the department determines that there is good cause for the extension.

Sec. 5124.101. (A) The provider of an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID on or after July 1, 2013, or becomes a new ICF/IID on or after that date, may file with the department of developmental disabilities a cost report covering the period specified in division (B) of this section if the following applies to the ICF/IID:

(1) In the case of an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID, the ICF/IID has either of the following on the day it becomes a downsized ICF/IID or partially converted ICF/IID:

(a) A medicaid-certified capacity that is at least ten per cent less than its medicaid-certified capacity on the day immediately preceding the day it becomes a downsized ICF/IID or partially converted ICF/IID;

(b) At least five fewer beds certified as ICF/IID beds than it has on the day immediately preceding the day it becomes a downsized ICF/IID or partially converted ICF/IID.

(2) In the case of a new ICF/IID, the ICF/IID's beds are from a downsized ICF/IID and the downsized ICF/IID has either of the following on the day it becomes a downsized ICF/IID:

(a) A medicaid-certified capacity that is at least ten per cent less than its medicaid-certified capacity on the day immediately preceding the day it becomes a downsized ICF/IID:

(b) At least five fewer beds certified as ICF/IID beds than it has on the day immediately preceding the day it becomes a downsized ICF/IID.

(B) A cost report filed under division (A) of this section shall cover the period that begins and ends as follows:

(1) In the case of an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID:

(a) The period begins with the day that the ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID.

(b) The period ends on the last day of the last month of the first three full months of operation as a downsized ICF/IID or partially converted ICF/IID.

(2) In the case of a new ICF/IID:

(a) The period begins with the day that the provider agreement for the ICF/IID takes effect.

(b) The period ends on the last day of the last month of the first three full months that the provider agreement is in effect.

(C) The department shall refuse to accept a cost report filed under division (A) of this section if either of the following apply:

(1) Except as provided in division (E) of section 5124.10 of the Revised Code, the provider fails to file the cost report with the department not later than ninety days after the last day of the period the cost report covers;

(2) The cost report is incomplete or inadequate.

(D) If the department accepts a cost report filed under division (A) of this section, the department shall use that cost report, rather than the cost report that otherwise would be used pursuant to section 5124.17, 5124.19, 5124.21, or 5124.23 of the Revised Code, to determine the ICF/IID's medicaid payment rate in accordance with this chapter for ICF/IID services the ICF/IID provides during the period that begins and ends as follows:

(1) The period begins on the following:

(a) In the case of an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID:

(i) The day that the ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID if that day is the first day of a month;

(ii) The first day of the month immediately following the month that the

ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID if division (D)(1)(a)(i) of this section does not apply.

(b) In the case of a new ICF/IID, the day that the ICF/IID's provider agreement takes effect.

(2) The period ends on the last day of the fiscal year that immediately precedes the fiscal year for which the ICF/IID begins to be paid a rate determined using a cost report that division (E) of this section requires be filed in accordance with division (A) of section 5124.10 of the Revised Code.

(E)(1) If the department accepts a cost report filed under division (A) of this section for an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID on or before the first day of October of a calendar year, or for a new ICF/IID that has a provider agreement that takes effect on or before that date, the provider also shall file a cost report for the ICF/IID in accordance with division (A) of section 5124.10 of the Revised Code for the portion of that calendar year that the ICF/IID operated as a downsized ICF/IID or partially converted ICF/IID or, in the case of a new ICF/IID, for the portion that the provider agreement was in effect.

(2) If the department accepts a cost report filed under division (A) of this section for an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID after the first day of October of a calendar year, or for a new ICF/IID that has a provider agreement that takes effect on or after that date, the provider is not required to file a cost report for that calendar year in accordance with division (A) of section 5124.10 of the Revised Code. The provider shall file a cost report for the ICF/IID in accordance with division (A) of section 5124.10 of the Revised Code for the immediately following calendar year.

Sec. 5124.102. No ICF/IID provider shall report fines paid under section 5124.99 of the Revised Code in a cost report filed under section 5124.10, 5124.101, or 5124.522 of the Revised Code.

Sec. 5124.103. Cost reports shall be completed using the form prescribed under section 5124.104 of the Revised Code and in accordance with the guidelines established under that section.

Sec. 5124.104. The department of developmental disabilities shall do all of the following:

(A) Prescribe the form to be used for completing a cost report and a uniform chart of accounts for the purpose of reporting costs on the form;

(B) Distribute a paper copy of the form, or computer software for electronic submission of the form, to each provider at least sixty days before the date the cost report is due;

(C) Establish guidelines for completing the form.

Sec. 5124.105. The department of developmental disabilities shall develop an addendum to the cost report form that an ICF/IID provider may use to set forth costs that the provider believes the department may dispute. The department may consider such costs in determining an ICF/IID's medicaid payment rate. If the department does not consider such costs in determining an ICF/IID's medicaid payment rate, the provider may seek reconsideration of the determination in accordance with section 5124.38 of the Revised Code. If the department subsequently includes such costs in an ICF/IID's medicaid payment rate, the department shall pay the provider interest at a reasonable rate established in rules adopted under section 5124.03 of the Revised Code for the period that the rate excluded the costs.

Sec. 5124.106. If an ICF/IID provider required by section 5124.10 of the Revised Code to file a cost report for the ICF/IID fails to file the cost report by the date it is due or the date, if any, to which the due date is extended pursuant to division (E) of that section, or files an incomplete or inadequate report for the ICF/IID under that section, the department of developmental disabilities shall provide immediate written notice to the provider that the provider agreement for the ICF/IID will be terminated in thirty days unless the provider submits a complete and adequate cost report for the ICF/IID within thirty days. During the thirty-day termination period or any additional time allowed for an appeal of the proposed termination of a provider agreement, the provider shall be paid the ICF/IID's then current per medicaid day payment rate, minus the dollar amount by which ICFs/IID's per medicaid day payment rates are reduced during fiscal year 2013 in accordance with division (A)(2) of section 5111.26 of the Revised Code (renumbered as section 5165.10 of the Revised Code by H.B. 59 of the 130th general assembly) as that section existed on the day immediately preceding the effective date of this section. On the first day of each July, the department shall adjust the amount of the reduction in effect during the previous twelve months to reflect the rate of inflation during the preceding twelve months, as shown in the consumer price index for all items for all urban consumers for the midwest region, published by the United States bureau of labor statistics.

Sec. 5124.107. (A) Except as provided in division (B) of this section and not later than three years after an ICF/IID provider files a cost report with the department of developmental disabilities under section 5124.10 or 5124.101 of the Revised Code, the provider may amend the cost report if the provider discovers a material error in the cost report or additional information to be included in the cost report. The department shall review

the amended cost report for accuracy and notify the provider of its determination.

(B) An ICF/IID provider may not amend a cost report if the department has notified the provider that an audit of the cost report or a cost report of the provider for a subsequent cost reporting period is to be conducted under section 5124.109 of the Revised Code. The provider may, however, provide the department information that affects the costs included in the cost report. Such information may not be provided after the adjudication of the final settlement of the cost report.

Sec. 5124.108. The department of developmental disabilities shall conduct a desk review of all cost reports it receives under sections 5124.10, 5124.101, and 5124.522 of the Revised Code. Based on the desk review, the department shall make a preliminary determination of whether the reported costs are allowable costs. The department shall notify each ICF/IID provider of whether any of the reported costs are preliminarily determined not to be allowable costs, the medicaid payment rate determined under this chapter as a result of the determination regarding allowable costs, and the reasons for the determination and resulting rate. The department shall allow the provider to verify the calculation and submit additional information.

Sec. 5124.109. (A) The department of developmental disabilities may conduct an audit, as defined in rules adopted under section 5124.03 of the Revised Code, of any cost report filed under section 5124.10, 5124.101, or 5124.522 of the Revised Code. The decision whether to conduct an audit and the scope of the audit, which may be a desk or field audit, may be determined based on prior performance of the provider, a risk analysis, or other evidence that gives the department reason to believe that the provider has reported costs improperly. A desk or field audit may be performed annually, but is required whenever a provider does not pass the risk analysis tolerance factors.

(B) Audits shall be conducted by auditors under contract with the department, auditors working for firms under contract with the department, or auditors employed by the department.

The department may establish a contract for the auditing of ICFs/IID by outside firms. Each contract entered into by bidding shall be effective for one to two years.

(C) The department shall notify a provider of the findings of an audit of a cost report by issuing an audit report. The department shall issue the audit report not later than three years after the earlier of the following:

- (1) The date the cost report is filed;
- (2) The date a desk or field audit of the cost report or a cost report for a

subsequent cost reporting period is completed.

(D) The department shall prepare a written summary of any audit disallowance that is made after the effective date of the rate that is based on the cost. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5124.41 of the Revised Code.

(E)(1) The department shall establish an audit manual and program for field audits conducted under this section. Each auditor conducting a field audit under this section shall follow the audit manual and program, regardless of whether the auditor is under contract with the department, works for a firm under contract with the department, or is employed by the department. The manual and program shall do both of the following:

(a) Require each field audit to be conducted by an auditor to whom all of the following apply:

(i) During the period of the auditor's contract, firm's contract, or auditor's employment with the department, the auditor or firm does not have and is not committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of ICFs/IID in this state.

(ii) The auditor does not audit any provider that has been a client of the auditor or the auditor's firm.

(iii) The auditor is otherwise independent as determined by the standards of independence included in the government auditing standards produced by the United States government accountability office.

(b) Require each auditor conducting a field audit to do all of the following:

(i) Comply with applicable rules prescribed pursuant to Title XIX;

(ii) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants;

(iii) Include a written summary as to whether the costs included in the cost report examined during the audit are allowable and are presented in accordance with state and federal laws and regulations, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care;

(iv) Complete the audit within the time period specified by the department;

(v) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to

calculate with reasonable certainty those costs that are allowable and the rate to which the provider's ICF/IID is entitled.

(2) For the purpose of division (E)(1)(a)(i) of this section, employment of a member of an auditor's family by an ICF/IID that the auditor does not audit does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the ICF/IID.

Sec. ~~5111.224~~ 5124.15. (A) Except as otherwise provided by sections ~~5111.20~~ 5124.151 to ~~5111.334~~ 5124.154 of the Revised Code and by division (B) of this section, the ~~payments~~ total per medicaid day payment rate that the department of ~~job and family services~~ developmental disabilities shall ~~agree to make pay to the~~ an ICF/IID provider of an intermediate care facility for the mentally retarded pursuant to a provider agreement for ICF/IID services the provider's ICF/IID provides during a fiscal year shall equal the sum of all of the following:

(1) The per medicaid day payment rate for capital costs determined for the ICF/IID under section 5124.17 of the Revised Code;

(2) The per medicaid day payment rate for direct care costs determined for the facility ICF/IID under section ~~5111.23~~ 5124.19 of the Revised Code;

(2)(3) The per medicaid day payment rate for indirect care costs determined for the ICF/IID under section 5124.21 of the Revised Code;

(4) The per medicaid day payment rate for other protected costs determined for the facility ICF/IID under section ~~5111.235~~ 5124.23 of the Revised Code;

(3) The rate for indirect care costs determined for the facility under section ~~5111.241~~ of the Revised Code;

(4) The rate for capital costs determined for the facility under section ~~5111.251~~ of the Revised Code.

(B) The department shall adjust the total rate otherwise determined under division (A) of this section as directed by the general assembly through the enactment of law governing medicaid payments to ICF/IID providers of intermediate care facilities for the mentally retarded.

(C) In addition to paying an ICF/IID provider the total rate determined for the provider's ICF/IID under divisions (A) and (B) of this section for a fiscal year, the department, in accordance with section 5124.25 of the Revised Code, may pay the provider a rate add-on for pediatric ventilator-dependent outlier ICF/IID services if the rate add-on is to be paid under that section and the department approves the provider's application for the rate add-on. The rate add-on is not to be part of the ICF/IID's total rate.

Sec. ~~5111.255~~ 5124.151. (A) The department of job and family services shall establish initial rates for an intermediate care facility for the mentally

~~retarded with a first date of licensure that is on or after January 1, 1993, including a facility that replaces one or more existing facilities, or for an intermediate care facility for the mentally retarded with a first date of licensure before that date that was initially certified for the medicaid program on or after that date, total per medicaid day payment rate determined under section 5124.15 of the Revised Code shall not be the initial rate for ICF/IID services provided by a new ICF/IID. Instead, the initial total per medicaid day payment rate for ICF/IID services provided by a new ICF/IID shall be determined in the following manner:~~

~~(1) The initial rate for capital costs shall be determined under section 5124.17 of the Revised Code using the greater of the new ICF/IID's actual inpatient days or an imputed occupancy rate of eighty per cent.~~

~~(2) The initial rate for direct care costs shall be determined as follows:~~

~~(a) If there are no cost or resident assessment data for the new ICF/IID as necessary to calculate determine a rate under section 5111.23 5124.19 of the Revised Code, the rate shall be determined as follows:~~

~~(i) Determine the median cost per case-mix unit calculated under division (B)(4) of that section 5124.19 of the Revised Code for the relevant new ICF/IID's peer group for the calendar year immediately preceding the fiscal year in which the rate will be paid, multiplied;~~

~~(ii) Multiply the amount determined under division (A)(2)(a)(i) of this section by the median annual average case-mix score for the new ICF/IID's peer group for that period and;~~

~~(iii) Adjust the product determined under division (A)(2)(a)(ii) of this section by the rate of inflation estimated under division (B)(3)(D) of that section 5124.19 of the Revised Code. This rate shall be recalculated to reflect the facility's actual quarterly average case-mix score, in accordance with that section, after it submits its first quarterly assessment data that qualifies for use in calculating a case-mix score in accordance with rules authorized by division (E) of section 5111.232 of the Revised Code. If the facility's first two quarterly submissions do not contain assessment data that qualifies for use in calculating a case-mix score, the department shall continue to calculate the rate using the median annual case-mix score for the peer group in lieu of an assigned quarterly case-mix score. The department shall assign a case-mix score or, if necessary, a cost per case-mix unit under division (D) of section 5111.232 of the Revised Code for any subsequent submissions that do not contain assessment data that qualifies for use in calculating a case-mix score.~~

~~(b) If the facility new ICF/IID is a replacement facility ICF/IID and the facility ICF/IID or facilities ICFs/IID that are being replaced are in~~

operation immediately before the ~~replacement facility~~ new ICF/IID opens, the rate shall be the same as the rate for the replaced ~~facility~~ ICF/IID or ~~facilities~~ ICFs/IID, proportionate to the number of ICF/IID beds in each replaced ~~facility~~ ICF/IID. ~~If one or more of the replaced facilities is~~

~~(c) If the new ICF/IID is a replacement ICF/IID and the ICF/IID or ICFs/IID that are being replaced are not in operation immediately before the replacement facility new ICF/IID opens, its proportion the rate shall be determined under division (A)(1)(2)(a) of this section.~~

~~(2)(3) The initial rate for indirect care costs shall be the maximum rate for the new ICF/IID's peer group as determined for the fiscal year in accordance with division (C) of section 5124.21 of the Revised Code.~~

~~(4) The initial rate for other protected costs shall be one hundred fifteen per cent of the median rate for intermediate care facilities for the mentally retarded calculated ICFs/IID determined for the fiscal year under section 5111.235 5124.23 of the Revised Code.~~

~~(3) The rate for indirect care costs shall be the applicable maximum rate for the facility's peer group as specified in division (B) of section 5111.241 of the Revised Code.~~

~~(4) The rate for capital costs shall be determined under section 5111.251 of the Revised Code using the greater of actual inpatient days or an imputed occupancy rate of eighty per cent.~~

~~(B) The (1) Except as provided in division (B)(2) of this section, the department shall adjust the rates established a new ICF/IID's initial total per medicaid day payment rate determined under division (A) of this section at both of the following times:~~

~~(1) Effective effective the first day of July, to reflect new rate calculations determinations for all facilities ICFs/IID under sections 5111.20 to 5111.331 of the Revised Code;~~

~~(2) Following the provider's submission of the facility's cost report under division (A)(1)(b) of section 5111.26 of the Revised Code this chapter.~~

~~The department shall pay the rate adjusted based on the cost report beginning the first day of the calendar quarter that begins more than ninety days after the department receives the cost report.~~

~~(2) If the department accepts, under division (A) of section 5124.101 of the Revised Code, a cost report filed by the provider of a new ICF/IID, the department shall adjust the ICF/IID's initial total per medicaid day payment rate in accordance with divisions (D) and (E) of that section rather than division (B)(1) of this section.~~

Sec. 5124.152. (A) The total per medicaid day payment rate determined

under section 5124.15 of the Revised Code shall not be paid for ICF/IID services provided by an ICF/IID, or discrete unit of an ICF/IID, designated by the department of developmental disabilities as an outlier ICF/IID or unit. Instead, the provider of a designated outlier ICF/IID or unit shall be paid each fiscal year a total per medicaid day payment rate that the department shall prospectively determine in accordance with a methodology established in rules authorized by this section.

(B) The department may designate an ICF/IID, or discrete unit of an ICF/IID, as an outlier ICF/IID or unit if the ICF/IID or unit serves residents who have either of the following:

(1) Diagnoses or special care needs that require direct care resources that are not measured adequately by the resident assessment instrument specified in rules authorized by section 5124.191 of the Revised Code;

(2) Diagnoses or special care needs that are specified in rules authorized by this section as otherwise qualifying for consideration under this section.

(C) Notwithstanding any other provision of this chapter, the costs incurred by a designated outlier ICF/IID or unit shall not be considered in establishing medicaid payment rates for other ICFs/IID or units.

(D) The director of developmental disabilities shall adopt rules under section 5124.03 of the Revised Code as necessary to implement this section.

(1)(a) The rules shall do both of the following:

(i) Specify the criteria and procedures the department will apply when designating an ICF/IID, or discrete unit of an ICF/IID, as an outlier ICF/IID or unit;

(ii) Establish a methodology for prospectively determining the total per medicaid day payment rate that will be paid each fiscal year for ICF/IID services provided by a designated outlier ICF/IID or unit.

(b) The rules adopted under division (D)(1)(a)(i) of this section regarding the criteria for designating outlier ICFs/IID and units shall do both of the following:

(i) Provide for consideration of whether all of the allowable costs of an ICF/IID, or discrete unit of an ICF/IID, would be paid by the rate determined under section 5124.15 of the Revised Code;

(ii) Specify the minimum number of ICF/IID beds that an ICF/IID, or discrete unit of an ICF/IID, must have to be designated an outlier ICF/IID or unit.

(c) The rules authorized by division (D)(1)(a)(i) of this section regarding the criteria for designating outlier ICFs/IID and units shall not limit the designation to ICFs/IID, or discrete units of ICFs/IID, located in large cities.

(d) The rules authorized by division (D)(1)(a)(ii) of this section regarding the methodology for prospectively determining the rates of designated outlier ICFs/IID and units shall provide for the methodology to consider the historical costs of providing ICF/IID services to the residents of designated outlier ICFs/IID and units.

(2)(a) The rules may do both of the following:

(i) Include for designation as an outlier ICF/IID or unit, an ICF/IID, or discrete unit of an ICF/IID, that serves residents who have complex medical conditions or severe behavioral problems;

(ii) Require that a designated outlier ICF/IID or unit receive authorization from the department before admitting or retaining a resident.

(b) If the director adopts rules authorized by division (D)(2)(a)(ii) of this section regarding the authorization of a designated outlier ICF/IID or unit to admit or retain a resident, the rules shall specify the criteria and procedures the department will apply when granting the authorization.

Sec. 5124.153. (A) To the extent, if any, provided for in rules authorized by this section, the total per medicaid day payment rate determined under section 5124.15 of the Revised Code shall not be paid for ICF/IID services that an ICF/IID not designated as an outlier ICF/IID or unit provides to a resident who meets the criteria for admission to a designated outlier ICF/IID or unit, as specified in rules authorized by section 5124.152 of the Revised Code. Instead, the provider of an ICF/IID providing ICF/IID services to such a resident shall be paid each fiscal year a total per medicaid day payment rate that the department shall prospectively determine in accordance with a methodology established in rules authorized by this section.

(B) The director of developmental disabilities may adopt rules under section 5124.03 of the Revised Code to implement this section. The rules may require that an ICF/IID receive authorization from the department before admitting or retaining a resident who meets the criteria for admission to a designated outlier ICF/IID or unit. If the director adopts such rules, the rules shall specify the criteria and procedures the department will apply when granting the authorization.

Sec. ~~5111.291~~ 5124.154. ~~Notwithstanding sections 5111.20 to 5111.331 of the Revised Code~~ The department of developmental disabilities is not required to pay the total per medicaid day payment rates determined under section 5124.15 of the Revised Code for ICF/IID services provided by developmental centers. Instead, the department of ~~job and family services~~ may ~~compute~~ determine the rate ~~medicaid payment rates~~ for ~~intermediate care facilities for the mentally retarded operated by the department of~~

~~developmental disabilities or the department of mental health centers~~ according to the reasonable cost principles of Title XVIII.

~~Sec. 5111.251~~ 5124.17. (A) ~~The~~ For each fiscal year, the department of job and family services ~~developmental disabilities shall pay a provider for determine each of the provider's eligible intermediate care facilities for the mentally retarded for its reasonable capital costs, a ICF/IID's per resident per medicaid day payment rate established prospectively each fiscal year for each intermediate care facility for the mentally retarded for reasonable capital costs.~~ Except as otherwise provided in sections ~~5111.20 to 5111.331~~ of the Revised Code ~~this chapter, the an ICF/IID's rate shall be determined prospectively and based on the facility's ICF/IID's capital costs for the calendar year preceding the fiscal year in which the rate will be paid.~~ ~~The~~ Subject to section 5124.28, an ICF/IID's rate shall equal the sum of the following:

(1) ~~The facility's ICF/IID's desk-reviewed, actual, allowable, per diem cost costs of ownership for the immediately preceding cost reporting period, limited as provided in divisions (B) and (C) and (F) of this section;~~

(2) ~~Any efficiency incentive determined under division (B) of this section;~~

(3) ~~Any amounts for~~ The ICF/IID's per medicaid day payment for the ICF/IID's per diem capitalized costs of nonextensive renovations determined under division (D)(1) of this section if the ICF/IID qualifies for a payment for such costs as specified in division (D)(2) of this section;

(4) ~~Any amounts for~~ (3) The ICF/IID's per medicaid day efficiency incentive determined under division (E) of this section;

(4) Until fiscal year 2015, the ICF/IID's return on net equity determined under division (H)(F) of this section.

~~Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight line method over a period designated by the director of job and family services in rules adopted under section 5111.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department of job and family services. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in costs of ownership or renovation unless that part of the payment under sections 5111.20 to 5111.331 of the Revised Code is used to reimburse the government agency.~~

~~(B) The department of job and family services shall pay to a provider for each of the provider's eligible intermediate care facilities for the mentally retarded an efficiency incentive equal to fifty per cent of the difference between any desk-reviewed, actual, allowable cost of ownership and the applicable limit on cost of ownership payments under division (C) of this section. For purposes of computing the efficiency incentive, depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership, and the applicable limit under division (C) of this section shall apply both to facilities with more than eight beds and facilities with eight or fewer beds. The efficiency incentive paid to a provider for a facility with eight or fewer beds shall not exceed three dollars per patient day, adjusted annually for the inflation rate for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~

~~(C) Cost~~ The costs of ownership payments per diem payment rates for intermediate care facilities for the mentally retarded ICFs/IID with more than eight beds shall not exceed the following limits:

(1) For ~~facilities~~ ICFs/IID with dates of licensure prior to January 1, 1958, not exceeding two dollars and fifty cents ~~per patient day~~;

(2) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1957, but prior to January 1, 1968, not exceeding:

(a) Three dollars and fifty cents ~~per patient day~~ if the cost of construction was three thousand five hundred dollars or more per bed;

(b) Two dollars and fifty cents ~~per patient day~~ if the cost of construction was less than three thousand five hundred dollars per bed.

(3) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:

(a) Four dollars and fifty cents ~~per patient day~~ if the cost of construction was five thousand one hundred fifty dollars or more per bed;

(b) Three dollars and fifty cents ~~per patient day~~ if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;

(c) Two dollars and fifty cents ~~per patient day~~ if the cost of construction was three thousand five hundred dollars or less per bed.

(4) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:

(a) Five dollars and fifty cents ~~per patient day~~ if the cost of construction was six thousand eight hundred dollars or more per bed;

(b) Four dollars and fifty cents ~~per patient day~~ if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;

(c) Three dollars and fifty cents ~~per patient day~~ if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;

(d) Two dollars and fifty cents ~~per patient day~~ if the cost of construction was three thousand five hundred dollars or less per bed.

(5) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding:

(a) Six dollars ~~per patient day~~ if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;

(b) Five dollars and fifty cents ~~per patient day~~ if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;

(c) Four dollars and fifty cents ~~per patient day~~ if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed;

(d) Three dollars and fifty cents ~~per patient day~~ if the cost of construction was five thousand one hundred fifty dollars or less but exceeds three thousand five hundred dollars per bed;

(e) Two dollars and fifty cents ~~per patient day~~ if the cost of construction was three thousand five hundred dollars or less per bed.

(6) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1979, but prior to January 1, 1981, not exceeding:

(a) Twelve dollars ~~per patient day~~ if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Six dollars ~~per patient day~~ if the beds were originally licensed as nursing home beds by the department of health.

(7) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:

(a) Twelve dollars ~~per patient day~~ if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Six dollars and forty-five cents ~~per patient day~~ if the beds were originally licensed as nursing home beds by the department of health.

(8) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:

(a) Twelve dollars ~~per patient day~~ if the beds were originally licensed as

residential facility beds by the department of developmental disabilities;

(b) Six dollars and seventy-nine cents ~~per patient day~~ if the beds were originally licensed as nursing home beds by the department of health.

(9) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:

(a) Twelve dollars ~~per patient day~~ if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and nine cents ~~per patient day~~ if the beds were originally licensed as nursing home beds by the department of health.

(10) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:

(a) Twelve dollars and twenty-four cents ~~per patient day~~ if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and twenty-three cents ~~per patient day~~ if the beds were originally licensed as nursing home beds by the department of health.

(11) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:

(a) Twelve dollars and fifty-three cents ~~per patient day~~ if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and forty cents ~~per patient day~~ if the beds were originally licensed as nursing home beds by the department of health.

(12) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:

(a) Twelve dollars and seventy cents ~~per patient day~~ if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and fifty cents ~~per patient day~~ if the beds were originally licensed as nursing home beds by the department of health.

(13) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:

(a) Twelve dollars and ninety-nine cents ~~per patient day~~ if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and sixty-seven cents ~~per patient day~~ if the beds were originally licensed as nursing home beds by the department of health.

(14) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents ~~per patient day~~;

(15) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1988, but prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents ~~per patient day~~;

(16) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents ~~per patient day~~;

(17) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents ~~per patient day~~;

(18) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents ~~per patient day~~;

(19) For ~~facilities~~ ICFs/IID with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents ~~per patient day~~.

(C)(1) The costs of ownership per diem payment rate for an ICF/IID with eight or fewer beds shall not exceed the following limits:

(a) Eighteen dollars and thirty cents as adjusted for inflation pursuant to division (C)(2) of this section if any of the following apply to the ICF/IID:

(i) The ICF/IID has a date of licensure, or was granted project authorization by the department of developmental disabilities, before July 1, 1993.

(ii) The ICF/IID has a date of licensure, or was granted project authorization by the department, on or after July 1, 1993, and the provider demonstrates that the provider made substantial commitments of funds for the ICF/IID before that date.

(iii) The ICF/IID has a date of licensure, or was granted project authorization by the department, on or after July 1, 1993, the provider made no substantial commitment of funds for the ICF/IID before that date, and the department of job and family services or department of developmental disabilities gave prior approval for the ICF/IID's construction.

(b) If division (C)(1)(a) of this section does not apply to the ICF/IID, the amount that would apply to the ICF/IID under division (B) of this section if it had more than eight beds.

(2) The eighteen-dollar and thirty-cent payment rate specified in division (C)(1)(a) of this section shall be increased as follows:

(a) For the period beginning June 30, 1990, and ending July 1, 1993, by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) For each fiscal year thereafter, in accordance with division (G) of this section.

(D)(1) Beginning January 1, 1981, regardless of the original date of licensure, the ~~department of job and family services shall pay a payment rate for the per diem capitalized costs of nonextensive renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, to a qualifying ICF/IID, shall not exceeding exceed~~ payment rate for the per diem capitalized costs of nonextensive renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, to a qualifying ICF/IID, shall not exceed six dollars per ~~patient~~ patient ~~medicaid~~ medicaid day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment rate shall be further adjusted in accordance with division (G) of this section. The payment provided for in this division is the only payment that shall be made for ~~the an ICF/IID's~~ an ICF/IID's capitalized costs of a nonextensive ~~renovation of an intermediate care facility for the mentally retarded renovations.~~ renovations. ~~Nonextensive renovation costs~~ Costs of nonextensive renovations shall not be included in ~~cost~~ costs of ownership; and a ~~nonextensive renovation~~ shall not affect the date of licensure for purposes of division (B) or (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made nonextensive renovations ends before the depreciation expense for the ~~renovation~~ renovations costs of nonextensive renovations has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

~~For a nonextensive renovation to qualify~~ (2) An ICF/IID qualifies for a payment under this division, both for costs of nonextensive renovations if all of the following conditions must be met apply:

~~(1)(a)~~ (a) Either of the following applies:

(i) The ICF/IID has more than eight beds and either the department approved the nonextensive renovation before July 1, 2013, or the nonextensive renovation is part of a project that results in the ICF/IID becoming a downsized ICF/IID or partially converted ICF/IID.

(ii) The ICF/IID has eight or fewer beds.

(b) At least five years have elapsed since the ICF/IID's date of licensure or date of an extensive renovation of the portion of the facility ICF/IID that is proposed to be nonextensively renovated, except that this condition does not apply if unless the nonextensive renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

~~(2)(c)~~ The provider has obtained prior approval from the department of job and family services. The provider shall submit of the ICF/IID does both of the following:

(i) Submits to the department a plan that describes in detail the changes

in capital assets to be accomplished by means of the nonextensive renovation and the timetable for completing the project. ~~The time for completion of the project, which shall be no not more than eighteen months after the nonextensive renovation begins;~~

(ii) Obtains prior approval from the department for the nonextensive renovation. The

(3) The director of ~~job and family services~~ developmental disabilities shall adopt rules under section ~~5111.02~~ 5124.03 of the Revised Code that specify criteria and procedures for prior approval of nonextensive renovation and extensive renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a nonextensive renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of ~~job and family services~~ unless the increase in scope is approved by the department.

(E)(1) Subject to division (E)(2) of this section, an ICF/IID's per medicaid day efficiency incentive payment rate shall equal the following percentage of the difference between the ICF/IID's desk-reviewed, actual, allowable per diem costs of ownership and the applicable limit on costs of ownership payment rates established by division (B) of this section:

(a) In the case of an ICF/IID with more than eight beds, the following percentage:

(i) Fifty per cent for fiscal year 2014;

(ii) Fifty per cent for fiscal year 2015 and each fiscal year thereafter if the provider of the ICF/IID obtains the department's approval to become a downsized ICF/IID and the approval is conditioned on the downsizing being completed not later than July 1, 2018;

(iii) Twenty-five per cent;

(b) In the case of an ICF/IID with eight or fewer beds, fifty per cent.

(2) The efficiency incentive payment rate for an ICF/IID with eight or fewer beds shall not exceed three dollars per medicaid day, adjusted annually in accordance with division (G) of this section. For the purpose of determining an ICF/IID's efficiency incentive payment rate, both of the following apply:

(a) Depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership;

(b) The applicable limit under division (B) of this section shall apply both to ICFs/IID with more than eight beds and ICFs/IID with eight or fewer beds.

(F) An ICF/IID's return on net equity shall be determined at the rate of

one and one-half times the average of interest rates on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period. In determining an ICF/IID's rate for return on net equity, the department shall use the greater of the ICF/IID's inpatient days during the applicable cost reporting period or the number of inpatient days the ICF/IID would have had during that period if the ICF/IID's occupancy rate had been ninety-five per cent. No ICF/IID's rate for return on net equity shall exceed one dollar per medicaid day. No ICF/IID's rate for capital costs shall include a rate for return on net equity beginning July 1, 2014.

(G) The amounts specified in divisions (B), (C) ~~and~~, (D), and (E) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation rate for the twelve-month period beginning on the first day of July of the calendar year immediately preceding the calendar year that immediately precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the ~~north-central~~ midwest region, as published by the United States bureau of labor statistics.

~~(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the providers of the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen-dollar and thirty-cent amount shall be increased by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, during the period beginning June 30, 1990, and ending July 1, 1993, and by the change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter.~~

~~(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services gives prior approval for construction of the facility. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section.~~

~~(F)~~(H) Notwithstanding divisions (C) and (D) and (F)(1) and (2) of this section, the total payment rate for cost costs of ownership, cost of ownership efficiency incentive, and capitalized costs of nonextensive renovations, and the efficiency incentive for an intermediate care facility for the mentally retarded ICF/IID with eight or fewer beds shall not exceed the sum of the limitations specified in divisions (C) and (D) of this section.

~~(G)~~ Notwithstanding any provision of this section or section 5111.241 of the Revised Code, the director of job and family services may adopt rules under section 5111.02 of the Revised Code that provide for a calculation of a combined maximum payment limit for indirect care costs and cost of ownership for intermediate care facilities for the mentally retarded with eight or fewer beds.

~~(H)~~ The department of job and family services shall pay a provider for each of the provider's eligible proprietary intermediate care facilities for the mentally retarded a return on the facility's net equity computed at the rate of one and one half times the average of interest rates on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period. No facility's return on net equity paid under this division shall exceed one dollar per patient day.

In calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety five per cent.

(I)(1) For the purpose of determining ICFs/IID's medicaid payment rates for capital costs:

(a) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department.

(b) Components and equipment shall be depreciated using the straight line method over a period designated by the director of developmental disabilities in rules adopted under section 5124.03 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department.

(2) Any rules authorized by division (I)(1) of this section that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in costs of ownership or costs of nonextensive renovations unless that part of the payment under this chapter is used to reimburse the government agency.

~~(J)~~(1) Except as provided in division ~~(H)~~(J)(2) of this section, if a provider leases or transfers an interest in ~~a facility~~ an ICF/IID to another

provider who is a related party, the related party's allowable ~~cost~~ costs of ownership shall include the lesser of the following:

(a) The annual lease expense or actual cost of ownership, whichever is applicable;

(b) The reasonable cost to the lessor or provider making the transfer.

(2) If a provider leases or transfers an interest in ~~a facility~~ an ICF/IID to another provider who is a related party, regardless of the date of the lease or transfer, the related party's allowable cost of ownership shall include the annual lease expense or actual cost of ownership, whichever is applicable, subject to the limitations specified in divisions (B) to ~~(H)(I)~~ of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) In the case of a lease, if the lessor retains any ownership interest, it is, except as provided in division ~~(H)(J)(2)(d)(ii)~~ of this section, in only the real property and any improvements on the real property;

(c) In the case of a transfer, the provider making the transfer retains, except as provided in division ~~(H)(J)(2)(d)(iv)~~ of this section, no ownership interest in the ~~facility~~ ICF/IID;

(d) The department ~~of job and family services~~ determines that the lease or transfer is an arm's length transaction pursuant to rules adopted under section ~~5111.02~~ 5124.03 of the Revised Code. The rules shall provide that a lease or transfer is an arm's length transaction if all of the following, as applicable, apply:

(i) In the case of a lease, once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division ~~(H)(J)(2)(b)~~ of this section, the ~~facility~~ ICF/IID itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) In the case of a lease, the lessor does not reacquire an interest in the ~~facility~~ ICF/IID except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the ~~facility~~ ICF/IID in this manner, the department shall treat the ~~facility~~ ICF/IID as if the lease never occurred when the department ~~calculates~~ determines its ~~reimbursement rates~~ payment rate for capital costs.

(iii) In the case of a transfer, once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the ~~facility~~ ICF/IID or the ~~facility~~ ICF/IID itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(iv) In the case of a transfer, the provider that made the transfer does not

reacquire an interest in the ~~facility~~ ICF/IID except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the ~~facility~~ ICF/IID in this manner, the department shall treat the ~~facility~~ ICF/IID as if the transfer never occurred when the department ~~calculates~~ determines its ~~reimbursement rates~~ payment rate for capital costs.

(v) The lease or transfer satisfies any other criteria specified in the rules.

(e) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor or provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same ~~facility~~ ICF/IID, allowable cost of ownership was determined most recently under this division.

~~Sec. 5111.23~~ 5124.19. (A) ~~The~~ (1) ~~For each fiscal year, the department of job and family services developmental disabilities shall pay a provider for determine each of the provider's eligible intermediate care facilities for the mentally retarded a ICF/IID's per resident per medicaid day payment rate for direct care costs established prospectively for each facility. The department shall establish each facility's rate for direct care costs quarterly as follows:~~

(a) Multiply the lesser of the following by the ICF/IID's annual average case-mix score determined or assigned under section 5124.192 of the Revised Code for the calendar year immediately preceding the fiscal year for which the rate will be paid:

(i) The ICF/IID's cost per case-mix unit for the calendar year immediately preceding the fiscal year for which the rate will be paid, as determined under division (B) of this section;

(ii) The maximum cost per case-mix unit for the ICF/IID's peer group for the fiscal year for which the rate will be paid, as set under division (C) of this section;

(b) Adjust the product determined under division (A)(1)(a) of this section by the inflation rate estimated under division (D)(1) of this section and modified under division (D)(2) of this section.

(2) Except as otherwise directed by law enacted by the general assembly, the department shall determine each ICF/IID's rate for direct care costs prospectively.

~~(B) Each facility's rate for direct care costs shall be based on the facility's cost per case-mix unit, subject to the maximum costs per case-mix unit established under division (B)(2) of this section, from the calendar year preceding the fiscal year in which the rate is paid. To determine the rate, the department shall do all of the following:~~

~~(1) Determine each facility's an ICF/IID's cost per case-mix unit for the calendar year immediately preceding the fiscal year in which the rate will be~~

paid by ~~dividing~~, the facility's department shall divide the ICF/IID's desk-reviewed, actual, allowable, per diem direct care costs for that calendar year by its annual average case-mix score determined under section ~~5111.232~~ 5124.192 of the Revised Code for the same calendar year.

~~(2)(a)~~ Set (C)(1) For each fiscal year for which a rate will be paid, the department shall set the maximum cost per case-mix unit for each peer group of ~~intermediate care facilities for the mentally retarded~~ ICFs/IID with more than eight beds ~~specified in rules adopted under division (F) of this section~~ at a percentage above the cost per case-mix unit ~~of determined under division (B) of this section for the facility ICF/IID in the peer group that has the peer group's median number of medicaid day days for the calendar year immediately preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is.~~ The percentage shall be no less than the percentage calculated under division (E)(2) of this section above the cost per case-mix unit determined under division (B) of this section for the ICF/IID that has the median number of medicaid days for calendar year 1992 for all ICFs/IID with more than eight beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid days for such ICFs/IID for calendar year 1992.

~~(b)~~ Set (2) For each fiscal year for which a rate will be paid, the department shall set the maximum cost per case-mix unit for each peer group of ~~intermediate care facilities for the mentally retarded~~ ICFs/IID with eight or fewer beds ~~specified in rules adopted under division (F) of this section~~ at a percentage above the cost per case-mix unit ~~of determined under division (B) of this section for the facility ICF/IID in the peer group that has the peer group's median number of medicaid day days for the calendar year immediately preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is.~~ The percentage shall be no less than the percentage calculated under division (E)(3) of this section above the cost per case-mix unit determined under division (B) of this section for the ICF/IID that has the median number of medicaid days for calendar year 1992 for all ICFs/IID with eight or fewer beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid days for such ICFs/IID for calendar year 1992.

~~(c)~~ (3) In ~~calculating~~ determining the maximum cost per case-mix unit under divisions ~~(B)(2)(a)~~ (C)(1) and ~~(b)~~ (2) of this section for each peer group, the department shall exclude from its ~~calculations~~ determinations the cost per case-mix unit of any ~~facility~~ ICF/IID in the peer group that

participated in the medicaid program under the same ~~operator~~ provider for less than twelve months during the calendar year immediately preceding the fiscal year in which the rate will be paid.

~~(3) Estimate~~ (4) The department shall not reset a peer group's maximum cost per case-mix unit for a fiscal year under division (C)(1) or (2) of this section based on additional information that it receives after it sets the maximum for that fiscal year. The department shall reset a peer group's maximum cost per case-mix unit for a fiscal year only if it made an error in setting the maximum for that fiscal year based on information available to the department at the time it originally sets the maximum for that fiscal year.

~~(D)(1) The department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the a rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the index specified in division (C) of this section. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (B)(3) of this section for the following fiscal year.~~

~~(4) The department shall not recalculate a maximum cost per case-mix unit under division (B)(2) of this section or a percentage under division (E) of this section based on additional information that it receives after the maximum costs per case-mix unit or percentages are set. The department shall recalculate a maximum cost per case-mix units or percentage only if it made an error in computing the maximum cost per case-mix unit or percentage based on information available at the time of the original calculation.~~

~~(C) The department shall use the following index for the purpose of division (B)(3) of this section:~~

~~(1) The (a) Subject to division (D)(1)(b) of this section, the employment cost index for total compensation, health ~~services~~ care and social assistance component, published by the United States bureau of labor statistics;~~

~~(2)(b) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(D)(1)(a) of this section, the index that is subsequently published by the bureau and covers ~~nursing facilities'~~ the staff costs of ICFs/IID.~~

~~(D) Each facility's rate for direct care costs shall be determined as follows for each calendar quarter within a fiscal year:~~

~~(1) Multiply the lesser of the following by the facility's average case-mix score determined under section 5111.232 of the Revised Code for~~

~~the calendar quarter that preceded the immediately preceding calendar quarter:~~

~~(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;~~

~~(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;~~

~~(2) Adjust the product determined under division (D)(1) of this section by the inflation rate estimated under division (B)(3) of this section.~~

~~(E)(1) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid days for such facilities for calendar year 1992.~~

~~(2) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid days for such facilities for calendar year 1992.~~

~~(F)(2) If the estimated inflation rate for the eighteen-month period specified in division (D)(1) of this section is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (D)(1) of this section for the following fiscal year.~~

~~(E) The director of job and family services developmental disabilities shall adopt rules under section ~~5111.02~~ 5124.03 of the Revised Code that specify peer groups of ~~intermediate care facilities for the mentally retarded~~ ICFs/IID with more than eight beds and ~~intermediate care facilities for the mentally retarded~~ peer groups of ICFs/IID with eight or fewer beds, based on findings of significant per diem direct care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem direct care cost differences due to other factors which may include case-mix.~~

~~(G) The department, in accordance with division (D) of section ~~5111.232~~ of the Revised Code and rules adopted under division (F) of that~~

~~section, may assign case-mix scores or costs per case-mix unit if a provider fails to submit assessment data necessary to calculate an intermediate care facility for the mentally retarded's case-mix score in accordance with that section.~~

Sec. 5124.191. Each calendar quarter, each ICF/IID provider shall compile complete assessment data for each resident of each of the provider's ICFs/IID, regardless of payment source, who is in the ICF/IID, or on hospital or therapeutic leave from the ICF/IID, on the last day of the quarter. A resident assessment instrument specified in rules adopted under section 5124.03 of the Revised Code shall be used to compile the resident assessment data. Each provider shall submit the resident assessment data to the department of developmental disabilities not later than fifteen days after the end of the calendar quarter for which the data is compiled. The resident assessment data shall be submitted to the department through the medium or media specified in rules adopted under section 5124.03 of the Revised Code.

Sec. 5124.192. (A) Except as provided in division (B) of this section, the department of developmental disabilities shall do both of the following:

(1) For each calendar quarter, determine a case-mix score for each ICF/IID using the resident assessment data submitted to the department under section 5124.191 of the Revised Code and the grouper methodology prescribed in rules authorized by this section;

(2) After the end of each calendar year and in accordance with rules authorized by this section, determine an annual average case-mix score for each ICF/IID using the ICF/IID's quarterly case-mix scores for that calendar year.

(B)(1) Subject to division (B)(2) of this section, the department, for one or more months of a calendar quarter, may assign to an ICF/IID a case-mix score that is five per cent less than the ICF/IID's case-mix score for the immediately preceding calendar quarter if any of the following apply:

(a) The provider does not timely submit complete and accurate resident assessment data necessary to determine the ICF/IID's case-mix score for the calendar quarter;

(b) The ICF/IID was subject to an exception review under section 5124.193 of the Revised Code for the immediately preceding calendar quarter;

(c) The ICF/IID was assigned a case-mix score for the immediately preceding calendar quarter.

(2) Before assigning a case-mix score to an ICF/IID due to the submission of incorrect resident assessment data, the department shall permit the provider to correct the data. The department may assign the

case-mix score if the provider fails to submit the corrected resident assessment data not later than forty-five days after the end of the calendar quarter to which the data pertains or later due date specified in rules authorized by this section.

(3) If, for more than six months during a calendar year, a provider is paid a rate determined for an ICF/IID using a case-mix score assigned to the ICF/IID under division (B)(1) of this section, the department may assign the ICF/IID a cost per case-mix unit that is five per cent less than the ICF/IID's actual or assigned cost per case-mix unit for the immediately preceding calendar year. The department may use the assigned cost per case-mix unit, instead of determining the ICF/IID's actual cost per case-mix unit in accordance with section 5124.19 of the Revised Code, to establish the ICF/IID's rate for direct care costs for the fiscal year immediately following the calendar year for which the cost per case-mix unit is assigned.

(4) The department shall take action under division (B)(1), (2), or (3) of this section only in accordance with rules authorized by this section. The department shall not take an action that affects medicaid payment rates for prior payment periods except in accordance with sections 5124.41 and 5124.42 of the Revised Code.

(C) The director of developmental disabilities shall adopt rules under section 5124.03 of the Revised Code as necessary to implement this section.

(1) The rules shall do all of the following:

(a) Prescribe a grouper methodology to be used when determining the case-mix scores for ICFs/IID;

(b) Specify the process for determining the annual average case-mix scores for ICFs/IID;

(c) Establish procedures under which resident assessment data is to be reviewed for accuracy and providers are to be notified of any data that requires correction;

(d) Establish procedures for providers to correct resident assessment data and, if necessary, specify a due date for corrections that is later than the due date specified in division (B)(2) of this section.

(e) Specify when and how the department will assign a case-mix score or cost per case-mix unit to an ICF/IID under division (B) of this section if information necessary to calculate the ICF/IID's case-mix score is not provided or corrected in accordance with the procedures established by the rules.

(2) Notwithstanding any other provision of this chapter, the rules may provide for excluding case-mix scores assigned to an ICF/IID under division (B) of this section from the determination of the ICF/IID's annual average

case-mix score and the maximum cost per case-mix unit for the ICF/IID's peer group.

Sec. 5124.193. (A) The department of developmental disabilities may, pursuant to rules authorized by this section, conduct an exception review of resident assessment data submitted by an ICF/IID provider under section 5124.191 of the Revised Code. The department may conduct an exception review based on the findings of a medicaid certification survey conducted by the department of health, a risk analysis, or prior performance of the provider.

Exception reviews shall be conducted at the ICF/IID by appropriate health professionals under contract with or employed by the department. The professionals may review resident assessment forms and supporting documentation, conduct interviews, and observe residents to identify any patterns or trends of inaccurate resident assessments and resulting inaccurate case-mix scores.

(B) If an exception review is conducted before the effective date of an ICF/IID's rate for direct care costs that is based on the resident assessment data being reviewed and the review results in findings that exceed tolerance levels specified in the rules authorized by this section, the department, in accordance with the rules authorized by this section, may use the findings to redetermine individual resident case-mix scores, the ICF/IID's case-mix score for the quarter, and the ICF/IID's annual average case-mix score. The department may use the ICF/IID's redetermined quarterly and annual average case-mix scores to determine the ICF/IID's rate for direct care costs for the appropriate calendar quarter or quarters.

(C) The department shall prepare a written summary of any exception review finding that is made after the effective date of an ICF/IID's rate for direct care costs that is based on the resident assessment data that was reviewed. Where the provider is pursuing judicial or administrative remedies in good faith regarding the finding, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5124.41 of the Revised Code.

(D)(1) The director of developmental disabilities shall adopt rules under section 5124.03 of the Revised Code as necessary to implement this section. The rules shall establish an exception review program that does all of the following:

(a) Requires each exception review to comply with Title XIX;

(b) Requires a written summary for each exception review that states whether resident assessment forms have been completed accurately;

(c) Prohibits each health professional who conducts an exception review from doing either of the following:

(i) During the period of the professional's contract or employment with the department, having or being committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of ICFs/IID in this state:

(ii) Reviewing any provider that has been a client of the professional.

(2) For the purposes of division (D)(1)(c)(i) of this section, employment of a member of a health professional's family by an ICF/IID that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the ICF/IID.

~~Sec. 5111.233~~ 5124.194. The costs of day programming shall be part of the direct care costs of an ~~intermediate care facility for the mentally retarded~~ ICF/IID as off-site day programming if the area in which the day programming is provided is not certified by the director of health as an ~~intermediate care facility for the mentally retarded~~ ICF/IID under Title XIX and regardless of either of the following:

(A) Whether or not the area in which the day programming is provided is less than two hundred feet away from the ~~intermediate care facility for the mentally retarded~~ ICF/IID;

(B) Whether or not the day programming is provided by an individual who, or organization that, is a related party to the provider of the ~~intermediate care facility for the mentally retarded~~ ICF/IID.

~~Sec. 5111.241~~ 5124.21. (A) ~~The~~ For each fiscal year, the department of job and family services developmental disabilities shall pay a provider for determine each of the provider's eligible intermediate care facilities for the mentally retarded a ICF/IID's per resident per medicaid day payment rate for indirect care costs established prospectively each fiscal year for each facility. The ~~Except as otherwise provided in this chapter, an ICF/IID's rate shall be determined prospectively. Subject to section 5124.28 of the Revised Code, an ICF/IID's rate for each intermediate care facility for the mentally retarded shall be the sum of the following, but shall not exceed lesser of the individual rate determined under division (B) of this section and the maximum rate established determined for the facility's ICF/IID's peer group under division (B)(C) of this section.~~

(B) An ICF/IID's individual rate is the sum of the following:

(1) The ~~facility's~~ ICF/IID's desk-reviewed, actual, allowable, per diem indirect care costs from the calendar year immediately preceding the fiscal year in which the rate will be paid, adjusted for the inflation rate estimated under division ~~(C)~~(D)(1) of this section;

(2) ~~Am~~ If the ICF/IID has more than eight beds, an efficiency incentive in the following amount:

(a) For fiscal years ending in even-numbered calendar years:

~~(i) In the case of intermediate care facilities for the mentally retarded with more than eight beds, year 2014,~~ seven and one-tenth per cent of the maximum rate established for the facility's ICF/IID's peer group under division (B)(C) of this section;

~~(ii) In the case of intermediate care facilities for the mentally retarded with~~ (b) For fiscal year 2015, the following amount:

(i) The amount calculated for fiscal year 2014 under division (B)(2)(a) of this section if the provider of the ICF/IID obtains the department's approval to become a downsized ICF/IID and the approval is conditioned on the downsizing being completed not later than July 1, 2018;

(ii) One-half of the amount calculated for fiscal year 2014 under division (B)(2)(a) of this section if division (B)(2)(b)(i) of this section does not apply to the ICF/IID.

(c) For fiscal year 2016 and each fiscal year thereafter ending in an even-numbered calendar year, the following percentages of the maximum rate established for the ICF/IID's peer group under division (C) of this section:

(i) Seven and one-tenth per cent if the provider of the ICF/IID obtains the department's approval to become a downsized ICF/IID and the approval is conditioned on the downsizing being completed not later than July 1, 2018;

(ii) Three and fifty-five hundredths per cent if division (B)(2)(c)(i) of this section does not apply to the ICF/IID.

(d) For fiscal year 2017 and each fiscal year thereafter ending in an odd-numbered calendar year, the amount calculated for the immediately preceding fiscal year under division (B)(2)(c) of this section.

(3) If the ICF/IID has eight or fewer beds, an efficiency incentive in the following amount:

(a) For each fiscal year ending in an even-numbered calendar year, seven per cent of the maximum rate established for the facility's ICF/IID's peer group under division (B)(C) of this section;

(b) For each fiscal years year ending in an odd-numbered calendar years year, the amount calculated for the immediately preceding fiscal year under division (A)(2)(B)(3)(a) of this section.

~~(B)(C)(1) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded ICFs/IID with more than eight beds specified in rules adopted under division (D) of this section~~

shall be determined as follows:

(a) For each fiscal ~~years~~ year ending in an even-numbered calendar ~~years~~ year, the maximum rate for each such peer group shall be the rate that is no less than twelve and four-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all ~~intermediate care facilities for the mentally retarded with more than eight beds~~ ICFs/IID in the peer group; (excluding facilities ICFs/IID in the peer group whose indirect care costs for that period are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all ~~intermediate care facilities for the mentally retarded~~ ICFs/IID with more than eight beds;) for the calendar year immediately preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division ~~(C)~~(D)(1) of this section.

(b) For each fiscal ~~years~~ year ending in an odd-numbered calendar ~~years~~ year, the maximum rate for each such peer group is the peer group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division ~~(C)~~(D)(2) of this section.

(2) The maximum rate for indirect care costs for each peer group of ~~intermediate care facilities for the mentally retarded~~ ICFs/IID with eight or fewer beds ~~specified in rules adopted under division (D) of this section~~ shall be determined as follows:

(a) For each fiscal ~~years~~ year ending in an even-numbered calendar ~~years~~ year, the maximum rate for each such peer group shall be the rate that is no less than ten and three-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all ~~intermediate care facilities for the mentally retarded with eight or fewer beds~~ ICFs/IID in the peer group; (excluding facilities ICFs/IID in the peer group whose indirect care costs are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all ~~intermediate care facilities for the mentally retarded~~ ICFs/IID with eight or fewer beds;) for the calendar year immediately preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division ~~(C)~~(D)(1) of this section.

(b) For each fiscal ~~years that end~~ year ending in an odd-numbered calendar ~~years~~ year, the maximum rate for each such peer group is the peer group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division ~~(C)~~(D)(2) of this section.

(3) The department shall not ~~recalculate~~ redetermine a maximum rate for indirect care costs under division ~~(B)~~(C)(1) or (2) of this section based on additional information that it receives after the maximum rate is set. The

department shall ~~recalculate~~ redetermine the maximum rate for indirect care costs only if it made an error in computing the maximum rate based on the information available to the department at the time of the original calculation.

~~(C)~~(D)(1) When adjusting rates for inflation under divisions ~~(A)~~(B)(1), ~~(B)~~(C)(1)(a), and ~~(B)~~(C)(2)(a) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year immediately preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid. To estimate the rate of inflation, the department shall use the following:

(a) ~~The~~ Subject to division (D)(1)(b) of this section, the consumer price index for all items for all urban consumers for the ~~north-central~~ midwest region, published by the United States bureau of labor statistics;

(b) If the United States bureau of labor statistics ceases to publish the index specified in division ~~(C)~~(D)(1)(a) of this section, a comparable index that the bureau publishes and the department determines is appropriate.

(2) When adjusting rates for inflation under divisions ~~(B)~~(C)(1)(b) and ~~(B)~~(C)(2)(b) of this section, the department shall estimate the rate of inflation for the twelve-month period beginning on the first day of January of the fiscal year immediately preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid. To estimate the rate of inflation, the department shall use the following:

(a) ~~The~~ Subject to division (D)(2)(b) of this section, the consumer price index for all items for all urban consumers for the ~~north-central~~ midwest region, published by the United States bureau of labor statistics;

(b) If the United States bureau of labor statistics ceases to publish the index specified in division ~~(C)~~(D)(2)(a) of this section, a comparable index that the bureau publishes and the department determines is appropriate.

(3) If an inflation rate estimated under division ~~(C)~~(D)(1) or (2) of this section is different from the actual inflation rate for the relevant time period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated pursuant to this division for the following fiscal year.

~~(D)~~(E) The director of ~~job and family services~~ developmental disabilities shall adopt rules under section ~~5444.02~~ 5124.03 of the Revised Code that specify peer groups of ~~intermediate care facilities for the mentally retarded~~ ICFs/IID with more than eight beds; and peer groups of ~~intermediate care facilities for the mentally retarded~~ ICFs/IID with eight or

fewer beds, based on findings of significant per diem indirect care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem indirect care cost differences due to other factors, including case-mix.

~~Sec. 5111.235~~ 5124.23. (A) ~~The~~ For each fiscal year, the department of ~~job and family services~~ developmental disabilities shall ~~pay a provider for~~ determine each of the provider's ~~eligible intermediate care facilities for the~~ mentally retarded a ICF/IID's per resident per medicaid day payment rate for other protected costs ~~established prospectively each fiscal year for each facility.~~ Except as otherwise provided in this chapter, an ICF/IID's rate shall be determined prospectively. An ICF/IID's rate for each facility shall be the facility's ICF/IID's desk-reviewed, actual, allowable, per diem other protected costs from the calendar year immediately preceding the fiscal year in which the rate will be paid, all adjusted for the estimated inflation rate for the eighteen-month period beginning on the first day of July of the calendar year immediately preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of that fiscal year. The department shall estimate inflation using the index specified in division (B) of this section. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, the difference shall be added to or subtracted from the inflation rate estimated for the following year.

(B) The department shall use the following index for the purpose of division (A) of this section:

(1) ~~The~~ Subject to division (B)(2) of this section, the consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics;

(2) If the United States bureau of labor statistics ceases to publish the index specified in division (B)(1) of this section, the index that is subsequently published by the bureau and covers nonprescription drugs and medical supplies.

Sec. 5124.25. (A) Subject to division (D) of this section, the department of developmental disabilities may pay a medicaid rate add-on to an ICF/IID provider for outlier ICF/IID services the ICF/IID provides to qualifying ventilator-dependent residents on or after the effective date of this section, if the provider applies to the department of developmental disabilities to receive the rate add-on and the department approves the application. The department of developmental disabilities may approve a provider's application if both of the following apply:

(1) The provider submits to the department of developmental disabilities

a best practices protocol for providing outlier ICF/IID services under this section and the department of developmental disabilities determines that the protocol is acceptable;

(2) The provider and ICF/IID meet all other eligibility requirements for the rate add-on established in rules authorized by this section.

(B) An ICF/IID that has been approved by the department of developmental disabilities to provider outlier ICF/IID services under this section shall provide the services in accordance with both of the following:

(1) The best practices protocol the department of developmental disabilities determined is acceptable;

(2) Requirements regarding the services established in rules authorized by this section.

(C) To qualify to receive outlier ICF/IID services from an ICF/IID under this section, a resident of the ICF/IID must be a medicaid recipient, be under twenty-two years of age, be dependent on a ventilator, and meet all other eligibility requirements established in rules authorized by this section.

(D) The department of developmental disabilities shall negotiate the amount of the medicaid payment rate add-on, if any, to be paid under this section, or the method by which that amount is to be determined, with the department of medicaid. The department of developmental disabilities shall not pay the rate add-on unless the department of medicaid has approved the amount of the rate add-on or method by which the amount is to be determined.

Sec. 5124.28. Notwithstanding any provision of section 5124.17 or 5124.21 of the Revised Code, the director of developmental disabilities may adopt rules under section 5124.03 of the Revised Code that provide for the determination of a combined maximum payment limit for indirect care costs and costs of ownership for ICFs/IID with eight or fewer beds.

~~Sec. 5111.263~~ 5124.29. Except as otherwise provided in section ~~5111.264~~ 5124.30 of the Revised Code, the department of ~~job and family services~~ developmental disabilities, in determining whether an ~~intermediate care facility for the mentally retarded's~~ ICF/IID's direct care costs and indirect care costs are allowable, shall place no limit on specific categories of reasonable costs other than compensation of owners, compensation of relatives of owners, and compensation of administrators.

Compensation cost limits for owners and relatives of owners shall be based on compensation costs for individuals who hold comparable positions but who are not owners or relatives of owners, as reported on ~~facility~~ ICFs/IID's cost reports. As used in this section, "comparable position" means the position that is held by the owner or the owner's relative, if that

position is listed separately on the cost report form, or if the position is not listed separately, the group of positions that is listed on the cost report form and that includes the position held by the owner or the owner's relative. In the case of an owner or owner's relative who serves the ~~facility~~ ICFs/IID in a capacity such as corporate officer, proprietor, or partner for which no comparable position or group of positions is listed on the cost report form, the compensation cost limit shall be based on civil service equivalents and shall be specified in rules adopted under section ~~5111.02~~ 5124.03 of the Revised Code.

Compensation cost limits for administrators shall be based on compensation costs for administrators who are not owners or relatives of owners, as reported on ~~facility~~ ICFs/IID's cost reports. Compensation cost limits for administrators of four or more ~~intermediate care facilities for the mentally retarded~~ ICFs/IID shall be the same as the limits for administrators of ~~intermediate care facilities for the mentally retarded~~ ICFs/IID with one hundred fifty or more beds.

Sec. 5124.30. Except as provided in section 5124.17 of the Revised Code, the costs of goods, services, and facilities, furnished to an ICF/IID provider by a related party are includable in the allowable costs of the provider at the reasonable cost to the related party.

Sec. 5124.31. The department of developmental disabilities shall adjust medicaid payment rates determined under this chapter to account for reasonable additional costs that must be incurred by ICFs/IID to comply with requirements of federal or state statutes, rules, or policies enacted or amended after January 1, 1992, or with orders issued by state or local fire authorities.

Sec. 5124.32. The department of developmental disabilities shall not reduce an ICF/IID's medicaid payment rate determined under this chapter on the basis that the provider charges a lower rate to any resident who is not eligible for medicaid.

Sec. 5124.33. No medicaid payment shall be made to an ICF/IID provider for the day a medicaid recipient is discharged from the ICF/IID.

Sec. ~~5111.33~~ 5124.34. Reimbursement to a (A) The department of developmental disabilities shall pay an ICF/IID provider of an intermediate care facility for the mentally retarded under sections 5111.20 to 5111.331 of the Revised Code shall include payments to the provider, at a rate equal to the percentage one hundred per cent of the per resident total per medicaid day rates that the department of job and family services has established payment rate determined for the provider's facility ICF/IID under sections 5111.20 to 5111.331 of the Revised Code for the fiscal year for which the

~~cost of services is reimbursed, this chapter~~ to reserve a bed for a resident who is a medicaid recipient during a temporary absence under conditions prescribed by the department, to include hospitalization for an acute condition, visits with relatives and friends, and participation in therapeutic programs outside the facility, when the if all of the following apply:

(1) The recipient is temporarily absent from the ICF/IID for a reason that makes the absence qualified for payments under this section as specified in rules authorized by this section;

(2) The resident's plan of care provides for such the absence and federal;

(3) Federal financial participation in the payments is available for the payments. The

(B) The maximum period during which medicaid payments may be made to reserve a bed shall not exceed the maximum period specified under in federal regulations; and shall not be more than thirty days during any calendar year for hospital stays, visits with relatives and friends, and participation in therapeutic programs.

Recipients programs. However, a resident shall not be subject to a maximum period during which payments may be made to reserve a bed in an intermediate care facility for the mentally retarded if prior authorization of the department is obtained for hospital stays, visits with relatives and friends, and participation in therapeutic programs. The

(C)(1) The director of job and family services developmental disabilities shall adopt rules under section 5111.02 5124.03 of the Revised Code establishing as necessary to implement this section, including rules that do the following:

(a) Specify the reasons for which a temporary absence from an ICF/IID makes the absence qualify for payments under this section;

(b) Establish conditions under which prior authorization may be obtained for the purpose of division (B) of this section.

(2) The rules authorized by division (C)(1)(a) of this section shall include the following as reasons for which a temporary absence from an ICF/IID qualifies for payments under this section:

(a) Hospitalization for acute conditions;

(b) Visits with relatives and friends;

(c) Participation in therapeutic programs outside the ICF/IID.

Sec. 5124.35. Medicaid payments may be made for ICF/IID services provided not later than thirty days after the effective date of an involuntary termination of the ICF/IID that provides the services if the services are provided to a medicaid recipient who is eligible for the services and resided in the ICF/IID before the effective date of the involuntary termination.

Sec. 5124.37. The department of developmental disabilities shall make its best efforts each year to determine ICFs/IID's medicaid payment rates under this chapter in time to pay the rates by August fifteenth of each fiscal year. If the department is unable to calculate the rates so that they can be paid by that date, the department shall pay each provider the rate calculated for the provider's ICFs/IID under those sections at the end of the previous fiscal year. If the department also is unable to calculate the rates to make the payments due by the fifteenth day of September and the fifteenth day of October, the department shall pay the previous fiscal year's rate to make those payments. The department may increase by five per cent the previous fiscal year's rate paid for any ICF/IID pursuant to this section at the request of the provider. The department shall use rates calculated for the current fiscal year to make the payments due by the fifteenth day of November.

If an ICF/IID's medicaid payment rate paid under this section is lower than the rate calculated for it for the current fiscal year, the department shall pay the provider the difference between the two rates for the number of days for which the provider is paid the lower rate. If an ICF/IID's medicaid payment rate paid under this section is higher than the rate calculated for it for the current fiscal year, the provider shall refund to the department the difference between the two rates for the number of days for which the provider is paid the higher rate.

Sec. 5124.38. (A) The director of developmental disabilities shall establish a process under which an ICF/IID provider, or a group or association of ICF/IID providers, may seek reconsideration of medicaid payment rates established under this chapter, including a rate for direct care costs redetermined before the effective date of the rate as a result of an exception review conducted under section 5124.193 of the Revised Code. Except as provided in divisions (B) to (D) of this section, the only issue that a provider, group, or association may raise in the rate reconsideration is whether the rate was calculated in accordance with this chapter and the rules adopted under section 5124.03 of the Revised Code. The provider, group, or association may submit written arguments or other materials that support its position. The provider, group, or association and department shall take actions regarding the rate reconsideration within time frames specified in rules authorized by this section.

If the department determines, as a result of the rate reconsideration, that the rate established for one or more ICFs/IID is less than the rate to which the ICF/IID is entitled, the department shall increase the rate. If the department has paid the incorrect rate for a period of time, the department shall pay the provider of the ICF/IID the difference between the amount the

provider was paid for that period for the ICF/IID and the amount the provider should have been paid for the ICF/IID.

(B)(1) The department, through the rate reconsideration process, may increase during a fiscal year the medicaid payment rate determined for an ICF/IID under this chapter if the provider demonstrates that the ICF/IID's actual, allowable costs have increased because of any of the following extreme circumstances:

(a) A natural disaster;

(b) A nonextensive renovation approved under division (D) of section 5124.17 of the Revised Code;

(c) If the ICF/IID has an appropriate claims management program, an increase in the ICF/IID's workers' compensation experience rating of greater than five per cent;

(d) If the ICF/IID is an inner-city ICF/IID, increased security costs;

(e) A change of ownership that results from bankruptcy, foreclosure, or findings by the department of health of violations of medicaid certification requirements;

(f) Other extreme circumstances specified in rules authorized by this section.

(2) An ICF/IID may qualify for a rate increase under this division only if its per diem, actual, allowable costs have increased to a level that exceeds its total rate. An increase under this division is subject to any rate limitations or maximum rates established by this chapter for specific cost centers. Any rate increase granted under this division shall take effect on the first day of the first month after the department receives the request.

(C) The department, through the rate reconsideration process, may increase an ICF/IID's rate as determined under this chapter if the department, in the department's sole discretion, determines that the rate as determined under those sections works an extreme hardship on the ICF/IID.

(D) When beds certified for the medicaid program are added to an existing ICF/IID or replaced at the same site, the department, through the rate reconsideration process, may increase the ICF/IID's rate for capital costs proportionately, as limited by any applicable limitation under section 5124.17 of the Revised Code, to account for the costs of the beds that are added or replaced. If the department makes this increase, it shall make the increase one month after the first day of the month after the department receives sufficient documentation of the costs. Any rate increase granted under this division after June 30, 1993, shall remain in effect until the effective date of a rate for capital costs determined under section 5124.17 of the Revised Code that includes costs incurred for a full calendar year for the

bed addition or bed replacement. The ICF/IID shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which a rate adjustment is granted under this division, if the ICF/IID is operated by the same provider, the provider shall subtract from the interest costs it reports on its cost report an amount equal to the difference between the following:

(1) The actual, allowable interest costs for the loan during the calendar year for which the costs are being reported;

(2) The actual, allowable interest costs attributable to the loan that were used to calculate the rates paid to the provider for the ICF/IID during the same calendar year.

(E) The department's decision at the conclusion of the reconsideration process is not subject to any administrative proceedings under Chapter 119, or any other provision of the Revised Code.

(F) The director of developmental disabilities shall adopt rules under section 5124.03 of the Revised Code as necessary to implement this section.

Sec. 5124.40. If an ICF/IID provider properly amends a cost report for an ICF/IID under section 5124.107 of the Revised Code and the amended report shows that the provider received a lower medicaid payment rate under the original cost report than the provider was entitled to receive, the department of developmental disabilities shall adjust the provider's rate for the ICF/IID prospectively to reflect the corrected information. The department shall pay the adjusted rate beginning two months after the first day of the month after the provider files the amended cost report.

If the department finds, from an exception review of resident assessment data conducted pursuant to section 5124.193 of the Revised Code after the effective date of an ICF/IID's rate for direct care costs that is based on the resident assessment data, that inaccurate resident assessment data resulted in the provider receiving a lower rate for the ICF/IID than the provider was entitled to receive, the department prospectively shall adjust the provider's rate for the ICF/IID accordingly. The department shall make payments to the provider using the adjusted rate for the remainder of the calendar quarter for which the resident assessment data is used to determine the rate, beginning one month after the first day of the month after the exception review is completed.

Sec. 5124.41. (A) The department of developmental disabilities shall redetermine a provider's medicaid payment rate for an ICF/IID using revised information if any of the following results in a determination that the provider received a higher medicaid payment rate for the ICF/IID than the

provider was entitled to receive:

(1) The provider properly amends a cost report for the ICF/IID under section 5124.107 of the Revised Code;

(2) The department makes a finding based on an audit under section 5124.109 of the Revised Code;

(3) The department makes a finding based on an exception review of resident assessment data conducted under section 5124.193 of the Revised Code after the effective date of the ICF/IID's rate for direct care costs that is based on the resident assessment data.

(B) The department shall apply the redetermined rate to the periods when the provider received the incorrect rate to determine the amount of the overpayment. The provider shall refund the amount of the overpayment. The department may charge the provider the following amount of interest from the time the overpayment was made:

(1) If the overpayment resulted from costs reported for calendar year 1993, the interest shall be not greater than one and one-half times the current average bank prime rate.

(2) If the overpayment resulted from costs reported for a subsequent calendar year:

(a) The interest shall be not greater than two times the current average bank prime rate if the overpayment was not more than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to determine a rate.

(b) The interest shall be not greater than two and one-half times the current average bank prime rate if the overpayment was more than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to determine a rate.

Sec. 5124.42. In addition to the other penalties authorized by this chapter, the department of developmental disabilities may impose the following penalties on an ICF/IID provider:

(A) If the provider does not furnish invoices or other documentation that the department requests during an audit within sixty days after the request, a fine of not more than the greater of the following:

(1) One thousand dollars per audit;

(2) Twenty-five per cent of the cumulative amount by which the costs for which documentation was not furnished increased the total medicaid payments to the provider during the fiscal year for which the costs were used to determine a rate.

(B) If an exiting operator or owner fails to provide notice of a facility closure or voluntary termination as required by section 5124.50 of the

Revised Code, or an exiting operator or owner and entering operator fail to provide notice of a change of operator as required by section 5124.51 of the Revised Code, a fine of not more than the current average bank prime rate plus four per cent of the last two monthly payments.

Sec. 5124.43. For the purposes of sections 5124.41 and 5124.42 of the Revised Code, the department of developmental disabilities shall determine the current average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, or any successor publication. If statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the department shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.

Sec. 5124.44. (A) Except as provided in division (B) of this section, the department of developmental disabilities shall deduct the following from the next available medicaid payment the department makes to an ICF/IID provider who continues to participate in medicaid:

(1) Any amount the provider is required to refund, and any interest charged, under section 5124.41 of the Revised Code;

(2) The amount of any penalty imposed on the provider under section 5124.42 of the Revised Code.

(B) The department and an ICF/IID provider may enter into an agreement under which a deduction required by division (A) of this section is taken in installments from payments the department makes to the provider.

Sec. 5124.45. The department of developmental disabilities shall transmit to the treasurer of state for deposit in the general revenue fund amounts collected from the following:

(A) Refunds required by, and interest charged under, section 5124.41 of the Revised Code;

(B) Amounts collected from penalties imposed under section 5124.42 of the Revised Code.

Sec. 5124.46. All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(A) Any audit disallowance that the department of developmental disabilities makes as the result of an audit under section 5124.109 of the Revised Code;

(B) Any adverse finding that results from an exception review of resident assessment data conducted for an ICF/IID under section 5124.193 of the Revised Code after the effective date of the ICF/IID's medicaid payment rate for direct care costs that is based on the resident assessment

data:

(C) Any medicaid payment deemed an overpayment under section 5124.523 of the Revised Code;

(D) Any penalty the department imposes under section 5124.42 of the Revised Code or section 5124.523 of the Revised Code.

Sec. 5124.50. An exiting operator or owner of an ICF/IID participating in the medicaid program shall provide the department of developmental disabilities and department of medicaid written notice of a facility closure or voluntary termination not less than ninety days before the effective date of the facility closure or voluntary termination. The written notice shall be provided to the department of developmental disabilities and department of medicaid in accordance with the method specified in rules authorized by section 5124.53 of the Revised Code.

The written notice shall include all of the following:

(A) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(B) The name of the ICF/IID that is the subject of the written notice;

(C) The exiting operator's medicaid provider agreement number for the ICF/IID that is the subject of the written notice;

(D) The effective date of the facility closure or voluntary termination;

(E) The signature of the exiting operator's or owner's representative.

Sec. 5124.51. (A) An exiting operator or owner and entering operator shall provide the department of developmental disabilities and department of medicaid written notice of a change of operator if the ICF/IID participates in the medicaid program and the entering operator seeks to continue the ICF/IID's participation. The written notice shall be provided to the department of developmental disabilities and department of medicaid in accordance with the method specified in rules authorized by section 5124.53 of the Revised Code. The written notice shall be provided to the department of developmental disabilities and department of medicaid not later than forty-five days before the effective date of the change of operator if the change of operator does not entail the relocation of residents. The written notice shall be provided to the department of developmental disabilities and department of medicaid not later than ninety days before the effective date of the change of operator if the change of operator entails the relocation of residents.

The written notice shall include all of the following:

(1) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(2) The name of the ICF/IID that is the subject of the change of

operator:

(3) The exiting operator's seven-digit medicaid legacy number and ten-digit national provider identifier number for the ICF/IID that is the subject of the change of operator;

(4) The name of the entering operator;

(5) The effective date of the change of operator;

(6) The manner in which the entering operator becomes the ICF/IID's operator, including through sale, lease, merger, or other action;

(7) If the manner in which the entering operator becomes the ICF/IID's operator involves more than one step, a description of each step;

(8) Written authorization from the exiting operator or owner and entering operator for the department of medicaid to process a provider agreement for the entering operator;

(9) The names and addresses of the persons to whom the department of developmental disabilities and department of medicaid should send initial correspondence regarding the change of operator;

(10) The signature of the exiting operator's or owner's representative.

(B) An exiting operator or owner and entering operator immediately shall provide the department of developmental disabilities and department of medicaid notice of any changes to information included in a written notice of a change of operator that occur after that notice is provided to the department of developmental disabilities and department of medicaid. The notice of the changes shall be provided to the department of developmental disabilities and department of medicaid in accordance with the method specified in rules authorized by section 5124.53 of the Revised Code.

Sec. 5124.511. The department of medicaid may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the effective date of the change of operator if all of the following requirements are met:

(A) The department receives a properly completed written notice required by section 5124.51 of the Revised Code on or before the date required by that section.

(B) The department receives both of the following in accordance with the method specified in rules authorized by section 5124.53 of the Revised Code and not later than ten days after the effective date of the change of operator:

(1) From the entering operator, a completed application for a provider agreement and all other forms and documents specified in rules authorized by section 5124.53 of the Revised Code;

(2) From the exiting operator or owner, all forms and documents

specified in rules authorized by section 5124.53 of the Revised Code.

(C) The entering operator is eligible to enter into a provider agreement for the ICF/IID as provided in section 5124.06 of the Revised Code.

Sec. 5124.512. (A) The department of medicaid may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the date determined under division (B) of this section if all of the following are the case:

(1) The department receives a properly completed written notice required by section 5124.51 of the Revised Code.

(2) The department receives, from the entering operator and in accordance with the method specified in rules authorized by section 5124.53 of the Revised Code, a completed application for a provider agreement and all other forms and documents specified in rules adopted under that section.

(3) The department receives, from the exiting operator or owner and in accordance with the method specified in rules authorized by section 5124.53 of the Revised Code, all forms and documents specified in rules adopted under that section.

(4) One or more of the following apply:

(a) The requirement of division (A)(1) of this section is met after the time required by section 5124.51 of the Revised Code;

(b) The requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator;

(c) The requirement of division (A)(3) of this section is met more than ten days after the effective date of the change of operator.

(5) The entering operator is eligible to enter into a provider agreement for the ICF/IID as provided in section 5124.06 of the Revised Code.

(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows:

(1) The effective date shall give the department sufficient time to process the change of operator and give the department sufficient time to assure no duplicate payments are made and make the withholding required by section 5124.521 of the Revised Code.

(2) The effective date shall be not earlier than the latest of the following:

(a) The effective date of the change of operator;

(b) The date that the entering operator complies with section 5124.51 of the Revised Code and division (A)(2) of this section;

(c) The date that the exiting operator or owner complies with section 5124.51 of the Revised Code and division (A)(3) of this section.

(3) The effective date shall be not later than the following after the later of the dates specified in division (B)(2) of this section:

(a) Forty-five days if the change of operator does not entail the relocation of residents;

(b) Ninety days if the change of operator entails the relocation of residents.

Sec. 5124.513. A provider that enters into a provider agreement with the department of medicaid under section 5124.511 or 5124.512 of the Revised Code shall do all of the following:

(A) Comply with all applicable federal statutes and regulations;

(B) Comply with section 5124.07 of the Revised Code and all other applicable state statutes and rules;

(C) Comply with all the terms and conditions of the exiting operator's provider agreement, including all of the following:

(1) Any plan of correction;

(2) Compliance with health and safety standards;

(3) Compliance with the ownership and financial interest disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;

(4) Compliance with the civil rights requirements of 45 C.F.R. parts 80, 84, and 90;

(5) Compliance with additional requirements imposed by the department;

(6) Any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies.

Sec. 5124.514. In the case of a change of operator, the exiting operator shall be considered to be the operator of the ICF/IID for purposes of the medicaid program, including medicaid payments, until the effective date of the entering operator's provider agreement if the provider agreement is entered into under section 5124.511 or 5124.512 of the Revised Code.

Sec. 5124.515. The department of medicaid may enter into a provider agreement as provided in section 5124.07 of the Revised Code, rather than section 5124.511 or 5124.512 of the Revised Code, with an entering operator if the entering operator does not agree to a provider agreement that satisfies the requirements of division (C) of section 5124.513 of the Revised Code. The department may not enter into the provider agreement unless the department of health certifies the ICF/IID under Title XIX. The effective date of the provider agreement shall not precede any of the following:

(A) The date that the department of health certifies the ICF/IID;

(B) The effective date of the change of operator;

(C) The date the requirement of section 5124.51 of the Revised Code is

satisfied.

Sec. 5124.516. The director of developmental disabilities may adopt rules under section 5124.03 of the Revised Code governing adjustments to the medicaid reimbursement rate for an ICF/IID that undergoes a change of operator. No rate adjustment resulting from a change of operator shall be effective before the effective date of the entering operator's provider agreement. This is the case regardless of whether the provider agreement is entered into under section 5124.511, section 5124.512, or, pursuant to section 5124.515, section 5124.07 of the Revised Code.

Sec. 5124.517. The department of developmental disabilities' determination that a change of operator has or has not occurred for purposes of licensure under section 5123.19 of the Revised Code shall not affect either of the following:

(A) A determination by the department of developmental disabilities or department of medicaid of whether or when a change of operator occurs;

(B) The department of medicaid's determination of the effective date of an entering operator's provider agreement under section 5124.511, section 5124.512, or, pursuant to section 5124.515, section 5124.07 of the Revised Code.

Sec. 5124.52. (A) On receipt of a written notice under section 5124.50 of the Revised Code of a facility closure or voluntary termination, on receipt of a written notice under section 5124.51 of the Revised Code of a change of operator, or on the effective date of an involuntary termination, the department of developmental disabilities shall estimate the amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program, including a franchise permit fee.

(B) In estimating the exiting operator's other actual and potential debts to the department and the United States centers for medicare and medicaid services under the medicaid program, the department shall use a debt estimation methodology the director of developmental disabilities shall establish in rules authorized by section 5124.53 of the Revised Code. The methodology shall provide for estimating all of the following that the department determines are applicable:

(1) Refunds due the department under section 5124.41 of the Revised Code;

(2) Interest owed to the department and United States centers for medicare and medicaid services;

(3) Final civil monetary and other penalties for which all right of appeal has been exhausted;

(4) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program;

(5) Other amounts the department determines are applicable.

(C) The department shall provide the exiting operator written notice of the department's estimate under division (A) of this section not later than thirty days after the department receives the notice under section 5124.50 of the Revised Code of the facility closure or voluntary termination; the department receives the notice under section 5124.51 of the Revised Code of the change of operator; or the effective date of the involuntary termination. The department's written notice shall include the basis for the estimate.

Sec. 5124.521. (A) Except as provided in divisions (B), (C), and (D) of this section, the department of developmental disabilities may withhold from payment due an exiting operator under the medicaid program the total amount specified in the notice provided under division (C) of section 5124.52 of the Revised Code that the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program.

(B) In the case of a change of operator and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or entering operator or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section:

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5124.525 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (B)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5124.52 of the Revised Code and the amount for which the exiting operator, entering operator, or affiliated operator assumes liability.

(C) In the case of a voluntary termination or facility closure and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section:

(1) If the exiting operator or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5124.525 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator or affiliated operator assumes liability for only the portion of the amount specified in division (C)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5124.52 of the Revised Code and the amount for which the exiting operator or affiliated operator assumes liability.

(D) In the case of an involuntary termination and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator, the entering operator, or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section and the department approves the successor liability agreement:

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5124.525 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (D)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5124.52 of the Revised Code and the amount for which the exiting operator, entering operator, or affiliated operator assumes liability.

(E) For an exiting operator or affiliated operator to be eligible to enter into a successor liability agreement under division (B), (C), or (D) of this section, both of the following must apply:

(1) The exiting operator or affiliated operator must have one or more

valid provider agreements, other than the provider agreement for the ICF/IID that is the subject of the involuntary termination, voluntary termination, facility closure, or change of operator;

(2) During the twelve-month period preceding either the effective date of the involuntary termination or the month in which the department receives the notice of the voluntary termination or facility closure under section 5124.50 of the Revised Code or the notice of the change of operator under section 5124.51 of the Revised Code, the average monthly medicaid payment made to the exiting operator or affiliated operator pursuant to the exiting operator's or affiliated operator's one or more provider agreements, other than the provider agreement for the ICF/IID that is the subject of the involuntary termination, voluntary termination, facility closure, or change of operator, must equal at least ninety per cent of the sum of the following:

(a) The average monthly medicaid payment made to the exiting operator pursuant to the exiting operator's provider agreement for the ICF/IID that is the subject of the involuntary termination, voluntary termination, facility closure, or change of operator;

(b) Whichever of the following apply:

(i) If the exiting operator or affiliated operator has assumed liability under one or more other successor liability agreements, the total amount for which the exiting operator or affiliated operator has assumed liability under the other successor liability agreements;

(ii) If the exiting operator or affiliated operator has not assumed liability under any other successor liability agreements, zero.

(F) A successor liability agreement executed under this section must comply with all of the following:

(1) It must provide for the operator who executes the successor liability agreement to assume liability for either of the following as specified in the agreement:

(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5124.525 of the Revised Code;

(b) The portion of the amount specified in division (F)(1)(a) of this section that represents the franchise permit fee the exiting operator owes.

(2) It may not require the operator who executes the successor liability agreement to furnish a surety bond.

(3) It must provide that the department, after determining under section 5124.525 of the Revised Code the actual amount of debt the exiting operator owes the department and United States centers for medicare and medicaid

services under the medicaid program, may deduct the lesser of the following from medicaid payments made to the operator who executes the successor liability agreement:

(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5124.525 of the Revised Code;

(b) The amount for which the operator who executes the successor liability agreement assumes liability under the agreement.

(4) It must provide that the deductions authorized by division (F)(3) of this section are to be made for a number of months, not to exceed six, agreed to by the operator who executes the successor liability agreement and the department or, if the operator who executes the successor liability agreement and department cannot agree on a number of months that is less than six, a greater number of months determined by the attorney general pursuant to a claims collection process authorized by statute of this state.

(5) It must provide that, if the attorney general determines the number of months for which the deductions authorized by division (F)(3) of this section are to be made, the operator who executes the successor liability agreement shall pay, in addition to the amount collected pursuant to the attorney general's claims collection process, the part of the amount so collected that, if not for division (H) of this section, would be required by section 109.081 of the Revised Code to be paid into the attorney general claims fund.

(G) Execution of a successor liability agreement does not waive an exiting operator's right to contest the amount specified in the notice the department provides the exiting operator under division (C) of section 5124.52 of the Revised Code.

(H) Notwithstanding section 109.081 of the Revised Code, the entire amount that the attorney general, whether by employees or agents of the attorney general or by special counsel appointed pursuant to section 109.08 of the Revised Code, collects under a successor liability agreement, other than the additional amount the operator who executes the agreement is required by division (F)(5) of this section to pay, shall be paid to the department of developmental disabilities for deposit into the appropriate fund. The additional amount that the operator is required to pay shall be paid into the state treasury to the credit of the attorney general claims fund created under section 109.081 of the Revised Code.

Sec. 5124.522. (A) Except as provided in division (B) of this section, an exiting operator shall file with the department of developmental disabilities

a cost report not later than ninety days after the last day the exiting operator's provider agreement is in effect. The cost report shall cover the period that begins with the day after the last day covered by the operator's most recent previous cost report filed under section 5124.10 or 5124.101 of the Revised Code and ends on the last day the exiting operator's provider agreement is in effect. The cost report shall include, as applicable, all of the following:

(1) The sale price of the ICF/IID;

(2) A final depreciation schedule that shows which assets are transferred to the buyer and which assets are not transferred to the buyer;

(3) Any other information the department requires.

(B) The department, at its sole discretion, may waive the requirement that an exiting operator file a cost report in accordance with division (A) of this section.

Sec. 5124.523. If an exiting operator required by section 5124.522 of the Revised Code to file a cost report with the department of developmental disabilities fails to file the cost report in accordance with that section, all payments under the medicaid program for the period the cost report is required to cover are deemed overpayments until the date the department receives the properly completed cost report. The department may impose on the exiting operator a penalty of one hundred dollars for each calendar day the properly completed cost report is late.

Sec. 5124.524. The department of developmental disabilities may not provide an exiting operator final payment under the medicaid program until the department receives all properly completed cost reports the exiting operator is required to file under sections 5124.10 and 5124.522 of the Revised Code.

Sec. 5124.525. The department of developmental disabilities shall determine the actual amount of debt an exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program by completing all final fiscal audits not already completed and performing all other appropriate actions the department determines to be necessary. The department shall issue an initial debt summary report on this matter not later than sixty days after the date the exiting operator files the properly completed cost report required by section 5124.522 of the Revised Code with the department or, if the department waives the cost report requirement for the exiting operator, sixty days after the date the department waives the cost report requirement. The initial debt summary report becomes the final debt summary report thirty-one days after the department issues the initial debt summary report unless the exiting

operator, or an affiliated operator who executes a successor liability agreement under section 5124.521 of the Revised Code, requests a review before that date.

The exiting operator, and an affiliated operator who executes a successor liability agreement under section 5124.521 of the Revised Code, may request a review to contest any of the department's findings included in the initial debt summary report. The request for the review must be submitted to the department not later than thirty days after the date the department issues the initial debt summary report. The department shall conduct the review on receipt of a timely request and issue a revised debt summary report. If the department has withheld money from payment due the exiting operator under division (A) of section 5124.521 of the Revised Code, the department shall issue the revised debt summary report not later than ninety days after the date the department receives the timely request for the review unless the department and exiting operator or affiliated operator agree to a later date. The exiting operator or affiliated operator may submit information to the department explaining what the operator contests before and during the review, including documentation of the amount of any debt the department owes the operator. The exiting operator or affiliated operator may submit additional information to the department not later than thirty days after the department issues the revised debt summary report. The revised debt summary report becomes the final debt summary report thirty-one days after the department issues the revised debt summary report unless the exiting operator or affiliated operator timely submits additional information to the department. If the exiting operator or affiliated operator timely submits additional information to the department, the department shall consider the additional information and issue a final debt summary report not later than sixty days after the department issues the revised debt summary report unless the department and exiting operator or affiliated operator agree to a later date.

Each debt summary report the department issues under this section shall include the department's findings and the amount of debt the department determines the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program. The department shall explain its findings and determination in each debt summary report.

The exiting operator, and an affiliated operator who executes a successor liability agreement under section 5124.521 of the Revised Code, may request, in accordance with Chapter 119. of the Revised Code, an adjudication regarding a finding in a final debt summary report that pertains

to an audit or alleged overpayment made under the medicaid program to the exiting operator. The adjudication shall be consolidated with any other uncompleted adjudication that concerns a matter addressed in the final debt summary report.

Sec. 5124.526. The department of developmental disabilities shall release the actual amount withheld under division (A) of section 5124.521 of the Revised Code, less any amount the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program, as follows:

(A) Unless the department issues the initial debt summary report required by section 5124.525 of the Revised Code not later than sixty days after the date the exiting operator files the properly completed cost report required by section 5124.522 of the Revised Code, sixty-one days after the date the exiting operator files the properly completed cost report;

(B) If the department issues the initial debt summary report required by section 5124.525 of the Revised Code not later than sixty days after the date the exiting operator files a properly completed cost report required by section 5124.522 of the Revised Code, not later than the following:

(1) Thirty days after the deadline for requesting an adjudication under section 5124.525 of the Revised Code regarding the final debt summary report if the exiting operator, and an affiliated operator who executes a successor liability agreement under section 5124.521 of the Revised Code, fail to request the adjudication on or before the deadline;

(2) Thirty days after the completion of an adjudication of the final debt summary report if the exiting operator, or an affiliated operator who executes a successor liability agreement under section 5124.521 of the Revised Code, requests the adjudication on or before the deadline for requesting the adjudication.

(C) Unless the department issues the initial debt summary report required by section 5124.525 of the Revised Code not later than sixty days after the date the department waives the cost report requirement of section 5124.522 of the Revised Code, sixty-one days after the date the department waives the cost report requirement;

(D) If the department issues the initial debt summary report required by section 5124.525 of the Revised Code not later than sixty days after the date the department waives the cost report requirement of section 5124.522 of the Revised Code, not later than the following:

(1) Thirty days after the deadline for requesting an adjudication under section 5124.525 of the Revised Code regarding the final debt summary report if the exiting operator, and an affiliated operator who executes a

successor liability agreement under section 5124.521 of the Revised Code, fail to request the adjudication on or before the deadline;

(2) Thirty days after the completion of an adjudication of the final debt summary report if the exiting operator, or an affiliated operator who executes a successor liability agreement under section 5124.521 of the Revised Code, requests the adjudication on or before the deadline for requesting the adjudication.

Sec. 5124.527. The department of developmental disabilities, at its sole discretion, may release the amount withheld under division (A) of section 5124.521 of the Revised Code if the exiting operator submits to the department written notice of a postponement of a change of operator, facility closure, or voluntary termination and the transactions leading to the change of operator, facility closure, or voluntary termination are postponed for at least thirty days but less than ninety days after the date originally proposed for the change of operator, facility closure, or voluntary termination as reported in the written notice required by section 5124.50 or 5124.51 of the Revised Code. The department shall release the amount withheld if the exiting operator submits to the department written notice of a cancellation or postponement of a change of operator, facility closure, or voluntary termination and the transactions leading to the change of operator, facility closure, or voluntary termination are canceled or postponed for more than ninety days after the date originally proposed for the change of operator, facility closure, or voluntary termination as reported in the written notice required by section 5124.50 or 5124.51 of the Revised Code. A written notice shall be provided to the department in accordance with the method specified in rules authorized by section 5124.53 of the Revised Code.

After the department receives a written notice regarding a cancellation or postponement of a facility closure or voluntary termination, the exiting operator or owner shall provide new written notice to the department under section 5124.50 of the Revised Code regarding any transactions leading to a facility closure or voluntary termination at a future time. After the department receives a written notice regarding a cancellation or postponement of a change of operator, the exiting operator or owner and entering operator shall provide new written notice to the department under section 5124.51 of the Revised Code regarding any transactions leading to a change of operator at a future time.

Sec. 5124.528. (A) All amounts withheld under section 5124.521 of the Revised Code from payment due an exiting operator under the medicaid program shall be deposited into the medicaid payment withholding fund

created by the controlling board pursuant to section 131.35 of the Revised Code. Money in the fund shall be used as follows:

(1) To pay an exiting operator when a withholding is released to the exiting operator under section 5124.526 or 5124.527 of the Revised Code;

(2) To pay the department of medicaid or department of developmental disabilities, and United States centers for medicare and medicaid services, the amount an exiting operator owes the department of medicaid or department of developmental disabilities and United States centers under the medicaid program.

(B) Amounts paid from the medicaid payment withholding fund pursuant to division (A)(2) of this section shall be deposited into the appropriate fund.

Sec. 5124.53. The director of developmental disabilities shall adopt rules under section 5124.03 of the Revised Code to implement sections 5124.50 to 5124.53 of the Revised Code. The rules shall specify all of the following:

(A) The method by which written notices to the department required by sections 5124.50 to 5124.53 of the Revised Code are to be provided;

(B) The forms and documents that are to be provided to the department under sections 5124.511 and 5124.512 of the Revised Code, which shall include, in the case of such forms and documents provided by entering operators, all the fully executed leases, management agreements, merger agreements and supporting documents, and fully executed sales contracts and any other supporting documents culminating in the change of operator;

(C) The method by which the forms and documents identified in division (B) of this section are to be provided to the department.

~~Sec. 5111.874 5124.60. (A) As used in sections 5111.874 to 5111.8710 of the Revised Code:~~

~~"Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.~~

~~"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid-covered intermediate care facility for the mentally retarded services.~~

~~"Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded that is certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, and licensed as a~~

~~residential facility under section 5123.19 of the Revised Code.~~

~~"Residential facility" has the same meaning as in section 5123.19 of the Revised Code.~~

(B) For the purpose of increasing the number of slots available for home and community-based services and subject to sections ~~5111.877~~ 5124.63 and ~~5111.878~~ 5124.64 of the Revised Code, the operator of an ~~intermediate care facility for the mentally retarded~~ ICF/IID may convert some or all of the beds in the ~~facility~~ ICF/IID from providing ~~ICF/MR~~ ICF/IID services to providing home and community-based services if all of the following requirements are met:

(1) The operator provides the directors of health and developmental disabilities at least ninety days' notice of the operator's intent to make the conversion.

(2) The operator complies with the requirements of sections ~~5111.65~~ 5124.50 to ~~5111.689~~ 5124.53 of the Revised Code regarding a voluntary termination ~~as defined in section 5111.65 of the Revised Code~~ if those requirements are applicable.

(3) If the operator intends to convert all of the ~~facility's~~ ICF/IID's beds, the operator notifies each of the ~~facility's~~ ICF/IID's residents that the ~~facility~~ ICF/IID is to cease providing ~~ICF/MR~~ ICF/IID services and inform each resident that the resident may do either of the following:

(a) Continue to receive ~~ICF/MR~~ ICF/IID services by transferring to another ~~facility~~ ICF/IID that is ~~an intermediate care facility for the mentally retarded~~ willing and able to accept the resident if the resident continues to qualify for ~~ICF/MR~~ ICF/IID services;

(b) Begin to receive home and community-based services instead of ~~ICF/MR~~ ICF/IID services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) If the operator intends to convert some but not all of the ~~facility's~~ ICF/IID's beds, the operator notifies each of the ~~facility's~~ ICF/IID's residents that the ~~facility~~ ICF/IID is to convert some of its beds from providing ~~ICF/MR~~ ICF/IID services to providing home and community-based services and inform each resident that the resident may do either of the following:

(a) Continue to receive ~~ICF/MR~~ ICF/IID services from any ~~provider of services~~ ICF/MR ICF/IID that is willing and able to provide the services to the resident if the resident continues to qualify for ~~ICF/MR~~ ICF/IID services;

(b) Begin to receive home and community-based services instead of

~~ICF/MR~~ ICF/IID services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(5) The operator meets the requirements for providing home and community-based services, including the following:

(a) Such requirements applicable to a residential facility if the operator maintains the facility's license as a residential facility;

(b) Such requirements applicable to a facility that is not licensed as a residential facility if the operator surrenders the facility's license as a residential facility under section 5123.19 of the Revised Code.

(6) The director of developmental disabilities approves the conversion.

~~(C)~~(B) A decision by the director of developmental disabilities to approve or refuse to approve a proposed conversion of beds is final. In making a decision, the director shall consider all of the following:

(1) The fiscal impact on the ~~facility~~ ICF/IID if some but not all of the beds are converted;

(2) The fiscal impact on the ~~medical-assistance~~ medicaid program;

(3) The availability of home and community-based services.

~~(D)~~(C) The notice provided to the directors under division ~~(B)~~(A)(1) of this section shall specify whether some or all of the ~~facility's~~ ICF/IID's beds are to be converted. If some but not all of the beds are to be converted, the notice shall specify how many of the ~~facility's~~ ICF/IID's beds are to be converted and how many of the beds are to continue to provide ~~ICF/MR~~ ICF/IID services. The notice to the director of developmental disabilities shall specify whether the operator wishes to surrender the ~~facility's~~ ICF/IID's license as a residential facility under section 5123.19 of the Revised Code.

~~(E)~~(D)(1) If the director of developmental disabilities approves a conversion under division ~~(C)~~(B) of this section, the director of health shall do the following:

(a) Terminate the ICF/IID's medicaid certification ~~of the intermediate care facility for the mentally retarded~~ if the notice specifies that all of the ~~facility's~~ ICF/IID's beds are to be converted;

(b) Reduce the ~~facility's certified~~ ICF/IID's medicaid-certified capacity by the number of beds being converted if the notice specifies that some but not all of the beds are to be converted.

(2) The director of health shall notify the medicaid director ~~of job and family services~~ of the termination or reduction. On receipt of the ~~director of health's~~ notice, the medicaid director ~~of job and family services~~ shall do the following:

(a) Terminate the operator's medicaid provider agreement that authorizes the operator to provide ~~ICF/MR~~ ICF/IID services at the ~~facility~~ ICF/IID if the ~~facility's~~ ICF/IID's certification was terminated;

(b) Amend the operator's medicaid provider agreement to reflect the ~~facility's~~ ICF/IID's reduced ~~certified~~ medicaid-certified capacity if the ~~facility's certified~~ ICF/IID's medicaid-certified capacity is reduced.

(3) In the case of action taken under division ~~(E)~~(D)(2)(a) of this section, the operator is not entitled to notice or a hearing under Chapter 119. of the Revised Code before the medicaid director ~~of job and family services~~ terminates the medicaid provider agreement.

Sec. ~~5111.875~~ 5124.61. (A) For the purpose of increasing the number of slots available for home and community-based services and subject to sections ~~5111.877~~ 5124.63 and ~~5111.878~~ 5124.64 of the Revised Code, a person who acquires, through a request for proposals issued by the director of developmental disabilities, ~~a residential facility that is an intermediate care facility for the mentally retarded and~~ an ICF/IID for which ~~the a residential facility~~ license ~~as a residential facility~~ was previously surrendered or revoked may convert some or all of the ~~facility's~~ ICF/IID's beds from providing ~~ICF/MR~~ ICF/IID services to providing home and community-based services if all of the following requirements are met:

(1) The person provides the directors of health, ~~job and family services,~~ and developmental disabilities and medicaid director at least ninety days' notice of the person's intent to make the conversion.

(2) The person complies with the requirements of sections ~~5111.65~~ 5124.50 to ~~5111.689~~ 5124.53 of the Revised Code regarding a voluntary termination ~~as defined in section 5111.65 of the Revised Code~~ if those requirements are applicable.

(3) If the person intends to convert all of the ~~facility's~~ ICF/IID's beds, the person notifies each of the ~~facility's~~ ICF/IID's residents that the ~~facility~~ ICF/IID is to cease providing ~~ICF/MR~~ ICF/IID services and informs each resident that the resident may do either of the following:

(a) Continue to receive ~~ICF/MR~~ ICF/IID services by transferring to another ~~facility that is an intermediate care facility for the mentally retarded~~ ICF/IID willing and able to accept the resident if the resident continues to qualify for ~~ICF/MR~~ ICF/IID services;

(b) Begin to receive home and community-based services instead of ~~ICF/MR~~ ICF/IID services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) If the person intends to convert some but not all of the ~~facility's~~ ICF/IID's beds, the person notifies each of the ~~facility's~~ ICF/IID's residents that the ~~facility~~ ICF/IID is to convert some of its beds from providing ~~ICF/MR~~ ICF/IID services to providing home and community-based services and inform each resident that the resident may do either of the following:

(a) Continue to receive ~~ICF/MR~~ ICF/IID services from any ~~provider of ICF/MR services~~ that is willing and able to provide the services to the resident if the resident continues to qualify for ~~ICF/MR~~ ICF/IID services;

(b) Begin to receive home and community-based services instead of ~~ICF/MR~~ ICF/IID services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(5) The person meets the requirements for providing home and community-based services at a residential facility.

(B) The notice provided to the directors under division (A)(1) of this section shall specify whether some or all of the ~~facility's~~ ICF/IID's beds are to be converted. If some but not all of the beds are to be converted, the notice shall specify how many of the ~~facility's~~ ICF/IID's beds are to be converted and how many of the beds are to continue to provide ~~ICF/MR~~ ICF/IID services.

(C) On receipt of a notice under division (A)(1) of this section, the director of health shall do the following:

(1) Terminate the ICF/IID's medicaid certification ~~of the intermediate care facility for the mentally retarded~~ if the notice specifies that all of the facility's beds are to be converted;

(2) Reduce the ~~facility's certified~~ ICF/IID's medicaid-certified capacity by the number of beds being converted if the notice specifies that some but not all of the beds are to be converted.

(D) The director of health shall notify the medicaid director ~~of job and family services~~ of the termination or reduction under division (C) of this section. On receipt of the director of health's notice, the medicaid director ~~of job and family services~~ shall do the following:

(1) Terminate the person's medicaid provider agreement that authorizes the person to provide ~~ICF/MR~~ ICF/IID services at the ~~facility~~ ICF/IID if the ~~facility's~~ ICF/IID's medicaid certification was terminated;

(2) Amend the person's medicaid provider agreement to reflect the ~~facility's~~ ICF/IID's reduced certified medicaid-certified capacity if the ~~facility's certified~~ ICF/IID's medicaid-certified capacity is reduced.

The person is not entitled to notice or a hearing under Chapter 119. of

the Revised Code before the medicaid director ~~of job and family services~~ terminates or amends the medicaid provider agreement.

Sec. ~~5111.876~~ 5124.62. Subject to section ~~5111.877~~ 5124.63 of the Revised Code, the director of developmental disabilities may request that the medicaid director ~~of job and family services~~ seek the approval of the United States secretary of health and human services to increase the number of slots available for home and community-based services by a number not exceeding the number of beds that were part of the licensed capacity of a residential facility that had its license revoked or surrendered under section 5123.19 of the Revised Code if the residential facility was an ~~intermediate care facility for the mentally retarded~~ ICF/IID at the time of the license revocation or surrender. The revocation or surrender may have occurred before, or may occur on or after, June 24, 2008. The request may include beds the director of developmental disabilities removed from such a residential facility's licensed capacity before transferring ownership or operation of the residential facility pursuant to a request for proposals.

Sec. ~~5111.877~~ 5124.63. The medicaid director ~~of job and family services~~ may seek approval from the United States secretary of health and human services for not more than a total of ~~five six~~ hundred slots for home and community-based services for the purposes of sections ~~5111.874~~ 5124.60, ~~5111.875~~ 5124.61, and ~~5111.876~~ 5124.62 of the Revised Code.

Sec. ~~5111.878~~ 5124.64. Not more than a total of ~~five six~~ hundred beds may be converted from providing ~~ICF/MR~~ ICF/IID services to providing home and community-based services under sections ~~5111.874~~ 5124.60 and ~~5111.875~~ 5124.61 of the Revised Code.

Sec. ~~5111.879~~ 5124.65. No person or government entity may reconvert a bed to be used for ~~ICF/MR~~ ICF/IID services if the bed was converted to use for home and community-based services under section ~~5111.874~~ 5124.60 or ~~5111.875~~ 5124.61 of the Revised Code. This prohibition applies regardless of either of the following:

(A) The bed is part of the licensed capacity of a residential facility.

(B) The bed has been sold, leased, or otherwise transferred to another person or government entity.

Sec. 5124.67. (A) The department of developmental disabilities shall strive to achieve, not later than July 1, 2018, the following statewide reductions in ICF/IID beds:

(1) At least five hundred and not more than six hundred beds in ICFs/IID that, before becoming downsized ICFs/IID, have sixteen or more beds;

(2) At least five hundred and not more than six hundred beds in

ICFs/IID with any number of beds that convert some or all of their beds from providing ICF/IID services to providing home and community-based services pursuant to section 5124.60 or 5124.61 of the Revised Code.

(B) In its efforts to achieve the reductions under division (A) of this section, the department shall collaborate with the Ohio association of county boards serving people with developmental disabilities, the Ohio provider resource association, the Ohio centers for intellectual disabilities formed by the Ohio health care association, and the values and faith alliance. The collaboration efforts may include the following:

(1) Identifying ICFs/IID that may reduce the number of their beds to help achieve the reductions under division (A) of this section;

(2) Encouraging ICF/IID providers to reduce the number of their ICFs/IID's beds;

(3) Establishing interim time frames for making progress in achieving the reductions;

(4) Creating incentives for, and removing impediments to, the reductions;

(5) In the case of ICF/IID beds that are converted to providing home and community-based services, developing a mechanism to compensate providers for beds that permanently cease to provide ICF/IID services.

(C) The department shall meet not less than twice each year with the organizations specified in division (B) of this section to do all of the following:

(1) Review the progress being made in achieving the reductions under division (A) of this section;

(2) Prepare written reports on the progress;

(3) Identify additional measures needed to achieve the reductions.

Sec. 5124.99. Whoever violates section 5124.102 or division (E) of section 5124.08 of the Revised Code shall be fined not less than five hundred dollars nor more than one thousand dollars for the first offense and not less than one thousand dollars nor more than five thousand dollars for each subsequent offense.

Fines paid under this section shall be deposited in the state treasury to the credit of the general revenue fund.

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the director of developmental disabilities pursuant to Chapter 119. of the

Revised Code.

(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

(a) Adult day habilitation services;

(b) Adult day care;

(c) Prevocational services;

(d) Sheltered employment;

(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;

(f) Community employment services and supported employment services.

(B)(1) "Adult day habilitation services" means adult services that do the following:

(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;

(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.

(2) "Adult day habilitation services" includes all of the following:

(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;

(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;

(c) Training and education in self-determination designed to help the

individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;

(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;

(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;

(f) Transportation necessary to access adult day habilitation services;

(g) Habilitation management, as described in section 5126.14 of the Revised Code.

(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.

(C) "Appointing authority" means the following:

(1) In the case of a member of a county board of developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners;

(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge.

(D) "Community employment," "competitive employment," and "integrated setting" have the same meanings as in section 5123.022 of the Revised Code.

~~(E) "Community employment services" or "supported~~ Supported employment services" means vocational assessment, job training and coaching, job development and placement, worksite accessibility, and other services related to employment outside a sheltered workshop. ~~"Community employment services" or "supported~~ Supported employment services" ~~include all~~ includes both of the following:

(1) Job training resulting in the attainment of ~~competitive work~~ community employment, supported work in a typical work environment, or self-employment;

(2) ~~Supervised work experience through an employer paid to provide the supervised work experience;~~

~~(3) Ongoing work in a competitive work environment at a wage~~

~~commensurate with workers without disabilities;~~

~~(4) Ongoing supervision by an employer paid to provide the supervision~~
Support for ongoing community employment, supported work at
community-based sites, or self-employment.

~~(E)~~(F) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code;

(2) It is manifested before age twenty-two;

(3) It is likely to continue indefinitely;

(4) It results in one of the following:

(a) In the case of a person under age three, at least one developmental delay or an established risk;

(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;

(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

~~(F)~~(G) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not attained compulsory school age.

~~(G)~~(H) "Employment services" means prevocational services or supported employment services.

~~(I)~~(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and

without which the individual would require institutionalization.

(2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

~~(H)~~(J) "Family support services" means the services provided under a family support services program operated under section 5126.11 of the Revised Code.

~~(H)~~(K) "Habilitation" means the process by which the staff of the facility or agency assists an individual with mental retardation or other developmental disability in acquiring and maintaining those life skills that enable the individual to cope more effectively with the demands of the individual's own person and environment, and in raising the level of the individual's personal, physical, mental, social, and vocational efficiency. Habilitation includes, but is not limited to, programs of formal, structured education and training.

~~(J)~~(L) "Home and community-based services" ~~means medicare-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under the medicare waiver components the department of developmental disabilities administers pursuant to~~ has the same meaning as in section 5111.871 5123.01 of the Revised Code. ~~However, home and community based services provided under the medicare waiver component known as the transitions developmental disabilities waiver are to be considered to be home and community based services for the purposes of this chapter only to the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver.~~

~~(K)~~(M) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(N) "Immediate family" means parents, grandparents, brothers, sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and daughters-in-law.

~~(L)~~ "Medicaid" ~~has the same meaning as in section 5111.01 of the Revised Code.~~

~~(M)~~(O) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

~~(N)~~(P) "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

~~(O)~~(Q) "Prevocational services" means services, including services as a volunteer, that provide learning and work experiences from which an individual can develop general strengths and skills that are not specific to a particular task or job but contribute to employability in community employment, supported work at community-based sites, or self-employment.

(R) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code.

~~(P)~~(S) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

~~(Q)~~(T) "Senior probate judge" means the current probate judge of a county who has served as probate judge of that county longer than any of the other current probate judges of that county. If a county has only one probate judge, "senior probate judge" means that probate judge.

~~(R)~~(U) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code.

~~(S)~~(V)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment.

(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following:

(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter

services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received.

(b) Nondisposable items not covered by medicaid that are intended to assist an individual in activities of daily living or instrumental activities of daily living.

~~(F)~~(W) "Supportive home services" means a range of services to families of individuals with mental retardation or other developmental disabilities to develop and maintain increased acceptance and understanding of such persons, increased ability of family members to teach the person, better coordination between school and home, skills in performing specific therapeutic and management techniques, and ability to cope with specific situations.

~~(U)~~(X)(1) "Supported living" means services provided for as long as twenty-four hours a day to an individual with mental retardation or other developmental disability through any public or private resources, including moneys from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by doing the following:

(a) Providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with mental retardation and developmental disabilities unless the individuals are related by blood or marriage;

(b) Encouraging the individual's participation in the community;

(c) Promoting the individual's rights and autonomy;

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

(2) "Supported living" includes the provision of all of the following:

(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;

(b) A combination of lifelong or extended-duration supervision, training, and other services essential to daily living, including assessment

and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications to the physical structure of the residence;

(e) Respite care services;

(f) Program management, as described in section 5126.14 of the Revised Code.

Sec. 5126.026. Except as otherwise provided in this section and section 5126.0218 of the Revised Code, a member of a county board of developmental disabilities may be reappointed to the county board. Prior to making a reappointment, the appointing authority shall ascertain, through written communication with the board, that the member being considered for reappointment meets the requirements of sections 5126.022 and 5126.0218 of the Revised Code.

A member who has served during each of three consecutive terms shall not be reappointed for a subsequent term until two years after ceasing to be a member of the county board, except that a member who has served for ten years or less within three consecutive terms may be reappointed for a subsequent term before becoming ineligible for reappointment for two years.

If, however, a county board experiences extenuating circumstances that would severely restrict the board from being able to fill a pending vacancy of a board member who will become ineligible for service on the board after serving three consecutive terms, the appointing authority may request a waiver from the director of developmental disabilities to allow that member to serve an additional four-year term subsequent to serving three consecutive four-year terms. The director shall determine if the extenuating circumstances associated with the board warrant the granting of such a waiver.

Sec. 5126.043. (A) Unless a guardian has been appointed for the individual, when a decision regarding receipt of a service or participation in a program provided for or funded under this chapter or Chapter 5123. or 5124. of the Revised Code by an individual with mental retardation or other developmental disability must be made, the individual shall be permitted to make the decision. The individual may obtain support and guidance from an adult family member or other person, but doing so does not affect the right of the individual to make the decision.

(B) An individual with mental retardation or other developmental disability may authorize an adult to make a decision described in division

(A) of this section on the individual's behalf, as long as the adult does not have a financial interest in the decision. The authorization shall be made in writing.

(C) If a guardian has been appointed for an individual with mental retardation or other developmental disability, the guardian shall make any decision described in division (A) of this section on behalf of the individual. This section does not require appointment of a guardian.

(D) Individuals with mental retardation and other developmental disabilities, including those who have been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code, have the right to participate in decisions that affect their lives and to have their needs, desires, and preferences considered. An adult or guardian who makes a decision pursuant to division (B) or (C) of this section shall make a decision that is in the best interests of the individual on whose behalf the decision is made and that is consistent with the needs, desires, and preferences of that individual.

Sec. 5126.05. (A) Subject to the rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to this chapter, and subject to the rules established by the state board of education pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to Chapter 3323. of the Revised Code, the county board of developmental disabilities shall:

(1) Administer and operate facilities, programs, and services as provided by this chapter and Chapter 3323. of the Revised Code and establish policies for their administration and operation;

(2) Coordinate, monitor, and evaluate existing services and facilities available to individuals with mental retardation and developmental disabilities;

(3) Provide early childhood services, supportive home services, and adult services, according to the plan and priorities developed under section 5126.04 of the Revised Code;

(4) Provide or contract for special education services pursuant to Chapters 3317. and 3323. of the Revised Code and ensure that related services, as defined in section 3323.01 of the Revised Code, are available according to the plan and priorities developed under section 5126.04 of the Revised Code;

(5) Adopt a budget, authorize expenditures for the purposes specified in this chapter and do so in accordance with section 319.16 of the Revised Code, approve attendance of board members and employees at professional meetings and approve expenditures for attendance, and exercise such

powers and duties as are prescribed by the director;

(6) Submit annual reports of its work and expenditures, pursuant to sections 3323.09 and 5126.12 of the Revised Code, to the director, the superintendent of public instruction, and the board of county commissioners at the close of the fiscal year and at such other times as may reasonably be requested;

(7) Authorize all positions of employment, establish compensation, including but not limited to salary schedules and fringe benefits for all board employees, approve contracts of employment for management employees that are for a term of more than one year, employ legal counsel under section 309.10 of the Revised Code, and contract for employee benefits;

(8) Provide service and support administration in accordance with section 5126.15 of the Revised Code;

(9) Certify respite care homes pursuant to rules adopted under section 5123.171 of the Revised Code by the director of developmental disabilities;

(10) Implement an employment first policy that clearly identifies community employment as the desired outcome for every individual of working age who receives services from the board;

(11) Set benchmarks for improving community employment outcomes.

(B) To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the Revised Code, they shall be consistent with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.

(C) Any county board may enter into contracts with other such boards and with public or private, nonprofit, or profit-making agencies or organizations of the same or another county, to provide the facilities, programs, and services authorized or required, upon such terms as may be agreeable, and in accordance with this chapter and Chapter 3323. of the Revised Code and rules adopted thereunder and in accordance with sections 307.86 and 5126.071 of the Revised Code.

(D) A county board may combine transportation for children and adults enrolled in programs and services offered under Chapter 5126. of the Revised Code with transportation for children enrolled in classes funded under ~~section~~ sections 3317.0213 and 3317.20 ~~or units approved under section 3317.05~~ of the Revised Code.

(E) A county board may purchase all necessary insurance policies, may purchase equipment and supplies through the department of administrative services or from other sources, and may enter into agreements with public agencies or nonprofit organizations for cooperative purchasing

arrangements.

(F) A county board may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established and hold, apply, and dispose of the moneys, lands, and property according to the terms of the gift, grant, devise, or bequest. All money received by gift, grant, bequest, or disposition of lands or property received by gift, grant, devise, or bequest shall be deposited in the county treasury to the credit of such board and shall be available for use by the board for purposes determined or stated by the donor or grantor, but may not be used for personal expenses of the board members. Any interest or earnings accruing from such gift, grant, devise, or bequest shall be treated in the same manner and subject to the same provisions as such gift, grant, devise, or bequest.

(G) The board of county commissioners shall levy taxes and make appropriations sufficient to enable the county board of developmental disabilities to perform its functions and duties, and may utilize any available local, state, and federal funds for such purpose.

Sec. 5126.051. (A) To the extent that resources are available, a county board of developmental disabilities shall provide for or arrange residential services and supported living for individuals with mental retardation and developmental disabilities.

A county board may acquire, convey, lease, or sell property for residential services and supported living and enter into loan agreements, including mortgages, for the acquisition of such property. A county board is not required to comply with provisions of Chapter 307. of the Revised Code providing for competitive bidding or sheriff sales in the acquisition, lease, conveyance, or sale of property under this division, but the acquisition, lease, conveyance, or sale must be at fair market value determined by appraisal of one or more disinterested persons appointed by the board.

Any action taken by a county board under this division that will incur debt on the part of the county shall be taken in accordance with Chapter 133. of the Revised Code. A county board shall not incur any debt on the part of the county without the prior approval of the board of county commissioners.

(B)(1) To the extent that resources are available, ~~in addition to sheltered employment and work activities provided as~~ a county board shall provide or arrange for the provision of adult services ~~pursuant to division (A)(3) of section 5126.05 of the Revised Code, a county board of developmental disabilities may provide or arrange for job training, vocational evaluation, and community employment services to mentally retarded and developmentally disabled~~ individuals who are age eighteen and older and

not enrolled in a program or service under Chapter 3323. of the Revised Code or age sixteen or seventeen and eligible for adult services under rules adopted by the director of developmental disabilities under Chapter 119. of the Revised Code. These services shall be provided in accordance with the individual's individual service ~~or habilitation~~ plan and shall include support services specified in the plan.

(2) Any prevocational services shall be provided in accordance with the individual's individual service plan and occur over a specified period of time with specific outcomes sought to be achieved.

(3) A county board may, in cooperation with the ~~Ohio rehabilitation services commission~~ opportunities for Ohioans with disabilities agency, seek federal funds for job training ~~and or other services directly at helping individuals obtain~~ community employment.

(3)(4) A county board may contract with any agency, board, or other entity that is accredited by the commission on accreditation of rehabilitation facilities to provide services. A county board that is accredited by the commission on accreditation of rehabilitation facilities may provide services for which it is certified by the commission.

(C) To the extent that resources are available, a county board may provide services to an individual with mental retardation or other developmental disability in addition to those provided pursuant to this section, section 5126.05 of the Revised Code, or any other section of this chapter. The services shall be provided in accordance with the individual's ~~habilitation or individual~~ service plan and may be provided in collaboration with other entities of state or local government.

Sec. 5126.054. (A) Each county board of developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following three components:

(1) An assessment component that includes all of the following:

(a) The number of individuals with mental retardation or other developmental disability residing in the county who need the level of care provided by an ~~intermediate care facility for the mentally retarded ICF/IID~~, may seek home and community-based services, and are given priority on a waiting list established for the services pursuant to section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services;

(b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(c) Any other applicable information or conditions that the department

of developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised Code.

(2) A preliminary implementation component that specifies the number of individuals to be provided, during the first year that the plan is in effect, home and community-based services pursuant to the waiting list priority given to them under section 5126.042 of the Revised Code and the types of home and community-based services the individuals are to receive;

(3) A component that provides for the implementation of medicaid case management services and home and community-based services for individuals who begin to receive the services on or after the date the plan is approved under section 5123.046 of the Revised Code. A county board shall include all of the following in the component:

(a) If the department of developmental disabilities or department of ~~job and family services~~ medicaid requires, an agreement to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(b) How the services are to be phased in over the period the plan covers, including how the county board will serve individuals who have priority on a waiting list established under section 5126.042 of the Revised Code;

(c) Any agreement or commitment regarding the county board's funding of home and community-based services that the county board has with the department at the time the county board develops the component;

(d) Assurances adequate to the department that the county board will comply with all of the following requirements:

(i) To provide the types of home and community-based services specified in the preliminary implementation component required by division (A)(2) of this section to at least the number of individuals specified in that component;

(ii) To use any additional funds the county board receives for the services to improve the county board's resource capabilities for supporting such services available in the county at the time the component is developed and to expand the services to accommodate the unmet need for those services in the county;

(iii) To employ or contract with a business manager or enter into an agreement with another county board of developmental disabilities that employs or contracts with a business manager to have the business manager serve both county boards. No superintendent of a county board may serve as the county board's business manager.

(iv) To employ or contract with a medicaid services manager or enter into an agreement with another county board of developmental disabilities

that employs or contracts with a medicaid services manager to have the medicaid services manager serve both county boards. No superintendent of a county board may serve as the county board's medicaid services manager.

(e) Programmatic and financial accountability measures and projected outcomes expected from the implementation of the plan;

(f) Any other applicable information or conditions that the department requires as a condition of approving the component under section 5123.046 of the Revised Code.

(B) A county board whose plan developed under division (A) of this section is approved by the department under section 5123.046 of the Revised Code shall update and renew the plan in accordance with a schedule the department shall develop.

Sec. 5126.055. (A) Except as provided in section 5126.056 of the Revised Code, a county board of developmental disabilities has medicaid local administrative authority to, and shall, do all of the following for an individual with mental retardation or other developmental disability who resides in the county that the county board serves and seeks or receives home and community-based services:

(1) Perform assessments and evaluations of the individual. As part of the assessment and evaluation process, the county board shall do all of the following:

(a) Make a recommendation to the department of developmental disabilities on whether the department should approve or deny the individual's application for the services, including on the basis of whether the individual needs the level of care an ~~intermediate care facility for the mentally retarded~~ ICF/IID provides;

(b) If the individual's application is denied because of the county board's recommendation and the individual ~~requests a hearing under appeals pursuant to~~ section ~~5101.35~~ 5160.31 of the Revised Code, present, with the department of developmental disabilities or department of ~~job and family services~~ medicaid, whichever denies the application, the reasons for the recommendation and denial at the hearing;

(c) If the individual's application is approved, recommend to the departments of developmental disabilities and ~~job and family services~~ medicaid the services that should be included in the individual's individualized service plan and, if either department approves, reduces, denies, or terminates a service included in the individual's individualized service plan under section ~~5111.871~~ 5166.20 of the Revised Code because of the county board's recommendation, present, with the department that made the approval, reduction, denial, or termination, the reasons for the

recommendation and approval, reduction, denial, or termination at a hearing held pursuant to an appeal made under section ~~5401.35~~ 5160.31 of the Revised Code.

(2) Perform any duties assigned to the county board in rules adopted under section 5126.046 of the Revised Code regarding the individual's right to choose a qualified and willing provider of the services and, at a hearing held pursuant to an appeal made under section ~~5401.35~~ 5160.31 of the Revised Code, present evidence of the process for appropriate assistance in choosing providers;

(3) If the county board is certified under section 5123.161 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires;

(4) Monitor the services provided to the individual and ensure the individual's health, safety, and welfare. The monitoring shall include quality assurance activities. If the county board provides the services, the department of developmental disabilities shall also monitor the services.

(5) Develop, with the individual and the provider of the individual's services, an effective individualized service plan that includes coordination of services, recommend that the departments of developmental disabilities and ~~job and family services~~ medicaid approve the plan, and implement the plan unless either department disapproves it. The individualized service plan shall include a summary page, agreed to by the county board, provider, and individual receiving services, that clearly outlines the amount, duration, and scope of services to be provided under the plan.

(6) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual;

(7) Have a service and support administrator perform the duties under division (B)(9) of section 5126.15 of the Revised Code that concern the individual.

(B) A county board shall perform its medicaid local administrative authority under this section in accordance with all of the following:

(1) The county board's plan that the department of developmental disabilities approves under section 5123.046 of the Revised Code;

(2) All applicable federal and state laws;

(3) All applicable policies of the departments of developmental disabilities and ~~job and family services~~ medicaid and the United States department of health and human services;

(4) The department of ~~job and family services~~ medicaid's supervision under its authority ~~under section 5111.01 of the Revised Code to act as the~~ single state medicaid agency;

(5) The department of developmental disabilities' oversight.

(C) The departments of developmental disabilities and ~~job and family services~~ medicaid shall communicate with and provide training to county boards regarding medicaid local administrative authority granted by this section. The communication and training shall include issues regarding audit protocols and other standards established by the United States department of health and human services that the departments determine appropriate for communication and training. County boards shall participate in the training. The departments shall assess the county board's compliance against uniform standards that the departments shall establish.

(D) A county board may not delegate its medicaid local administrative authority granted under this section but may contract with a person or government entity, including a council of governments, for assistance with its medicaid local administrative authority. A county board that enters into such a contract shall notify the director of developmental disabilities. The notice shall include the tasks and responsibilities that the contract gives to the person or government entity. The person or government entity shall comply in full with all requirements to which the county board is subject regarding the person or government entity's tasks and responsibilities under the contract. The county board remains ultimately responsible for the tasks and responsibilities.

(E) A county board that has medicaid local administrative authority under this section shall, through the departments of developmental disabilities and ~~job and family services~~ medicaid, reply to, and cooperate in arranging compliance with, a program or fiscal audit or program violation exception that a state or federal audit or review discovers. The department of ~~job and family services~~ medicaid shall timely notify the department of developmental disabilities and the county board of any adverse findings. After receiving the notice, the county board, in conjunction with the department of developmental disabilities, shall cooperate fully with the department of ~~job and family services~~ medicaid and timely prepare and send to the department a written plan of correction or response to the adverse findings. The county board is liable for any adverse findings that result from an action it takes or fails to take in its implementation of medicaid local administrative authority.

(F) If the department of developmental disabilities or department of ~~job and family services~~ medicaid determines that a county board's

implementation of its medicaid local administrative authority under this section is deficient, the department that makes the determination shall require that county board do the following:

(1) If the deficiency affects the health, safety, or welfare of an individual with mental retardation or other developmental disability, correct the deficiency within twenty-four hours;

(2) If the deficiency does not affect the health, safety, or welfare of an individual with mental retardation or other developmental disability, receive technical assistance from the department or submit a plan of correction to the department that is acceptable to the department within sixty days and correct the deficiency within the time required by the plan of correction.

Sec. 5126.131. (A)(1) Each regional council established under section 5126.13 of the Revised Code shall file with the department of developmental disabilities an annual cost report detailing the regional council's income and expenditures.

(2) Each county board of developmental disabilities shall file with the department an annual cost report detailing the board's income and expenditures.

(B)(1)(a) Unless the department establishes a later date for all regional council cost reports, each council shall file its cost report not later than the last day of April. At the written request of a regional council, the department may grant a fourteen-day extension for filing the cost report.

(b) Unless the department establishes a later date for all county board cost reports, each board shall file its cost report not later than the last day of May. At the written request of a board, the department may grant a fourteen-day extension for filing the board's cost report.

(2) The cost report shall contain information on the previous calendar year's income and expenditures. Once filed by a regional council or board, no changes may be made to the cost report, including the submission of additional documentation, except as otherwise provided in this section.

(C) Each cost report filed under this section by a regional council or board shall be audited by the department or an entity designated by the department. The department or designated entity shall notify the regional council or board of the date on which the audit is to begin. The department may permit a regional council or board to submit changes to the cost report before the audit begins.

If the department or designated entity determines that a filed cost report is not auditable, it shall provide written notification to the regional council or board of the cost report's deficiencies and may request additional documentation. If the department or designated entity requests additional

documentation, the regional council or board shall be given sixty days after the request is made to provide the additional documentation. After sixty days, the department or designated entity shall determine whether the cost report is auditable with any additional documentation provided and shall notify the regional council or board of its determination. The determination of the department or designated entity is final.

(D) The department or designated entity shall certify its audit as complete and file a copy of the certified audit in the office of the clerk of the governing body, executive officer of the governing body, and chief fiscal officer of the audited regional council or board. Changes may not be made to a cost report once the department or designated entity files the certified audit. The cost report is not a public record under section 149.43 of the Revised Code until copies of the cost report are filed pursuant to this section.

(E) The department may withhold any funds that it distributes to a regional council or board as subsidy payments if either of the following is the case:

(1) The cost report is not timely filed by the regional council or board with the department in accordance with division (B) of this section.

(2) The cost report is determined not auditable under division (C) of this section after the department or designated entity gives the regional council or board sixty days to provide additional documentation.

(F) Cost reports shall be retained by regional councils and boards for seven years. The department shall provide annual training to regional council and board employees regarding cost reports required by this section.

(G) The department, in accordance with Chapter 119. of the Revised Code, may adopt any rules necessary to implement this section.

Sec. 5139.03. The department of youth services shall control and manage all state institutions or facilities established or created for the training or rehabilitation of delinquent children committed to the department, except where the control and management of an institution or facility is vested by law in another agency. The department shall employ, in addition to other personnel authorized under Chapter 5139. of the Revised Code, sufficient personnel to maintain food service and buildings and grounds operations.

The department of youth services shall, insofar as practicable, purchase foods and other commodities incident to food service operations from the department of ~~mental health~~ mental health and addiction services. The department of youth services may enter into agreements with the department of ~~mental health~~ mental health and addiction services providing for

assistance and consultation in the construction of, or major modifications to, capital facilities of the department of youth services.

The directors of ~~mental health~~ mental health and addiction services and of youth services shall enter into written agreements to implement this section. Such directors may, from time to time, amend any agreements entered into under this section for the purposes of making more efficient use of personnel, taking advantage of economies in quantity purchasing, or for any other purpose which is mutually advantageous to both the department of youth services and the department of ~~mental health~~ mental health and addiction services.

The department of youth services may transfer any of its excess or surplus supplies to a community corrections facility. These supplies shall remain the property of the department for a period of five years from the date of the transfer. After the five-year period, the supplies shall become the property of the facility.

Sec. 5139.04. The department of youth services shall do all of the following:

(A) Support service districts through a central administrative office that shall have as its administrative head a deputy director who shall be appointed by the director of the department. When a vacancy occurs in the office of that deputy director, an assistant deputy director shall act as that deputy director until the vacancy is filled. The position of deputy director and assistant deputy director described in this division shall be in the unclassified civil service of the state.

(B) Receive custody of all children committed to it under Chapter 2152. of the Revised Code, cause a study to be made of those children, and issue any orders, as it considers best suited to the needs of any of those children and the interest of the public, for the treatment of each of those children;

(C) Obtain personnel necessary for the performance of its duties;

(D) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to 5139.43 of the Revised Code, and that pertain to the administration of other sections of this chapter;

(E) Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year;

(F) Conduct a program of research in diagnosis, training, and treatment of delinquent children to evaluate the effectiveness of the department's services and to develop more adequate methods;

(G) Develop a standard form for the disposition investigation report that a juvenile court is required pursuant to section 2152.18 of the Revised Code to complete and provide to the department when the court commits a child

to the legal custody of the department;

(H) Provide the state public defender the reasonable access authorized under division (I) of section 120.06 of the Revised Code in order to fulfill the department's constitutional obligation to provide juveniles who have been committed to the department's care access to the courts.

(I) Do all other acts necessary or desirable to carry out this chapter.

Sec. 5139.08. The department of youth services may enter into an agreement with the director of rehabilitation and correction pursuant to which the department of youth services, in accordance with division (C)(2) of section 5139.06 and section 5120.162 of the Revised Code, may transfer to a correctional medical center established by the department of rehabilitation and correction, children who are within its custody for diagnosis or treatment of an illness, physical condition, or other medical problem. The department of youth services may enter into any other agreements with the director of job and family services, the director of ~~mental health~~ mental health and addiction services, the director of developmental disabilities, the director of rehabilitation and correction, with the courts having probation officers or other public officials, and with private agencies or institutions for separate care or special treatment of children subject to the control of the department of youth services. The department of youth services may, upon the request of a juvenile court not having a regular probation officer, provide probation services for such court.

Upon request by the department of youth services, any public agency or group care facility established or administered by the state for the care and treatment of children and youth shall, consistent with its functions, accept and care for any child whose custody is vested in the department in the same manner as it would be required to do if custody had been vested by a court in such agency or group care facility. If the department has reasonable grounds to believe that any child or youth whose custody is vested in it is mentally ill or mentally retarded, the department may file an affidavit under section 5122.11 or 5123.76 of the Revised Code. The department's affidavit for admission of a child or youth to such institution shall be filed with the probate court of the county from which the child was committed to the department. Such court may request the probate court of the county in which the child is held to conduct the hearing on the application, in which case the court making such request shall bear the expenses of the proceeding. If the department files such an affidavit, the child or youth may be kept in such institution until a final decision on the affidavit is made by the appropriate court.

Sec. 5139.34. (A) Funds may be appropriated to the department of

youth services for the purpose of granting state subsidies to counties. A county or the juvenile court that serves a county shall use state subsidies granted to the county pursuant to this section only in accordance with divisions (B)(2)(a) and (3)(a) of section 5139.43 of the Revised Code and the rules pertaining to the state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code. The department shall not grant financial assistance pursuant to this section for the provision of care and services for children in a placement facility unless the facility has been certified, licensed, or approved by a state or national agency with certification, licensure, or approval authority, including, but not limited to, the department of job and family services, department of education, department of ~~mental health~~ mental health and addiction services, department of developmental disabilities, or American correctional association. For the purposes of this section, placement facilities do not include a state institution or a county or district children's home.

The department also shall not grant financial assistance pursuant to this section for the provision of care and services for children, including, but not limited to, care and services in a detention facility, in another facility, or in out-of-home placement, unless the minimum standards applicable to the care and services that the department prescribes in rules adopted pursuant to division (D) of section 5139.04 of the Revised Code have been satisfied.

(B) The department of youth services shall apply the following formula to determine the amount of the annual grant that each county is to receive pursuant to division (A) of this section, subject to the appropriation for this purpose to the department made by the general assembly:

(1) Each county shall receive a basic annual grant of fifty thousand dollars.

(2) The sum of the basic annual grants provided under division (B)(1) of this section shall be subtracted from the total amount of funds appropriated to the department of youth services for the purpose of making grants pursuant to division (A) of this section to determine the remaining portion of the funds appropriated. The remaining portion of the funds appropriated shall be distributed on a per capita basis to each county that has a population of more than twenty-five thousand for that portion of the population of the county that exceeds twenty-five thousand.

(C)(1) Prior to a county's receipt of an annual grant pursuant to this section, the juvenile court that serves the county shall prepare, submit, and file in accordance with division (B)(3)(a) of section 5139.43 of the Revised Code an annual grant agreement and application for funding that is for the combined purposes of, and that satisfies the requirements of, this section and

section 5139.43 of the Revised Code. In addition to the subject matters described in division (B)(3)(a) of section 5139.43 of the Revised Code or in the rules that the department adopts to implement that division, the annual grant agreement and application for funding shall address fiscal accountability and performance matters pertaining to the programs, care, and services that are specified in the agreement and application and for which state subsidy funds granted pursuant to this section will be used.

(2) The county treasurer of each county that receives an annual grant pursuant to this section shall deposit the state subsidy funds so received into the county's felony delinquent care and custody fund created pursuant to division (B)(1) of section 5139.43 of the Revised Code. Subject to exceptions prescribed in section 5139.43 of the Revised Code that may apply to the disbursement, the department shall disburse the state subsidy funds to which a county is entitled in a lump sum payment that shall be made in July of each calendar year.

(3) Upon an order of the juvenile court that serves a county and subject to appropriation by the board of county commissioners of that county, a county treasurer shall disburse from the county's felony delinquent care and custody fund the state subsidy funds granted to the county pursuant to this section for use only in accordance with this section, the applicable provisions of section 5139.43 of the Revised Code, and the county's approved annual grant agreement and application for funding.

(4) The moneys in a county's felony delinquent care and custody fund that represent state subsidy funds granted pursuant to this section are subject to appropriation by the board of county commissioners of the county; shall be disbursed by the county treasurer as required by division (C)(3) of this section; shall be used in the manners referred to in division (C)(3) of this section; shall not revert to the county general fund at the end of any fiscal year; shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year; shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs, care, or services for alleged or adjudicated delinquent children, unruly children, or juvenile traffic offenders or for children who are at risk of becoming delinquent children, unruly children, or juvenile traffic offenders; and shall not be used to pay for the care and custody of felony ~~delinquents~~ delinquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release on parole by the juvenile court of that county or who are in the care and custody of a community corrections facility pursuant to a

placement by the department with the consent of the juvenile court as described in division (E) of section 5139.36 of the Revised Code.

(5) As a condition of the continued receipt of state subsidy funds pursuant to this section, each county and the juvenile court that serves each county that receives an annual grant pursuant to this section shall comply with divisions (B)(3)(b), (c), and (d) of section 5139.43 of the Revised Code.

Sec. 5145.162. (A) There is hereby created the office of enterprise development advisory council of directors for prison labor consisting board to advise and assist the department of rehabilitation and correction with the creation of training programs and jobs for inmates and releasees through partnerships with private sector businesses. The board shall consist of at least five appointed members and the executive director of the office of the correctional institution inspection committee, who shall serve as an ex officio member. Each member shall have experience in labor relations, marketing, business management, or business. The members and chairperson shall be appointed by the governor director of the department of rehabilitation and correction. Within thirty days after April 9, 1981, the governor shall make the initial appointments to the council of directors. Of the initial appointments made to the council of directors, two shall be for a term ending one year after April 9, 1981, two shall be for a term ending two years after that date, and one shall be for a term ending three years after that date. After the expiration of the initial terms, the terms of office for the members shall be for three years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any vacancy on the advisory council shall be filled by the governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the predecessor's term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(B) Each member of the advisory council, while engaged in the performance of the business of the advisory council, board shall receive no compensation but may be reimbursed for expenses actually and necessarily incurred in the performance of official duties of the board. Members of the board who are state employees shall be reimbursed for expenses pursuant to travel rules promulgated by the office of budget and management.

(C) The advisory council board shall adopt procedures for the conduct

~~of the board's meetings. The board shall meet within two weeks after the initial members have been appointed at a time and place determined by the governor. At its first meeting, the advisory council shall elect a chairperson and shall adopt rules for its procedures. The advisory council shall elect a new chairperson annually at its January meeting. The advisory council shall meet at least once every January and at least once every two months thereafter quarter, and otherwise shall meet at the call of the chairperson or upon the written request of at least a quorum of the members. Three director of the department of rehabilitation and correction. Sixty per cent of the members constitutes shall constitute a quorum, and no action. No transaction of the board's business shall be taken without the concurrence of a quorum of the members. The board may have committees with persons who are not members of the board but whose experience and expertise is relevant and useful to the work of the committee.~~

~~(D) The advisory council board shall advise and assist the department of rehabilitation and correction when the department adopts rules pursuant to division (B) of section 5145.03 of the Revised Code, establishes prices for goods, products, services, or labor produced or supplied by prisoners, and otherwise establishes and administers the program for employment of prisoners established by the department pursuant to division (A) of section 5145.16 of the Revised Code. The department shall consider the advice and assistance of the advisory council that is provided pursuant to this section, and shall cooperate with the advisory council. The advisory council may recommend have the following duties:~~

~~(1) Solicit business proposals offering job training, apprenticeship, education programs, and employment opportunities for inmates and releasees;~~

~~(2) Provide information and input to the office of enterprise development to support the job training and employment program of inmates and releasees and any additional, related duties as requested by the director of the department of rehabilitation and correction;~~

~~(3) Recommend to the general assembly office of enterprise development any further legislation, administrative rule, or department policy change that the board believes is necessary to implement the department's program of employment of prisoners;~~

~~(4) Promote public awareness of the office of enterprise development and the office's employment program;~~

~~(5) Familiarize itself and the public with avenues to access the office of enterprise development on employment program concerns;~~

~~(6) Advocate for the needs and concerns of the office of enterprise~~

development in local communities, counties, and the state:

(7) Play an active role in the office of enterprise development's efforts to reduce recidivism in the state by doing all of the following:

(a) Providing input and making recommendations for the office's consideration in monitoring employment program compliance and effectiveness;

(b) Making suggestions on the appropriate priorities for the office's grant award criteria;

(c) Being a liaison between the office and constituents of the board's members;

(d) Working to develop constituent groups interested in employment program issues;

(8) Aid in the employment program development process by playing a leadership role in professional associations by discussing employment program issues.

(E) The department of rehabilitation and correction shall initially screen each proposal obtained under division (D)(1) of this section to ensure that the proposal is a viable venture to pursue. If the department determines that a proposal is a viable venture to pursue, the department shall submit the proposal to the board for objective review against established guidelines. The board shall determine whether to recommend the implementation of the program to the department.

Sec. 5145.18. Any printing or binding performed in a state correctional institution may be performed for the use of the institution, the departments of ~~mental health~~ mental health and addiction services, developmental disabilities, and rehabilitation and correction, the department of public safety in connection with the registration of motor vehicles, and for any other purpose authorized by division (B) of section 5145.03 and by sections 5145.16 and 5145.161 of the Revised Code.

Sec. 5149.22. There is hereby established the Ohio council for interstate adult offender supervision pursuant to Article IV of the interstate compact for adult offender supervision. The council shall be comprised of ~~seven~~ at least twelve members. One member shall be the compact administrator for this state for the interstate compact for adult offender supervision; or the administrator's designee. The speaker of the house of representatives shall appoint one member, shall be of the house of representatives. The president of the senate shall appoint one member, who shall be a member of the senate. The chief justice of the supreme court shall appoint ~~one member~~ three members, who two of whom shall be ~~a member~~ members of the judiciary. The governor shall appoint ~~three~~ five members, ~~one of whom shall~~

~~be including~~ a representative of a crime victim's organization, ~~and one of whom shall be from~~ a member of the executive branch, a prosecuting attorney, a member of the state public defender's office, and a chief probation officer. The attorney general shall appoint one member, who shall be from the bureau of criminal identification and investigation. The director of rehabilitation and correction shall appoint as many additional members as the director considers necessary to fulfill the mission of the compact. The Ohio council for interstate adult offender supervision is not subject to section 101.84 of the Revised Code.

Each appointee to the state council shall be appointed in consultation with the department of rehabilitation and correction and shall serve at the pleasure of the appointing authority. The members of the council shall serve without compensation, but each member shall be reimbursed for the member's actual and necessary expenses incurred in the performance of the member's official duties on the council.

The compact administrator for this state for the interstate compact for adult offender supervision, or the administrator's designee, shall serve as commissioner of the state council and as this state's representative to the interstate commission established under Article III of that compact.

Sec. 5153.16. (A) Except as provided in section 2151.422 of the Revised Code, in accordance with rules adopted under section 5153.166 of the Revised Code, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency shall do all of the following:

(1) Make an investigation concerning any child alleged to be an abused, neglected, or dependent child;

(2) Enter into agreements with the parent, guardian, or other person having legal custody of any child, or with the department of job and family services, department of ~~mental health~~ mental health and addiction services, department of developmental disabilities, other department, any certified organization within or outside the county, or any agency or institution outside the state, having legal custody of any child, with respect to the custody, care, or placement of any child, or with respect to any matter, in the interests of the child, provided the permanent custody of a child shall not be transferred by a parent to the public children services agency without the consent of the juvenile court;

(3) Accept custody of children committed to the public children services agency by a court exercising juvenile jurisdiction;

(4) Provide such care as the public children services agency considers to be in the best interests of any child adjudicated to be an abused, neglected,

or dependent child the agency finds to be in need of public care or service;

(5) Provide social services to any unmarried girl adjudicated to be an abused, neglected, or dependent child who is pregnant with or has been delivered of a child;

(6) Make available to the bureau for children with medical handicaps of the department of health at its request any information concerning a crippled child found to be in need of treatment under sections 3701.021 to 3701.028 of the Revised Code who is receiving services from the public children services agency;

(7) Provide temporary emergency care for any child considered by the public children services agency to be in need of such care, without agreement or commitment;

(8) Find certified foster homes, within or outside the county, for the care of children, including handicapped children from other counties attending special schools in the county;

(9) Subject to the approval of the board of county commissioners and the state department of job and family services, establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation, acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision;

(10) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of children, or procure certified foster homes for this purpose;

(11) Enter into an agreement with the trustees of any district children's home, respecting the operation of the district children's home in cooperation with the other county boards in the district;

(12) Cooperate with, make its services available to, and act as the agent of persons, courts, the department of job and family services, the department of health, and other organizations within and outside the state, in matters relating to the welfare of children, except that the public children services agency shall not be required to provide supervision of or other services related to the exercise of parenting time rights granted pursuant to section 3109.051 or 3109.12 of the Revised Code or companionship or visitation rights granted pursuant to section 3109.051, 3109.11, or 3109.12 of the Revised Code unless a juvenile court, pursuant to Chapter 2151. of the Revised Code, or a common pleas court, pursuant to division (E)(6) of section 3113.31 of the Revised Code, requires the provision of supervision or other services related to the exercise of the parenting time rights or

companionship or visitation rights;

(13) Make investigations at the request of any superintendent of schools in the county or the principal of any school concerning the application of any child adjudicated to be an abused, neglected, or dependent child for release from school, where such service is not provided through a school attendance department;

(14) Administer funds provided under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended, in accordance with rules adopted under section 5101.141 of the Revised Code;

(15) In addition to administering Title IV-E adoption assistance funds, enter into agreements to make adoption assistance payments under section 5153.163 of the Revised Code;

(16) Implement a system of safety and risk assessment, in accordance with rules adopted by the director of job and family services, to assist the public children services agency in determining the risk of abuse or neglect to a child;

(17) Enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with each fiscal agreement the board enters into under section 307.98 of the Revised Code that include family services duties of public children services agencies and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the public children services agency;

(18) Make reasonable efforts to prevent the removal of an alleged or adjudicated abused, neglected, or dependent child from the child's home, eliminate the continued removal of the child from the child's home, or make it possible for the child to return home safely, except that reasonable efforts of that nature are not required when a court has made a determination under division (A)(2) of section 2151.419 of the Revised Code;

(19) Make reasonable efforts to place the child in a timely manner in accordance with the permanency plan approved under division (E) of section 2151.417 of the Revised Code and to complete whatever steps are necessary to finalize the permanent placement of the child;

(20) Administer a Title IV-A program identified under division (A)(4)(c) or ~~(f)(g)~~ of section 5101.80 of the Revised Code that the department of job and family services provides for the public children services agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code;

(21) Administer the kinship permanency incentive program created under section 5101.802 of the Revised Code under the supervision of the director of job and family services;

(22) Provide independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code;

(23) File a missing child report with a local law enforcement agency upon becoming aware that a child in the custody of the public children services agency is or may be missing.

(B) The public children services agency shall use the system implemented pursuant to division (A)(16) of this section in connection with an investigation undertaken pursuant to division (F)(1) of section 2151.421 of the Revised Code to assess both of the following:

(1) The ongoing safety of the child;

(2) The appropriateness of the intensity and duration of the services provided to meet child and family needs throughout the duration of a case.

(C) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the director of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may do the following:

(1) Provide or find, with other child serving systems, specialized foster care for the care of children in a specialized foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code;

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of this section, contract with the following for the purpose of assisting the agency with its duties:

(i) County departments of job and family services;

(ii) Boards of alcohol, drug addiction, and mental health services;

(iii) County boards of developmental disabilities;

(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;

(v) Private and government providers of services;

(vi) Managed care organizations and prepaid health plans.

(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules.

(c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners

may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties.

Sec. 5160.01. As used in this chapter:

(A) "Dual eligible individual" has the same meaning as in the "Social Security Act," section 1915(h)(2)(B), 42 U.S.C. 1396n(h)(2)(B). A dual eligible individual is a medicare-medicaid enrollee (MME).

(B) "Exchange" has the same meaning as in 45 C.F.R. 155.20.

(C) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing a medical assistance program.

(D) "Medical assistance program" means all of the following:

(1) The medicaid program;

(2) The children's health insurance program;

(3) The refugee medical assistance program;

(4) Any other program that provides medical assistance and state statutes authorize the department of medicaid to administer.

(E) "Medical assistance recipient" means a recipient of a medical assistance program. To the extent appropriate in the context, "medical assistance recipient" includes an individual applying for a medical assistance program, a former medical assistance recipient, or both.

(F) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

(G) "Refugee medical assistance program" means the program that the department of medicaid administers pursuant to section 5160.50 of the Revised Code.

Sec. 5160.011. References to the department or director of public welfare, department or director of human services, department or director of job and family services, office of medical assistance, or medical assistance director in any statute, rule, contract, grant, or other document is deemed to refer to the department of medicaid or medicaid director, as the case may be, to the extent the reference is about a duty or authority of the department of medicaid or medicaid director regarding a medical assistance program.

Sec. 5160.02. The medicaid director shall adopt rules as necessary to implement this chapter.

Sec. 5160.021. (A) When the medicaid director is authorized by a statute to adopt a rule, the director shall adopt the rule in accordance with the following:

(1) Chapter 119. of the Revised Code if either of the following applies:

(a) The statute authorizing the rule requires that the rule be adopted in accordance with Chapter 119. of the Revised Code.

(b) Unless division (A)(2)(b) of this section applies, the statute authorizing the rule does not specify the procedure for the rule's adoption.

(2) Section 111.15 of the Revised Code, excluding divisions (D) and (E) of that section, if either of the following applies:

(a) The statute authorizing the rule requires that the rule be adopted in accordance with section 111.15 of the Revised Code and, by the terms of division (D) of that section, division (D) of that section does not apply to the rule.

(b) The statute authorizing the rule does not specify the procedure for the rule's adoption and the rule concerns the day-to-day staff procedures and operations of the department of medicaid or financial and operational matters between the department and a person or government entity receiving a grant from the department.

(3) Section 111.15 of the Revised Code, including divisions (D) and (E) of that section, if the statute authorizing the rule requires that the rule be adopted in accordance with that section and the rule is not exempt from the application of division (D) of that section.

(B) Except as otherwise required by a statute, the adoption of a rule in accordance with Chapter 119. of the Revised Code does not make the department of medicaid subject to the notice, hearing, or other requirements of sections 119.06 to 119.13 of the Revised Code.

Sec. 5160.03. The medicaid director is the executive head of the department of medicaid. All duties conferred on the department by law or order of the director are under the director's control and shall be performed in accordance with rules the director adopts.

Sec. 5160.04. The medicaid director shall appoint one assistant director for the department of medicaid. The assistant director shall exercise powers, and perform duties, as ordered by the medicaid director. The assistant director shall act as the medicaid director in the medicaid director's absence or disability and when the position of medicaid director is vacant.

Sec. 5160.05. The medicaid director may appoint such employees as are necessary for the efficient operation of the department of medicaid. The director may prescribe the title and duties of the employees.

Sec. 5160.051. If the medicaid director determines that a position with the department of medicaid can best be filled in accordance with division (A)(2) of section 124.30 of the Revised Code or without regard to a residency requirement established by a rule adopted by the director of administrative services, the medicaid director shall provide the director of administrative services certification of the determination.

Sec. 5160.052. The department of medicaid shall collaborate with the

superintendent of the bureau of criminal identification and investigation to develop procedures and formats necessary to produce the notices described in division (C) of section 109.5721 of the Revised Code in a format that is acceptable for use by the department. The medicaid director may adopt rules under section 5160.02 of the Revised Code necessary for such collaboration. Any such rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

The medicaid director may adopt rules under section 5160.02 of the Revised Code necessary for utilizing the information received pursuant to section 109.5721 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5160.06. The medicaid director may require any of the employees of the department of medicaid who may be charged with custody or control of any public money or property or who is required to give bond, to give a bond, properly conditioned, in a sum to be fixed by the director which when approved by the director, shall be filed in the office of the secretary of state. The cost of such bonds, when approved by the director, shall be paid from funds available for the department. The bonds required or authorized by this section may, in the discretion of the director, be individual, schedule, or blanket bonds.

Sec. 5160.10. The medicaid director may expend funds appropriated or available to the department of medicaid from persons and government entities. For purposes of this section, the director may enter into contracts or agreements with persons and government entities and make grants to persons and government entities. To the extent permitted by federal law, the director may advance funds to a grantee when necessary for the grantee to perform duties under the grant as specified by the director.

The director may adopt rules under section 5160.02 of the Revised Code as necessary to define terms and adopt procedures and other provisions necessary to implement this section.

Sec. 5160.11. The state health care grants fund is hereby created in the state treasury. Money the department of medicaid receives from private foundations in support of pilot projects that promote exemplary programs that enhance programs the department administers shall be credited to the fund. The department may expend the money on such projects, may use the money, to the extent allowable, to match federal financial participation in support of such projects, and shall comply with requirements the foundations have stipulated in their agreements with the department as to the purposes for which the money may be expended.

Sec. 5160.12. (A) As used in this section, "entity" includes an agency,

board, commission, or department of the state or a political subdivision of the state; a private, nonprofit entity; a school district; a private school; or a public or private institution of higher education.

(B) This section does not apply to contracts entered into under section 5162.32 or 5162.35 of the Revised Code.

(C) At the request of any public entity having authority to implement a program administered by the department of medicaid or any private entity under contract with a public entity to implement a program administered by the department, the department may seek to obtain federal financial participation for costs incurred by the entity. Federal financial participation may be sought from programs operated pursuant to Title XIX of the "Social Security Act," 42 U.S.C. 1396, et seq., and any other statute or regulation under which federal financial participation may be available, except that federal financial participation may be sought only for expenditures made with funds for which federal financial participation is available under federal law.

(D) All funds collected by the department pursuant to division (C) of this section shall be distributed to the entities that incurred the costs.

(E) In distributing federal financial participation pursuant to this section, the department may either enter into an agreement with the entity that is to receive the funds or distribute the funds in accordance with rules authorized by division (H) of this section. If the department decides to enter into an agreement to distribute the funds, the agreement may include terms that do any of the following:

(1) Provide for the whole or partial reimbursement of any cost incurred by the entity in implementing the program;

(2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the department or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures;

(3) Require the entity to certify to the department the availability of sufficient unencumbered funds to match the federal financial participation the entity receives under this section;

(4) Establish the length of the agreement, which may be for a fixed or a continuing period of time;

(5) Establish any other requirements determined by the department to be necessary for the efficient administration of the agreement.

(F) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department for the use of the

funds to improve and expand the program.

(G) Federal financial participation received pursuant to this section shall not be included in any calculation made under section 5101.16 or 5101.161 of the Revised Code.

(H) The medicaid director may adopt rules under section 5160.02 of the Revised Code as necessary to implement this section, including rules for the distribution of federal financial participation pursuant to this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5160.13. The department of medicaid may enter into contracts with private entities to maximize federal revenue without the expenditure of state money. In selecting private entities with which to contract, the department shall engage in a request for proposals process. The department, subject to the approval of the controlling board, may also directly enter into contracts with public entities providing revenue maximization services.

Sec. 5160.16. The department of medicaid may appoint and commission any competent person to serve as a special agent, investigator, or representative to perform a designated duty for and on behalf of the department. Specific credentials shall be given by the department to each person so designated, and each credential shall state the following:

(A) The person's name;

(B) The agency with which the person is connected;

(C) The purpose of the appointment;

(D) The date the appointment expires, if appropriate;

(E) Such information as the department considers proper.

Sec. 5160.20. (A) The department of medicaid may conduct any audits or investigations that are necessary in the performance of the department's duties, and to that end, the department has the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers.

The department shall keep a record of the department's audits and investigations stating the time, place, charges, or subject; witnesses summoned and examined; and the department's conclusions.

Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code.

(B) Any judge of any division of the court of common pleas, on application of the department, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the department, by a judgment for contempt or otherwise, in the same manner as in cases before those courts.

(C) Until an audit report is formally released by the department, the

audit report or any working paper or other document or record prepared by the department and related to the audit that is the subject of the audit report is not a public record under section 149.43 of the Revised Code.

(D) The medicaid director may adopt rules under section 5160.02 of the Revised Code as necessary to implement this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

Sec. 5160.21. On the request of the medicaid director, the auditor of state may conduct an audit of any medical assistance recipient. If the auditor decides to conduct an audit under this section, the auditor shall enter into an interagency agreement with the department of medicaid that specifies that the auditor agrees to comply with section 5160.45 of the Revised Code with respect to any information the auditor receives pursuant to the audit.

Sec. 5160.22. (A) The auditor of state and attorney general, or their designees, may examine any records, whether in computer or printed format, in the possession of the medicaid director or any county director of job and family services, regarding medical assistance programs. The auditor of state and attorney general shall do both of the following regarding the records:

(1) Provide safeguards that restrict access to the records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs;

(2) Comply, and ensure that their designees comply, with section 5160.45 of the Revised Code and rules of the medicaid director restricting the disclosure of information regarding medical assistance recipients.

(B) Any person who fails to comply with the restriction specified in division (A) of this section is disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

Sec. 5160.23. The auditor of state is responsible for the costs the auditor incurs in carrying out the auditor's duties under sections 5160.21 and 5160.22 of the Revised Code.

Sec. 5160.30. (A) Except as provided in divisions (B) and (C) of this section, the department of medicaid may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for medical assistance programs.

(B) The department may enter into agreements with one or more agencies of the federal government, the state, other states, and local governments of this or other states to accept applications, determine eligibility, redetermine eligibility, and perform related administrative

activities on behalf of the department with respect to medical assistance programs.

(C) If federal law requires a face-to-face interview to complete an eligibility determination for a medical assistance program, the department shall not conduct the face-to-face interview.

(D) Subject to division (C) of this section, if the department elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a medical assistance program, both of the following apply:

(1) An individual may apply for the medical assistance program to the department or an agency authorized by an agreement entered into under division (B) of this section to accept the individual's application;

(2) The department is subject to federal statutes and regulations and state statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the medical assistance program.

Sec. 5160.31. (A) A medical assistance recipient may appeal a decision regarding the recipient's eligibility for a medical assistance program or services available to the recipient under a medical assistance program.

(B) Regarding appeals authorized by this section, the department of medicaid shall do one or more of the following:

(1) Administer an appeals process similar to the appeals process established under section 5101.35 of the Revised Code;

(2) Contract with the department of job and family services pursuant to section 5162.35 of the Revised Code to provide for the department of job and family services to hear the appeals in accordance with section 5101.35 of the Revised Code;

(3) Delegate authority to hear appeals to an exchange or exchange appeals entity.

(C) If a medical assistance recipient files an appeal as authorized by this section, the department of medicaid may do either or both of the following:

(1) Take corrective action regarding the matter being appealed before a hearing decision regarding the matter is issued;

(2) If a hearing decision, administrative appeal decision, or court ruling is against the recipient, take action in favor of the recipient despite the contrary decision or ruling, unless, in the case of a court's ruling, the ruling prohibits the department from taking the action.

Sec. ~~5101.574~~ 5160.35. As used in sections ~~5101.574~~ 5160.35 to ~~5101.594~~ 5160.43 of the Revised Code:

(A) "Information" means all of the following:

(1) An individual's name, address, date of birth, and social security number;

(2) The group or plan number, or other identifier, assigned by a third party to a policy held by an individual or a plan in which the individual participates and the nature of the coverage;

(3) Any other data the medicaid director ~~of job and family services~~ specifies in rules ~~adopted under~~ authorized by section ~~5101.591~~ 5160.43 of the Revised Code.

~~(B) "Medical assistance" means medical items or services provided under any of the following:~~

~~(1) Medicaid, as defined in section 5111.01 of the Revised Code;~~

~~(2) The children's health insurance program part I, part II, and part III established under sections 5101.50, 5101.51, and 5101.52 of the Revised Code.~~

~~(C) "Medical support" means support specified as support for the purpose of medical care by order of a court or administrative agency.~~

~~(D) "Public assistance" means medical assistance or assistance under the Ohio works first program established under Chapter 5107. of the Revised Code.~~

~~(E)(C)(1)~~ Subject to division ~~(E)(C)(2)~~ of this section, and except as provided in division ~~(E)(C)(3)~~ of this section, "third party" means all of the following:

(a) A person authorized to engage in the business of sickness and accident insurance under Title XXXIX of the Revised Code;

(b) A person or governmental entity providing coverage for medical services or items to individuals on a self-insurance basis;

(c) A health insuring corporation as defined in section 1751.01 of the Revised Code;

(d) A group health plan as defined in 29 U.S.C. 1167;

(e) A service benefit plan as referenced in 42 U.S.C. 1396a(a)(25);

(f) A managed care organization;

(g) A pharmacy benefit manager;

(h) A third party administrator;

(i) Any other person or governmental entity that is, by law, contract, or agreement, responsible for the payment or processing of a claim for a medical item or service for a public medical assistance recipient ~~or participant~~.

(2) Except when otherwise provided by the "Social Security Act," section 1862(b), 42 U.S.C. 1395y(b), a person or governmental entity listed

in division ~~(E)~~(C)(1) of this section is a third party even if the person or governmental entity limits or excludes payments for a medical item or service in the case of a public assistance recipient.

(3) "Third party" does not include the program for medically handicapped children established under section 3701.023 of the Revised Code.

Sec. ~~5101.58~~ 5160.37. (A) ~~The acceptance of public~~ A medical assistance recipient's enrollment in a medical assistance program gives an automatic right of recovery to the department of ~~job and family services~~ medicaid and a county department of job and family services against the liability of a third party for the cost of medical assistance paid on behalf of the ~~public assistance recipient or participant~~. When an action or claim is brought against a third party by a ~~public~~ medical assistance recipient or participant, any payment, settlement or compromise of the action or claim, or any court award or judgment, is subject to the recovery right of the department of ~~job and family services~~ medicaid or county department of ~~job and family services~~. Except in the case of a medical assistance recipient or participant who receives medical assistance through a medicaid managed care organization, the department's or county department's claim shall not exceed the amount of medical assistance paid by a ~~the department or county~~ department on behalf of the recipient ~~or participant~~. A payment, settlement, compromise, judgment, or award that excludes the cost of medical assistance paid for by a the department or county department shall not preclude a department from enforcing its rights under this section.

(B) In the case of a medical assistance recipient or participant who receives medical assistance through a medicaid managed care organization, the amount of the department's or county department's claim shall be the amount the medicaid managed care organization pays for medical assistance rendered to the recipient ~~or participant~~, even if that amount is more than the amount a the department or county department pays to the medicaid managed care organization for the recipient's ~~or participant's~~ medical assistance.

(C) A medical assistance recipient or participant, and the recipient's ~~or participant's~~ attorney, if any, shall cooperate with the departments. In furtherance of this requirement, the medical assistance recipient or participant, or the recipient's ~~or participant's~~ attorney, if any, shall, not later than thirty days after initiating informal recovery activity or filing a legal recovery action against a third party, provide written notice of the activity or action to the department of ~~job and family services~~ when medicaid or county department if it has paid for medical assistance under medicaid has been

~~paid~~ a medical assistance program.

(D) The written notice that must be given under division (C) of this section shall disclose the identity and address of any third party against whom the medical assistance recipient ~~or participant~~ has or may have a right of recovery.

(E) No settlement, compromise, judgment, or award or any recovery in any action or claim by a medical assistance recipient ~~or participant~~ where the ~~departments have~~ department or county department has a right of recovery shall be made final without first giving the ~~appropriate departments~~ department or county department written notice as described in division (C) of this section and a reasonable opportunity to perfect ~~their~~ its rights of recovery. If the ~~departments are~~ department or county department is not given the appropriate written notice, the medical assistance recipient ~~or participant~~ and, if there is one, the recipient's ~~or participant's~~ attorney, are liable to reimburse the ~~departments~~ department or county department for the recovery received to the extent of medical assistance payments made by the ~~departments~~ department or county department.

(F) The ~~departments~~ department or county department shall be permitted to enforce ~~their~~ its recovery rights against the third party even though ~~they~~ it accepted prior payments in discharge of ~~their~~ its rights under this section if, at the time the ~~departments~~ department or county department received such payments, ~~they were~~ it was not aware that additional medical expenses had been incurred but had not yet been paid by the ~~departments~~ department or county department. The third party becomes liable to the ~~department of job and family services~~ or county ~~department of job and family services~~ as soon as the third party is notified in writing of the valid claims for recovery under this section.

(G)(1) Subject to division (G)(2) of this section, the right of recovery of ~~a~~ the department or county department does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a medical assistance recipient ~~or participant~~ in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient ~~or participant~~ from the recipient's ~~or participant's~~ own resources.

(2) Reasonable attorneys' fees, not to exceed one-third of the total judgment, award, settlement, or compromise, plus costs and other expenses incurred by the medical assistance recipient ~~or participant~~ in securing the judgment, award, settlement, or compromise, shall first be deducted from the total judgment, award, settlement, or compromise. After fees, costs, and

other expenses are deducted from the total judgment, award, settlement, or compromise, the department of ~~job and family services~~ medicaid or ~~appropriate~~ county department of ~~job and family services~~ shall receive no less than one-half of the remaining amount, or the actual amount of medical assistance paid, whichever is less.

(H) A right of recovery created by this section may be enforced separately or jointly by the department of ~~job and family services~~ medicaid or ~~the appropriate~~ county department of ~~job and family services~~. To enforce ~~their~~ its recovery rights, the ~~departments~~ department or county department may do any of the following:

(1) Intervene or join in any action or proceeding brought by the medical assistance recipient ~~or participant~~ or on the recipient's ~~or participant's~~ behalf against any third party who may be liable for the cost of medical assistance paid;

(2) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical assistance paid;

(3) Initiate legal proceedings in conjunction with any injured, diseased, or disabled medical assistance recipient ~~or participant~~ or the recipient's ~~or participant's~~ attorney or representative.

(I) A medical assistance recipient ~~or participant~~ shall not assess attorney fees, costs, or other expenses against the department of ~~job and family services~~ medicaid or a county department of ~~job and family services~~ when the department or county department enforces its right of recovery created by this section.

(J) The right of recovery given to the department under this section ~~does not include rights to support from any other person assigned to the state under sections 5107.20 and 5115.07 of the Revised Code, but~~ includes payments made by a third party under contract with a person having a duty to support.

(K) The department of medicaid may assign to a medical assistance provider the right of recovery given to the department under this section with respect to any claim for which the department has notified the provider that the department intends to recoup the department's prior payment for the claim.

Sec. 5160.371. In addition to the requirement of division (C) of section 5160.37 of the Revised Code to cooperate with the department of medicaid and county department of job and family services, a medical assistance recipient and the recipient's attorney, if any, shall cooperate with each medical provider of the recipient. Cooperation with a medical provider shall consist of disclosing to the provider all information the recipient and

attorney, if any, possess that would assist the provider in determining each third party that is responsible for the payment or processing of a claim for medical assistance provided to the recipient. If disclosure is not made in accordance with this section, the recipient and the recipient's attorney, if any, are liable to reimburse the department or county department for the amount that would have been paid by a third party had the third party been disclosed to the provider by the recipient or the recipient's attorney.

Sec. ~~5101.59~~ 5160.38. (A) The application for, or ~~acceptance of enrollment in, public a medical assistance program~~ constitutes an automatic assignment of ~~certain~~ specified in division (B) of this section to the department of ~~job and family services~~ medicaid. This assignment includes the rights of the ~~applicant, medical assistance recipient, or participant~~ and also the rights of any other member of the assistance group for whom the ~~applicant, recipient, or participant~~ can legally make an assignment.

(B) Pursuant to this section, ~~the applicant, a medical assistance recipient, or participant~~ assigns to the department any rights to medical support available to the ~~applicant, recipient, or participant~~ or for other members of the recipient's assistance group under an order of a court or administrative agency, and any rights to payments by a liable third party for the cost of medical assistance paid on behalf of a ~~public assistance~~ the recipient or participant or other members of the assistance group. The recipient ~~or participant~~ shall cooperate with the department in obtaining such payments.

Medicare benefits shall not be assigned pursuant to this section. Benefits assigned to the department by operation of this section are directly reimbursable to the department by liable third parties.

(C) Refusal by ~~the applicant, a medical assistance recipient, or participant~~ to cooperate in obtaining medical assistance paid for self or any other member of the recipient's assistance group renders the ~~applicant, recipient, or participant~~ ineligible for ~~public a medical assistance program~~, unless cooperation is waived by the department. Eligibility shall continue for any individual who cannot legally assign the individual's own rights and who would have been eligible for ~~public a medical assistance program~~ but for the refusal to assign the individual's rights or to cooperate as required by this section by another person legally able to assign the individual's rights.

(D) If ~~the applicant, a medical assistance recipient, or participant~~ or any member of the recipient's assistance group becomes ineligible for ~~public a medical assistance program~~, the department shall restore to the ~~applicant, recipient, participant, or member of the assistance group~~ member any future rights to benefits assigned under this section.

~~(E) The rights of assignment given to the department under this section do not include rights to support assigned under section 5107.20 or 5115.07 of the Revised Code.~~

Sec. ~~5101.572~~ 5160.39. (A) A third party shall cooperate with the department of ~~job and family services~~ medicaid in identifying individuals for the purpose of establishing third party liability ~~pursuant to Title XIX of the Social Security Act, as amended~~ regarding medical assistance programs.

(B) In furtherance of the requirement in division (A) of this section and to allow the department to determine any period that the individual or the individual's spouse or dependent may have been covered by the third party and the nature of the coverage, a third party shall provide, as the department so chooses, information or access to information, or both, in the third party's electronic data system on the department's request and in accordance with division (C) of this section.

(C)(1) If the department chooses to receive information directly, the third party shall provide the information under all of the following circumstances:

(a) In a medium, format, and manner prescribed ~~by the director of job and family services~~ in rules ~~adopted under~~ authorized by section ~~5101.591~~ 5160.43 of the Revised Code;

(b) Free of charge;

(c) Not later than the end of the thirtieth day after the department makes its request, unless a different time is agreed to by the director in writing.

(2) If the department chooses to receive access to information, the third party shall provide access by a method prescribed ~~by the director of job and family services~~ in rules ~~adopted under~~ authorized by section ~~5101.591~~ 5160.43 of the Revised Code. In facilitating access, the department may enter into a trading partner agreement with the third party to permit the exchange of information via "ASC X 12N 270/271 Health Care Eligibility Benefit Inquiry and Response" transactions.

(D) All of the following apply with respect to information provided by a third party to the department under this section:

(1) The information is confidential and not a public record under section 149.43 of the Revised Code.

(2) The release of information to the department is not to be considered a violation of any right of confidentiality or contract that the third party may have with covered persons including, but not limited to, contractees, beneficiaries, heirs, assignees, and subscribers.

(3) The third party is immune from any liability that it may otherwise incur through its release of information to the department.

The department ~~of job and family services~~ shall limit its use of information gained from third parties to purposes directly connected with the administration of the medicaid program and the child support program authorized by Title IV-D of the "Social Security Act," 42 U.S.C. 651 et seq.

(E) No third party shall disclose to other parties or make use of any information regarding medical assistance recipients ~~of aid under Chapter 5107. or 5111. of the Revised Code~~ that it obtains from the department, except in the manner provided ~~for by the director of job and family services~~ in administrative rules authorized by section 5160.43 of the Revised Code.

~~Sec. 5101.573~~ 5160.40. (A) Subject to divisions (B) and (C) of this section, a third party shall do all of the following:

(1) Accept the department of ~~job and family services'~~ medicaid's right of recovery under section ~~5101.58~~ 5160.37 of the Revised Code and the assignment of rights to the department that are described in section ~~5101.59~~ 5160.38 of the Revised Code;

(2) Respond to an inquiry by the department regarding a claim for payment of a medical item or service that was submitted to the third party not later than six years after the date of the provision of such medical item or service;

(3) Not charge a fee to do either of the following for a claim described in division (A)(2) of this section:

(a) Determine whether the claim should be paid;

(b) Process the claim.

(4) Pay a claim described in division (A)(2) of this section;

(5) Not deny a claim submitted by the department solely on the basis of the date of submission of the claim, type or format of the claim form, or a failure by the medical assistance recipient who is the subject of the claim to present proper documentation of coverage at the time of service, if both of the following ~~are true~~ have occurred:

(a) The claim was submitted by the department not later than six years after the date of the provision of the medical item or service.

(b) An action by the department to enforce its right of recovery under section ~~5101.58~~ 5160.37 of the Revised Code on the claim was commenced not later than six years after the department's submission of the claim.

(6) Consider the department's payment of a claim for a medical item or service to be the equivalent of the medical assistance recipient having obtained prior authorization for the item or service from the third party;

(7) Not deny a claim described in division (A)(6) of this section that is submitted by the department solely on the basis of the medical assistance recipient's failure to obtain prior authorization for the medical item or

service.

(B) For purposes of the requirements in division (A) of this section, a third party shall treat a medicaid managed care organization as the department for a claim ~~in which both of the following are true:~~

~~(1) The if the individual who is the subject of the claim received a medical item or service through a medicaid managed care organization that has entered into a contract with the department of job and family services under section 5111.17 of the Revised Code;~~

~~(2) The and the department has assigned its right of recovery for the claim to the medicaid managed care organization.~~

(C) If the department of medicaid, as permitted by division (K) of section 5160.37 of the Revised Code, assigns to a medical assistance provider the department's right of recovery for a claim for which it has notified the provider that it intends to recoup its prior payment for a claim, a third party shall treat the provider as the department and shall pay the provider the greater of the following:

(1) The amount the department intends to recoup from the provider for the claim.

(2) If the third party and the provider have an agreement that requires the third party to pay the provider at the time the provider presents the claim to the third party, the amount that is to be paid under that agreement.

(D) The time limitations associated with the requirements in divisions (A)(2) and (5) of this section apply only to submissions of claims to, and payments of claims by, a health insurer to which the "Social Security Act," section 1902(a)(25)(I), 42 U.S.C. 1396a(a)(25)(I), applies.

Sec. ~~5101.574~~ 5160.41. No third party shall consider whether an individual is eligible for or ~~receives~~ enrolled in a medical assistance program when either of the following applies:

(A) The individual seeks to obtain a policy or enroll in a plan or program operated or administered by the third party;

(B) The individual, or a person or governmental entity on the individual's behalf, seeks payment for a medical item or service provided to the individual.

Sec. ~~5101.575~~ 5160.42. (A) If a third party violates section ~~5101.572~~ 5160.39, ~~5101.573~~ 5160.40, or ~~5101.574~~ 5160.41 of the Revised Code, a governmental entity that is responsible for issuing a license, certificate of authority, registration, or approval that authorizes the third party to do business in this state may impose a fine against the third party or deny, revoke, or terminate the third party's license, certificate, registration, or approval to do business in this state. The governmental entity shall

determine which sanction is to be imposed. All actions to impose the sanction shall be taken in accordance with Chapter 119. of the Revised Code.

(B) In addition to the sanctions that may be imposed under division (A) of this section for a violation of section ~~5101.572~~ 5160.39, ~~5101.573~~ 5160.40, or ~~5101.574~~ 5160.41 of the Revised Code, the attorney general may petition a court of common pleas to enjoin the violation.

~~Sec. 5101.591~~ 5160.43. (A) ~~Except as provided in division (B) of this section, the~~ The medicaid director of job and family services may adopt rules ~~in accordance with Chapter 119. under section 5160.02~~ of the Revised Code to implement sections ~~5101.571~~ 5160.35 to ~~5101.59~~ 5160.43 of the Revised Code, including rules that specify what constitutes cooperating with efforts to obtain support or payments, or medical assistance payments, and when cooperation may be waived.

(B) The department shall adopt rules ~~in accordance with Chapter 119. under section 5160.02~~ of the Revised Code to do all of the following:

(1) For purposes of the definition of "information" in division (A) of section ~~5101.571~~ 5160.35 of the Revised Code, any data other than the data specified in that division that should be included in the definition.

(2) For purposes of division (C)(1)(a) of section ~~5101.572~~ 5160.39 of the Revised Code, the medium, format, and manner in which a third party must provide information to the department.

(3) For purposes of division (C)(2) of section ~~5101.572~~ 5160.39 of the Revised Code, the method by which a third party must provide the department with access to information.

(C) Rules authorized by division (A) of this section may be adopted in accordance with section 111.15 of the Revised Code. Rules authorized by division (B) of this section shall be adopted in accordance with Chapter 119. of the Revised Code.

~~Sec. 5101.271~~ 5160.45. (A) As used in sections 5160.45 to 5160.481 of the Revised Code, "information" means all of the following:

(1) Records, as defined in section 149.011 of the Revised Code;

(2) Any other documents in any format;

(3) Data derived from records and documents that are generated, acquired, or maintained by the department of medicaid, a county department of job and family services, or an entity performing duties on behalf of the department or a county department.

(B) Except as permitted by this section, section ~~5101.273~~ 5160.47, or rules ~~adopted under~~ authorized by section 5101.30 5160.48 or 5160.481 of the Revised Code, or when required by federal law, no person or

government entity shall use or disclose information regarding a medical assistance recipient for any purpose not directly connected with the administration of ~~the~~ a medical assistance program.

~~(B)~~(C) Both of the following shall be considered to be purposes directly connected with the administration of ~~the~~ a medical assistance program:

(1) Treatment, payment, or other operations or activities authorized by 42 C.F.R. Chapter IV;

(2) Any administrative function or duty the department of ~~job and family services~~ medicaid performs alone or jointly with a federal government entity, another state government entity, or a local government entity implementing a provision of federal law.

~~(C)~~(D) The department or a county ~~agency~~ department of job and family services may disclose information regarding a medical assistance recipient to any of the following:

(1) The recipient or the recipient's authorized representative;

(2) The recipient's legal guardian in accordance with division (C) of section 2111.13 of the Revised Code;

(3) The attorney of the recipient, if the department or county ~~agency~~ department has obtained authorization from the recipient; or the recipient's authorized representative; or ~~the recipient's~~ legal guardian that meets all requirements of the Health Insurance Portability and Accountability Act of 1996, ~~Pub. L. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d et seq., as amended,~~ regulations promulgated by the United States department of health and human services to implement the act, section ~~5101.272~~ 5160.46 of the Revised Code, and any rules ~~the director of job and family services adopts under~~ authorized by section ~~5101.30~~ 5160.48 of the Revised Code;

(4) A health information or health records management entity that has executed with the department a business associate agreement required by 45 C.F.R. 164.502(e)(2) and has been authorized by the recipient; or the recipient's authorized representative; or ~~the recipient's~~ legal guardian to receive the recipient's electronic health records in accordance with rules ~~the director of job and family services adopts under~~ authorized by section ~~5101.30~~ 5160.48 of the Revised Code;

(5) A court if pursuant to a written order of the court.

~~(D)~~(E) The department may receive from county departments of job and family services information regarding any medical assistance recipient for purposes of training and verifying the accuracy of eligibility determinations for a medical assistance program. The department may assemble information received under this division into a report if the report is in a form specified by the department. Information received and assembled into

a report under this division shall remain confidential and not be subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code.

~~(E)~~(F) The department shall notify courts in this state regarding its authority, under division ~~(C)~~(D)(5) of this section, to disclose information regarding a medical assistance recipient pursuant to a written court order.

Sec. 5160.46. (A) For the purposes of section 5160.45 of the Revised Code, an authorization shall be made on a form that uses language understandable to the average person and contains all of the following:

(1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;

(2) The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure;

(3) The name or other specific identification of the person or government entity to which the information may be released;

(4) A description of each purpose of the requested use or disclosure of the information;

(5) The date on which the authorization expires or an event related either to the individual who is the subject of the request or to the purposes of the requested use or disclosure, the occurrence of which will cause the authorization to expire;

(6) A statement that the information used or disclosed pursuant to the authorization may be disclosed by the recipient of the information and may no longer be protected from disclosure;

(7) The signature of the individual or the individual's authorized representative and the date on which the authorization was signed;

(8) If signed by an authorized representative, a description of the representative's authority to act for the individual;

(9) A statement of the individual or authorized representative's right to prospectively revoke the written authorization in writing, along with either of the following:

(a) A description of how the individual or authorized representative may revoke the authorization;

(b) If the department of medicaid has established a privacy notice that contains a description of how the individual or authorized representative may revoke the authorization, a reference to the privacy notice.

(10) A statement that treatment, payment, enrollment, or eligibility for a medical assistance program cannot be conditioned on signing the authorization unless the authorization is necessary for determining eligibility for the program.

(B) An authorization for the release of information regarding a medical

assistance recipient to the recipient's attorney under division (D)(3) of section 5160.45 of the Revised Code may include a provision specifically authorizing the release of the recipient's electronic health records, if any, in accordance with rules authorized by section 5160.48 or 5160.481 of the Revised Code.

(C) When an individual requests information pursuant to section 5160.45 of the Revised Code regarding the individual's enrollment in a medical assistance program and does not wish to provide a statement of purpose, the statement "at request of the individual" is a sufficient description for purposes of division (A)(4) of this section.

Sec. 5160.47. The department of medicaid shall enter into any necessary agreements with the United States department of health and human services and neighboring states to join and participate as an active member in the public assistance reporting information system. The department may disclose information regarding a medical assistance recipient to the extent necessary to participate as an active member in the system.

Sec. 5160.48. (A) The medicaid director shall adopt rules under section 5160.02 of the Revised Code implementing sections 5160.45 to 5160.481 of the Revised Code and governing the custody, use, disclosure, and preservation of the information generated or received by the department of medicaid, county departments of job and family services, other state and county entities, contractors, grantees, private entities, or officials participating in the administration of medical assistance programs. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The rules may define who is an "authorized representative" for purposes of sections 5160.45 and 5160.46 of the Revised Code. The rules shall specify conditions and procedures for the release of information, which may include both of the following:

(1) Permitting a provider of a service under a medical assistance program limited access to information that is essential for the provider to render the service or to bill for the service rendered;

(2) Permitting a contractor, grantee, or other state or county entity limited access to information that is essential for the contractor, grantee, or entity to perform administrative or other duties on behalf of the department or a county department.

(B) The department of aging, when investigating a complaint under section 173.20 of the Revised Code, shall be granted any limited access permitted in the rules authorized by division (A)(1) of this section.

A contractor, grantee, or entity given access to information pursuant to the rules authorized by division (A)(2) of this section is bound by the

director's rules. Disclosure of the information by the contractor, grantee, or entity in a manner not authorized by the rules is a violation of section 5160.45 of the Revised Code.

Sec. 5160.481. Whenever names, addresses, or other information relating to medical assistance recipients is held by any agency other than the department of medicaid or a county department of job and family services, that other agency shall adopt rules consistent with sections 5160.45 to 5160.481 of the Revised Code to prevent the publication or disclosure of names, lists, or other information concerning those recipients.

Sec. 5160.50. The department of medicaid shall administer the refugee medical assistance program authorized by the "Immigration and Nationality Act," section 412(e), 8 U.S.C. 1522(e).

Sec. 5160.52. The medicaid director may provide for the department of medicaid to develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with agencies of any other states, for the provision of medical assistance to children in relation to whom all of the following apply:

(A) They have special needs.

(B) This state or another state that is a party to the interstate compact is providing adoption assistance on their behalf.

(C) They move into this state from another state or move out of this state to another state.

Sec. 5160.99. Whoever violates division (B) of section 5160.45 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 5161.01. (A) As used in the Revised Code, "children's health insurance program" and, when used as an acronym for the children's health insurance program, "CHIP" mean the program of child health assistance authorized by Title XXI of the "Social Security Act," 42 U.S.C. 1397aa et seq. CHIP part I, CHIP part II, and CHIP part III, as authorized by this chapter, are components of CHIP. Any reference in statute enacted by the general assembly to medicaid or the medicaid program also means CHIP to the extent, if any, that CHIP is provided under the medicaid program.

(B) As used in this chapter, "federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

Sec. ~~5101.502~~ 5161.02. The medicaid director of job and family services may adopt rules in accordance with Chapter 119. of the Revised

Code as necessary for the efficient administration of the children's health insurance program ~~part I~~, including rules that establish all of the following:

(A) The conditions under which ~~health assistance services~~ the program will be ~~reimbursed~~ pay for health benefits coverage;

(B) The method of ~~reimbursement applicable to services reimbursable under the program~~ payment;

(C) The amount of ~~reimbursement~~ payment, or the method by which the amount is to be determined, for each ~~reimbursable~~ service included in the health benefits coverage.

~~Sec. 5101.50~~ 5161.05. ~~(A) As used in sections 5101.50 to 5101.529 of the Revised Code:~~

(1) ~~"Children's health insurance program" means the program authorized by Title XXI of the "Social Security Act," 111 Stat. 552 (1997), 42 U.S.C.A. 1397aa.~~

(2) ~~"Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.~~

~~(B) The~~ medicaid ~~director of job and family services~~ may continue to operate the component of the children's health insurance program initially authorized by an executive order issued under section 107.17 of the Revised Code as long as federal financial participation is available for the program. If operated, the program component shall ~~provide health assistance to~~ pay for part or all of the cost of health benefits coverage for uninsured individuals under nineteen years of age with family incomes not exceeding one hundred fifty per cent of the federal poverty guidelines line. ~~In accordance with 42 U.S.C.A. 1397aa, the director may provide for the health assistance to meet the requirements of 42 U.S.C.A. 1397ee, to be provided under the medicaid program established under Chapter 5111. of the Revised Code, or to be a combination of both.~~

~~Sec. 5101.501~~ 5161.06. ~~Health assistance provided under~~ The component of the children's health insurance program authorized by section 5101.50 5161.05 of the Revised Code shall be known as ~~the children's health insurance program~~ CHIP part I.

~~Sec. 5101.51~~ 5161.10. In accordance with federal law governing the children's health insurance program, the medicaid ~~director of job and family services~~ may submit a state child health plan to the United States secretary of health and human services to ~~provide~~ pay, except as provided in section ~~5101.516~~ 5161.22 of the Revised Code, ~~health assistance to~~ for part or all of the cost of health benefits coverage for uninsured individuals under nineteen years of age with family incomes above one hundred fifty per cent of the federal poverty guidelines line but not exceeding two hundred per cent of

the federal poverty ~~guidelines line~~. If the director submits the plan, the director shall ~~include both of the following~~ stipulate in the plan:

~~(A) The health assistance will not begin before January 1, 2000.~~

~~(B) The health assistance that the payments will be available only while federal financial participation is available for # them.~~

Sec. ~~5101.511~~ 5161.11. ~~Health assistance provided under The component of the children's health insurance program authorized by section 5101.511~~ 5161.10 of the Revised Code shall be known as ~~the children's health insurance program CHIP~~ part II.

Sec. ~~5101.512~~ 5161.12. If the medicaid director ~~of job and family services~~ submits a state child health plan to the United States secretary of health and human services under section ~~5101.511~~ 5161.10 of the Revised Code and the secretary approves the plan, the director shall implement ~~the children's health insurance program CHIP~~ part II in accordance with the plan. ~~The director may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the efficient administration of the program, including rules that establish all of the following:~~

~~(A) The conditions under which health assistance services will be reimbursed;~~

~~(B) The method of reimbursement applicable to services reimbursable under the program;~~

~~(C) The amount of reimbursement, or the method by which the amount is to be determined, for each reimbursable service.~~

Sec. ~~5101.52~~ 5161.15. In accordance with federal law governing the children's health insurance program, the medicaid director ~~of job and family services~~ may submit a request for a federal waiver to the United States secretary of health and human services to provide pay, except as provided in section ~~5101.526~~ 5161.22 of the Revised Code, ~~health assistance to for part or all of the cost of health benefits coverage for~~ individuals under nineteen years of age with family incomes above two hundred per cent of the federal poverty ~~guidelines line~~ but not exceeding three hundred per cent of the federal poverty ~~guidelines line~~. If the director submits the ~~plan waiver request~~, the director shall stipulate in the ~~plan request~~ that the health assistance payments will be available only while federal financial participation is available for it ~~and that health assistance shall not begin before January 1, 2008~~ them.

Sec. ~~5101.521~~ 5161.16. ~~Health assistance provided under The component of the children's health insurance program authorized by section 5101.52~~ 5161.15 of the Revised Code shall be known as ~~the children's health insurance program CHIP~~ part III.

Sec. ~~5101.522~~ 5161.17. If the medicaid director of ~~job and family services~~ submits a waiver request to the United States secretary of health and human services under section ~~5101.52~~ 5161.15 of the Revised Code and the secretary grants the waiver, the director shall implement ~~the children's health insurance program~~ CHIP part III in accordance with the waiver. ~~The director may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the efficient administration of the program, including rules that establish all of the following:~~

~~(A) The conditions under which health assistance services will be reimbursed;~~

~~(B) The method of reimbursement applicable to services reimbursable under the program;~~

~~(C) The amount of reimbursement, or the method by which the amount is to be determined, for each reimbursable service.~~

Sec. ~~5101.524~~ 5161.20. In accordance with the "Social Security Act," section 2101, 42 U.S.C. 1397aa, ~~the director of job and family services shall provide for health assistance under the children's health insurance program part III to meet~~ shall provide payments for obtaining health benefits coverage through any of the following:

(A) Obtaining coverage that meets the requirements the "Social Security Act," section 2103, of 42 U.S.C. 1397cc, to be provided;

(B) Providing benefits under the medicaid program established under Chapter 5111. of the Revised Code, or to be a;

(C) A combination of both divisions (A) and (B) of this section.

Sec. ~~5101.516~~ 5161.22. If the medicaid director of ~~job and family services~~ determines that federal financial participation for ~~the children's health insurance program~~ CHIP part II, part III, or both parts is insufficient to provide health assistance to pay for part or all of the costs of health benefits coverage for all the individuals the director anticipates are eligible for the program part or parts, the director may refuse to accept new applications for the program part or parts or may make the program's eligibility requirements more restrictive for the part or parts.

Sec. ~~5101.517~~ 5161.24. To the extent permitted by the "Social Security Act," section 2103(e), 42 U.S.C.A. 1397cc(e), the medicaid director of ~~job and family services~~ may require an individual receiving health assistance under the children's health insurance program seeking to enroll, or who is enrolled, in CHIP part II to pay a premium, deductible, coinsurance payment, or other cost-sharing expense.

Sec. ~~5101.527~~ 5161.25. To the extent permitted by the "Social Security Act," section 2103(e), 42 U.S.C. 1397cc(e), the medicaid director of ~~job and~~

~~family services shall require an individual receiving health assistance under the children's health insurance program seeking to enroll, or who is enrolled, in CHIP part III to pay the following as a term of participation in the program enrollment:~~

(A) A premium of not less than forty dollars per month for a family with one individual ~~receiving health assistance under~~ seeking to enroll, or who is enrolled, in the program part;

(B) A premium of not less than eighty dollars per month for a family with two individuals ~~receiving health assistance under~~ seeking to enroll, or who is enrolled, in the program part;

(C) A premium of not less than one hundred twenty dollars per month for a family with three or more individuals ~~receiving health assistance under~~ seeking to enroll, or who are enrolled, in the program part.

~~Sec. 5101.519 5161.27.~~ A completed application for ~~medical assistance under Chapter 5111. of the Revised Code~~ medicaid shall be treated as an application for ~~health assistance under the children's health insurance program part II~~ if the application is for an assistance group that includes a child under nineteen years of age and is denied.

~~Sec. 5101.513 5161.30.~~ The medicaid director ~~of job and family services~~ may contract with a government entity or person to perform the director's administrative duties regarding ~~the children's health insurance program CHIP part I, part II, part III, two of the parts, or all three parts,~~ other than the duty to submit a state child health plan to the United States secretary of health and human services under section ~~5101.51 5161.10~~ of the Revised Code, the duty to submit a waiver request under section 5161.15 of the Revised Code, and the duty to adopt rules under section ~~5101.512 5161.02~~ of the Revised Code.

~~Sec. 5101.5110 5161.35.~~ (A) The medicaid director ~~of job and family services~~ may submit a waiver request to the United States secretary of health and human services to provide health assistance to any individual who meets all of the following requirements:

(1) Is the parent of a child who is under nineteen years of age ~~who,~~ resides with the parent, and is ~~eligible for health assistance under~~ enrolled in the children's health insurance program part I or II or the medicaid program ~~established under Chapter 5111. of the Revised Code;~~

(2) Is uninsured;

(3) Has a family income that does not exceed one hundred per cent of the federal poverty guidelines line.

(B) A waiver request the director submits under division (A) of this section may seek federal funds allotted to the state under ~~Title XXI~~ of the

"Social Security Act," ~~411 Stat. 558 (1997)~~ section 2104, 42 U.S.C.A. 1397dd, ~~as amended~~, that are not otherwise used to fund the children's health insurance program parts I and II.

~~(C) If a waiver request the director submits under division (A) of this section is granted, the director may adopt rules in accordance with Chapter 119 of the Revised Code as necessary for the efficient administration of the program authorization by the waiver.~~

Sec. 5162.01. (A) As used in the Revised Code:

(1) "Medicaid" and "medicaid program" mean the program of medical assistance established by Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., including any medical assistance provided under the medicaid state plan or a federal medicaid waiver granted by the United States secretary of health and human services.

(2) "Medicare" and "medicare program" mean the federal health insurance program established by Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(B) As used in this chapter:

(1) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

(2) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

(3) "Federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

(4) "Healthy start component" means the component of the medicaid program that covers pregnant women and children and is identified in rules adopted under section 5162.02 of the Revised Code as the healthy start component.

(5) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(6) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

(7) "Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.

(8) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

(9) "Nursing facility" has the same meaning as in section 5165.01 of the

Revised Code.

(10) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in a geographical area smaller than that of the state.

(11) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.

(12) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

(13) "Qualified medicaid school provider" means the board of education of a city, local, or exempted village school district, the governing authority of a community school established under Chapter 3314. of the Revised Code, the state school for the deaf, and the state school for the blind to which both of the following apply:

(a) It holds a valid provider agreement.

(b) It meets all other conditions for participation in the medicaid school component of the medicaid program established in rules authorized by section 5162.364 of the Revised Code.

(14) "State agency" means every organized body, office, or agency, other than the department of medicaid, established by the laws of the state for the exercise of any function of state government.

(15) "Vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

Sec. 5162.02. The medicaid director shall adopt rules as necessary to implement this chapter.

Sec. 5162.021. The medicaid director shall adopt rules under sections 5160.02, 5162.02, 5163.03, 5164.04, 5165.05, 5166.02, and 5167.02 of the Revised Code as necessary to authorize the directors of other state agencies to adopt rules regarding medicaid components, or aspects of medicaid components, the other state agencies administer pursuant to contracts entered into under section 5162.35 of the Revised Code.

Sec. 5162.022. The medicaid director's rules governing medicaid are binding on other state agencies and political subdivisions that administer one or more components of the medicaid program, or one or more aspects of a component, pursuant to contracts entered into under section 5162.35 of the Revised Code. No state agency or political subdivision may establish, by rule or otherwise, a policy governing medicaid that is inconsistent with a medicaid policy established, in rule or otherwise, by the director.

Sec. ~~5111.01~~ 5162.03. (A) As used in this chapter:

~~"Children's health insurance program" means the children's health insurance program part I, children's health insurance program part II, and children's health insurance program part III authorized by sections 5101.50 to 5101.529 of the Revised Code.~~

~~"Medical assistance program" or "medicaid" means the program that is authorized by this chapter and provided by the office of medical assistance under this chapter, Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, et seq., as amended, and the waivers of Title XIX requirements granted to the office by the centers for medicare and medicaid services of the United States department of health and human services.~~

~~(B) There is hereby established the office of medical assistance as a work unit within the department of job and family services. The chief of the office shall hold the title of medical assistance director. Notwithstanding section 5101.06 of the Revised Code, the governor shall appoint the medical assistance director and the medical assistance director shall serve at the governor's pleasure. The medical assistance director is not an assistant director of the department of job and family services for purposes of section 121.05 or 5101.03 of the Revised Code or any other purpose.~~

~~Subject to appropriations for the medicaid program and children's health insurance program, the department of job and family services shall provide staff and support services as necessary for the operation of the office of medical assistance.~~

~~If a statute, rule, contract, or other legal authority requires the director of job and family services or department of job and family services to take an action regarding the medicaid program or children's health insurance program, the medical assistance director or office of medical assistance shall take the action in place of the director of job and family services or department of job and family services. If a statute, rule, contract, or other legal authority permits the director of job and family services or department of job and family services to take an action regarding the medicaid program or children's health insurance program, the medical assistance director or office of medical assistance shall take the action in place of the director of job and family services or department of job and family services if the action is to be taken.~~

~~The office For the purpose of the "Social Security Act," section 1902(a)(5), 42 U.S.C. 1396a(a)(5), the department of medical assistance medicaid shall act as the single state agency to supervise the administration of the medicaid program. As the single state agency, the office department shall comply with 42 C.F.R. 431.10(e) and all other federal requirements applicable to the single state agency. The office's rules governing medicaid~~

~~are binding on other agencies that administer components of the medicaid program. No agency may establish, by rule or otherwise, a policy governing medicaid that is inconsistent with a medicaid policy established, in rule or otherwise, by the medical assistance director.~~

~~(C) The office of medical assistance may provide medical assistance under the medicaid program as long as federal funds are provided for such assistance, to the following:~~

~~(1) Families with children that meet either of the following conditions:~~

~~(a) The family meets the income, resource, and family composition requirements in effect on July 16, 1996, for the former aid to dependent children program as those requirements were established by Chapter 5107. of the Revised Code, federal waivers granted pursuant to requests made under former section 5101.09 of the Revised Code, and rules adopted by the department or any changes the department makes to those requirements in accordance with paragraph (a)(2) of section 114 of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2177, 42 U.S.C.A. 1396u-1, for the purpose of implementing section 5111.0120 of the Revised Code. An adult loses eligibility for medicaid under division (C)(1)(a) of this section pursuant to division (E) of section 5107.16 of the Revised Code.~~

~~(b) The family does not meet the requirements specified in division (C)(1)(a) of this section but is eligible for medicaid pursuant to section 5101.18 of the Revised Code.~~

~~(2) Aged, blind, and disabled persons who meet the following conditions:~~

~~(a) Receive federal aid under Title XVI of the "Social Security Act," or are eligible for but are not receiving such aid, provided that the income from all other sources for individuals with independent living arrangements shall not exceed one hundred seventy-five dollars per month. The income standards hereby established shall be adjusted annually at the rate that is used by the United States department of health and human services to adjust the amounts payable under Title XVI.~~

~~(b) Do not receive aid under Title XVI, but meet any of the following criteria:~~

~~(i) Would be eligible to receive such aid, except that their income, other than that excluded from consideration as income under Title XVI, exceeds the maximum under division (C)(2)(a) of this section, and incurred expenses for medical care, as determined under federal regulations applicable to section 209(b) of the "Social Security Amendments of 1972," 86 Stat. 1381, 42 U.S.C. 1396a(f), as amended, equal or exceed the amount by which their~~

~~income exceeds the maximum under division (C)(2)(a) of this section;~~

~~(ii) Received aid for the aged, aid to the blind, or aid for the permanently and totally disabled prior to January 1, 1974, and continue to meet all the same eligibility requirements;~~

~~(iii) Are eligible for medicaid pursuant to section 5101.18 of the Revised Code.~~

~~(3) Persons to whom federal law requires, as a condition of state participation in the medicaid program, that medicaid be provided;~~

~~(4) Persons under age twenty one who meet the income requirements for the Ohio works first program established under Chapter 5107. of the Revised Code but do not meet other eligibility requirements for the program. The medical assistance director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying which Ohio works first requirements shall be waived for the purpose of providing medicaid eligibility under division (C)(4) of this section.~~

~~(D) If sufficient funds are appropriated for the medicaid program, the office of medical assistance may provide medical assistance under the medicaid program to persons in groups designated by federal law as groups to which a state, at its option, may provide medical assistance under the medicaid program.~~

~~(E) The office of medical assistance may expand eligibility for the medicaid program to include individuals under age nineteen with family incomes at or below one hundred fifty per cent of the federal poverty guidelines, except that the eligibility expansion shall not occur unless the office receives the approval of the federal government. The office may implement the eligibility expansion authorized under this division on any date selected by the office, but not sooner than January 1, 1998.~~

~~(F) In addition to any other authority or requirement to adopt rules under this chapter, the medical assistance director may adopt rules in accordance with section 111.15 of the Revised Code as the director considers necessary to establish standards, procedures, and other requirements regarding the provision of medical assistance under the medicaid program. The rules may establish requirements to be followed in applying for medicaid, making determinations of eligibility for medicaid, and verifying eligibility for medicaid. The rules may include special conditions as the office determines appropriate for making applications, determining eligibility, and verifying eligibility for any medical assistance that the office may provide under the medicaid program pursuant to division (E) of this section and section 5111.014 or 5111.0120 of the Revised Code.~~

~~Sec. 5111.98 5162.031. (A) The medicaid director of job and family~~

~~services~~ may do all of the following as necessary for the department of ~~job and family services~~ medicaid to fulfill the duties it has, as the single state agency for the medicaid program, under the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" Pub. L. No. 108-173, ~~447 Stat. 2066~~:

(1) Adopt rules in accordance with division (B) of this section;

(2) Assign duties to county departments of job and family services;

(3) Make payments to the United States department of health and human services from appropriations made to the department of ~~job and family services~~ medicaid for this purpose.

(B) Rules ~~adopted under~~ authorized by division (A)(1) of this section shall be adopted as follows:

(1) If the rules concern the department's duties regarding ~~service~~ medicaid providers, ~~in accordance with Chapter 119. under sections 5164.02 and 5165.02 of the Revised Code, as appropriate~~;

(2) If the rules concern the department's duties concerning individuals' eligibility for medicaid services, ~~in accordance with under~~ section ~~111.15~~ 5163.02 of the Revised Code;

(3) If the rules concern the department's duties concerning financial and operational matters between the department and county departments of job and family services, ~~in accordance with under~~ section ~~111.15~~ 5162.02 of the Revised Code ~~as if the rules were internal management rules~~.

Sec. ~~5111.102~~ 5162.04. As used in this section, "state agency" has the same meaning as in section 9.23 of the Revised Code.

No provision of Title LI of the Revised Code or any other law of this state that incorporates any provision of federal ~~Medicaid~~ medicaid law, ~~Title XIX of the Social Security Act, 79 Stat. 286 (1965), 42 U.S.C. 1396~~, or that may be construed as requiring the state, a state agency, or any state official or employee to comply with that federal provision, shall be construed as creating a cause of action to enforce such state law beyond the causes of action available under federal law for enforcement of the provision of federal law.

Sec. 5162.05. The medicaid program shall be implemented in accordance with all of the following:

(A) The medicaid state plan approved by the United States secretary of health and human services, including amendments to the plan approved by the United States secretary;

(B) Federal medicaid waivers granted by the United States secretary, including amendments to waivers approved by the United States secretary;

(C) Other types of federal approval, including demonstration grants, that

establish requirements for components of the medicaid program:

(D) Except as otherwise authorized by a federal medicaid waiver granted by the United States secretary, all applicable federal statutes, regulations, and policy guidances;

(E) All applicable state statutes.

Sec. 5162.06. (A) Notwithstanding any other state statute, no component, or aspect of a component, of the medicaid program shall be implemented without all of the following:

(1) Subject to division (B) of this section, if the component, or aspect of the component, requires federal approval, receipt of the federal approval;

(2) Sufficient federal financial participation for the component or aspect of the component;

(3) Sufficient nonfederal funds for the component or aspect of the component that qualify as funds needed to obtain the federal financial participation.

(B) A component, or aspect of a component, of the medicaid program that requires federal approval may begin to be implemented before receipt of the federal approval if federal law authorizes implementation to begin before receipt of the federal approval. Implementation shall cease if the federal approval is ultimately denied.

Sec. 5162.07. The medicaid director shall seek federal approval for all components, and aspects of components, of the medicaid program for which federal approval is needed, except that the director is permitted rather than required to seek federal approval for components, and aspects of components, that state statutes permit rather than require be implemented. Federal approval shall be sought in the following forms as appropriate:

(A) The medicaid state plan;

(B) Amendments to the medicaid state plan;

(C) Federal medicaid waivers;

(D) Amendments to federal medicaid waivers;

(E) Other types of federal approval, including demonstration grants.

Sec. ~~5111.10~~ 5162.10. The medicaid director of job and family services may conduct reviews of the medicaid program. The reviews may include physical inspections of records and sites where ~~medicaid-funded~~ medicaid services are provided and interviews of medicaid providers and medicaid recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing the medicaid program, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules governing the medicaid program adopted under

section 5162.02 of the Revised Code.

~~Sec. 5111.915~~ 5162.11. (A) The department of ~~job and family services~~ medicaid shall enter into an agreement with the department of administrative services for the department of administrative services to contract through competitive selection pursuant to section 125.07 of the Revised Code with a vendor to perform an assessment of the data collection and data warehouse functions of the medicaid data warehouse system, including the ability to link the data sets of all agencies serving medicaid recipients.

The assessment of the data system shall include functions related to fraud and abuse detection, program management and budgeting, and performance measurement capabilities of all agencies serving medicaid recipients, including the departments of aging, ~~alcohol and drug addiction services~~, health, job and family services, medicaid, ~~mental health~~ mental health and addiction services, and developmental disabilities.

~~The department of administrative services shall enter into this contract within thirty days after September 29, 2005. The contract shall require the vendor to complete the assessment within ninety days after September 29, 2005.~~

A qualified vendor with whom the department of administrative services contracts to assess the data system shall also assist the medicaid agencies in the definition of the requirements for an enhanced data system or a new data system and assist the department of administrative services in the preparation of a request for ~~proposal~~ proposals to enhance or develop a data system.

(B) Based on the assessment performed pursuant to division (A) of this section, the department of administrative services shall seek a qualified vendor through competitive selection pursuant to section 125.07 of the Revised Code to develop or enhance a data collection and data warehouse system for the department of ~~job and family services~~ medicaid and all agencies serving medicaid recipients.

~~Within ninety days after September 29, 2005, the~~ The department of ~~job and family services~~ medicaid shall seek enhanced federal ~~funding~~ financial participation for ninety per cent of the funds required to establish or enhance the data system. The department of administrative services shall not award a contract for establishing or enhancing the data system until the department of ~~job and family services~~ medicaid receives approval from the ~~secretary of the United States department~~ secretary of health and human services for the ninety per cent federal ~~match~~ financial participation.

Sec. 5162.12. (A) The medicaid director may enter into a contract with

one or more persons to receive and process, on the director's behalf, requests for medicaid recipient or claims payment data, data from reports of audits conducted under section 5165.109 of the Revised Code, or extracts or analyses of any of the foregoing data made by persons who intend to use the items for commercial or academic purposes.

(B) At a minimum, a contract entered into under this section shall do both of the following:

(1) Authorize the contracting person to engage in the activities described in division (A) of this section for compensation, which must be stated as a percentage of the fees paid by persons who are provided the items:

(2) Specify the schedule of fees the contracting person is to charge for the items.

(C) Except as required by federal or state law and subject to division (E) of this section, both of the following conditions apply with respect to a request for data described in division (A) of this section:

(1) The request shall be made through a person who has entered into a contract with the medicaid director under this section.

(2) An item prepared pursuant to the request may be provided to the department of medicaid and is confidential and not subject to disclosure under section 149.43 or 1347.08 of the Revised Code.

(D) The medicaid director shall use fees the director receives pursuant to a contract entered into under this section to pay obligations specified in contracts entered under this section. Any money remaining after the obligations are paid shall be deposited in the health care services administration fund created under section 5162.54 of the Revised Code.

(E) This section does not apply to requests for medicaid recipient or claims payment data, data from reports of audits conducted under section 5165.109 of the Revised Code, or extracts or analyses of any of the foregoing data that are for any of the following purposes:

(1) Treatment of medicaid recipients;

(2) Payment of medicaid claims;

(3) Establishment or management of medicaid third party liability pursuant to sections 5160.35 to 5160.43 of the Revised Code;

(4) Compliance with the terms of an agreement the medicaid director enters into for purposes of administering the medicaid program;

(5) Compliance with an operating protocol the executive director of the office of health transformation or the executive director's designee adopts under division (D) of section 191.06 of the Revised Code.

Sec. ~~5111.09~~ 5162.13. On or before the first day of January of each

year, the department of ~~job and family services~~ medicaid shall submit to the speaker and minority leader of the house of representatives and the president and minority leader of the senate, and shall make available to the public, a report on the effectiveness of the ~~Ohio works first program established under Chapter 5107. of the Revised Code and the medical assistance~~ medicaid program established under this chapter in meeting the health care needs of low-income pregnant women, infants, and children. The report shall include: the estimated number of ~~persons eligible for health care services to~~ pregnant women, infants, and children ~~under the programs eligible for the program~~; the actual number of eligible persons ~~served enrolled in the program~~; the number of prenatal, postpartum, and child health visits; a report on birth outcomes, including a comparison of low-birthweight births and infant mortality rates of ~~program participants~~ medicaid recipients with the general female child-bearing and infant population in this state; and a comparison of the prenatal, delivery, and child health costs of the ~~programs~~ program with such costs of similar programs in other states, where available.

Sec. ~~5111.091~~ 5162.131. Semiannually, the medicaid director of ~~job and family services~~ shall submit to the president and minority leader of the senate, speaker and minority leader of the house of representatives, and the chairpersons of the standing committees of the senate and house of representatives with primary responsibility for legislation making biennial appropriations a report on the establishment and implementation of programs designed to control the increase of the cost of the medicaid program, increase the efficiency of the medicaid program, and promote better health outcomes. In each calendar year, one report shall be submitted not later than the last day of June and the subsequent report shall be submitted not later than the last day of December.

Sec. ~~5111.092~~ 5162.132. (A) ~~Not later than January 1, 2010, and each year thereafter~~ Annually, the department of ~~job and family services~~ medicaid shall prepare a report on the department's efforts to minimize fraud, waste, and abuse in the medicaid program.

~~(B)~~ Each report shall be made available on the department's web site. The department shall submit a copy of each report to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly. Copies of the report also shall be made available to the public on request.

Sec. ~~5111.101~~ 5162.15. (A) As used in this section;

"Agent" and "contractor" include any agent, contractor, subcontractor, or other person who, on behalf of an entity, furnishes or authorizes the furnishing of ~~health care items or~~ medicaid services ~~under the medicaid~~

~~program~~, performs billing or coding functions, or is involved in monitoring of health care that an entity provides.

"Employee" includes any officer or employee (including management employees) of an entity.

"Entity" includes a governmental entity or an organization, unit, corporation, partnership, or other business arrangement, including any medicaid managed care organization, irrespective of the form of business structure or arrangement by which it exists, whether for-profit or not-for-profit. "Entity" does not include a government entity that administers one or more components of the medicaid program, unless the government entity receives medicaid payments for providing ~~items or~~ medicaid services.

"Federal health care programs" has the same meaning as in the "Social Security Act," section 1128B, 42 U.S.C. 1320a-7b(f).

(B) Each entity that receives or makes in a federal fiscal year payments under the medicaid program, either through the medicaid state ~~medicaid~~ plan or a federal medicaid waiver, totaling at least five million dollars shall, as a condition of receiving such payments, do all of the following not later than the first day of the succeeding calendar year:

(1) Establish written policies for all of the entity's employees, contractors, and agents that provide detailed information about the role of all of the following in preventing and detecting fraud, waste, and abuse in federal health care programs:

(a) Federal false claims law under 31 U.S.C. 3729 to 3733;

(b) Federal administrative remedies for false claims and statements available under 31 U.S.C. 3801 to 3812;

(c) Sections 124.341, 2913.40, 2913.401, and 2921.13 of the Revised Code and any other state laws pertaining to civil or criminal penalties for false claims and statements;

(d) Whistleblower protections under the laws specified in divisions (B)(1)(a) to (c) of this section.

(2) Include as part of the written policies required by division (B)(1) of this section detailed provisions regarding the entity's policies and procedures for preventing and detecting fraud, waste, and abuse.

(3) Disseminate the written policies required by division (B)(1) of this section to each of the entity's employees, contractors, and agents in a paper or electronic form and make the written policies readily available to the entity's employees, contractors, and agents.

(4) If the entity has an employee handbook, include in the employee handbook a specific discussion of the laws specified in division (B)(1) of

this section, the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for preventing and detecting fraud, waste, and abuse.

(5) Require the entity's contractors and agents to adopt the entity's written policies required by division (B)(1) of this section.

(C) An entity that furnishes ~~items or~~ medicaid services at multiple locations or under multiple contractual or other payment arrangements is required to comply with division (B) of this section if the entity receives in a federal fiscal year medicaid payments totaling in the aggregate at least five million dollars. This applies regardless of whether the entity submits claims for medicaid payments using multiple provider identification or tax identification numbers.

~~Sec. 5111.0112~~ 5162.20. (A) The ~~director~~ department of job and family services medicaid shall institute a cost-sharing ~~program under requirements~~ for the medicaid program. ~~In instituting the cost sharing program, the director shall comply with federal law.~~ The cost-sharing ~~program~~ requirements shall ~~establish~~ include a copayment requirement for at least dental services, vision services, nonemergency emergency department services, and ~~prescription prescribed~~ drugs, other than generic drugs. The cost-sharing ~~program~~ requirements also shall ~~establish~~ include requirements regarding premiums, enrollment fees, deductions, and similar charges. ~~The director shall adopt rules under section 5111.02 of the Revised Code governing the cost sharing program.~~

(B) ~~The cost sharing program shall, to the extent permitted by federal law, provide for all of the following with regard to any providers participating in the medicaid program:~~

(1) No provider shall refuse to provide a service to a medicaid recipient who is unable to pay a required copayment for the service.

(2) Division (B)(1) of this section shall not be considered to do either of the following with regard to a medicaid recipient who is unable to pay a required copayment:

(a) Relieve the medicaid recipient from the obligation to pay a copayment;

(b) Prohibit the provider from attempting to collect an unpaid copayment.

~~(3)~~(C) Except as provided in division ~~(C)~~(F) of this section, no provider shall waive a medicaid recipient's obligation to pay the provider a copayment.

~~(4)~~(D) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any

copayment on behalf of a medicaid recipient.

~~(S)~~(E) If it is the routine business practice of ~~the a~~ provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the cost-sharing ~~program requirements~~ as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an outstanding debt. If the provider intends to refuse service to a medicaid recipient who owes the provider an outstanding debt, the provider shall notify the ~~individual recipient~~ of the provider's intent to refuse ~~services~~ service.

~~(C)~~(F) In the case of a provider that is a hospital, the cost-sharing program shall permit the hospital to take action to collect a copayment by providing, at the time services are rendered to a medicaid recipient, notice that a copayment may be owed. If the hospital provides the notice and chooses not to take any further action to pursue collection of the copayment, the prohibition against waiving copayments specified in division ~~(B)(3)(C)~~ of this section does not apply.

~~(D)~~(G) The department of ~~job and family services~~ medicaid may ~~work collaborate~~ with a state agency that is administering, pursuant to a contract entered into under section ~~5111.91~~ 5162.35 of the Revised Code, one or more components ~~of the medicaid program,~~ or one or more aspects of a component, of the medicaid program as necessary for the state agency to apply the cost-sharing ~~program requirements~~ to the components or aspects of ~~the medicaid program a component~~ that the state agency administers.

Sec. ~~5111.11~~ 5162.21. (A) As used in this section and section ~~5111.111~~ 5162.211 of the Revised Code:

(1) "Estate" includes both of the following:

(a) All real and personal property and other assets to be administered under Title XXI of the Revised Code and property that would be administered under that title if not for section 2113.03 or 2113.031 of the Revised Code;

(b) Any other real and personal property and other assets in which an individual had any legal title or interest at the time of death (to the extent of the interest), including assets conveyed to a survivor, heir, or assign of the individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

(2) "Institution" means a nursing facility, ~~intermediate care facility for the mentally retarded~~ ICF/IID, or a medical institution.

(3) ~~"Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.~~

(4) "Permanently institutionalized individual" means an individual to

whom all of the following apply:

- (a) Is an inpatient in an institution;
- (b) Is required, as a condition of the medicaid program paying for the individual's services in the institution, to spend for costs of medical or nursing care all of the individual's income except for an amount for personal needs specified by the department of ~~job and family services~~ medicaid;
- (c) Cannot reasonably be expected to be discharged from the institution and return home as determined by the department of ~~job and family services~~ medicaid.

~~(5)~~(4) "Qualified state long-term care insurance partnership program" means the program established under section ~~5111.18~~ 5164.86 of the Revised Code.

~~(6)~~(5) "Time of death" shall not be construed to mean a time after which a legal title or interest in real or personal property or other asset may pass by survivorship or other operation of law due to the death of the decedent or terminate by reason of the decedent's death.

(B) To the extent permitted by federal law, the department of ~~job and family services~~ medicaid shall institute a medicaid estate recovery program under which the department shall, except as provided in divisions (C) and (E) of this section, and subject to division (D) of this section, do all of the following:

(1) For the costs of medicaid services the medicaid program correctly paid or will pay on behalf of a permanently institutionalized individual of any age, seek adjustment or recovery from the individual's estate or on the sale of property of the individual or spouse that is subject to a lien imposed under section ~~5111.111~~ 5162.211 of the Revised Code;

(2) For the costs of medicaid services the medicaid program correctly paid or will pay on behalf of an individual fifty-five years of age or older who is not a permanently institutionalized individual, seek adjustment or recovery from the individual's estate;

(3) Seek adjustment or recovery from the estate of other individuals as permitted by federal law.

(C)(1) No adjustment or recovery may be made under division (B)(1) of this section from a permanently institutionalized individual's estate or on the sale of property of a permanently institutionalized individual that is subject to a lien imposed under section ~~5111.111~~ 5162.211 of the Revised Code or under division (B)(2) or (3) of this section from an individual's estate while either of the following are alive:

(a) The spouse of the permanently institutionalized individual or individual;

(b) The son or daughter of a permanently institutionalized individual or individual if the son or daughter is under age twenty-one or, under the "Social Security Act," section 1614, 42 U.S.C. 1382c, is considered blind or disabled.

(2) No adjustment or recovery may be made under division (B)(1) of this section from a permanently institutionalized individual's home that is subject to a lien imposed under section ~~5111.111~~ 5162.211 of the Revised Code while either of the following lawfully reside in the home:

(a) The permanently institutionalized individual's sibling who resided in the home for at least one year immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time;

(b) The permanently institutionalized individual's son or daughter who provided care to the permanently institutionalized individual that delayed the permanently institutionalized individual's institutionalization and resided in the home for at least two years immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time.

(D) In the case of a participant of the qualified state long-term care insurance partnership program, adjustment or recovery required by this section may be reduced in accordance with rules ~~adopted under~~ authorized by division (G) of this section.

(E) The department shall, in accordance with procedures and criteria established in rules ~~adopted under~~ authorized by division (G) of this section, waive seeking an adjustment or recovery otherwise required by this section if the medicaid director ~~of job and family services~~ determines that adjustment or recovery would work an undue hardship. The department may limit the duration of the waiver to the period during which the undue hardship exists.

(F) For the purpose of determining whether an individual meets the definition of "permanently institutionalized individual" established for this section, a rebuttable presumption exists that the individual cannot reasonably be expected to be discharged from an institution and return home if either of the following is the case:

(1) The individual declares that he or she does not intend to return home.

(2) The individual has been an inpatient in an institution for at least six months.

(G) ~~The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the medicaid~~

~~estate recovery program, including rules that~~ Rules adopted under section 5162.02 of the Revised Code shall do both of the following:

(1) For the purpose of division (D) of this section and consistent with the "Social Security Act," section 1917(b)(1)(C), 42 U.S.C. 1396p(b)(1)(C), provide for reducing an adjustment or recovery in the case of a participant of the qualified state long-term care insurance partnership program;

(2) For the purpose of division (E) of this section and consistent with the standards specified by the United States secretary of health and human services under the "Social Security Act," section 1917(b)(3), 42 U.S.C. 1396p(b)(3), establish procedures and criteria for waiving adjustment or recovery due to an undue hardship.

~~Sec. 5111.111~~ 5162.211. (A) Except as provided in division (B) of this section and section ~~5111.12~~ 5162.23 of the Revised Code, no lien may be imposed against the property of an individual before the individual's death on account of medicaid services correctly paid or to be paid on the individual's behalf.

(B) Except as provided in division (C) of this section, the department of ~~job and family services~~ medicaid may impose a lien against the real property of a medicaid recipient who is a permanently institutionalized individual and against the real property of the recipient's spouse, including any real property that is jointly held by the recipient and spouse. The lien may be imposed on account of medicaid paid or to be paid on the recipient's behalf.

(C) No lien may be imposed under division (B) of this section against the home of a medicaid recipient if any of the following lawfully resides in the home:

(1) The recipient's spouse;

(2) The recipient's son or daughter who is under twenty-one years of age or, under the "Social Security Act," section 1614, 42 U.S.C. 1382c, considered to be blind or disabled;

(3) The recipient's sibling who has an equity interest in the home and resided in the home for at least one year immediately before the date of the recipient's admission to the institution.

(D) The medicaid director ~~of job and family services~~ or a person designated by the director shall sign a certificate to effectuate a lien required to be imposed under this section. The county department of job and family services shall file for recording and indexing the certificate, or a certified copy, in the real estate mortgage records in the office of the county recorder in every county in which real property of the recipient or spouse is situated. From the time of filing the certificate in the office of the county recorder, the lien attaches to all real property of the recipient or spouse described in

the certificate for all amounts for which adjustment or recovery may be made under section ~~5111.11~~ 5162.21 of the Revised Code and, except as provided in division (E) of this section, shall remain a lien until satisfied.

Upon filing the certificate in the office of the recorder, all persons are charged with notice of the lien and the rights of the department of ~~job and family services~~ medicaid thereunder.

The county recorder shall keep a record of every certificate filed showing its date, the time of filing, the name and residence of the recipient or spouse, and any release, waivers, or satisfaction of the lien.

The priority of the lien shall be established in accordance with state and federal law.

The department may waive the priority of its lien to provide for the costs of the last illness as determined by the department, administration, attorney fees, administrator fees, a sum for the payment of the costs of burial, which shall be computed by deducting from five hundred dollars whatever amount is available for the same purpose from all other sources, and a similar sum for the spouse of the decedent.

(E) A lien imposed with respect to a medicaid recipient under this section shall dissolve on the recipient's discharge from the institution and return home.

Sec. ~~5111.112~~ 5162.212. The department of ~~job and family services~~ medicaid shall certify amounts due under the medicaid estate recovery program instituted under section ~~5111.11~~ 5162.21 of the Revised Code to the attorney general pursuant to section 131.02 of the Revised Code. The attorney general may enter into a contract with any person or government entity to collect the amounts due on behalf of the attorney general.

The attorney general, in entering into a contract under this section, shall comply with all of the requirements that must be met for the state to receive federal financial participation for the costs incurred in entering into the contract and carrying out actions under the contract. The contract may provide for the person or government entity with which the attorney general contracts to be compensated from the property recovered under the medicaid estate recovery program or may provide for another manner of compensation agreed to by the parties to the contract.

Regardless of whether the attorney general collects the amounts due under the medicaid estate recovery program or contracts with a person or government entity to collect the amounts due on behalf of the attorney general, the amounts due shall be collected in accordance with applicable requirements of federal statutes and regulations and state statutes and rules.

Sec. ~~5111.113~~ 5162.22. (A) As used in this section:

(1) "Commissioner" means a person appointed by a probate court under division (E) of section 2113.03 of the Revised Code to act as a commissioner.

(2) "Home" has the same meaning as in section 3721.10 of the Revised Code.

(3) "Personal needs allowance account" means an account or petty cash fund that holds the money of a resident of ~~an adult care~~ a residential facility or home and that the facility or home manages for the resident.

(4) "Residential facility" means a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) Except as provided in divisions (C) and (D) of this section, the owner or operator of a home or residential facility shall transfer to the department of ~~job and family services~~ medicaid the money in the personal needs allowance account of a resident of the home or facility who was a medicaid recipient ~~of the medical assistance program~~ no earlier than sixty days but not later than ninety days after the resident dies. The home or facility shall transfer the money even though the owner or operator of the facility or home has not been issued letters testamentary or letters of administration concerning the resident's estate.

(C) If funeral or burial expenses for a resident of a home or residential facility who has died have not been paid and the only resource the resident had that could be used to pay for the expenses is the money in the resident's personal needs allowance account, or all other resources of the resident are inadequate to pay the full cost of the expenses, the money in the resident's personal needs allowance account shall be used to pay for the expenses rather than being transferred to the department of ~~job and family services~~ medicaid pursuant to division (B) of this section.

(D) If, not later than sixty days after a resident of a home or residential facility dies, letters testamentary or letters of administration are issued, or an application for release from administration is filed under section 2113.03 of the Revised Code, concerning the resident's estate, the owner or operator of the home or facility shall transfer the money in the resident's personal needs allowance account to the administrator, executor, commissioner, or person who filed the application for release from administration.

(E) The transfer or use of money in a resident's personal needs allowance account in accordance with division (B), (C), or (D) of this section discharges and releases the home or residential facility, and the owner or operator of the home, from any claim for the money from any

source.

(F) If, sixty-one or more days after a resident of a home or residential facility dies, letters testamentary or letters of administration are issued, or an application for release from administration under section 2113.03 of the Revised Code is filed, concerning the resident's estate, the department of ~~job and family services~~ medicaid shall transfer the funds to the administrator, executor, commissioner, or person who filed the application, unless the department is entitled to recover the money under the medicaid estate recovery program instituted under section ~~5111.11~~ 5162.21 of the Revised Code.

Sec. ~~5111.12~~ 5162.23. (A) The medicaid director of ~~job and family services~~ shall ~~establish~~ adopt rules under ~~which~~ section 5162.02 of the Revised Code permitting county departments of job and family services ~~may~~ to take action to recover benefits incorrectly paid on behalf of medicaid recipients of medical assistance. The rules shall provide for recovery by the following methods:

(1) Soliciting voluntary payments from recipients or from persons holding property in which a recipient has a legal or equitable interest;

(2) Obtaining a lien on property pursuant to division (B) of this section.

(B) A county department of job and family services may bring a civil action in a court of common pleas against a medicaid recipient of ~~medical assistance~~ for the recovery of any ~~medical assistance benefits~~ medicaid payments determined by the court to have been paid incorrectly on behalf of the recipient. All persons holding property in which the recipient has a legal or equitable interest may be joined as parties. The court may issue pre-judgment orders, including injunctive relief or attachment under Chapter 2715. of the Revised Code, for the preservation of real or personal property in which the recipient may have a legal or equitable interest. If the court determines that ~~benefits~~ medicaid payments were ~~paid~~ made incorrectly and issues a judgment to that effect, the county department may obtain a lien upon property of the recipient in accordance with Chapter 2329. of the Revised Code.

(C) The county department of job and family services shall retain fifty per cent of the balance remaining after deduction from the recovery of the amount required to be returned to the federal government and shall pay the other fifty per cent of the balance to the department of ~~job and family services~~ medicaid.

(D) Recovery of ~~medical assistance benefits~~ medicaid payments incorrectly ~~paid to~~ made on behalf of a medicaid recipient may not be accomplished by reducing the amount of benefits the recipient is entitled to

receive under another government assistance program.

(E) The remedies provided pursuant to this section do not affect any other remedies county departments of job and family services may have to recover benefits incorrectly paid on behalf of medicaid recipients of ~~medical assistance~~.

Sec. ~~5111.121~~ 5162.24. (A) As used in this section, "third party" has the same meaning as in section ~~5101.571~~ 5160.35 of the Revised Code.

(B) In addition to the authority granted under section ~~5101.59~~ 5160.38 of the Revised Code, the department of ~~job and family services~~ medicaid may, to the extent necessary to reimburse its costs, garnish the wages, salary, or other employment income of, and withhold amounts from state tax refunds to, any person to whom both of the following apply:

(1) The person is required by a court or administrative order to provide coverage of the cost of health care services to a child eligible for ~~medical assistance under this chapter~~ medicaid.

(2) The person has received payment from a third party for the costs of such services but has not used the payment to reimburse either the other parent or guardian of the child or the provider of the services.

(C) Claims for current and past due child support shall take priority over claims under division (B) of this section.

Sec. ~~5111.83~~ 5162.30. (A) ~~Not later than January 1, 2012, the~~ The ~~medicaid~~ director of ~~job and family services~~ shall ~~apply to the United States secretary of health and human services for approval of~~ create a medicaid administrative claiming program under which federal financial participation is received as ~~reimbursement~~ for the administrative costs incurred by the department of health and the Arthur G. James cancer hospital and Richard J. Solove research institute of the Ohio state university in analyzing and evaluating both of the following pursuant to sections ~~3701.261 to 3701.236~~ and 3701.262 of the Revised Code:

(1) Cancer reports under the Ohio cancer incidence surveillance system;

(2) The incidence, prevalence, costs, and medical consequences of cancer on medicaid recipients and other low-income populations.

(B) The medicaid director of ~~job and family services~~ shall consult with the director of health in ~~seeking approval of~~ creating the medicaid administrative claiming program. ~~The directors shall cooperate in seeking the approval to the extent they find the approval necessary for the effective and efficient administration of the medicaid program.~~

Sec. 5162.31. Local funds, whether from public or private sources, expended by a county department of job and family services for administration of the healthy start component shall be considered to have

been expended by the state for the purpose of determining the extent to which the state has complied with any federal requirement that the state provide funds to match federal financial participation for the medicaid program. This section does not affect the amount of funds a county is entitled to receive under sections 5101.16 and 5101.161 of the Revised Code.

~~Sec. 5111.90 5162.32. (A) As used in sections 5111.90 to 5111.93 of the Revised Code:~~

~~(1) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in a geographical area smaller than that of the state.~~

~~(2) "State agency" means every organized body, office, or agency, other than the department of job and family services, established by the laws of the state for the exercise of any function of state government.~~

~~(B) To the extent permitted by Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, and regulations adopted under that title, the The department of job and family services medicaid may enter into contracts with political subdivisions to use funds of the political subdivision to pay the nonfederal share of expenditures under the medicaid program. The determination and provision of federal financial reimbursement participation to a subdivision entering into a contract under this section shall be determined by the department, subject to section 5111.92 5162.40 of the Revised Code, approval by the United States secretary of health and human services, and the availability of federal financial participation.~~

~~Sec. 5111.94 5162.35. The department of job and family services medicaid may enter into contracts with one or more other state agencies or political subdivisions to have the state agency or political subdivision administer one or more components of the medicaid program, or one or more aspects of a component, under the department's supervision. A state agency or political subdivision that enters into such a contract shall comply with the terms of the contract and any rules the medicaid director of job and family services has adopted governing the component, or aspect of the component, that the state agency or political subdivision is to administer, including any rules establishing review, audit, and corrective action plan requirements. A contract with a state agency shall be in the form of an interagency agreement.~~

~~A state agency or political subdivision that enters into a contract with the department under this section shall reimburse the department for the~~

nonfederal share of the cost to the department of performing, or contracting for the performance of, a fiscal audit of the component of the medicaid program, or aspect of the component, that the state agency or political subdivision administers if rules governing the component, or aspect of the component, require that a fiscal audit be conducted.

~~There is hereby created in the state treasury the medicaid administrative reimbursement fund. The department shall use money in the fund to pay for the nonfederal share of the cost of a fiscal audit for which a state agency or political subdivision is required by this section to reimburse the department. The department shall deposit the reimbursements into the fund.~~

~~Sec. 5111.71 5162.36. (A) As used in sections 5111.71 to 5111.715 of the Revised Code, "qualified medicaid school provider" means the board of education of a city, local, or exempted village school district, the governing authority of a community school established under Chapter 3314. of the Revised Code, the state school for the deaf, and the state school for the blind to which both of the following apply:~~

~~(1) It holds a valid medicaid provider agreement.~~

~~(2) It meets all other conditions for participation in the medicaid school component of the medicaid program established in rules adopted under section 5111.715 of the Revised Code.~~

~~(B) The medicaid director of job and family services shall submit a state medicaid plan amendment to the United States secretary of health and human services for the purpose of creating create, in accordance with sections 5111.71 5162.36 to 5111.715 5162.364 of the Revised Code, the medicaid school component of the medicaid program. The director shall create the medicaid school component on receipt of the United States secretary's approval of the amendment.~~

~~Sec. 5111.711 5162.361. A qualified medicaid school provider participating in the medicaid school component of the medicaid program may submit a claim to the department of ~~job and family services~~ medicaid for federal financial participation for providing, in schools, services covered by the medicaid school component to medicaid recipients who are eligible for the services. No qualified medicaid school provider may submit such a claim before the provider incurs the cost of providing the service.~~

~~The claim shall include certification of the qualified medicaid school provider's expenditures for the service. The certification shall show that the money the qualified medicaid school provider used for the expenditures was nonfederal money the provider may legally use for providing the service and that the amount of the expenditures was sufficient to pay the full cost of the service.~~

Except as otherwise provided in sections ~~5111.71~~ 5162.36 to ~~5111.715~~ 5162.364 of the Revised Code and rules ~~adopted under~~ authorized by sections ~~5111.713~~ 5162.363 and ~~5111.715~~ 5162.364 of the Revised Code, a qualified medicaid school provider is subject to all conditions of participation in the medicaid program that generally apply to providers of goods and services under the medicaid program, including conditions regarding audits and recovery of overpayments.

Sec. ~~5111.712~~ 5162.362. The department of ~~job and family services~~ medicaid shall seek federal financial participation for each claim a qualified medicaid school provider properly submits to the department under section ~~5111.711~~ 5162.361 of the Revised Code. The department shall disburse the federal financial participation the department receives from the federal government for such a claim to the qualified medicaid school provider that submitted the claim. The department may not pay the qualified medicaid school provider the nonfederal share of the cost of the services for which the claim was submitted.

Sec. ~~5111.713~~ 5162.363. The department of ~~job and family services~~ medicaid shall enter into an interagency agreement with the department of education under section ~~5111.91~~ 5162.35 of the Revised Code that provides for the department of education to administer the medicaid school component of the medicaid program other than the aspects of the component that sections ~~5111.71~~ 5162.36 to ~~5111.715~~ 5162.364 of the Revised Code require the department of ~~job and family services~~ medicaid to administer. The interagency agreement may include a provision that provides for the department of education to pay to the department of ~~job and family services~~ medicaid the nonfederal share of a portion of the administrative expenses the department of ~~job and family services~~ medicaid incurs in administering the aspects of the component that the department of ~~job and family services~~ medicaid administers.

~~The~~ To the extent authorized by rules authorized by section 5162.021 of the Revised Code, the department of education shall establish, in rules adopted under ~~Chapter 119, section 5162.02~~ section 5162.02 of the Revised Code, a process by which qualified medicaid school providers participating in the medicaid school component pay to the department of education the nonfederal share of the department's expenses incurred in administering the component. The rules shall be adopted in accordance with Chapter 119, of the Revised Code.

Sec. ~~5111.715~~ 5162.364. The medicaid director of ~~job and family services~~ shall adopt rules under ~~Chapter 119, section 5162.02~~ section 5162.02 of the Revised Code as necessary to implement the medicaid school component of the medicaid program, including rules that establish or specify all of the

following:

(A) Conditions a board of education of a city, local, or exempted school district, governing authority of a community school established under Chapter 3314. of the Revised Code, the state school for the deaf, and the state school for the blind must meet to participate in the component;

(B) Services the component covers;

(C) ~~Reimbursement~~ Payment rates for the services the component covers.

The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. ~~5111.911~~ 5162.37. Any contract the department of ~~job and family services~~ medicaid enters into with the department of ~~mental health or department of alcohol and drug addiction services~~ mental health and addiction services under section ~~5111.91~~ 5162.35 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following:

(A) ~~In the case of a contract with the department of mental health, that~~ That section 5111.912 5162.371 of the Revised Code be complied with;

(B) ~~In the case of a contract with the department of alcohol and drug addiction services, that section 5111.913 of the Revised Code be complied with;~~

~~(C)~~ How providers will be paid for providing the services;

~~(D)~~ (C) The ~~department of mental health's or department of alcohol and drug addiction services'~~ responsibilities of the department of mental health and addiction services with regard to providers, including program oversight and quality assurance.

Sec. ~~5111.912~~ 5162.371. If the department of ~~job and family services~~ medicaid enters into a contract with the department of ~~mental health~~ mental health and addiction services under section ~~5111.91~~ 5162.35 of the Revised Code, the department of ~~job and family services~~ medicaid shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of ~~mental health~~ mental health and addiction services administers. ~~If necessary, the director of job and family services shall submit a medicaid state plan amendment to the United States secretary of health and human services regarding the department of job and family services' duty under this section.~~

Sec. ~~5111.92~~ 5162.40. (A)(1) Except as provided in division (B) of this section, if a state agency or political subdivision administers one or more components of the medicaid program that the United States department of health and human services approved, and for which federal financial

participation was initially obtained, prior to January 1, 2002, or administers one or more aspects of such a component, the department of ~~job and family services~~ medicaid may retain or collect not more than ten per cent of the federal financial participation the state agency or political subdivision obtains through an approved, administrative claim regarding the component or aspect of the component. If the department retains or collects a percentage of such federal financial participation, the percentage the department retains or collects shall be specified in a contract the department enters into with the state agency or political subdivision under section ~~5111.94~~ 5162.35 of the Revised Code.

(2) Except as provided in division (B) of this section, if a state agency or political subdivision administers one or more components of the medicaid program that the United States department of health and human services approved on or after January 1, 2002, or administers one or more aspects of such a component, the department of ~~job and family services~~ medicaid shall retain or collect not less than three and not more than ten per cent of the federal financial participation the state agency or political subdivision obtains through an approved, administrative claim regarding the component or aspect of the component. The percentage the department retains or collects shall be specified in a contract the department enters into with the state agency or political subdivision under section ~~5111.94~~ 5162.35 of the Revised Code.

~~(B) The department of job and family services may retain or collect a percentage of federal financial participation under divisions (A)(1) and (2) of this section only to the extent permitted by federal statutes and regulations.~~

~~(C)~~ All amounts the department retains or collects under this section shall be deposited into the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code.

Sec. ~~5111.93~~ 5162.41. The department of ~~job and family services~~ medicaid may retain or collect a percentage of the federal financial participation included in a supplemental medicaid payment to one or more medicaid providers owned or operated by a state agency or political subdivision that brings the payment to such provider or providers to the upper payment limit established by 42 C.F.R. 447.272. If the department retains or collects a percentage of that federal financial participation, the ~~department~~ medicaid director shall adopt a rule under ~~Chapter 119, section~~ 5162.02 of the Revised Code specifying the percentage the department is to retain or collect. All amounts the department retains or collects under this section shall be deposited into the health care services administration fund

created under section ~~5111.94~~ 5162.54 of the Revised Code.

Sec. ~~5111.943~~ 5162.50. (A) The health care - federal fund is hereby created in the state treasury. All of the following shall be credited to the fund:

(1) Funds that division (B) of section ~~5112.18~~ 5168.11 of the Revised Code requires be credited to the fund;

(2) The federal share of all rebates paid by drug manufacturers to the department of ~~job and family services~~ medicaid in accordance with a rebate agreement required by the "Social Security Act," section 1927, 42 U.S.C. 1396r-8;

(3) The federal share of all supplemental rebates paid by drug manufacturers to the department of ~~job and family services~~ medicaid in accordance with the supplemental drug rebate program established under section ~~5111.081~~ 5164.755 of the Revised Code;

(4) Except as otherwise provided by statute or as authorized by the controlling board, the federal share of all other medicaid-related revenues, collections, and recoveries.

(B) All money credited to the health care - federal fund pursuant to division (B) of section ~~5112.18~~ 5168.11 of the Revised Code shall be used solely for distributing funds to hospitals under section ~~5112.08~~ 5168.09 of the Revised Code. The department of ~~job and family services~~ medicaid shall use all other money credited to the fund to pay for other medicaid services and contracts.

Sec. ~~5111.941~~ 5162.52. (A) The health care/medicaid support and recoveries fund is hereby created in the state treasury. All of the following shall be credited to the fund:

(1) Except as otherwise provided by statute or as authorized by the controlling board, the nonfederal share of all medicaid-related revenues, collections, and recoveries;

(2) Federal reimbursement received for payment adjustments made pursuant to ~~section 1923 of the "Social Security Act," 401 Stat. 1330-148 (1987)~~ section 1923, 42 U.S.C. 1396r-4, as amended, under the medicaid program to state mental health hospitals maintained and operated by the department of ~~mental health~~ mental health and addiction services under division (A) of section ~~5119.02~~ 5119.14 of the Revised Code;

(3) Revenues the department of ~~job and family services~~ medicaid receives from another state agency for medicaid services pursuant to an interagency agreement, other than such revenues required to be deposited into the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code;

(4) The first seven hundred fifty thousand dollars the department receives in a fiscal year for performing eligibility verification services necessary for compliance with the independent, certified audit requirement of 42 C.F.R. 455.304;

(5) The nonfederal share of all rebates paid by drug manufacturers to the department of medicaid in accordance with a rebate agreement required by the "Social Security Act," section 1927, 42 U.S.C. 1396r-8;

(6) The nonfederal share of all supplemental rebates paid by drug manufacturers to the department of medicaid in accordance with the supplemental drug rebate program established under section 5164.755 of the Revised Code.

(B) The department of ~~job and family services~~ medicaid shall use money credited to the health care/medicaid support and recoveries fund to pay for medicaid services and contracts.

~~Sec. 5111.94 5162.54. (A) As used in this section, "vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.~~

~~(B)~~ There is hereby created in the state treasury the health care services administration fund. Except as provided in division (C) of this section, all the following shall be deposited into the fund:

(1) Amounts deposited into the fund pursuant to sections ~~5111.92 5162.12, 5162.40, and 5111.93 5162.41~~ of the Revised Code;

(2) The amount of the state share of all money the department of ~~job and family services, in fiscal year 2003 and each fiscal year thereafter,~~ medicaid recovers each fiscal year pursuant to a tort action under the department's right of recovery under section ~~5101.58 5160.37~~ of the Revised Code that exceeds the state share of all money the department, in fiscal year 2002, recovers pursuant to a tort action under that right of recovery;

(3) Subject to division ~~(D)~~(B) of this section, the amount of the state share of all money the department of ~~job and family services~~ medicaid, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits;

(4) Amounts from assessments on hospitals under section ~~5112.06 5168.06~~ of the Revised Code and intergovernmental transfers by governmental hospitals under section ~~5112.07 5168.07~~ of the Revised Code that are deposited into the fund in accordance with the law;

(5) Amounts that the department of education pays to the department of ~~job and family services~~ medicaid, if any, pursuant to an interagency agreement ~~entered into under~~ authorized by section ~~5111.713 5162.363~~ of

the Revised Code;

(6) The application fees charged to providers under section ~~5111.063~~ 5164.31 of the Revised Code;

(7) The fines collected under section ~~5111.271~~ 5165.1010 of the Revised Code;

(8) Money the department receives in a fiscal year for performing eligibility verification services necessary for compliance with the independent, certified audit requirement of 42 C.F.R. 455.304, other than the amounts of such money that are to be credited to the health care/medicaid support and recoveries fund under section 5162.52 of the Revised Code.

~~(C) No funds shall be deposited into the health care services administration fund in violation of federal statutes or regulations.~~

~~(D)~~(B) In determining under division ~~(B)~~(A)(3) of this section the amount of money the department, in a fiscal year, recovers through audits of medicaid providers, the amount recovered in the form of vendor offset shall be excluded.

~~(E)~~(C) The ~~director~~ department of ~~job and family services~~ medicaid shall use funds available in the health care services administration fund to pay for costs associated with the administration of the medicaid program.

Sec. ~~5111.945~~ 5162.56. There is created in the state treasury the health care special activities fund. The department of ~~job and family services~~ medicaid shall deposit all funds it receives pursuant to the administration of the medicaid program into the fund, other than any such funds that are required by law to be deposited into another fund. The department shall use the money in the fund to pay for expenses related to the services provided under, and the administration of, the medicaid program.

Sec. ~~5111.944~~ 5162.58. ~~(A) As used in this section:~~

~~"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).~~

~~"Dual eligible integrated care demonstration project" means the demonstration project authorized by section 5111.981 of the Revised Code.~~

~~"Medicare program" means the program created under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.~~

~~(B)~~ There is created in the state treasury the integrated care delivery systems fund. If the terms of the federal approval for the dual eligible integrated care demonstration project authorized by section 5164.91 of the Revised Code provide for the state to receive a portion of the amounts that the demonstration project saves the medicare program, such amounts shall

be deposited into the fund. The department of ~~job and family services~~ medicaid shall use the money in the fund to further develop integrated delivery systems and improved care coordination for dual eligible individuals.

Sec. 5162.60. (A) There is hereby created in the state treasury the managed care performance payment fund. The fund shall consist of all of the following:

(1) Amounts transferred to it by the director of budget and management for the purpose of the managed care performance payment program established under section 5167.30 of the Revised Code;

(2) All fines imposed on and collected from medicaid managed care organizations for failure to meet performance standards or other requirements specified in provider agreements or rules adopted under section 5167.02 of the Revised Code;

(3) All investment earnings of the fund.

(B) Amounts in the fund may be used for the following:

(1) To make performance payments to medicaid managed care organizations in accordance with section 5167.30 of the Revised Code;

(2) To meet obligations specified in the provider agreements;

(3) To pay for medicaid services provided by a medicaid managed care organization;

(4) To reimburse a medicaid managed care organization that has paid a fine for failure to meet performance standards or other requirements specified in provider agreements or rules adopted under section 5167.02 of the Revised Code if that organization comes into compliance with those standards or requirements.

Sec. 5162.62. There is hereby created in the state treasury the medicaid administrative reimbursement fund. The department of medicaid shall use money in the fund to pay for the nonfederal share of the cost of a fiscal audit for which a state agency or political subdivision is required by section 5162.35 of the Revised Code to reimburse the department. The department shall deposit the reimbursements into the fund.

Sec. ~~5111.714~~ 5162.64. (A) There is hereby created in the state treasury the medicaid school program administrative fund.

(B) Both of the following shall be deposited into the medicaid school program administrative fund:

(1) The federal funds the department of education receives for the expenses the department incurs in administering the medicaid school component of the medicaid program created under section 5162.36 of the Revised Code;

(2) The money the department collects from qualified medicaid school providers in the process established in rules ~~adopted under~~ authorized by section ~~5111.713~~ 5162.363 of the Revised Code.

(C) ~~No funds shall be deposited into the medicaid school program administrative fund in violation of federal statutes or regulations.~~

~~(D)~~ The department of education shall use money in the medicaid school program administrative fund for both of the following purposes:

(1) Paying for the expenses the department incurs in administering the medicaid school component of the medicaid program;

(2) Paying a qualified medicaid school provider a refund for any overpayment the provider makes to the department under the process established in rules ~~adopted under~~ authorized by section ~~5111.713~~ 5162.363 of the Revised Code if the process results in an overpayment.

~~Sec. 5111.62~~ 5162.66. ~~The~~ As used in this section, "deficiency" has the same meaning as in section 5165.60 of the Revised Code.

The proceeds of all fines, including interest, collected under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code shall be deposited in the state treasury to the credit of the residents protection fund, which is hereby created. The proceeds of all fines, including interest, collected under section 173.42 of the Revised Code shall be deposited in the state treasury to the credit of the residents protection fund.

Money in the fund shall be used for the protection of the health or property of residents of nursing facilities in which the department of health finds deficiencies, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for the loss of money managed by the facility under section 3721.15 of the Revised Code. Money in the fund may also be used to make payments under section ~~5111.511~~ 5165.78 of the Revised Code.

The fund shall be maintained and administered by the department of ~~job and family services~~ medicaid under rules developed in consultation with the departments of health and aging and ~~adopted by the director of job and family services~~ under ~~Chapter 119, section 5162.02~~ of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5163.01. As used in this chapter:

"Caretaker relative" has the same meaning as in 42 C.F.R. 435.4 as that regulation is amended effective January 1, 2014.

"Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

"Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

"Federally qualified health center" has the same meaning as in the "Social Security Act," section 1905(l)(2)(B), 42 U.S.C. 1396d(l)(2)(B).

"Federally qualified health center look-alike" has the same meaning as in section 3701.047 of the Revised Code.

"Federal poverty line" has the same meaning as in section 5162.01 of the Revised Code.

"Healthy start component" has the same meaning as in section 5162.01 of the Revised Code.

"Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

"Intermediate care facility for individuals with intellectual disabilities" and "ICF/IID" have the same meanings as in section 5124.01 of the Revised Code.

"Mandatory eligibility groups" means the groups of individuals that must be covered by the medicaid state plan as a condition of the state receiving federal financial participation for the medicaid program.

"Medicaid buy-in for workers with disabilities program" means the component of the medicaid program established under sections 5163.09 to 5163.0910 of the Revised Code.

"Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

"Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

"Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.

"Optional eligibility groups" means the groups of individuals who may be covered by the medicaid state plan or a federal medicaid waiver and for whom the medicaid program receives federal financial participation.

"Other medicaid-funded long-term care services" has the meaning specified in rules adopted under section 5163.02 of the Revised Code.

"Supplemental security income program" means the program established by Title XVI of the "Social Security Act," 42 U.S.C. 1381 et seq.

Sec. ~~5111.011~~ 5163.02. (A) The medicaid director of job and family services shall adopt rules establishing as necessary to implement this chapter. The rules shall establish eligibility requirements for the medicaid program. The rules may establish requirements for applying for medicaid and determining and verifying eligibility for medicaid. The rules shall be

~~adopted pursuant to~~ in accordance with section 111.15 of the Revised Code and shall be consistent with federal and state law. The rules shall include rules that do all of the following:

~~(1) Establish standards consistent with federal law for allocating income and resources as income and resources of the spouse, children, parents, or stepparents of a recipient of or applicant for medicaid;~~

~~(2) Define the term "resources" as used in division (A)(1) of this section;~~

~~(3) Specify the number of months that is to be used for the purpose of the term "look back date" used in section 5111.0116 of the Revised Code;~~

~~(4) Establish processes to be used to determine both of the following:~~

~~(a) The date an institutionalized individual's ineligibility for services under section 5111.0116 of the Revised Code is to begin;~~

~~(b) The number of months an institutionalized individual's ineligibility for such services is to continue.~~

~~(5) For the purpose of division (C) of section 5111.0116 of the Revised Code, establish procedures for granting waivers of all or a portion of the period of ineligibility that an institutionalized individual would otherwise be subject to under that section and additional reasons for which such waivers may be granted;~~

~~(6) Define the term "other medicaid-funded long-term care services" as used in sections 5111.0117 and 5111.0118 of the Revised Code;~~

~~(7) For the purpose of division (C)(2)(e) of section 5111.0117 of the Revised Code, establish the process to determine whether the child of an aged, blind, or disabled individual is financially dependent on the individual for housing.~~

~~(B) Notwithstanding any provision of state law, including statutes, administrative rules, common law, and court rules, regarding real or personal property or domestic relations, the standards established under rules adopted under division (A)(1) of this section shall be used to determine eligibility for medicaid.~~

Sec. 5163.03. (A) Subject to sections 5163.04 and 5163.05 of the Revised Code, the medicaid program shall cover all mandatory eligibility groups.

(B) The medicaid program shall cover all of the optional eligibility groups that state statutes require the medicaid program to cover.

(C) The medicaid program may cover any of the optional eligibility groups to which either of the following applies:

(1) State statutes expressly permit the medicaid program to cover the optional eligibility group.

(2) State statutes do not address whether the medicaid program may cover the optional eligibility group.

(D) The medicaid program shall not cover any eligibility group that state statutes prohibit the medicaid program from covering.

Sec. 5163.04. The medicaid program shall not cover the group described in the "Social Security Act," section 1902(a)(10)(A)(i)(VIII), 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).

This section does not affect the medicaid eligibility of any individual who begins to participate in the metrohealth care plus medicaid waiver component on or after February 5, 2013.

Sec. 5163.05. The medicaid program's eligibility requirements for aged, blind, and disabled individuals may be more restrictive than the eligibility requirements for the supplemental security income program. Any such more restrictive eligibility requirements shall be consistent with the 209(b) option described in the "Social Security Act," section 1902(f), 42 U.S.C. 1396a(f).

Sec. 5163.06. The medicaid program shall cover all of the following optional eligibility groups:

(A) The group consisting of children placed with adoptive parents who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(VIII), 42 U.S.C. 1396a(a)(10)(A)(ii)(VIII);

(B) Subject to section 5163.061 of the Revised Code, the group consisting of women during pregnancy and the sixty-day period beginning on the last day of the pregnancy, infants, and children who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(IX), 42 U.S.C. 1396a(a)(10)(A)(ii)(IX);

(C) Subject to sections 5163.09 to 5163.0910 of the Revised Code, the group consisting of employed individuals with disabilities who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XV), 42 U.S.C. 1396a(a)(10)(A)(ii)(XV);

(D) Subject to sections 5163.09 to 5163.0910 of the Revised Code, the group consisting of employed individuals with medically improved disabilities who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XVI), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVI);

(E) The group consisting of independent foster care adolescents who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XVII), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVII);

(F) The group consisting of women in need of treatment for breast or cervical cancer who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XVIII), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII);

(G) The group consisting of nonpregnant individuals who may receive

family planning services and supplies and are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XXI), 42 U.S.C. 1396a(a)(10)(A)(ii)(XXI).

Sec. 5163.061. The income eligibility threshold is two hundred per cent of the federal poverty line for women during pregnancy and the sixty-day period beginning on the last day of the pregnancy who are covered by the medicaid program under division (B) of section 5163.06 of the Revised Code.

Sec. 5163.07. The medicaid director shall implement the option authorized by the "Social Security Act," section 1931(b)(2)(C), 42 U.S.C. 1396u-1(b)(2)(C), to set the income eligibility threshold at ninety per cent of the federal poverty line for parents and caretaker relatives who are covered by the medicaid program under that section of the "Social Security Act."

Sec. 5163.08. The medicaid director shall implement the option authorized by the "Social Security Act," section 1925(a)(5), 42 U.S.C. 1396r-6(a)(5), regarding the single twelve-month eligibility period for transitional medicaid.

~~Sec. 5111.70~~ 5163.09. (A) As used in sections ~~5111.70~~ 5163.09 to ~~5111.7011~~ 5163.0910 of the Revised Code:

"Applicant" means an individual who applies to participate in the medicaid buy-in for workers with disabilities program.

"Earned income" has the meaning established by rules ~~adopted under~~ authorized by section 5111.708 5163.098 of the Revised Code.

"Employed individual with a medically improved disability" has the same meaning as in the "Social Security Act," section 1905(v), 42 U.S.C. 1396d(v).

"Family" means an applicant or participant and the spouse and dependent children of the applicant or participant. If an applicant or participant is under eighteen years of age, "family" also means the parents of the applicant or participant.

~~"Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.~~

"Health insurance" has the meaning established by rules ~~adopted under~~ authorized by section 5111.708 5163.098 of the Revised Code.

"Income" means earned income and unearned income.

"Participant" means an individual who has been determined eligible for the medicaid buy-in for workers with disabilities program and is participating in the program.

"Resources" has the meaning established by rules ~~adopted under~~ authorized by section 5111.708 5163.098 of the Revised Code.

"Spouse" has the meaning established in rules ~~adopted under~~ authorized by section ~~5111.708~~ 5163.098 of the Revised Code.

~~"Supplemental security income program" means the program established under Title XVI of the "Social Security Act," 86 Stat. 1329 (1972), 42 U.S.C. 1381, as amended.~~

~~"Medicaid buy-in for workers with disabilities program" means the component of the medicaid program established under sections 5111.70 to 5111.7011 of the Revised Code.~~

"Unearned income" has the meaning established by rules ~~adopted under~~ authorized by section ~~5111.708~~ 5163.098 of the Revised Code.

~~(B) Not later than one hundred eighty days after the effective date of this section, the director of job and family services shall submit to the United States secretary of health and human services an amendment to the state medicaid plan and any federal waiver necessary to establish the medicaid buy-in for workers with disabilities program in accordance with The medicaid program's coverage of the optional eligibility groups specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XV) and (XVI), 42 U.S.C. 1396a(a) (10)(A)(ii)(XV) and (XVI) and sections 5111.70 to 5111.7011 of the Revised Code. The director shall implement sections 5111.701 to 5111.7011 of the Revised Code if the amendment and, if needed, federal waiver are approved shall be known as the medicaid buy-in for workers with disabilities program.~~

~~Sec. ~~5111.701~~ 5163.091. Under the medicaid buy-in for workers with disabilities program, an individual who does all of the following in accordance with rules ~~adopted under~~ authorized by section ~~5111.708~~ 5163.098 of the Revised Code qualifies for ~~medical assistance under~~ the medicaid program:~~

~~(A) Applies for the medicaid buy-in for workers with disabilities program;~~

~~(B) Provides satisfactory evidence of all of the following:~~

~~(1) That the individual is at least sixteen years of age and under sixty-five years of age;~~

~~(2) Except as provided in section ~~5111.706~~ 5163.096 of the Revised Code, that one of the following applies to the individual:~~

~~(a) The individual is considered disabled for the purpose of the supplemental security income program, regardless of whether the individual receives supplemental security income benefits, and the individual has earnings from employment.~~

~~(b) The individual is an employed individual with a medically improved disability.~~

(3) That the value of the individual's resources, less amounts disregarded pursuant to rules ~~adopted under~~ authorized by section ~~5111.708~~ 5163.098 of the Revised Code, does not exceed the amount provided for by section ~~5111.702~~ 5163.092 of the Revised Code;

(4) That the individual's income, less amounts disregarded pursuant to section ~~5111.703~~ 5163.093 of the Revised Code, does not exceed two hundred fifty per cent of the federal poverty ~~guidelines~~ line;

(5) That the individual meets the additional eligibility requirements for the medicaid buy-in for workers with disabilities program ~~that the director of job and family services establishes~~ established in rules ~~adopted under~~ authorized by section ~~5111.708~~ 5163.098 of the Revised Code.

(C) To the extent required by section ~~5111.704~~ 5163.094 of the Revised Code, pays the premium established under that section.

Sec. ~~5111.702~~ 5163.092. (A) Except as provided in division (B) of this section, the maximum value of resources, less amounts disregarded pursuant to rules ~~adopted under~~ authorized by section ~~5111.708~~ 5163.098 of the Revised Code, that an individual may have without the individual exceeding the resource eligibility limit for the medicaid buy-in for workers with disabilities program shall not exceed ten thousand dollars.

(B) Each calendar year, the medicaid ~~director of job and family services~~ shall adjust the resource eligibility limit specified in division (A) of this section by the change in the consumer price index for all items for all urban consumers for the previous calendar year, as published by the United States bureau of labor statistics. The annual adjustment shall go into effect on the earliest date possible.

Sec. ~~5111.703~~ 5163.093. For the purpose of determining whether an individual is within the income eligibility limit for the medicaid buy-in for workers with disabilities program, all of the following apply:

(A) Twenty thousand dollars of the individual's earned income shall be disregarded.

(B) No amount that the individual's employer pays to obtain health insurance for one or more members of the individual's family, including any amount of a premium established under section ~~5111.704~~ 5163.094 of the Revised Code that the employer pays, shall be treated as the individual's income.

(C) Any other amounts, if any, specified in rules ~~adopted under~~ authorized by section ~~5111.708~~ 5163.098 of the Revised Code shall be disregarded from the individual's earned income, unearned income, or both.

Sec. ~~5111.704~~ 5163.094. An individual whose income exceeds one hundred fifty per cent of the federal poverty ~~guidelines~~ line shall pay an

annual premium as a condition of qualifying for the medicaid buy-in for workers with disabilities program. The amount of the premium shall be determined as follows:

(A) Subtract one hundred fifty per cent of the federal poverty ~~guidelines~~ line, as applicable for a family size equal to the size of the individual's family, from the amount of the income of the individual's family;

(B) Subtract an amount specified in rules ~~adopted under~~ authorized by section ~~5111.708~~ 5163.098 of the Revised Code from the difference determined under division (A) of this section;

(C) Multiply the difference determined under division (B) of this section by one tenth.

Sec. ~~5111.705~~ 5163.095. No individual shall be denied eligibility for the medicaid buy-in for workers with disabilities program on the basis that the individual receives services under a home and community-based services medicaid waiver component ~~as defined in section 5111.85 of the Revised Code~~.

Sec. ~~5111.706~~ 5163.096. An individual participating in the medicaid buy-in for workers with disabilities program may continue to participate in the program for up to six months even though the individual ceases to have earnings from employment or to be an employed individual with a medically improved disability due to ceasing to be employed if the individual continues to meet all other eligibility requirements for the program.

Sec. ~~5111.707~~ 5163.097. If the United States secretary of health and human services requires that a provision ~~in the amendment to the state medicaid plan or the federal waiver request submitted under section 5111.70 of the Revised Code~~ of the medicaid buy-in for workers with disabilities program be changed or removed in order for the secretary to approve the ~~amendment or waiver program~~ or to avoid an extended delay in the secretary's approval, the ~~medicaid director of job and family services~~ shall make the change or removal. The change or removal may cause the medicaid buy-in for workers with disabilities program to include a provision that is inconsistent with sections ~~5111.70~~ 5163.09 to ~~5111.706~~ 5163.096 of the Revised Code. Such a change or removal shall be made only to the extent necessary to obtain the United States secretary's approval or avoid an extended delay in the secretary's approval and shall be reflected in rules ~~adopted under~~ authorized by section ~~5111.708~~ 5163.098 of the Revised Code.

Sec. ~~5111.708~~ 5163.098. (A) The ~~medicaid director of job and family services~~ shall adopt rules ~~in accordance with Chapter 119.~~ under section 5163.02 of the Revised Code as necessary to implement the medicaid buy-in

for workers with disabilities program. The rules shall do all of the following:

(1) Specify assets, asset values, and amounts to be disregarded in determining asset and income eligibility limits for the program;

(2) Establish meanings for the terms "earned income," "health insurance," "resources," "spouse," and "unearned income";

(3) Establish additional eligibility requirements for the program that must be established for the United States secretary of health and human services to approve the program;

(4) For the purpose of division (B) of section ~~5111.704~~ 5163.094 of the Revised Code, specify an amount to be subtracted from the difference determined under division (A) of that section.

(B) The director may adopt rules ~~in accordance with Chapter 119.~~ under section 5163.02 of the Revised Code to specify amounts to be disregarded from an individual's earned income, unearned income, or both under division (C) of section ~~5111.703~~ 5163.093 of the Revised Code for the purpose of determining whether the individual is within the income eligibility limit for the medicaid buy-in for workers with disabilities program.

Sec. ~~5111.709~~ 5163.099. (A) There is hereby created the medicaid buy-in advisory council. The council shall consist of all of the following:

(1) The following voting members:

(a) The executive director of assistive technology of Ohio or the executive director's designee;

(b) The director of the axis center for public awareness of people with disabilities or the director's designee;

(c) The executive director of the cerebral palsy association of Ohio or the executive director's designee;

(d) The chief executive officer of Ohio advocates for mental health or the chief executive officer's designee;

(e) The state director of the Ohio chapter of AARP or the state director's designee;

(f) The director of the Ohio developmental disabilities council created under section 5123.35 of the Revised Code or the director's designee;

(g) The executive director of the governor's council on people with disabilities created under section 3303.41 of the Revised Code or the executive director's designee;

(h) The chairperson of the Ohio Olmstead task force or the chairperson's designee;

(i) The executive director of the Ohio statewide independent living council or the executive director's designee;

(j) The president of the Ohio chapter of the national multiple sclerosis society or the president's designee;

(k) The executive director of the arc of Ohio or the executive director's designee;

(l) The executive director of the commission on minority health or the executive director's designee;

(m) The executive director of the brain injury association of Ohio or the executive director's designee;

(n) The executive officer of any other advocacy organization who volunteers to serve on the council, or such an executive officer's designee, if the other voting members, at a meeting called by the chairperson elected under division (C) of this section, determine it is appropriate for the advocacy organization to be represented on the council;

(o) One or more participants who volunteer to serve on the council and are selected by the other voting members at a meeting the chairperson calls after the medicaid buy-in for workers with disabilities program is implemented.

(2) The following non-voting members:

(a) The medicaid director ~~of job and family services~~ or the director's designee;

(b) The ~~administrator~~ executive director of the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency or the ~~administrator's~~ executive director's designee;

(c) ~~The director of alcohol and drug addiction services or the director's designee;~~

~~(d)~~ The director of developmental disabilities or the director's designee;

~~(e)~~(d) The director of mental health and addiction services or the director's designee;

~~(f)~~(e) The executive officer of any other government entity, or the executive officer's designee, if the voting members, at a meeting called by the chairperson, determine it is appropriate for the government entity to be represented on the council.

(B) All members of the medicaid buy-in advisory council shall serve without compensation or reimbursement, except as serving on the council is considered part of their usual job duties.

(C) The voting members of the medicaid buy-in advisory council shall elect one of the members of the council to serve as the council's chairperson for a two-year term. The chairperson may be re-elected to successive terms.

(D) The department of ~~job and family services~~ medicaid shall provide the Ohio medicaid buy-in advisory council with accommodations for the

council to hold its meetings and shall provide the council with other administrative assistance the council needs to perform its duties.

Sec. ~~5111.7011~~ 5163.0910. Not less than once each year, the medicaid director ~~of job and family services~~ shall submit a report on the medicaid buy-in for workers with disabilities program to the governor, speaker and minority leader of the house of representatives, president and minority leader of the senate, and chairpersons of the house and senate committees to which the biennial operating budget bill is referred. The report shall include all of the following information:

(A) The number of individuals who participated in the medicaid buy-in for workers with disabilities program;

(B) The cost of the program;

(C) The amount of revenue generated by premiums that participants pay under section ~~5111.704~~ 5163.094 of the Revised Code;

(D) The average amount of earned income of participants' families;

(E) The average amount of time participants have participated in the program;

(F) The types of other health insurance participants have been able to obtain.

Sec. ~~5111.0124~~ 5163.10. (A) As used in this section:

~~"Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.~~

~~"Federally qualified health center" has the same meaning as in 42 U.S.C. 1396d(1)(2)(B).~~

~~"Federally qualified health center look alike" has the same meaning as in section 3701.047 of the Revised Code.~~

"Presumptive eligibility for pregnant women option" means the option available under the "Social Security Act," section 1920, 42 U.S.C. 1396r-1, to make ambulatory prenatal care available to pregnant women under the medicaid program during presumptive eligibility periods.

"Qualified provider" has the same meaning as in the "Social Security Act," section 1920(b)(2), 42 U.S.C. 1396r-1(b)(2).

(B) The medicaid director ~~of job and family services~~ shall ~~submit a medicaid state plan amendment to the United States secretary of health and human services to~~ implement the presumptive eligibility for pregnant women option. ~~The director shall include in the medicaid state plan amendment a request to authorize children's~~ Children's hospitals, federally qualified health centers, and federally qualified health center look-alikes, if they are eligible to be qualified providers ~~under 42 U.S.C. 1396r-1(b)(2)~~ and request to serve as qualified providers, ~~to~~ may serve as qualified providers

for purposes of the presumptive eligibility for pregnant women option. The director may ~~include in the medicaid state plan amendment a request to~~ authorize other types of providers that are eligible to be qualified providers ~~under 42 U.S.C. 1396r-1(b)(2)~~ and request to serve as qualified providers to serve as qualified providers for purposes of the presumptive eligibility for pregnant women option. ~~The director shall begin to implement the medicaid state plan amendment on the later of April 1, 2012, or a date that is not later than ninety days after the effective date of the approval of the amendment.~~

~~The director shall adopt rules under section 5111.011 of the Revised Code as necessary to implement this section.~~

~~Sec. 5111.0125 5163.101.~~ (A) As used in this section:

~~"Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.~~

~~"Federally qualified health center" has the same meaning as in 42 U.S.C. 1396d(1)(2)(B).~~

~~"Federally qualified health center look alike" has the same meaning as in section 3701.047 of the Revised Code.~~

"Presumptive eligibility for children option" means the option available under the "Social Security Act," section 1920A, 42 U.S.C. 1396r-1a, to make medical assistance with respect to health care items and services available to children under the medicaid program during presumptive eligibility periods.

"Qualified entity" has the same meaning as in the "Social Security Act," section 1920A(b)(3), 42 U.S.C. 1396r-1a(b)(3).

(B) ~~The medicaid director of job and family services shall retain implement~~ the presumptive eligibility for children option ~~that was included in the state medicaid plan on the effective date of this section. The director shall submit a medicaid state plan amendment to the United States secretary of health and human services to authorize children's, Children's hospitals, federally qualified health centers, and federally qualified health center look-alikes, if they are eligible to be qualified entities under 42 U.S.C. 1396r-1a(b)(3) and request to serve as qualified entities, to may~~ may serve as qualified entities for purposes of the presumptive eligibility for children option. The director may ~~include in the medicaid state plan amendment a request to~~ authorize other types of entities that are eligible to be qualified entities ~~under 42 U.S.C. 1396r-1a(b)(3)~~ and request to serve as qualified entities to serve as qualified entities for purposes of the presumptive eligibility for children option. ~~The director shall begin to implement the medicaid state plan amendment on the later of April 1, 2012, or a date that is not later than ninety days after the effective date of the approval of the~~

~~amendment.~~

~~The director shall adopt rules under section 5111.011 of the Revised Code as necessary to implement this section.~~

Sec. ~~5111.15~~ 5163.20. If a medicaid recipient ~~of medical assistance~~ is the beneficiary of a trust created pursuant to section 5815.28 of the Revised Code, then, notwithstanding any contrary provision of this chapter or of a rule adopted pursuant to this chapter under section 5163.02 of the Revised Code, divisions (C) and (D) of that section shall apply in determining the assets or resources of the recipient, the recipient's estate, the settlor, or the settlor's estate and to claims arising under this chapter against the recipient, the recipient's estate, the settlor, or the settlor's estate.

Sec. ~~5111.151~~ 5163.21. (A)(1) This section applies only to either of the following:

(a) Initial eligibility determinations for the medicaid program ~~made by the department of job and family services pursuant to section 5101.47 of the Revised Code or by a county department of job and family services pursuant to section 5111.012 of the Revised Code;~~

(b) An appeal from a an initial eligibility determination ~~described in division (A)(1)(a) of this section~~ pursuant to section ~~5101.35~~ 5160.31 of the Revised Code.

(2)(a) Except as provided in division (A)(2)(b) of this section, this section shall not be used by a court to determine the effect of a trust on an individual's initial eligibility for the medicaid program.

(b) The prohibition in division (A)(2)(a) of this section does not apply to an appeal described in division (A)(1)(b) of this section.

(B) As used in this section:

(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries. "Trust" includes any legal instrument or device similar to a trust.

(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:

(a) The property in the trust is held, managed, retained, or administered by a trustee.

(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.

(c) The trustee holds identifiable property for the beneficiary.

(3) "Grantor" is a person who creates a trust, including all of the following:

(a) An individual;

(b) An individual's spouse;

(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;

(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.

(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.

(5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries.

(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.

(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.

(8) "Recipient" is an individual who receives medicaid or the individual's spouse.

(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:

(a) A trust that provides that the trust can be terminated only by a court;

(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.

(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.

(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.

(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.

(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.

(C)(1) If an applicant or recipient is a beneficiary of a trust, the applicant or recipient shall submit a complete copy of the trust instrument to the county department of job and family services and the department of

medicaid. A copy shall be considered complete if it contains all pages of the trust instrument and all schedules, attachments, and accounting statements referenced in or associated with the trust. The copy is confidential and is not subject to disclosure under section 149.43 of the Revised Code.

(2) On receipt of a copy of a trust instrument or otherwise determining that an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted by the department of job and family services under section 5163.02 of the Revised Code governing trusts. The county department of job and family services may determine that any of the following is the case regarding the trust or portion of the trust:

- (a) ~~Is~~ It is a resource available to the applicant or recipient;
- (b) ~~Contains~~ It contains income available to the applicant or recipient;
- (c) ~~Constitutes both items described in divisions Divisions (C)(1)(2)(a) and (b) of this section are both applicable;~~
- (d) ~~Is neither an item described in~~ Neither division (C)(1)(2)(a) nor (C)(1)(b) of this section is applicable.

~~(2)(3)~~ Except as provided in division (F) of this section, a trust or portion of a trust that is a resource available to the applicant or recipient or contains income available to the applicant or recipient shall be counted for purposes of determining medicaid eligibility.

(D)(1) A trust or legal instrument or device similar to a trust shall be considered a medicaid qualifying trust if all of the following apply:

- (a) The trust was established on or prior to August 10, 1993.
- (b) The trust was not established by a will.
- (c) The trust was established by an applicant or recipient.
- (d) The applicant or recipient is or may become the beneficiary of all or part of the trust.
- (e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.

(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services to be a resource available to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.

(3) Amounts that are actually distributed from a medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code governing income.

(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following:

(a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid, ~~medical assistance for covered families and children, or as a qualified medicare beneficiary, specified low income medicare beneficiary, qualifying individual 1, or qualifying individual 2;~~

(b) Whether or not the trustee actually exercises discretion.

(5) If any real or personal property is transferred to a medicaid qualifying trust that is not distributable to the applicant or recipient, the transfer shall be considered an improper disposition of assets and shall be subject to section ~~5111.0116~~ 5163.30 of the Revised Code and rules to implement that section adopted under section ~~5111.011~~ 5163.02 of the Revised Code.

(6) The baseline date for the look-back period for disposition of assets involving a medicaid qualifying trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(E)(1) A trust or legal instrument or device similar to a trust shall be considered a self-settled trust if all of the following apply:

(a) The trust was established on or after August 11, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient, spouse of an applicant or recipient, or a person, including a court or administrative body, with legal authority to act in place of or on behalf of an applicant, recipient, or spouse, or acting at the direction or on request of an applicant, recipient, or spouse.

(2) A trust that meets the requirements of division (E)(1) of this section and is a revocable trust shall be treated by the county department of job and family services as follows:

(a) The corpus of the trust shall be considered a resource available to the applicant or recipient.

(b) Payments from the trust to or for the benefit of the applicant or recipient shall be considered unearned income of the applicant or recipient.

(c) Any other payments from the trust shall be considered an improper disposition of assets and shall be subject to section ~~5111.0116~~ 5163.30 of the Revised Code and rules to implement that section adopted under section

~~5111.011~~ 5163.02 of the Revised Code.

(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job and family services as follows:

(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made.

(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income.

(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper disposition of assets and shall be subject to section ~~5111.0116~~ 5163.30 of the Revised Code and rules to implement that section adopted under section ~~5111.011~~ 5163.02 of the Revised Code.

(d) The date of the disposition shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

(e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of assets after the foreclosure date shall be considered a separate disposition.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;

(b) Whether the trustees have exercised or may exercise discretion

under the trust;

(c) Any restrictions on when or whether distributions may be made from the trust;

(d) Any restrictions on the use of distributions from the trust.

(6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(F) The principal or income from any of the following shall not be a resource available to the applicant or recipient:

(1)(a) A special needs trust that meets all of the following requirements:

(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals.

(ii) The applicant or recipient is disabled as defined in rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code.

(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court.

(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid ~~paid~~ payments made on behalf of the applicant or recipient.

(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient continues to be disabled as defined in rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper disposition of assets.

(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code governing in-kind income.

(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. An asset held prior to the transfer to the trust shall be considered as a resource available to the applicant or recipient,

income available to the applicant or recipient, or both a resource and income available to the individual.

(2)(a) A qualifying income trust that meets all of the following requirements:

(i) The trust is composed only of pension, social security, and other income to the applicant or recipient, including accumulated interest in the trust.

(ii) The income is received by the individual and the right to receive the income is not assigned or transferred to the trust.

(iii) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid ~~paid~~ payments made on behalf of the applicant or recipient.

(b) No resources shall be used to establish or augment the trust.

(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust shall not be considered a qualifying income trust by the county department of job and family services.

(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medicaid. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or recipient's eligibility for medicaid. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient.

(e) All income placed in a qualifying income trust shall be combined with any income available to the individual that is not placed in the trust to arrive at a base income figure to be used for spend down calculations.

(f) The base income figure shall be used for post-eligibility deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations.

(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code shall be considered the applicant's or recipient's spend down liability.

(3)(a) A pooled trust that meets all of the following requirements:

(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code.

(ii) The trust is established and managed by a nonprofit organization.

(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.

(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled.

(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medicaid ~~paid~~ payments made on behalf of the beneficiary.

(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code governing in-kind income.

(c) Transfers of assets to a pooled trust shall not be treated as an improper disposition of assets. An asset held prior to the transfer to the trust shall be considered as a resource available to the applicant or recipient, income available to the applicant or recipient, or both a resource and income available to the applicant or recipient.

(4) A supplemental services trust that meets the requirements of section 5815.28 of the Revised Code and to which all of the following apply:

(a) A person may establish a supplemental services trust pursuant to section 5815.28 of the Revised Code only for another person who is eligible to receive services through one of the following agencies:

(i) The department of developmental disabilities;

(ii) A county board of developmental disabilities;

(iii) The department of ~~mental health~~ mental health and addiction services;

(iv) A board of alcohol, drug addiction, and mental health services.

(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following:

(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the

creation of the trust;

(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (F)(4)(a) of this section at the time of the creation of the trust.

(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2006 is two hundred twenty-two thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars.

(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 5815.28 of the Revised Code.

(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments to the beneficiary.

(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (F)(4) of this section and section 5815.28 of the Revised Code, the county department of job and family services shall not consider it an exempt trust.

(G)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the applicant or recipient if all of the following apply:

(a) The trust is created by a person other than the applicant or recipient.

(b) The trust names the applicant or recipient as a beneficiary.

(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust.

(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be a resource available to the applicant or recipient only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes.

(3) A trust that meets the requirements of division (G)(1) of this section shall be considered a resource available to the applicant or recipient even if the trust contains any of the following types of provisions:

(a) A provision that prohibits the trustee from making payments that would supplant or replace medicaid or other public assistance;

(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medicaid or other public assistance;

(c) A provision that attempts to prevent the trust or its corpus or principal from being a resource available to the applicant or recipient.

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as a resource available to the applicant or recipient if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as a resource available to the applicant or recipient. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as a resource available to the applicant or recipient. Terms of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the trust for a particular purpose.

(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments, the trust shall not be counted as a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted by the department of job and family services under section 5163.02 of the Revised Code governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as a resource available to the applicant or recipient, the trust shall not be counted as such. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource available to the applicant or

recipient.

(f) If a trust is specifically exempt from being counted as a resource available to the applicant or recipient by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as such.

(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as a resource available to the applicant or recipient.

(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as a resource available to the applicant or recipient.

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as a resource available to the applicant or recipient, shall be treated as provided in rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code governing income. Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper disposition of assets.

Sec. ~~5111.181~~ 5163.22. (A) The general assembly hereby finds that the state has an insurable interest in ~~medical assistance~~ medicaid recipients because of the state's statutory right to recover from the estate of a recipient state funds used to provide the recipient with ~~medical care and~~ medicaid services.

(B) As used in this section:

(1) "Beneficiary" means the person or entity designated in a life insurance policy to receive the proceeds of the policy on the death of the insured or maturity of the policy.

(2) "Owner" means the person who has the right to designate the beneficiary of a life insurance policy and to change the designation.

(C) ~~Notwithstanding section 5111.011 of the Revised Code, the~~ The

value of a life insurance policy that would otherwise be considered a resource in determining eligibility for the ~~medical assistance~~ medicaid program shall be excluded from any determination of a person's eligibility for the ~~medical assistance~~ medicaid program if the owner designates the department of ~~job and family services~~ medicaid as beneficiary of the policy. The department may pay premiums to keep the policy in force. Premiums paid by the department are ~~medical assistance~~ medicaid payments correctly paid on behalf of a ~~medical assistance~~ medicaid recipient and subject to recovery under section ~~5111.11~~ 5162.21 of the Revised Code.

(D) The medicaid director of ~~job and family services~~ shall deposit the proceeds of a life insurance policy that do not exceed the amount the department may recover against the property and estate of the owner under section ~~5111.11~~ 5162.21 of the Revised Code into the general revenue fund. The director shall pay any remaining proceeds to the person designated by the owner. If the owner failed to designate a person, the director shall pay the remaining proceeds to the surviving spouse, or, if there is no surviving spouse, to the estate of the owner.

(E) If the owner designates the department of ~~job and family services~~ medicaid as the policy's beneficiary, the department shall notify the owner that the owner may designate a person to receive proceeds of the policy that exceed the amount the department may recover against the owner's property and estate under section ~~5111.11~~ 5162.21 of the Revised Code. The designation shall be made on a form provided by the department.

~~(F) The department of job and family services shall not implement this section if implementation would violate any federal requirement unless the department receives a waiver of the requirement from the United States department of health and human services.~~

Sec. ~~5111.0116~~ 5163.30. (A) As used in this section:

(1) "Assets" include all of an individual's income and resources and those of the individual's spouse, including any income or resources the individual or spouse is entitled to but does not receive because of action by any of the following:

(a) The individual or spouse;

(b) A person or government entity, including a court or administrative agency, with legal authority to act in place of or on behalf of the individual or spouse;

(c) A person or government entity, including a court or administrative agency, acting at the direction or on the request of the individual or spouse.

(2) "Home and community-based services" means home and community-based services furnished under a medicaid waiver granted by the

United States secretary of health and human services under the "Social Security Act," section 1915(c) or (d), 42 U.S.C. 1396n(c) or (d).

(3) "Institutionalized individual" means a resident of a nursing facility, an inpatient in a medical institution for whom a payment is made based on a level of care provided in a nursing facility, or an individual described in the "Social Security Act," section 1902(a)(10)(A)(ii)(VI), 42 U.S.C. 1396a(a)(10)(A)(ii)(VI).

(4) "Look-back date" means the date that is a number of months specified in rules adopted under section ~~5111.011~~ 5163.02 of the Revised Code immediately before either of the following:

(a) The date an individual becomes an institutionalized individual if the individual is eligible for medicaid on that date;

(b) The date an individual applies for medicaid while an institutionalized individual.

~~(5) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

~~(6) "Nursing facility equivalent services" means services that are covered by the medicaid program, equivalent to nursing facility services, provided by an institution that provides the same level of care as a nursing facility, and provided to an inpatient of the institution who is a medicaid recipient eligible for medicaid-covered nursing facility equivalent services.~~

~~(7) "Nursing facility services" means nursing facility services covered by the medicaid program that a nursing facility provides to a resident of the nursing facility who is a medicaid recipient eligible for medicaid-covered nursing facility services.~~

~~(8)(6) "Undue hardship" means being deprived of either of the following:~~

~~(a) Medical care such that an individual's health or life is endangered;~~

~~(b) Food, clothing, shelter, or other necessities of life.~~

(B) Except as provided in division (C) of this section and rules adopted under section ~~5111.011~~ 5163.02 of the Revised Code, an institutionalized individual is ineligible for nursing facility services, nursing facility equivalent services, and home and community-based services if the individual or individual's spouse disposes of assets for less than fair market value on or after the look-back date. The institutionalized individual's ineligibility shall begin on a date determined in accordance with rules adopted under section ~~5111.011~~ 5163.02 of the Revised Code and shall continue for a number of months determined in accordance with such rules.

(C) An institutionalized individual may be granted a waiver of all or a portion of the period of ineligibility to which the individual would otherwise

be subjected under division (B) of this section if the ineligibility would cause an undue hardship for the individual. An institutionalized individual shall be granted a waiver of all or a portion of the period of ineligibility if the administrator of the nursing facility in which the individual resides has notified the individual of a proposed transfer or discharge under section 3721.16 of the Revised Code due to failure to pay for the care the nursing facility has provided to the individual, the individual or the individual's sponsor requests a hearing on the proposed transfer or discharge in accordance with section 3721.161 of the Revised Code, and the transfer or discharge is upheld by a final determination that is not subject to further appeal. Waivers shall be granted in accordance with rules adopted under section ~~5111.011~~ 5163.02 of the Revised Code.

(D) To secure compliance with this section, the medicaid director ~~of job and family services~~ may require an individual, as a condition of initial or continued eligibility for medicaid, to provide documentation of the individual's assets up to five years before the date the individual becomes an institutionalized individual if the individual is eligible for medicaid on that date or the date the individual applies for medicaid while an institutionalized individual. Documentation may include tax returns, records from financial institutions, and real property records.

~~Sec. 5111.0117 5163.31. (A) As used in this section and section 5111.0118 of the Revised Code:~~

~~(1) "ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid-covered intermediate care facility for the mentally retarded services.~~

~~(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.~~

~~(3) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

~~(4) "Nursing facility services" means nursing facility services covered by the medicaid program that a nursing facility provides to a resident of the nursing facility who is a medicaid recipient eligible for medicaid-covered nursing facility services.~~

~~(5) "Other medicaid-funded long-term care services" has the meaning specified in rules adopted under section 5111.011 of the Revised Code.~~

(B) Except as provided by division ~~(C)~~(A) of this section and for the purpose of determining whether an aged, blind, or disabled individual is eligible for nursing facility services, ~~ICF/MR~~ ICF/IID services, or other

medicaid-funded long-term care services, the medicaid director ~~of job and family services~~ may consider an aged, blind, or disabled individual's real property to not be the individual's homestead or principal place of residence once the individual has resided in a nursing facility, ~~intermediate care facility for the mentally retarded~~ ICF/IID, or other medical institution for at least thirteen months.

~~(C)~~(B) Division ~~(B)~~(A) of this section does not apply to an individual if any of the following reside in the individual's real property that, because of this division, continues to be considered the individual's homestead or principal place of residence:

(1) The individual's spouse;

(2) The individual's child if any of the following apply:

(a) The child is under twenty-one years of age.

(b) The child is considered blind or disabled under the "Social Security Act," section 1614, 42 U.S.C. 1382c.

(c) The child is financially dependent on the individual for housing as determined in accordance with rules adopted under section ~~5111.011~~ 5163.02 of the Revised Code.

(3) The individual's sibling if the sibling has a verified equity interest in the real property and resided in the real property for at least one year immediately before the date the individual was admitted to the nursing facility, ~~intermediate care facility for the mentally retarded~~ ICF/IID, or other medical institution.

Sec. ~~5111.0118~~ 5163.32. (A) Except as otherwise provided by this section, no individual shall qualify for nursing facility services or other medicaid-funded long-term care services if the individual's equity interest in the individual's home exceeds five hundred thousand dollars. The medicaid director ~~of job and family services~~ shall increase this amount effective January 1, 2011, and the first day of each year thereafter, by the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest one thousand dollars.

(B) This section does not apply to an individual if either of the following applies:

(1) Either of the following lawfully reside in the individual's home:

(a) The individual's spouse;

(b) The individual's child if the child is under twenty-one years of age or, under the "Social Security Act," section 1614, 42 U.S.C. 1382c, considered blind or disabled.

(2) The individual qualifies, pursuant to the process established under division (C) of this section, for a waiver of this section due to a

demonstrated hardship.

(C) The director shall establish a process by which individuals may obtain a waiver of this section due to a demonstrated hardship. The process shall be consistent with the process for such waivers established by the United States secretary of health and human services under the "Social Security Act," section 1917(f)(4), 42 U.S.C. 1396p(f)(4).

(D) Nothing in this section shall be construed as preventing an individual from using a reverse mortgage or home equity loan to reduce the individual's total equity interest in the home.

~~Sec. 5111.114 5163.33. As used in this section, "nursing facility" and "intermediate care facility for the mentally retarded" have the same meanings as in section 5111.20 of the Revised Code.~~

~~(A) In determining the amount of income that a medicaid recipient of medical assistance must apply monthly toward payment of the cost of care in a nursing facility or intermediate care facility for the mentally retarded ICF/IID, the a county department of job and family services shall deduct from the recipient's monthly income a monthly personal needs allowance in accordance with section 1902 of the "Social Security Act," 49 Stat. 620 (1935) section 1902(q), 42 U.S.C.A. 1396a, as amended 1396a(q).~~

~~For (B) In the case of a resident of a nursing facility, the monthly personal needs allowance shall be as follows:~~

~~(1) Prior to January 1, 2014, not less than forty dollars for an individual resident and not less than eighty dollars for a married couple if both spouses are residents of a nursing facility and their incomes are considered available to each other in determining eligibility;~~

~~(2) For calendar year 2014, not less than forty-five dollars for an individual resident and not less than ninety dollars for a married couple if both spouses are residents of a nursing facility and their incomes are considered available to each other in determining eligibility;~~

~~(3) For calendar year 2015 and each calendar year thereafter, not less than fifty dollars for an individual resident and not less than one hundred dollars for a married couple if both spouses are residents of a nursing facility and their incomes are considered available to each other in determining eligibility.~~

~~For (C) In the case of a resident of an intermediate care facility for the mentally retarded ICF/IID, the monthly personal needs allowance shall be forty dollars unless the resident has earned income, in which case the monthly personal needs allowance shall be determined by the state department of job and family services medicaid, or the department's designee, but shall not exceed one hundred five dollars.~~

Sec. ~~5111.013~~ 5163.40. (A) ~~The provision of medical assistance to pregnant women and young children who are eligible for medical assistance under division (C)(3) of section 5111.01 of the Revised Code, but who are not otherwise eligible for medical assistance under that section, shall be known as the healthy start program.~~

~~(B)~~ The department of ~~job and family services~~ medicaid shall do all of the following with regard to the application procedures for the healthy start component of the medicaid program:

(1) Establish a short application form for the program component that requires the applicant to provide no more information than is necessary for making determinations of eligibility for the ~~healthy start program component~~, except that the form may require applicants to provide their social security numbers. The form shall include a statement, which must be signed by the applicant, indicating that she does not choose at the time of making application for the program component to apply for assistance provided under any other program administered by the department or the department of job and family services and that she understands that she is permitted at any other time to apply at the county department of job and family services of the county in which she resides for ~~any~~ other assistance administered by the department or the department of job and family services.

(2) ~~To the extent permitted by federal law, do~~ Do one or both of the following:

(a) Distribute the application form for the program component to each public or private entity that serves as a women, infants, and children clinic or as a child and family health clinic and to each administrative body for such clinics and train employees of each such agency clinic or entity administrative body to provide applicants assistance in completing the form;

(b) In cooperation with the department of health, develop arrangements under which employees of county departments of job and family services are stationed at public or private ~~agencies or~~ entities selected by the department of ~~job and family services~~ medicaid that serve as women, infants, and children clinics; child and family health clinics; or administrative bodies for such clinics for the purpose both of assisting applicants for the program component in completing the application form and of making determinations at that location of eligibility for the program component.

(3) Establish performance standards by which a county department of job and family services' level of enrollment of persons potentially eligible for the program component can be measured, and establish acceptable levels

of enrollment for each county department.

(4) Direct any county department of job and family services whose rate of enrollment of potentially eligible enrollees in the program component is below acceptable levels established under division ~~(B)~~(A)(3) of this section to implement corrective action. Corrective action may include but is not limited to any one or more of the following ~~to the extent permitted by federal law~~:

(a) Establishing formal referral and outreach methods with local health departments and local entities receiving funding through the bureau of maternal and child health;

(b) Designating a specialized intake unit within the county department for healthy start applicants;

(c) Establishing abbreviated timeliness requirements to shorten the time between receipt of an application and the scheduling of an initial application interview;

(d) Establishing a system for telephone scheduling of intake interviews for applicants;

(e) Establishing procedures to minimize the time an applicant must spend in completing the application and eligibility determination process, including permitting applicants to complete the process at times other than the regular business hours of the county department and at locations other than the offices of the county department.

~~(C) To the extent permitted by federal law, local funds, whether from public or private sources, expended by a county department for administration of the healthy start program shall be considered to have been expended by the state for the purpose of determining the extent to which the state has complied with any federal requirement that the state provide funds to match federal funds for medical assistance, except that this division shall not affect the amount of funds the county is entitled to receive under section 5101.16, 5101.161, or 5111.012 of the Revised Code.~~

~~(D)~~(B) A county department of job and family services that maintains offices at more than one location shall accept applications for the healthy start program component at all of those locations.

~~(E) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement this section.~~

Sec. ~~5111.0119~~ 5163.45. (A)(1) As used in this section, subject to division (A)(2) of this section, "state or local correctional facility" means any of the following:

(a) A "state correctional institution," as defined in section 2967.01 of the

Revised Code;

(b) A "local correctional facility," as defined in section 2903.13 of the Revised Code;

(c) A correctional facility that is privately operated and managed pursuant to section 9.06 of the Revised Code.

(2) "State or local correctional facility" does not include any facility operated directly by or at the direction of the department of youth services.

(B) If a person who is confined in a state or local correctional facility was a medicaid recipient immediately prior to being confined in the facility, all of the following apply:

(1) The person's eligibility for medicaid while so confined shall be suspended due to the confinement.

(2) No medicaid payment shall be made for any care, services, or supplies provided to the person during the suspension described in division (B)(1) of this section.

(3) The suspension described in division (B)(1) of this section shall end upon the release of the person from the confinement.

(4) Except as provided in division (C) of this section, the person shall not be required to reapply or undergo a redetermination of eligibility for medicaid when the suspension described in division (B)(1) of this section ends.

(C) A person may be disenrolled from medicaid any time after the suspension described in division (B)(1) of this section ends if the person is no longer eligible for medicaid. A person may be required to undergo a redetermination of eligibility for medicaid any time after the suspension described in division (B)(1) of this section ends if it is time or past time for the person's eligibility redetermination or the person's circumstances have changed in a manner warranting a redetermination.

~~(D) The department of job and family services shall take the steps necessary to begin implementation of this section not later than September 1, 2009.~~

Sec. 5164.01. As used in this chapter:

(A) "Early and periodic screening, diagnostic, and treatment services" has the same meaning as in the "Social Security Act," section 1905(r), 42 U.S.C. 1396d(r).

(B) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

(C) "Healthcheck" means the component of the medicaid program that provides early and periodic screening, diagnostic, and treatment services.

(D) "Home and community-based services medicaid waiver component"

has the same meaning as in section 5166.01 of the Revised Code.

(E) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(F) "ICDS participant" means a dual eligible individual who participates in the integrated care delivery system.

(G) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(H) "Integrated care delivery system" and "ICDS" mean the demonstration project authorized by section 5164.91 of the Revised Code.

(I) "Mandatory services" means the health care services and items that must be covered by the medicaid state plan as a condition of the state receiving federal financial participation for the medicaid program.

(J) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

(K) "Medicaid provider" means a person or government entity with a valid provider agreement to provide medicaid services to medicaid recipients. To the extent appropriate in the context, "medicaid provider" includes a person or government entity applying for a provider agreement, a former medicaid provider, or both.

(L) "Medicaid services" means either or both of the following:

(1) Mandatory services;

(2) Optional services that the medicaid program covers.

(M) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

(N) "Optional services" means the health care services and items that may be covered by the medicaid state plan or a federal medicaid waiver and for which the medicaid program receives federal financial participation.

(O) "Prescribed drug" has the same meaning as in 42 C.F.R. 440.120.

(P) "Provider agreement" means an agreement to which all of the following apply:

(1) It is between a medicaid provider and the department of medicaid;

(2) It provides for the medicaid provider to provide medicaid services to medicaid recipients;

(3) It complies with 42 C.F.R. 431.107(b).

(Q) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.

Sec. 5144.02 5164.02. (A) ~~The director of job and family services shall adopt, and may amend or rescind, rules under~~ medicaid director shall adopt rules as necessary to implement this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code ~~establishing the amount,~~

~~duration, and scope of medicaid services. The rules shall be consistent with federal and state law. The rules may be different for different medicaid services. The~~

~~(B) The rules shall establish all of the following:~~

~~(A) The conditions under which the medicaid program shall cover and reimburse medicaid services;~~

~~(B) The method of reimbursement applicable to each medicaid service~~

~~(1) The amount, duration, and scope of the medicaid services covered by the medicaid program;~~

~~(C)(2) The payment amount of reimbursement for each medicaid service or, in lieu of amounts the payment amount, methods the method by which amounts are the payment amount is to be determined for each medicaid service;~~

~~(D)(3) Procedures for enforcing the rules adopted under this section that provide due process protections, including procedures for corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules.~~

~~(C) The rules may be different for different medicaid services.~~

~~(D) The medicaid director is not required to adopt a rule establishing the payment amount for a medicaid service if the director adopts a rule establishing the method by which the payment amount is to be determined for the medicaid service and makes the payment amount available on the internet web site maintained by the department of medicaid.~~

~~Sec. 5164.03. (A) The medicaid program shall cover all mandatory services.~~

~~(B) The medicaid program shall cover all of the optional services that state statutes require the medicaid program to cover.~~

~~(C) The medicaid program may cover any of the optional services to which either of the following applies:~~

~~(1) State statutes expressly permit the medicaid program to cover the optional service;~~

~~(2) State statutes do not address whether the medicaid program may cover the optional service.~~

~~(D) The medicaid program shall not cover any optional services that state statutes prohibit the medicaid program from covering.~~

~~Sec. 5111.04 5164.05. (A) As used in this section:~~

~~(1) "Outpatient health facility" means a facility that provides comprehensive primary health services by or under the direction of a physician at least five days per week on a forty-hour per week basis to outpatients, is operated by the board of health of a city or general health~~

district or another public agency or by a nonprofit private agency or organization under the direction and control of a governing board that has no health-related responsibilities other than the direction and control of one or more such outpatient health facilities, and receives at least seventy-five per cent of its operating funds from public sources, except that it does not include an outpatient hospital facility or a federally qualified health center as defined in ~~Sec. 1905(1)(2)(B) of the "Social Security Act," 103 Stat. 2264 (1989)~~ section 1905(1)(2)(B), 42 U.S.C.A. 1396d(1)(2)(B).

(2) "Comprehensive primary health services" means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that include all of the following:

(a) Services of physicians, physician assistants, and certified nurse practitioners;

(b) Diagnostic laboratory and radiological services;

(c) Preventive health services, such as children's eye and ear examinations, perinatal services, well child services, and family planning services;

(d) Arrangements for emergency medical services;

(e) Transportation services.

(3) "Certified nurse practitioner" has the same meaning as in section 4723.01 of the Revised Code.

~~(B) Outpatient Subject to division (C) of this section, the medicaid program shall cover comprehensive primary health services provided by outpatient health facilities are a separate category of medical care provider under the rules governing the administration of the medical assistance program established under section 5111.01 of the Revised Code with valid provider agreements. Rates of reimbursement for items and services provided by an outpatient health facility under this section shall be prospectively determined by the The department of job and family services medicaid shall prospectively determine the medicaid payment rates for such comprehensive primary health services not less often than once each year. The rates shall not be subject to retroactive adjustment based on actual costs incurred, and. The rates shall not exceed the maximum fee schedule or rates of payment, limitations based on reasonable costs or customary charges, and limitations based on combined payments received for furnishing comparable services, as are applicable to outpatient hospital facilities under Title XVIII of the "Social Security Act medicare program."~~ In determining rates of reimbursement an outpatient health facility's rate prospectively, the department shall take into account the historic expenses of the facility, the operating requirements and services offered by the facility, and the

geographical location of the facility, shall provide incentives for the efficient and economical utilization of the facility's resources, and shall ensure that the facility does not discriminate between classes of persons for whom or by whom payment for ~~items and~~ the services is made.

(C) ~~A~~ An outpatient health facility does not qualify for ~~classification as an outpatient health facility~~ medicaid payments under this section unless it:

(1) Has health and medical care policies developed with the advice of and subject to review by an advisory committee of professional personnel, including one or more physicians, one or more dentists if dental care is provided, and one or more registered nurses;

(2) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(3) Requires that the care of every patient be under the supervision of a physician, provides for medical care in case of emergency, has in effect a written agreement with one or more hospitals and one or more other outpatient facilities, and has an established system for the referral of patients to other resources and a utilization review plan and program;

(4) Maintains clinical records on all patients;

(5) Provides nursing services and other therapeutic services in compliance with applicable laws and rules and under the supervision of a registered nurse, and has a registered nurse on duty at all times when the facility is in operation;

(6) Follows approved methods and procedures for the dispensing and administration of drugs and biologicals;

(7) Maintains the accounting and record-keeping system required under federal laws and regulations for the determination of reasonable and allowable costs.

Sec. ~~5111.029~~ 5164.06. The medicaid program shall cover occupational therapy services provided by an occupational therapist licensed under section 4755.08 of the Revised Code. Coverage shall not be limited to services provided in a hospital or nursing facility. Any licensed occupational therapist may enter into a ~~medicaid~~ medicaid provider agreement with the department of ~~job and family services~~ medicaid to provide occupational therapy services under the medicaid program.

Sec. ~~5111.018~~ 5164.07. (A) ~~The provision of medical assistance under this chapter~~ medicaid program shall include coverage of inpatient care and follow-up care for a mother and her newborn as follows:

(1) ~~The medical assistance~~ medicaid program shall cover a minimum of

forty-eight hours of inpatient care following a normal vaginal delivery and a minimum of ninety-six hours of inpatient care following a cesarean delivery. Services covered as inpatient care shall include medical, educational, and any other services that are consistent with the inpatient care recommended in the protocols and guidelines developed by national organizations that represent pediatric, obstetric, and nursing professionals.

(2) The ~~medical-assistance~~ medicaid program shall cover a physician-directed source of follow-up care. Services covered as follow-up care shall include physical assessment of the mother and newborn, parent education, assistance and training in breast or bottle feeding, assessment of the home support system, performance of any medically necessary and appropriate clinical tests, and any other services that are consistent with the follow-up care recommended in the protocols and guidelines developed by national organizations that represent pediatric, obstetric, and nursing professionals. The coverage shall apply to services provided in a medical setting or through home health care visits. The coverage shall apply to a home health care visit only if the health care professional who conducts the visit is knowledgeable and experienced in maternity and newborn care.

When a decision is made in accordance with division (B) of this section to discharge a mother or newborn prior to the expiration of the applicable number of hours of inpatient care required to be covered, the coverage of follow-up care shall apply to all follow-up care that is provided within forty-eight hours after discharge. When a mother or newborn receives at least the number of hours of inpatient care required to be covered, the coverage of follow-up care shall apply to follow-up care that is determined to be medically necessary by the health care professionals responsible for discharging the mother or newborn.

(B) Any decision to shorten the length of inpatient stay to less than that specified under division (A)(1) of this section shall be made by the physician attending the mother or newborn, except that if a nurse-midwife is attending the mother in collaboration with a physician, the decision may be made by the nurse-midwife. Decisions regarding early discharge shall be made only after conferring with the mother or a person responsible for the mother or newborn. For purposes of this division, a person responsible for the mother or newborn may include a parent, guardian, or any other person with authority to make medical decisions for the mother or newborn.

(C) The department of ~~job and family services~~ medicaid, in administering the ~~medical-assistance~~ medicaid program, may not do either of the following:

(1) Terminate the ~~participation~~ provider agreement of a health care

professional or health care facility ~~as a provider under the program~~ solely for making recommendations for inpatient or follow-up care for a particular mother or newborn that are consistent with the care required to be covered by this section;

(2) Establish or offer monetary or other financial incentives for the purpose of encouraging a person to decline the inpatient or follow-up care required to be covered by this section.

(D) This section does not do any of the following:

(1) Require the ~~medical assistance~~ medicaid program to cover inpatient or follow-up care that is not received in accordance with the program's terms pertaining to the health care professionals and facilities from which ~~an individual~~ a medicaid recipient is authorized to receive health care services.

(2) Require a mother or newborn to stay in a hospital or other inpatient setting for a fixed period of time following delivery;

(3) Require a child to be delivered in a hospital or other inpatient setting;

(4) Authorize a nurse-midwife to practice beyond the authority to practice nurse-midwifery in accordance with Chapter 4723. of the Revised Code;

(5) Establish minimum standards of medical diagnosis, care, or treatment for inpatient or follow-up care for a mother or newborn. A deviation from the care required to be covered under this section shall not, on the basis of this section, give rise to a medical claim or derivative medical claim, as those terms are defined in section 2305.113 of the Revised Code.

Sec. ~~5111.024~~ 5164.08. (A) As used in this section, "screening mammography" means a radiologic examination utilized to detect unsuspected breast cancer at an early stage in asymptomatic women and includes the x-ray examination of the breast using equipment that is dedicated specifically for mammography, including the x-ray tube, filter, compression device, screens, film, and cassettes, and that has an average radiation exposure delivery of less than one rad mid-breast. "Screening mammography" includes two views for each breast. The term also includes the professional interpretation of the film.

"Screening mammography" does not include diagnostic mammography.

(B) ~~In addition to any other services required to be included in the program or for which federal approval is received, the medical assistance~~ The medicaid program shall ~~include~~ cover both of the following ~~if approval for use of federal funds is granted to the department by the federal agency responsible for distributing funds under Title XIX of the "Social Security~~

Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:

(1) ~~Effective July 1, 1993, screening~~ Screening mammography to detect the presence of breast cancer in adult women;

(2) ~~Effective January 1, 1993, cytologic~~ Cytologic screening for the presence of cervical cancer.

(C) ~~The service provided under~~ medicaid program's coverage of screening mammography pursuant to division (B)(1) of this section shall be provided in accordance with all of the following:

(1) If a woman is at least thirty-five years of age but under forty years of age, one screening mammography;

(2) If a woman is at least forty years of age but under fifty years of age, either of the following:

(a) One screening mammography every two years;

(b) If a licensed physician has determined that the woman has risk factors to breast cancer, one screening mammography every year.

(3) If a woman is at least fifty years of age but under sixty-five years of age, one screening mammography every year.

(D) ~~The service provided under~~ medicaid program's coverage of screening mammographies pursuant to division (B)(1) of this section shall be provided only for screening mammographies that are performed in a facility or mobile mammography screening unit that is accredited under the American college of radiology mammography accreditation program or in a hospital as defined in section 3727.01 of the Revised Code.

(E) ~~The service provided under~~ medicaid program's coverage of cytologic screenings pursuant to division (B)(2) of this section shall be provided only for cytologic screenings that are processed and interpreted in a laboratory certified by the college of American pathologists or in a hospital as defined in section 3727.01 of the Revised Code.

Sec. ~~5111.023~~ 5164.15. (A) As used in this section:

(1) "Community mental health ~~agency~~ services provider or facility" means a community mental health ~~agency~~ services provider or facility that has its community mental health services certified by the department of ~~mental health~~ mental health and addiction services under section ~~5119.611~~ 5119.36 of the Revised Code or by the department of job and family services under section 5103.03 of the Revised Code.

(2) "Mental health professional" means a person qualified to work with mentally ill persons under the standards established by the director of ~~mental health~~ mental health and addiction services pursuant to section ~~5119.611~~ 5119.36 of the Revised Code.

(B) ~~The state medicaid plan program may include provision of~~ cover the

following mental health services when provided by community mental health ~~agencies~~ services providers or facilities:

(1) Outpatient mental health services, including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed;

(2) Partial-hospitalization mental health services rendered by persons directly supervised by a mental health professional;

(3) Unscheduled, emergency mental health services of a kind ordinarily provided to persons in crisis when rendered by persons supervised by a mental health professional;

(4) ~~Subject to receipt of federal approval, assertive~~ Assertive community treatment and intensive home-based mental health services.

(C) The department of ~~job and family services~~ medicaid shall enter into a separate contract with the department of ~~mental health~~ mental health and addiction services under section ~~5111.91~~ 5162.35 of the Revised Code with regard to the ~~component of mental health services~~ the medicaid program ~~provided for by~~ covers pursuant to this section.

~~Sec. 5111.027~~ 5164.20. ~~If the medicaid program provides prescription drug services to medicaid recipients, the~~ The medicaid program shall not ~~provide reimbursement for prescription~~ cover prescribed drugs for treatment of erectile dysfunction.

~~Sec. 5111.042~~ 5164.25. The departments of developmental disabilities and ~~job and family services~~ medicaid may approve, reduce, deny, or terminate a medicaid service included in the individualized service plan developed for a medicaid recipient with mental retardation or other developmental disability who is eligible for medicaid case management services. If either department approves, reduces, denies, or terminates a service, that department shall timely notify the medicaid recipient that the recipient may ~~request a hearing under~~ appeal pursuant to section ~~5101.35~~ 5160.31 of the Revised Code.

~~Sec. 5111.016~~ 5164.26. (A) ~~As used in this section, "healthcheck" has the same meaning as in section 3313.714 of the Revised Code.~~

~~(B)~~ The department of ~~job and family services~~ medicaid shall ~~adopt~~ establish rules in accordance with Chapter 119. of the Revised Code ~~establishing~~ establish a combination of written and oral methods designed to provide information about healthcheck to all persons eligible for the program or their parents or guardians. The department shall ensure that its methods of providing information are effective. ~~The methods shall comply with federal~~

~~law and regulations.~~

Each ~~county department of job and family services or other~~ entity that distributes or accepts applications for ~~medical assistance~~ medicaid shall prominently display a notice that complies with the ~~rules adopted~~ methods of providing information about healthcheck established under this ~~division~~ section.

Sec. 5164.30. No person or government entity may participate in the medicaid program as a medicaid provider without a valid provider agreement with the department of medicaid.

~~Sec. 5111.053~~ 5164.301. (A) As used in this section, "group practice" has the same meaning as in section 4731.65 of the Revised Code.

(B) The department of ~~job and family services~~ medicaid shall establish a process by which a physician assistant may enter into a ~~medicaid~~ provider agreement.

(C)(1) Subject to division (C)(2) of this section, a claim for ~~reimbursement~~ medicaid payment for a medicaid service provided by a physician assistant to a medicaid recipient may be submitted by the physician assistant who provided the service or the physician, group practice, clinic, or other health care facility that employs the physician assistant.

(2) A claim for ~~reimbursement~~ medicaid payment may be submitted by the physician assistant who provided the service only if the physician assistant has a valid provider agreement. When submitting the claim, the physician assistant shall use only the medicaid provider number the department has assigned to the physician assistant.

~~(D) The director of job and family services may adopt rules under section 5111.02 of the Revised Code to implement this section.~~

~~Sec. 5111.063~~ 5164.31. (A) For the purpose of raising funds necessary to pay the expenses of implementing the provider screening requirements of subpart E of 42 C.F.R. Part 455 and except as provided in division (B) of this section, the department of ~~job and family services~~ medicaid shall ~~charge~~ collect an application fee ~~to~~ from a medicaid provider ~~seeking to enter into or renew a medicaid provider agreement, unless the provider is exempt from paying the application fee under 42 C.F.R. 455.460(a) before doing any of the following:~~

(1) Entering into a provider agreement with a medicaid provider that seeks initial enrollment as a provider;

(2) Entering into a provider agreement with a former medicaid provider that seeks re-enrollment as a provider;

(3) Revalidating a medicaid provider's continued enrollment as a

provider. The

(B) The department is not to collect an application fee from a medicaid provider that is exempt from paying the fee under 42 C.F.R. 455.460(a).

(C) The application fees shall be deposited into the health care services administration fund created under section 5111.94 5162.54 of the Revised Code. Application fees are nonrefundable when collected in accordance with 42 C.F.R. 455.460(a).

(D) The medicaid director of job and family services shall adopt rules in accordance with Chapter 119. under section 5164.02 of the Revised Code as necessary to implement this section, including a rule establishing the amount of the application fee that is charged to be collected under this section. The amount of the application fee shall not be set at an amount that is more than necessary to pay for the expenses of implementing the provider screening requirements.

Sec. 5111.028 5164.32. (A) Pursuant to section 5111.02 of the Revised Code, the director of job and family services shall adopt rules establishing procedures for the use of time limited provider agreements under the medicaid program. Except as provided in division (E) of this section, all provider agreements shall be time limited in accordance with the procedures established in the rules.

The department of job and family services shall phase in the use of time limited provider agreements pursuant to this section during a period commencing not later than January 1, 2008, and ending January 1, 2015.

(B) In the use of time limited provider agreements pursuant to this section, all of the following apply:

(1) Each medicaid provider agreement shall expire not later than seven five years from the its effective date of the agreement.

(2) During the phase in period specified in division (A) of this section, the department may provide for the conversion of. If a provider agreement without a time limit entered into before the effective date of this amendment does not have a time limit, the department of medicaid shall convert the agreement to a provider agreement with a time limit. The department may take an action to convert the provider agreement by sending a notice by regular mail to the address of the provider on record with the department advising the provider of the conversion.

(3) The department may make the effective date of a provider agreement retroactive for a period not to exceed one year from the date of the provider's application for the agreement, as long as the provider met all medicaid program requirements during that period.

(C)(B) The medicaid director shall adopt rules under section 5164.02 of

~~the Revised Code as necessary to implement this section. The rules for use of time limited provider agreements pursuant to this section shall be consistent with subpart E of 42 C.F.R. Part 455 and include a process for re-enrollment of providers revalidating medicaid providers' continued enrollments as providers. All of the following apply to the re-enrollment revalidation process:~~

~~(1) The department of job and family services may terminate a time limited provider agreement or deny re-enrollment shall refuse to revalidate a provider's provider agreement when a the provider fails to file an a complete application for re-enrollment revalidation within the time and in the manner required under the re-enrollment revalidation process.~~

~~(2) If a provider files an a complete application for re-enrollment revalidation within the time and in the manner required under the re-enrollment revalidation process, but the provider agreement expires before the department acts on the application or before the effective date of the department's decision on the application, the provider, subject to division (B)(3) of this section, may continue operating under the terms of the expired provider agreement until the effective date of the department's decision.~~

~~(3) A decision by the department to approve an application for re-enrollment becomes effective on the date of the department's decision. A decision by the department to deny re-enrollment shall take effect not sooner than thirty days after the date the department mails written notice of the decision to the provider. The department shall specify in the notice the date on which the provider is required to cease operating under the provider agreement. If a provider continues operating under the terms of an expired provider agreement pursuant to division (B)(2) of this section and the department denies the provider's application for revalidation, medicaid payments shall not be made for services or items the provider provides during the period beginning on the date the provider agreement expired and ending on the effective date of a subsequent provider agreement, if any, the department enters into with the provider.~~

~~(D) Pursuant to section 5111.06 of the Revised Code, the department is not required to take the actions specified in division (C)(1) of this section by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code.~~

~~(E) The use of time limited provider agreements pursuant to this section does not apply to provider agreements issued to the following, including any provider agreements issued to the following that are otherwise time limited under the medicaid program:~~

~~(1) A managed care organization under contract with the department~~

~~pursuant to section 5111.17 of the Revised Code;~~

~~(2) A nursing facility, as defined in section 5111.20 of the Revised Code;~~

~~(3) An intermediate care facility for the mentally retarded, as defined in section 5111.20 of the Revised Code;~~

~~(4) A hospital.~~

Sec. 5164.33. (A) The medicaid director may do the following for any reason permitted or required by federal law and when the director determines that the action is in the best interests of medicaid recipients or the state:

(1) Deny, refuse to revalidate, suspend, or terminate a provider agreement;

(2) Exclude an individual, provider of services or goods, or other entity from participation in the medicaid program.

(B) No individual, provider, or entity excluded from participation in the medicaid program under this section shall do any of the following:

(1) Own, or provide services to, any other medicaid provider or risk contractor;

(2) Arrange for, render, or order services for medicaid recipients during the period of exclusion;

(3) During the period of exclusion, receive direct payments under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any other medicaid provider or risk contractor.

(C) An individual, provider, or entity excluded from participation in the medicaid program under this section may request a reconsideration of the exclusion. The director shall adopt rules under section 5164.02 of the Revised Code governing the process for requesting a reconsideration.

(D) Nothing in this section limits the applicability of section 5164.38 of the Revised Code to a medicaid provider.

~~Sec. 5111.032~~ 5164.34. (A) As used in this section:

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(2) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

(3) "Owner" means a person who has an ownership interest in a medicaid provider or applicant to be a provider in an amount designated in rules ~~adopted under~~ authorized by this section.

(4) "Person subject to the criminal records check requirement" means

the following:

(a) A medicaid provider ~~or applicant to be a provider~~ who is notified under division (E)(1) of this section that the provider ~~or applicant~~ is subject to a criminal records check;

(b) An owner or prospective owner, officer or prospective officer, or board member or prospective board member of a medicaid provider ~~or applicant to be a provider~~ if, pursuant to division (E)(1)(a) of this section, the owner or prospective owner, officer or prospective officer, or board member or prospective board member is specified in information given to the provider ~~or applicant~~ under division (E)(1) of this section;

(c) An employee or prospective employee of a medicaid provider ~~or applicant to be a provider~~ if both of the following apply:

(i) The employee or prospective employee is specified, pursuant to division (E)(1)(b) of this section, in information given to the provider ~~or applicant~~ under division (E)(1) of this section.

(ii) The provider ~~or applicant~~ is not prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee.

(5) ~~"Provider" means a person, institution, or entity that has a medicaid provider agreement with the department of job and family services.~~

(6) ~~"Responsible entity" means the following:~~

(a) With respect to a criminal records check required under this section for a medicaid provider ~~or applicant to be a provider~~, the department of ~~job and family services~~ medicaid or the department's designee;

(b) With respect to a criminal records check required under this section for an owner or prospective owner, officer or prospective officer, board member or prospective board member, or employee or prospective employee of a medicaid provider ~~or applicant to be a provider~~, the provider ~~or applicant~~.

(B) This section does not apply to any individual who is subject to a criminal records check under section 3712.09, 3721.121, ~~5111.034~~, 5123.081, ~~or 5123.169~~, or ~~5164.341~~ of the Revised Code or any individual who is subject to a database review or criminal records check under section ~~173.394~~ 173.38, 3701.881, or ~~5111.033~~ 5164.342 of the Revised Code.

(C) The department of ~~job and family services~~ medicaid may do any of the following:

(1) Require that any medicaid provider ~~or applicant to be a provider~~ submit to a criminal records check as a condition of ~~having~~ obtaining or maintaining a medicaid provider agreement;

(2) Require that any medicaid provider ~~or applicant to be a provider~~ require an owner or prospective owner, officer or prospective officer, or

board member or prospective board member of the provider ~~or applicant~~ submit to a criminal records check as a condition of being an owner, officer, or board member of the provider ~~or applicant~~;

(3) Require that any medicaid provider ~~or applicant to be a provider~~ do the following:

(a) If so required by rules ~~adopted under~~ authorized by this section, determine pursuant to a database review conducted under division (F)(1)(a) of this section whether any employee or prospective employee of the provider ~~or applicant~~ is included in a database;

(b) Unless the provider ~~or applicant~~ is prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee, require the employee or prospective employee to submit to a criminal records check as a condition of being an employee of the provider ~~or applicant~~.

(D)(1) The department or the department's designee shall deny or terminate a medicaid provider's ~~medicaid~~ provider agreement ~~or deny an applicant's application for a medicaid provider agreement~~ if the provider ~~or applicant~~ is a person subject to the criminal records check requirement and either of the following applies:

(a) The provider ~~or applicant~~ fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(b) Except as provided in rules ~~adopted under~~ authorized by this section, the provider ~~or applicant~~ is found by the criminal records check to have been convicted of; or have pleaded guilty to; ~~or been found eligible for intervention in lieu of conviction for~~ a disqualifying offense, regardless of the date of the conviction; or the date of entry of the guilty plea; ~~or the date the applicant or provider was found eligible for intervention in lieu of conviction.~~

(2) No medicaid provider ~~or applicant to be a provider~~ shall permit a person to be an owner, officer, or board member of the provider ~~or applicant~~ if the person is a person subject to the criminal records check requirement and either of the following applies:

(a) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(b) Except as provided in rules ~~adopted under~~ authorized by this section, the person is found by the criminal records check to have been convicted of; or have pleaded guilty to; ~~or been found eligible for intervention in lieu of conviction for~~ a disqualifying offense, regardless of the date of the conviction; or the date of entry of the guilty plea; ~~or the date the person was found eligible for intervention in lieu of conviction.~~

(3) No medicaid provider ~~or applicant to be a provider~~ shall employ a person if any of the following apply:

(a) The person has been excluded from ~~providing services or items under the being a~~ medicaid program provider, ~~the a~~ medicare program operated pursuant to Title XVIII of the "Social Security Act provider," or provider for any other federal health care program.

(b) If the person is subject to a database review conducted under division (F)(1)(a) of this section, the person is found by the database review to be included in a database and the rules ~~adopted under~~ authorized by this section regarding the database review prohibit the provider ~~or applicant~~ from employing a person included in the database.

(c) If the person is a person subject to the criminal records check requirement, either of the following applies:

(i) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(ii) Except as provided in rules ~~adopted under~~ authorized by this section, the person is found by the criminal records check to have been convicted of, or have pleaded guilty to, ~~or been found eligible for intervention in lieu of conviction for~~ a disqualifying offense, regardless of the date of the conviction; or the date of entry of the guilty plea, ~~or the date the person was found eligible for intervention in lieu of conviction.~~

(E)(1) The department or the department's designee shall inform each medicaid provider ~~or applicant to be a provider~~ whether the provider ~~or applicant~~ is subject to a criminal records check. For providers with valid provider agreements, the information shall be given at times designated in rules ~~adopted under~~ authorized by this section. For ~~applicants~~ providers applying to be medicaid providers, the information shall be given at the time of initial application. When the information is given, the department or the department's designee shall specify the following:

(a) Which of the provider's ~~or applicant's~~ owners or prospective owners, officers or prospective officers, or board members or prospective board members are subject to a criminal records check;

(b) Which of the provider's ~~or applicant's~~ employees or prospective employees are subject to division (C)(3) of this section.

(2) At times designated in rules ~~adopted under~~ authorized by this section, a medicaid provider ~~or applicant to be a provider~~ that is a person subject to the criminal records check requirement shall do the following:

(a) Inform each person specified under division (E)(1)(a) of this section that the person is required to submit to a criminal records check as a condition of being an owner, officer, or board member of the provider ~~or~~

applicant;

(b) Inform each person specified under division (E)(1)(b) of this section that the person is subject to division (C)(3) of this section.

(F)(1) If a medicaid provider ~~or applicant to be a provider~~ is a person subject to the criminal records check requirement, the department or the department's designee shall require the conduct of a criminal records check by the superintendent of the bureau of criminal identification and investigation. A medicaid provider ~~or applicant to be a provider~~ shall require the conduct of a criminal records check by the superintendent with respect to each of the persons specified under division (E)(1)(a) of this section. With respect to each employee and prospective employee specified under division (E)(1)(b) of this section, a medicaid provider ~~or applicant to be a provider~~ shall do the following:

(a) If rules ~~adopted under~~ authorized by this section require the provider ~~or applicant~~ to conduct a database review to determine whether the employee or prospective employee is included in a database, conduct the database review in accordance with the rules;

(b) Unless the provider ~~or applicant~~ is prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee, require the conduct of a criminal records check of the employee or prospective employee by the superintendent.

(2) If a person subject to the criminal records check requirement does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the person from the federal bureau of investigation in a criminal records check, the responsible entity shall require the person to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the person. Even if the person presents proof of having been a resident of this state for the five-year period, the responsible entity may require that the person request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the person.

(G) Criminal records checks required by this section shall be obtained as follows:

(1) The responsible entity shall provide each person subject to the criminal records check requirement information about accessing and completing the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed

pursuant to division (C)(2) of that section.

(2) The person subject to the criminal records check requirement shall submit the required form and one complete set of the person's fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code. The person shall pay all fees associated with obtaining the criminal records check.

(3) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The person subject to the criminal records check requirement shall instruct the superintendent to submit the report of the criminal records check directly to the responsible entity. If the department or the department's designee is not the responsible entity, the department or designee may require the responsible entity to submit the report to the department or designee.

(H)(1) A medicaid provider ~~or applicant to be a provider~~ may employ conditionally a person for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The provider ~~or applicant~~ is not prohibited by division (D)(3)(b) of this section from employing the person.

(b) The person submits a request for the criminal records check not later than five business days after the person begins conditional employment.

(2) A medicaid provider ~~or applicant to be a provider~~ that employs a person conditionally under division (H)(1) of this section shall terminate the person's employment if the results of the criminal records check request are not obtained within the period ending sixty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the person has been convicted of, or has pleaded guilty to, ~~or has been found eligible for intervention in lieu of conviction for~~ a disqualifying offense, the provider ~~or applicant~~ shall terminate the person's employment unless circumstances specified in rules ~~adopted under~~ authorized by this section exist that permit the provider ~~or applicant~~ to employ the person and the provider ~~or applicant~~ chooses to employ the person.

(I) The report of a criminal records check conducted pursuant to this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The medicaid director ~~of job and family services~~ and the staff of the department who are involved in the administration of the medicaid program;

(3) The department's designee;

(4) The medicaid provider ~~or applicant to be a provider~~ who required the person who is the subject of the criminal records check to submit to the criminal records check;

(5) An individual receiving or deciding whether to receive, from the subject of the criminal records check, home and community-based services available under the medicaid state plan;

(6) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(a) The denial or termination of a ~~medicaid~~ provider agreement;

(b) A person's denial of employment, termination of employment, or employment or unemployment benefits;

(c) A civil or criminal action regarding the medicaid program.

(J) The medicaid director ~~of job and family services~~ may adopt rules ~~in accordance with Chapter 119.~~ under section 5164.02 of the Revised Code to implement this section. If the director adopts such rules, the rules shall designate the times at which a criminal records check must be conducted under this section. The rules may do any of the following:

(1) Designate the categories of persons who are subject to a criminal records check under this section;

(2) Specify circumstances under which the department or the department's designee may continue a ~~medicaid~~ provider agreement or issue a ~~medicaid~~ provider agreement ~~to an applicant~~ when the medicaid provider ~~or applicant~~ is found by a criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;

(3) Specify circumstances under which a medicaid provider ~~or applicant to be a provider~~ may permit a person to be an employee, owner, officer, or board member of the provider ~~or applicant~~, when the person is found by a criminal records check conducted pursuant to this section to have been convicted of, or have pleaded guilty to, ~~or been found eligible for intervention in lieu of conviction for~~ a disqualifying offense;

(4) Specify all of the following:

(a) The circumstances under which a database review must be conducted under division (F)(1)(a) of this section to determine whether an employee or prospective employee of a medicaid provider ~~or applicant to be a provider~~ is included in a database;

(b) The procedures for conducting the database review;

(c) The databases that are to be checked;

(d) The circumstances under which a medicaid provider ~~or applicant to be a provider~~ is prohibited from employing a person who is found by the database review to be included in a database.

Sec. ~~5111.034~~ 5164.341. (A) As used in this section:

"Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after September 26, 2003.

"Applicant" means a person who has applied for a ~~medicaid~~ provider agreement to provide home and community-based services as an independent provider under a home and community-based medicaid waiver component administered by the department of ~~job and family services~~ medicaid.

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

"Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

"Independent provider" means a person who has a ~~medicaid~~ provider agreement to provide home and community-based services as an independent provider in a home and community-based services medicaid waiver component administered by the department of ~~job and family services~~ medicaid.

~~"Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

(B) The department of ~~job and family services~~ medicaid or the department's designee shall deny an applicant's application for a ~~medicaid~~ provider agreement and shall terminate an independent provider's ~~medicaid~~ provider agreement if either of the following applies:

(1) After the applicant or independent provider is given the information and notification required by divisions (D)(2)(a) and (b) of this section, the applicant or independent provider fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the department or the department's designee.

(2) Except as provided in rules ~~adopted under~~ authorized by this section, the applicant or independent provider is found by a criminal records check

required by this section to have been convicted of; or have pleaded guilty to; ~~or been found eligible for intervention in lieu of conviction for~~ a disqualifying offense, regardless of the date of the conviction; or the date of entry of the guilty plea; ~~or the date the applicant or independent provider was found eligible for intervention in lieu of conviction.~~

(C)(1) The department or the department's designee shall inform each applicant, at the time of initial application for a ~~medicaid~~ provider agreement, that the applicant is required to provide a set of the applicant's fingerprint impressions and that a criminal records check is required to be conducted as a condition of the department's approving the application.

(2) Beginning on September 26, 2003, the department or the department's designee shall inform each independent provider on or before the time of the anniversary date of the ~~medicaid~~ provider agreement that the independent provider is required to provide a set of the independent provider's fingerprint impressions and that a criminal records check is required to be conducted.

(D)(1) The department or the department's designee shall require an applicant to complete a criminal records check prior to entering into a ~~medicaid~~ provider agreement with the applicant. The department or the department's designee shall require an independent provider to complete a criminal records check at least annually. If an applicant or independent provider for whom a criminal records check is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent of the bureau of criminal identification and investigation has requested information about the applicant or independent provider from the federal bureau of investigation in a criminal records check, the department or the department's designee shall request that the applicant or independent provider obtain through the superintendent a criminal records request from the federal bureau of investigation as part of the criminal records check of the applicant or independent provider. Even if an applicant or independent provider for whom a criminal records check request is required by this section presents proof of having been a resident of this state for the five-year period, the department or the department's designee may request that the applicant or independent provider obtain information through the superintendent from the federal bureau of investigation in the criminal records check.

(2) The department or the department's designee shall provide the following to each applicant and independent provider for whom a criminal

records check is required by this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the applicant or independent provider is to instruct the superintendent to submit the completed report of the criminal records check directly to the department or the department's designee.

(3) Each applicant and independent provider for whom a criminal records check is required by this section shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for the criminal records check conducted of the applicant or independent provider.

(E) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The medicaid director ~~of job and family services~~ and the staff of the department who are involved in the administration of the medicaid program;

(3) The department's designee;

(4) An individual ~~who receives~~ receiving or deciding whether to receive home and community-based services from the person who is the subject of the criminal records check;

(5) A court, hearing officer, or other necessary individual involved in a case dealing with either of the following:

(a) A denial or termination of a provider agreement related to the criminal records check;

(b) A civil or criminal action regarding the medicaid program.

(F) The medicaid director ~~of job and family services~~ shall adopt rules ~~in accordance with Chapter 119. under section 5164.02~~ of the Revised Code to implement this section. The rules shall specify circumstances under which the department or the department's designee may either approve an applicant's application or allow an independent provider to maintain an existing ~~medicaid~~ provider agreement even though the applicant or independent provider is found by a criminal records check required by this section to have been convicted of; or have pleaded guilty to; ~~or been found~~

~~eligible for intervention in lieu of conviction for a disqualifying offense.~~

Sec. ~~5111.033~~ 5164.342. (A) As used in this section:

"Applicant" means a person who is under final consideration for employment with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.:

~~"Community-based long-term care agency provider" has the same meaning~~ means a provider as defined in section 173.39 of the Revised Code.

"Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code.

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

"Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

"Employee" means a person employed by a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.

~~"Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

"Waiver agency" means a person or government entity that provides home and community-based services under a home and community-based services medicaid waiver component administered by the department of ~~job and family services~~ medicaid, other than such a person or government entity that is certified under the medicare program. "Waiver agency" does not mean an independent provider as defined in section ~~5111.034~~ 5164.341 of the Revised Code.

(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 3701.881 of the Revised Code. If a waiver agency also is a community-based long-term care agency provider or community-based long-term care subcontractor, the waiver agency may provide for applicants and employees to undergo database reviews and criminal records checks in accordance with section ~~173.394~~ 173.38 of the Revised Code rather than this section.

(C) No waiver agency shall employ an applicant or continue to employ an employee in a position that involves providing home and community-based services if any of the following apply:

(1) A review of the databases listed in division (E) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (E)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section

3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules ~~adopted under~~ authorized by this section and the rules prohibit the waiver agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing home and community-based services.

(2) After the applicant or employee is given the information and notification required by divisions (F)(2)(a) and (b) of this section, the applicant or employee fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the chief administrator of the waiver agency.

(3) Except as provided in rules ~~adopted under~~ authorized by this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of; or have pleaded guilty to; ~~or been found eligible for intervention in lieu of conviction for~~ a disqualifying offense, regardless of the date of the conviction; or date of entry of the guilty plea; ~~or the date the applicant or employee was found eligible for intervention in lieu of conviction.~~

(D) At the time of each applicant's initial application for employment in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall inform the applicant of both of the following:

(1) That a review of the databases listed in division (E) of this section will be conducted to determine whether the waiver agency is prohibited by division (C)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(E) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall conduct a database review of the

applicant in accordance with rules ~~adopted under~~ authorized by this section. If rules ~~adopted under~~ authorized by this section so require, the chief administrator of a waiver agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to ~~section 1128 of the "Social Security Act," 94 Stat. 2619 (1980)~~ sections 1128 and 1156, 42 U.S.C. 1320a-7, as amended; and ~~section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5; as amended~~;

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules ~~adopted under~~ authorized by this section.

(F)(1) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall require the applicant to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules ~~adopted under~~ authorized by this section so require, the chief administrator of a waiver agency shall require an employee to request that the superintendent conduct a criminal records check of the employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. However, a criminal records check is not required for an applicant or employee if the waiver agency is prohibited by division (C)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves

providing home and community-based services. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the chief administrator shall require the applicant or employee to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check. Even if an applicant or employee for whom a criminal records check request is required by this section presents proof of having been a resident of this state for the five-year period, the chief administrator may require the applicant or employee to request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The chief administrator shall provide the following to each applicant and employee for whom a criminal records check is required by this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the applicant or employee is to instruct the superintendent to submit the completed report of the criminal records check directly to the chief administrator.

(3) A waiver agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for any criminal records check required by this section. However, a waiver agency may require an applicant to pay to the bureau the fee for a criminal records check of the applicant. If the waiver agency pays the fee for an applicant, it may charge the applicant a fee not exceeding the amount the waiver agency pays to the bureau under this section if the waiver agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(G)(1) A waiver agency may employ conditionally an applicant for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The waiver agency is not prohibited by division (C)(1) of this section from employing the applicant in a position that involves providing

home and community-based services.

(b) The chief administrator of the waiver agency requires the applicant to request a criminal records check regarding the applicant in accordance with division (F)(1) of this section not later than five business days after the applicant begins conditional employment.

(2) A waiver agency that employs an applicant conditionally under division (G)(1) of this section shall terminate the applicant's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of, or has pleaded guilty to, ~~or has been found eligible for intervention in lieu of conviction for~~ a disqualifying offense, the waiver agency shall terminate the applicant's employment unless circumstances specified in rules ~~adopted under~~ authorized by this section exist that permit the waiver agency to employ the applicant and the waiver agency chooses to employ the applicant.

(H) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the representative of the applicant or employee;

(2) The chief administrator of the waiver agency that requires the applicant or employee to request the criminal records check or the administrator's representative;

(3) The medicaid director ~~of job and family services~~ and the staff of the department who are involved in the administration of the medicaid program;

(4) The director of aging or the director's designee if the waiver agency also is a community-based long-term care ~~agency~~ provider or community-based long-term care subcontractor;

(5) An individual receiving or deciding whether to receive home and community-based services from the subject of the criminal records check;

~~(6)~~ A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program.

(I) The medicaid director of ~~job and family services~~ shall adopt rules ~~in accordance with Chapter 119.~~ under section 5164.02 of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (E)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The procedures for conducting a database review under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of a database review, the circumstances under which a waiver agency is prohibited from employing an applicant or continuing to employ an employee who is found by the database review to be included in one or more of those databases;

(d) The circumstances under which a waiver agency may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, or have pleaded guilty to, ~~or been found eligible for intervention in lieu of conviction for~~ a disqualifying offense.

(J) The amendments made by H.B. 487 of the 129th general assembly to this section do not preclude the department of ~~job and family services~~ medicaid from taking action against a person for failure to comply with former division (H) of this section as that division existed on the day preceding ~~the effective date of this amendment~~ January 1, 2013.

Sec. ~~5111.03~~ 5164.35. (A) As used in this section, "owner" means any person having at least five per cent ownership in a medicaid provider.

~~(B)(1) No medicaid provider of services or goods contracting with the department of job and family services pursuant to the medicaid program shall, by~~ do any of the following:

(a) By deception, obtain or attempt to obtain payments under this chapter the medicaid program to which the provider is not entitled pursuant to the provider's provider agreement, or the rules of the federal government

or the ~~department of job and family services~~ medicaid director relating to the program. ~~No provider shall willfully;~~

~~(b) Willfully~~ receive payments to which the provider is not entitled, ~~or willfully;~~

~~(c) Willfully~~ receive payments in a greater amount than that to which the provider is entitled; ~~nor shall any provider falsify~~

~~(d) Falsify~~ any report or document required by state or federal law, rule, or provider agreement relating to medicaid payments. ~~As used in this section, a~~

~~(2) A medicaid~~ provider engages in "deception" for the purpose of this section when the provider, acting with actual knowledge of the representation or information involved, acting in deliberate ignorance of the truth or falsity of the representation or information involved, or acting in reckless disregard of the truth or falsity of the representation or information involved, deceives another or causes another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact. No proof of specific intent to defraud is required to show, for purposes of this section, that a medicaid provider has engaged in deception.

~~(B)(C)~~ Any medicaid provider who violates division ~~(A)(B)~~ of this section shall be liable, in addition to any other penalties provided by law, for all of the following civil penalties:

(1) Payment of interest on the amount of the excess payments at the maximum interest rate allowable for real estate mortgages under section 1343.01 of the Revised Code on the date the payment was made to the provider for the period from the date upon which payment was made, to the date upon which repayment is made to the state;

(2) Payment of an amount equal to three times the amount of any excess payments;

(3) Payment of a sum of not less than five thousand dollars and not more than ten thousand dollars for each deceptive claim or falsification;

(4) All reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section.

~~(C) As used in this division, "intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings given in section 5111.20 of the Revised Code.~~

~~(D)~~ In addition to the civil penalties provided in division ~~(B)(C)~~ of this

section, the medicaid director ~~of job and family services~~, upon the conviction of, or the entry of a judgment in either a criminal or civil action against, a medicaid provider or its owner, officer, authorized agent, associate, manager, or employee in an action brought pursuant to section 109.85 of the Revised Code, shall terminate the provider's provider agreement ~~between the department and the provider~~ and stop reimbursement payment to the provider for medicaid services rendered from the date of conviction or entry of judgment. ~~As used in this division, "owner" means any person having at least five per cent ownership in the medicaid provider.~~ No such medicaid provider, owner, officer, authorized agent, associate, manager, or employee shall own or provide medicaid services to any other medicaid provider or risk contractor or arrange for, render, or order medicaid services for medicaid recipients, nor shall such provider, owner, officer, authorized agent, associate, manager, or employee receive reimbursement in the form of direct payments from the department under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating other medicaid provider or risk contractor. The provider agreement shall not be terminated ~~or reimbursement, and payment shall not be terminated,~~ if the medicaid provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to section 109.85 of the Revised Code. Nothing in this division prohibits any owner, officer, authorized agent, associate, manager, or employee of a medicaid provider from entering into a ~~medicaid~~ provider agreement if the person can demonstrate that the person had no knowledge of an action of the medicaid provider the person was formerly associated with that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to section 109.85 of the Revised Code.

Nursing facility ~~or intermediate care facility for the mentally retarded~~ and ICF/IID providers whose provider agreements are terminated pursuant to this section may continue to receive reimbursement medicaid payments for up to thirty days after the effective date of the termination if the provider makes reasonable efforts to transfer medicaid recipients to another facility or to alternate care and if federal ~~funds are~~ financial participation is provided for ~~such reimbursement~~ the payments.

(D) ~~For any reason permitted or required by federal law, the director of job and family services may deny a provider agreement or terminate a provider agreement.~~

~~For any reason permitted or required by federal law, the director may exclude an individual, provider of services or goods, or other entity from participation in the medicaid program. No individual, provider, or entity excluded under this division shall own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of exclusion, nor, during the period of exclusion, shall such individual, provider, or entity receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor. An excluded individual, provider, or entity may request a reconsideration of the exclusion. The director shall adopt rules in accordance with Chapter 119. of the Revised Code governing the process for requesting a reconsideration.~~

~~Nothing in this division limits the applicability of section 5111.06 of the Revised Code to a medicaid provider.~~

~~(E) Any provider of services or goods contracting with the department of job and family services pursuant to Title XIX of the "Social Security Act," who, without intent, obtains payments under this chapter in excess of the amount to which the provider is entitled, thereby becomes liable for payment of interest on the amount of the excess payments at the maximum real estate mortgage rate on the date the payment was made to the provider for the period from the date upon which payment was made to the date upon which repayment is made to the state.~~

~~(F)(E) The attorney general on behalf of the state may commence proceedings to enforce this section in any court of competent jurisdiction; and the attorney general may settle or compromise any case brought under this section with the approval of the department of job and family services medicaid. Notwithstanding any other provision of law providing a shorter period of limitations, the attorney general may commence a proceeding to enforce this section at any time within six years after the conduct in violation of this section terminates.~~

~~(G) The authority, under state and federal law, of the department of job and family services or a county department of job and family services to recover excess payments made to a provider is not limited by the availability of remedies under sections 5111.11 and 5111.12 of the Revised Code for recovering benefits paid on behalf of recipients of medical assistance.~~

~~The penalties under this chapter apply to any overpayment, billing, or falsification occurring on and after April 24, 1978. (E) All moneys collected by the state pursuant to this section shall be deposited in the state treasury to~~

the credit of the general revenue fund.

Sec. ~~5111.035~~ 5164.36. (A) As used in this section:

(1) "~~Creditable~~ Credible allegation of fraud" has the same meaning as in 42 C.F.R. 455.2, except that for purposes of this section any reference in that regulation to the "state" or the "state medicaid agency" means the department of ~~job and family services~~ medicaid.

(2) "~~Provider~~" has the same meaning as in section ~~5111.032~~ of the ~~Revised Code~~.

(3) "Owner" has the same meaning as in section ~~5111.031~~ 5164.37 of the Revised Code.

(B)(1) Except as provided in division (C) of this section and in rules ~~adopted~~ authorized by the department of ~~job and family services under division (J)~~ of this section, on determining there is a ~~creditable~~ credible allegation of fraud for which an investigation is pending under the medicaid program against a medicaid provider, the department of medicaid shall suspend the provider agreement held by the provider. Subject to division (C) of this section, the department shall also terminate medicaid ~~reimbursement payments~~ to the provider for services rendered.

(2)(a) The suspension shall continue in effect until either of the following is the case:

(i) The department or a prosecuting authority determines that there is insufficient evidence of fraud by the medicaid provider;

(ii) The proceedings in any related criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty.

(b) If the department commences a process to terminate the suspended provider agreement, the suspension shall also continue in effect until the termination process is concluded.

(3) ~~Pursuant to section 5111.06 of the Revised Code, the department is not required to take action under division (B)(1) of this section by issuing an order pursuant to an adjudication in accordance with Chapter 119. of the Revised Code.~~

(4) When subject to a suspension under this section, a medicaid provider, owner, officer, authorized agent, associate, manager, or employee shall not own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of suspension. During the period of suspension, the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive ~~reimbursement in the form of direct~~

payments ~~from the department~~ under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any ~~participating~~ other medicaid provider or risk contractor.

(C) The department shall not suspend a provider agreement or terminate medicaid ~~reimbursement payments~~ payments under division (B) of this section if the medicaid provider or owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the ~~credible~~ credible allegation of fraud.

(D) The termination of medicaid ~~reimbursement payment~~ payment under division (B) of this section applies only to payments for medicaid services rendered subsequent to the date on which the notice required by division (E) of this section is sent. Claims for ~~reimbursement payment~~ payment of medicaid services rendered by the medicaid provider prior to the issuance of the notice may be subject to prepayment review procedures whereby the department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete.

(E) After suspending a provider agreement under division (B) of this section, the department shall, as specified in 42 C.F.R. 455.23(b), send notice of the suspension to the affected medicaid provider or owner in accordance with the following timeframes:

(1) Not later than five days after the suspension, unless a law enforcement agency makes a written request to temporarily delay the notice;

(2) If a law enforcement agency makes a written request to temporarily delay the notice, not later than thirty days after the suspension occurs subject to the conditions specified in division (F) of this section.

(F) A written request for a temporary delay described in division (E)(2) of this section may be renewed in writing by a law enforcement agency not more than two times except that under no circumstances shall the notice be issued more than ninety days after the suspension occurs.

(G) The notice required by division (E) of this section shall do all of the following:

(1) State that payments are being suspended in accordance with this section and 42 C.F.R. 455.23;

(2) Set forth the general allegations related to the nature of the conduct leading to the suspension, except that it is not necessary to disclose any specific information concerning an ongoing investigation;

(3) State that the suspension continues to be in effect until either of the

following is the case:

(a) The department or a prosecuting authority determines that there is insufficient evidence of fraud by the provider;

(b) The proceedings in any related criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded.

(4) Specify, if applicable, the type or types of medicaid claims or business units of the medicaid provider that are affected by the suspension;

(5) Inform the medicaid provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for reconsideration of the suspension in accordance with division (H) of this section.

(H)(1) Pursuant to the procedure specified in division (H)(2) of this section, a medicaid provider or owner subject to a suspension under this section may request a reconsideration of the suspension. The request shall be made not later than thirty days after receipt of a notice required by division (E) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the medicaid provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues:

(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of an indictment in a related criminal case.

(b) If there has been an indictment in a related criminal case, whether any offense charged in the indictment resulted from an offense specified in division (E) of section ~~5111.031~~ 5164.37 of the Revised Code.

(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the suspension under this section or an indictment in a related criminal case.

(I) The department shall review the information and documents submitted in a request made under division (H) of this section for reconsideration of a suspension. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a

request for reconsideration.

~~(J) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules~~ Rules adopted under section 5164.02 of the Revised Code may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

Sec. ~~5111.031~~ 5164.37. (A) As used in this section:

(1) "Independent provider" has the same meaning as in section ~~5111.034~~ 5164.341 of the Revised Code.

~~(2) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.~~

~~(3)~~ (3) "Noninstitutional medicaid provider" means any person or entity with a ~~medicaid~~ provider agreement other than a hospital, nursing facility, or ~~intermediate care facility for the mentally retarded~~ ICF/IID.

~~(4)~~(3) "Owner" means any person having at least five per cent ownership in a noninstitutional medicaid provider.

(B) Notwithstanding any provision of this chapter to the contrary, the department of ~~job and family services~~ medicaid shall take action under this section against a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee.

(C) Except as provided in division (D) of this section and in rules ~~adopted~~ authorized by the department under ~~division (H)~~ of this section, on receiving notice and a copy of an indictment that is issued on or after September 29, 2007, and charges a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee with committing an offense specified in division (E) of this section, the department shall suspend the provider agreement held by the noninstitutional medicaid provider. Subject to division (D) of this section, the department shall also terminate medicaid ~~reimbursement~~ payments to the provider for medicaid services rendered.

The suspension shall continue in effect until the proceedings in the criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty. If the department commences a process to terminate the suspended provider agreement, the suspension shall also continue in effect until the termination process is concluded.

~~Pursuant to section 5111.06 of the Revised Code, the department is not required to take action under this division by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code.~~

When subject to a suspension under this division, a provider, owner, officer, authorized agent, associate, manager, or employee shall not own or provide medicaid services to any other medicaid provider or risk contractor or arrange for, render, or order medicaid services for medicaid recipients during the period of suspension. During the period of suspension, the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive ~~reimbursement in the form of~~ direct payments ~~from under~~ the ~~department~~ medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any ~~participating other medicaid~~ provider or risk contractor.

(D)(1) The department shall not suspend a provider agreement or terminate medicaid reimbursement payments under division (C) of this section if the provider or owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(2) The termination of medicaid reimbursement payments applies only to payments for medicaid services rendered subsequent to the date on which the notice required under division (F) of this section is sent. Claims for reimbursement payment for medicaid services rendered by the provider prior to the issuance of the notice may be subject to prepayment review procedures whereby the department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete.

(E)(1) In the case of a noninstitutional medicaid provider that is not an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would be a felony or misdemeanor under the laws of this state and the act relates to or results from either of the following:

(a) Furnishing or billing for ~~medical care, medicaid~~ services, ~~or supplies~~ under the medicaid program;

(b) Participating in the performance of management or administrative services relating to furnishing ~~medical care, medicaid~~ services, ~~or supplies~~ under the medicaid program.

(2) In the case of a noninstitutional medicaid provider that is an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would constitute a disqualifying offense as defined in section ~~5111.032~~ 5164.34 of the Revised Code.

(F) Not later than five days after suspending a provider agreement under

division (C) of this section, the department shall send notice of the suspension to the affected provider or owner. In providing the notice, the department shall do all of the following:

(1) Describe the indictment that was the cause of the suspension, without necessarily disclosing specific information concerning any ongoing civil or criminal investigation;

(2) State that the suspension will continue in effect until the proceedings in the criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded;

(3) Inform the provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for a reconsideration pursuant to division (G) of this section.

(G)(1) Pursuant to the procedure specified in division (G)(2) of this section, a noninstitutional medicaid provider or owner subject to a suspension under this section may request a reconsideration. The request shall be made not later than thirty days after receipt of the notice provided under division (F) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues:

(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of the indictment;

(b) Whether any offense charged in the indictment resulted from an offense specified in division (E) of this section;

(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(3) The department shall review the information and documents submitted in a request for reconsideration. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.

(H) ~~The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules~~ Rules adopted under section 5164.02 of the Revised Code may specify circumstances under

which the department would not suspend a provider agreement pursuant to this section.

Sec. ~~5111.06~~ 5164.38. (A)(1) As used in this section ~~and in sections 5111.061 and 5111.063 of the Revised Code:~~

(a) ~~"Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.~~

(b) ~~"Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.~~

~~(e)~~(1) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.

(2) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.

(3) "Revalidate" means to approve a medicaid provider's continued enrollment as a medicaid provider in accordance with the revalidation process established in rules authorized by section 5164.32 of the Revised Code.

(B) This section does not apply to either of the following:

~~(a)~~(1) Any action taken or decision made by the department of ~~job and family services~~ medicaid with respect to entering into or refusing to enter into a contract with a managed care organization pursuant to section ~~5111.17~~ 5167.10 of the Revised Code;

~~(b)~~(2) Any action taken by the department under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code.

~~(B)~~(C) Except as provided in division ~~(D)~~(E) of this section and section ~~5111.914~~ 5164.58 of the Revised Code, the department shall do ~~either~~ any of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) ~~Enter into or refuse~~ Refuse to enter into a provider agreement with a medicaid provider; ~~or suspend;~~

(2) Refuse to revalidate a medicaid provider's provider agreement;

(3) Suspend or terminate; ~~renew, or refuse to renew an existing a medicaid provider's provider agreement with a provider;~~

~~(2)~~(4) Take any action based upon a final fiscal audit of a medicaid provider.

~~(C)~~(D) Any party who is adversely affected by the issuance of an adjudication order under division ~~(B)~~(C) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

~~(D)~~(E) The department is not required to comply with division ~~(B)~~(C)(1), (2), or (3) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the medicaid provider to hold a license, permit, or certificate or maintain a certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of ~~job and family services~~ medicaid, and the license, permit, certificate, or certification has been denied, revoked, not renewed, suspended, or otherwise limited.

(2) The terms of a provider agreement require the medicaid provider to hold a license, permit, or certificate or maintain certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of ~~job and family services~~ medicaid, and the provider has not obtained the license, permit, certificate, or certification.

(3) The medicaid provider's application for a provider agreement is denied, or the provider's provider agreement is terminated, or not renewed due to revalidation, because of or pursuant to the any of the following:

(a) The termination, refusal to renew, or denial of a license, permit, certificate, or certification by an official, board, commission, department, division, bureau, or other agency of this state other than the department of ~~job and family services~~ medicaid, notwithstanding the fact that the provider may hold a license, permit, certificate, or certification from an official, board, commission, department, division, bureau, or other agency of another state:

~~(4) The provider agreement is denied, terminated, or not renewed pursuant to division (C);~~

(b) Division (D) or ~~(F)~~(E) of section ~~5111.03~~ 5164.35 of the Revised Code:

~~(5) The provider agreement is denied, terminated, or not renewed due to the;~~

(c) The provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act" or from another state's medicaid program and, in either case, the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program in this state:

~~(6) The provider agreement is denied, terminated, or not renewed due to the;~~

(d) The provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(e) The provider or its owner, officer, authorized agent, associate,

manager, or employee having been convicted of one of the offenses that caused the provider's provider agreement to be suspended pursuant to section 5164.36 of the Revised Code;

(f) The provider's failure to provide the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162.408.

~~(7)(4) The medicaid provider's application for a provider agreement is denied, or the provider's provider agreement is terminated; or suspended, as a result of action by the United States department of health and human services and that action is binding on the provider's medicaid participation in the medicaid program.~~

~~(8)(5) Pursuant to either section 5111.031 5164.36 or 5111.035 5164.37 of the Revised Code, the medicaid provider's provider agreement is suspended and payments to the provider are suspended pending indictment of the provider.~~

~~(9) The provider agreement is denied, terminated, or not renewed because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of one of the offenses that caused the provider agreement to be suspended pursuant to section 5111.031 of the Revised Code.~~

~~(10)(6) The medicaid provider's application for a provider agreement is denied because the provider's application was not complete;~~

~~(7) The medicaid provider's provider agreement is converted under section 5111.028 5164.32 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited.~~

~~(11) The provider agreement is terminated or an application for re-enrollment is denied because the provider has failed to apply for re-enrollment within the time or in the manner specified for re-enrollment~~

~~(8) Unless the medicaid provider is a nursing facility or ICF/IID, the provider's provider agreement is not revalidated pursuant to division (B)(1) of section 5111.028 5164.32 of the Revised Code.~~

~~(12)(9) The medicaid provider's provider agreement is suspended or, terminated, or an application for enrollment or re-enrollment is denied, for any not revalidated because of either of the following:~~

~~(a) Any reason authorized or required by one or more of the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450-~~

~~(13) The provider agreement is terminated or not renewed because the:~~

~~(b) The provider has not billed or otherwise submitted a medicaid claim to the department for two years or longer.~~

~~(14) The provider agreement is denied, terminated, or not renewed~~

~~because the provider fails to provide to the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162.408.~~

(E) In the case of a medicaid provider described in division ~~(D)(13)(E)(3)(f), (6), (7), or (14)(9)(b)~~ of this section, the department may take its ~~proposed~~ action ~~against a provider agreement~~ by sending a notice explaining the ~~proposed~~ action to the provider. The notice shall be sent to the medicaid provider's address on record with the department. The notice may be sent by regular mail.

~~(E)(G)~~ The department may withhold payments for medicaid services rendered by a medicaid provider ~~under the medicaid program~~ during the pendency of proceedings initiated under division ~~(B)(C)(1), (2), or (3)~~ of this section. If the proceedings are initiated under division ~~(B)(2)(C)(4)~~ of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and ~~intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code~~ ICFs/IID.

~~Sec. 5111.062 5164.39.~~ In any action taken by the department of ~~job and family services~~ medicaid under section ~~5111.06 5164.38 or 5111.061 5164.57~~ of the Revised Code or any other ~~provision of this chapter~~ state statute governing the medicaid program that requires the department to give notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, if the department gives notice of the opportunity for a hearing but the medicaid provider or other entity subject to the notice does not request a hearing or timely request a hearing in accordance with section 119.07 of the Revised Code, the department is not required to hold a hearing. The medicaid director ~~of job and family service~~ may proceed by issuing a final adjudication order in accordance with Chapter 119. of the Revised Code.

~~Sec. 5111.05 5164.45.~~ (A) The department of ~~job and family services~~ medicaid may contract with any person or persons as a fiscal agent for the examination, processing, and determination of ~~medical assistance~~ medicaid claims ~~under this chapter~~. The contracting party may provide any of the following services, as required by the contract:

(1) Design and operate medicaid management information systems, including the provision of data processing services;

(2) Determine the amounts of payments to be made upon claims for ~~medical assistance~~ medicaid;

(3) Prepare and furnish to the department lists and computer tapes of such claims for payment;

(4) In addition to audits which may be conducted by the department and by the auditor of state, make audits of providers and the claims of medicaid providers ~~of medical assistance~~ according to the standards set forth in the contract;

(5) Assist medicaid providers ~~of medical assistance~~ in the development of procedures relating to utilization practices, make studies of the effectiveness of such procedures and methods for their improvement, implement and enforce standards of medical policy, and assist in the application of safeguards against unnecessary utilization;

(6) Assist any institution, facility, or agency to qualify as a medicaid provider ~~of medical assistance~~;

(7) Establish and maintain fiscal records for the ~~medical assistance~~ medicaid program;

(8) Perform statistical and research studies;

(9) Develop and implement programs for ~~medical assistance~~ medicaid cost containment;

(10) Perform such other duties as are necessary to carry out the ~~medical assistance~~ medicaid program.

(B) The department ~~of job and family services~~ may contract with any person or persons as an insuring agent for the examination, processing, and determination of ~~medical assistance~~ medicaid claims, as provided in division (A) of this section, and for the payment of ~~medical assistance~~ medicaid claims through an underwritten program in which the state pays the insuring agent a monthly premium and the insuring agent pays for ~~medical~~ medicaid services ~~authorized under the state's medical assistance program~~. The person with whom the department contracts, with respect to the awarding, provisions, and performance of such contract, shall not be subject to the provisions of Title XXXIX of the Revised Code or to regulation by the department of insurance, nor to taxation as an insurance company pursuant to section 5725.18 or 5729.03 of the Revised Code. A contract with an insuring agent shall specify the qualifications, including capital and surplus requirements, and other conditions with which the insuring agent must comply.

(C) In entering into a contract under this section, the department, in cooperation with the director of budget and management, shall determine that the contracting party is qualified to perform the required services and

shall follow applicable procedures required of the department of administrative services in sections 125.07 to 125.11 of the Revised Code. A contract shall be awarded to the bidder who, with due consideration to the bidder's experience and financial capability, offers the lowest and best bid to the state for control of the costs of the ~~medical assistance~~ medicaid program consistent with meeting the obligations under that program for fair and equitable treatment of medicaid recipients and medicaid providers ~~of medical services~~. Any arrangement whereby funds are paid to an insuring or fiscal agent for administrative functions under this section shall, for the purposes of section 125.081 of the Revised Code, be deemed to be a contract or purchase by the department of administrative services; however, money to be used by an insuring agent to pay for ~~medical~~ medicaid services ~~authorized under the state's medical assistance program~~ shall not be deemed a contract or purchase within the meaning of such section.

Sec. ~~5111.052~~ 5164.46. (A) As used in this section, "electronic claims submission process" means any of the following:

- (1) Electronic interchange of data;
- (2) Direct entry of data through an internet-based mechanism implemented by the department of ~~job and family services~~ medicaid;
- (3) Any other process for the electronic submission of claims that is specified in rules adopted under ~~this section~~ 5162.02 of the Revised Code.

(B) Not later than January 1, 2013, and except as provided in division (C) of this section, each medicaid provider ~~of services to medicaid recipients~~ shall do both of the following:

- (1) Use only an electronic claims submission process to submit to the department of ~~job and family services~~ medicaid claims for medicaid reimbursement payment for medicaid services provided to medicaid recipients;

(2) Arrange to receive medicaid reimbursement payment from the department by means of electronic funds transfer.

(C) Division (B) of this section does not apply to any of the following:

- (1) A nursing facility, ~~as defined in section 5111.20 of the Revised Code~~;

(2) An ~~intermediate care facility for the mentally retarded, as defined in section 5111.20 of the Revised Code~~ ICF/IID;

(3) A medicaid managed care organization ~~under contract with the department pursuant to section 5111.17 of the Revised Code~~;

(4) Any other medicaid provider or type of medicaid provider designated in rules adopted under ~~this section~~ 5162.02 of the Revised Code.

(D) The department shall not process a medicaid claim submitted on or

after January 1, 2013, unless the claim is submitted through an electronic claims submission process in accordance with this section.

~~(E) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to implement this section:~~

~~Sec. 5111.054 5164.47. (A) As used in this section:~~

~~(1) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing the medicaid program.~~

~~(2) "OCHSPS" means the private, not-for-profit corporation known as the Ohio children's hospital solutions for patient safety, which was formed for the purpose of improving pediatric patient care in this state, which performs functions that are included within the functions of a peer review committee as defined in section 2305.25 of the Revised Code, and which consists of all of the following members: Akron children's hospital, Cincinnati children's hospital medical center, Cleveland clinic children's hospital, Dayton children's medical center, mercy children's hospital, nationwide children's hospital, rainbow babies & children's hospital, and Toledo children's hospital.~~

(B) If, as authorized by section ~~5101.10~~ 5160.10 of the Revised Code, the ~~department of job and family services~~ medicaid director chooses to contract with a person to perform either or both of the following services, ~~it~~ the director may contract with any qualified person, including OCHSPS, to perform the service or services on ~~the department's behalf~~ of the department of medicaid:

(1) Review and analyze claims for ~~medical assistance made under this chapter~~ medicaid services provided to children in accordance with all state and federal laws governing the confidentiality of patient-identifying information;

(2) Perform quality assurance and quality review functions, other than those described in division (B)(1) of this section, related to ~~medical assistance made under this chapter~~ medicaid services provided to children.

The functions specified in division (B)(2) of this section may include those recommended by the best evidence for advancing child health in Ohio now (BEACON) council.

(C) If the ~~department~~ director enters into a contract with OCHSPS for OCHSPS to perform either or both of the services described in division (B) of this section, OCHSPS shall, only for purposes of section ~~5101.11~~ 5160.12 of the Revised Code, be considered a public entity and the ~~department~~ director shall seek federal financial participation for costs incurred by

OCHSPS in performing the service or services.

~~Sec. 5111.051~~ 5164.48. The medicaid director of ~~job and family services~~ may ~~submit a medicaid state plan amendment or request for a federal waiver to the United States secretary of health and human services as necessary to implement, at the director's discretion,~~ a system under which medicaid payments for ~~medical assistance provided under the medicaid program~~ services are made to an organization on behalf of ~~the medicaid providers of the medical assistance.~~ The system may not provide for an organization to receive an amount that exceeds, in aggregate, the amount the ~~department~~ medicaid program would have paid directly to ~~the medicaid~~ providers if not for this section.

Sec. 5164.55. The department of medicaid may conduct final fiscal audits of medicaid providers in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.

~~Sec. 5111.022~~ 5164.56. Under the medicaid program, any amount determined to be owed the state by a final fiscal audit conducted pursuant to ~~division (D) of section 5111.021~~ 5164.55 of the Revised Code, upon the issuance of an adjudication order pursuant to Chapter 119. of the Revised Code that contains a finding that there is a preponderance of the evidence that ~~the~~ a medicaid provider will liquidate assets or file bankruptcy in order to prevent payment of the amount determined to be owed the state, becomes a lien upon the real and personal property of the provider. Upon failure of the provider to pay the amount to the state, the medicaid director of ~~job and family services~~ shall file notice of the lien, for which there shall be no charge, in the office of the county recorder of the county in which it is ascertained that the provider owns real or personal property. The director shall notify the provider by mail of the lien, but absence of proof that the notice was sent does not affect the validity of the lien. The lien is not valid as against the claim of any mortgagee, pledgee, purchaser, judgment creditor, or other lienholder of record at the time the notice is filed.

If the provider acquires real or personal property after notice of the lien is filed, the lien shall not be valid as against the claim of any mortgagee, pledgee, subsequent bona fide purchaser for value, judgment creditor, or other lienholder of record to such after-acquired property unless the notice of lien is refiled after the property is acquired by the provider and before the competing lien attaches to the after-acquired property or before the conveyance to the subsequent bona fide purchaser for value.

When the amount has been paid, the provider may record with the recorder notice of the payment. For recording such notice of payment, the recorder shall charge and receive from the provider a base fee of one dollar for services and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code.

In the event of a distribution of a the provider's assets pursuant to an order of any court under the law of this state including any receivership, assignment for benefit of creditors, adjudicated insolvency, or similar proceedings, amounts then or thereafter due the state under ~~this chapter~~ the medicaid program have the same priority as provided by law for the payment of taxes due the state and shall be paid out of the receivership trust fund or other such trust fund in the same manner as provided for claims for unpaid taxes due the state.

If the attorney general finds after investigation that any amount due the state under ~~this chapter~~ the medicaid program is uncollectable, in whole or in part, the attorney general shall recommend to the director the cancellation of all or part of the claim. The director may thereupon effect the cancellation.

Sec. ~~5111.061~~ 5164.57. (A) As used in this section, "adjudication" has the same meaning as in section 119.01 of the Revised Code.

~~(B)(1)~~ Except as provided in division ~~(A)~~(B)(2) of this section, the department of ~~job and family services~~ medicaid may recover a medicaid payment or portion of a payment made to a medicaid provider to which the provider is not entitled if the department notifies the provider of the overpayment during the five-year period immediately following the end of the state fiscal year in which the overpayment was made.

(2) In the case of a hospital medicaid provider, if the department determines as a result of a medicare or medicaid cost report settlement that the provider received an amount under the medicaid program to which the provider is not entitled, the department may recover the overpayment if the department notifies the provider of the overpayment during the later of the following:

(a) The five-year period immediately following the end of the state fiscal year in which the overpayment was made;

(b) The one-year period immediately following the date the department receives from the United States centers for medicare and medicaid services a completed, audited, medicare cost report for the provider that applies to the state fiscal year in which the overpayment was made.

~~(B)~~(C) Among the overpayments that may be recovered under this section are the following:

(1) Payment for a medicaid service, or a day of service, not rendered;
 (2) Payment for a day of service at a full per diem rate that should have been paid at a percentage of the full per diem rate;

(3) Payment for a medicaid service, or day of service, that was paid by, or partially paid by, a third party, as defined in section ~~5101.574~~ 5160.35 of the Revised Code, and the third party's payment or partial payment was not offset against the amount paid by the medicaid program to reduce or eliminate the amount that was paid by the medicaid program;

(4) Payment when a medicaid recipient's responsibility for payment was understated and resulted in an overpayment to the provider.

~~(C)(D)~~ The department may recover an overpayment under this section prior to or after any of the following:

(1) Adjudication of a final fiscal audit that section ~~5111.06~~ 5164.38 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(2) Adjudication of a finding under any other provision of ~~this chapter~~ state statutes governing the medicaid program or the rules adopted under ~~it~~ those statutes;

(3) Expiration of the time to issue a final fiscal audit that section ~~5111.06~~ 5164.38 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(4) Expiration of the time to issue a finding under any other provision of ~~this chapter~~ state statutes governing the medicaid program or the rules adopted under ~~it~~ those statutes.

~~(D)(E)~~(1) Subject to division ~~(D)(E)~~(2) of this section, the recovery of an overpayment under this section does not preclude the department from subsequently doing the following:

(a) Issuing a final fiscal audit in accordance with Chapter 119. of the Revised Code, as required under section ~~5111.06~~ 5164.38 of the Revised Code;

(b) Issuing a finding under any other provision of ~~this chapter~~ state statutes governing the medicaid program or the rules adopted under ~~it~~ those statutes.

(2) A final fiscal audit or finding issued subsequent to the recovery of an overpayment under this section shall be reduced by the amount of the prior recovery, as appropriate.

~~(E)(F)~~ Nothing in this section limits the department's authority to recover overpayments pursuant to any other provision of the Revised Code.

Sec. ~~5111.914~~ 5164.58. (A) ~~As used in this section, "provider" has the same meaning as in section 5111.06 of the Revised Code.~~

~~(B)~~ If a state agency that enters into a contract with the department of ~~job and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the Revised Code identifies that a medicaid overpayment has been made to a medicaid provider, the state agency may commence actions to recover the overpayment on behalf of the department.

~~(C)~~(B) In recovering an overpayment pursuant to this section, a state agency shall comply with the following procedures:

(1) The state agency shall attempt to recover the overpayment by notifying the medicaid provider of the overpayment and requesting voluntary repayment. Not later than five business days after notifying the medicaid provider, the state agency shall notify the department in writing of the overpayment. The state agency may negotiate a settlement of the overpayment and notify the department of the settlement. A settlement negotiated by the state agency is not valid and shall not be implemented until the department has given its written approval of the settlement.

(2) If the state agency is unable to obtain voluntary repayment of an overpayment, the agency shall give the medicaid provider notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code. If the medicaid provider timely requests a hearing in accordance with section 119.07 of the Revised Code, the state agency shall conduct the hearing to determine the legal and factual validity of the overpayment. On completion of the hearing, the state agency shall submit its hearing officer's report and recommendation and the complete record of proceedings, including all transcripts, to the medicaid director of ~~job and family services~~ for final adjudication. The director may issue a final adjudication order in accordance with Chapter 119. of the Revised Code. The state agency shall pay any attorney's fees imposed under section 119.092 of the Revised Code. The department of ~~job and family services~~ medicaid shall pay any attorney's fees imposed under section 2335.39 of the Revised Code.

~~(D)~~(C) In any action taken by a state agency under this section that requires the agency to give notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, if the agency gives notice of the opportunity for a hearing but the medicaid provider subject to the notice does not request a hearing or timely request a hearing in accordance with section 119.07 of the Revised Code, the agency is not required to hold a hearing. The agency may request that the medicaid director of ~~job and family services~~ issue a final adjudication order in accordance with Chapter 119. of the Revised Code.

~~(E)~~(D) This section does not preclude the department of ~~job and family services~~ medicaid from adjudicating a final fiscal audit under section

~~5111.06~~ 5164.38 of the Revised Code, recovering overpayments under section ~~5111.061~~ 5164.57 of the Revised Code, or making findings or taking other actions authorized by ~~this chapter~~ state statutes governing the medicaid program.

Sec. 5164.59. The department of medicaid may deduct from medicaid payments for medicaid services rendered by a medicaid provider any amounts the provider owes the state as the result of incorrect medicaid payments the department has made to the provider.

Sec. 5164.60. Any medicaid provider who, without intent, obtains payments under the medicaid program in excess of the amount to which the provider is entitled is liable for payment of interest on the amount of the excess payments for the period from the date on which payment was made to the date on which repayment is made to the state. The interest shall be paid at the average bank prime rate in effect on the first day of the calendar quarter during which the provider receives notice of the excess payment. The department of medicaid shall determine the average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, or any successor publication. If statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the department shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.

Sec. 5164.61. The authority, under state and federal law, of the department of medicaid or a county department of job and family services to recover excess medicaid payments made to a medicaid provider is not limited by the availability of remedies under sections 5162.21 and 5162.23 of the Revised Code for recovering benefits paid on behalf of medicaid recipients.

~~Sec. 5111.021~~ 5164.70. Under the medicaid program:

~~(A)~~ Except as otherwise required by federal statute or regulation, ~~the department of job and family services shall not reimburse a medical provider no medicaid payment for any medical assistance rendered under the program an amount that exceeds~~ medicaid service shall exceed the following:

~~(1)~~(A) If the medicaid provider is a hospital, nursing facility, or ~~intermediate care facility for the mentally retarded~~ ICF/IID, the limits established under Subpart C of 42 C.F.R. Part 447;

~~(2)~~(B) If the medicaid provider is other than a provider described in division ~~(A)~~(1) of this section, the authorized reimbursement payment limits for the same service under the medicare program ~~established under Title~~

~~XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.~~

~~(B) Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.~~

~~(C) The department may deduct from payments for services rendered by a medicaid provider under the medicaid program any amounts the provider owes the state as the result of incorrect medicaid payments the department has made to the provider.~~

~~(D) The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.~~

~~(E) The number of days of inpatient hospital care for which reimbursement is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.~~

~~(F) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.~~

~~Sec. 5164.71. Medicaid payments for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.~~

~~Sec. 5164.72. The number of days of inpatient hospital care for which a medicaid payment is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department of medicaid may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.~~

Sec. 5164.73. The division of any medicaid payment between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall the medicaid payment exceed the medicaid payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

~~Sec. 5111.19 5164.74. The medicaid director of job and family services shall adopt rules under section 5164.02 of the Revised Code governing the calculation and payment of, and the allocation of payments for, graduate medical education costs associated with medicaid services rendered to medicaid recipients after June 30, 1994. Subject to section 5111.191 5164.741 of the Revised Code, the rules shall provide for reimbursement payment of graduate medical education costs associated with medicaid services rendered to medicaid recipients, including recipients enrolled in a medicaid managed care organization under contract with the department office under section 5111.17 of the Revised Code, that the department of medicaid determines are allowable and reasonable.~~

~~If the department requires a managed care organization to pay a provider for graduate medical education costs associated with the delivery of services to medicaid recipients enrolled in the organization, the department shall include in its payment to the organization an amount sufficient for the organization to pay such costs. If the department does not include in its payments to the managed care organization amounts for graduate medical education costs of providers, all of the following apply:~~

~~(A) Except as provided in section 5111.191 of the Revised Code, the department shall pay the provider for graduate medical education costs associated with the delivery of services to medicaid recipients enrolled in the organization;~~

~~(B) No provider shall seek reimbursement from the organization for such costs;~~

~~(C) The organization is not required to pay providers for such costs.~~

~~Sec. 5111.191 5164.741. (A) Except as provided in division (B) of this section, the department of job and family services medicaid may deny medicaid payment to a hospital for direct graduate medical education costs associated with the delivery of medicaid services to any medicaid recipient if the hospital refuses without good cause to contract with a medicaid managed care organization that serves participants in the care management system established under section 5111.16 of the Revised Code who are required to be enrolled in a managed care organization and the managed~~

~~care organization~~ serves the area in which the hospital is located.

(B) A hospital is not subject to division (A) of this section if all of the following are the case:

(1) The hospital is located in a county in which participants in the care management system are required before January 1, 2006, to be enrolled in a medicaid managed care organization that is a health insuring corporation.

(2) The hospital has entered into a contract before January 1, 2006, with at least one health insuring corporation serving the participants specified in division (B)(1) of this section.

(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a health insuring corporation.

(C) The medicaid director ~~of job and family services~~ shall specify in the rules adopted under section ~~5111.19~~ 5164.02 of the Revised Code what constitutes good cause for a hospital to refuse to contract with a medicaid managed care organization.

Sec. ~~5111.086~~ 5164.75. As used in this section, "federal upper reimbursement limit" means the limit established pursuant to ~~section 1927(e) of the "Social Security Act," 104 Stat. 1388-151 (1990)~~ section 1927(e), 42 U.S.C. 1396r-8(e), as amended.

The medicaid payment for a drug that is subject to a federal upper reimbursement limit shall not exceed, in the aggregate, the federal upper reimbursement limit for the drug. ~~The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.~~

Sec. ~~5111.082~~ 5164.751. (A) As used in this section:

~~(1) "State, "state maximum allowable cost" means the per unit amount the department of job and family services reimburses~~ medicaid program pays a terminal distributor of dangerous drugs for a ~~prescription prescribed~~ drug included in the state maximum allowable cost program established under division (B) of this section. "State maximum allowable cost" excludes dispensing fees and copayments, coinsurance, or other cost-sharing charges, if any.

~~(2) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.~~

(B) The medicaid director ~~of job and family services~~ shall establish a state maximum allowable cost program for purposes of managing ~~reimbursement~~ medicaid payments to terminal distributors of dangerous drugs for ~~prescription prescribed~~ drugs identified by the director pursuant to this division. The director shall do all of the following with respect to the

program:

(1) Identify and create a list of ~~prescription~~ prescribed drugs to be included in the program.

(2) Update the list of ~~prescription~~ prescribed drugs described in division (B)(1) of this section on a weekly basis.

(3) Review the state maximum allowable cost for each prescribed drug included on the list described in division (B)(1) of this section on a weekly basis.

~~(C) The director may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~

~~Sec. 5111.07 5164.752. Commencing in In July, 1986, and of every second July thereafter even-numbered year, the department of job and family services medicaid shall initiate a private confidential survey of retail pharmacy operations the cost of dispensing drugs incurred by terminal distributors of dangerous drugs in the this state. The survey shall be used as the basis for establishing a current maximum the medicaid program's dispensing fee for licensed pharmacists who are providers of drugs under this chapter. The terminal distributors in accordance with section 5164.753 of the Revised Code. The survey shall be completed and its results published not later than the last day of October of the year in which it is conducted.~~

~~Each terminal distributor that is a provider of drugs under the medicaid program shall participate in the survey. Except as necessary to publish the survey's results, a terminal distributor's responses to the survey are confidential and not a public record under section 149.43 of the Revised Code.~~

~~The survey shall be conducted in conformance with the requirements set forth in 42 C.F.R. 447.331 through 447.333, as amended or superseded, and 447.500 to 447.518. The survey shall include operational data and direct prescription expenses, professional services and personnel costs, and usual and customary overhead expenses, and profit data of the retail pharmacies terminal distributors surveyed. The survey shall be completed and its results published no later than the last day of October of the year in which the survey is conducted, and the survey shall compute and report the cost of dispensing fees on a basis of the usual and customary charges by retail pharmacies terminal distributors to their customers for dispensing drugs. The director of job and family services shall take into account the results of the survey in establishing a dispensing fee.~~

~~Sec. 5111.071 5164.753. Commencing in In December, 1986, and of every second December thereafter even-numbered year, the medicaid director of job and family services shall establish a dispensing fee, effective~~

the following ~~January~~ July, for ~~licensed pharmacists who terminal distributors of dangerous drugs~~ that are providers of drugs under ~~this chapter~~ the medicaid program. ~~The~~ In establishing the dispensing fee, the director shall take into consideration the results of the survey conducted under section ~~5111.07~~ 5164.752 of the Revised Code.

Sec. ~~5111.0114~~ 5164.754. (A) As used in this section, "dangerous drug" and "manufacturer of dangerous drugs" have the same meaning as in section 4729.01 of the Revised Code.

(B) ~~The~~ medicaid director ~~of job and family services~~ may enter into or administer an agreement or cooperative arrangement with other states to create or join a multiple-state prescription drug purchasing program for the purpose of negotiating with manufacturers of dangerous drugs to receive discounts or rebates for dangerous drugs ~~dispensed under~~ covered by the medicaid program.

Sec. ~~5111.081~~ 5164.755. ~~The~~ medicaid director ~~of job and family services~~, in rules adopted under section ~~5111.02~~ 5164.02 of the Revised Code, may establish and implement a supplemental drug rebate program under which drug manufacturers may be required to provide the department of ~~job and family services~~ medicaid a supplemental rebate as a condition of having the drug manufacturers' drug products covered by the medicaid program without prior approval. The department may receive a supplemental rebate negotiated under the program for a drug dispensed to a medicaid recipient pursuant to a prescription or a drug purchased by a medicaid provider for administration to a medicaid recipient in the provider's primary place of business. ~~If necessary, the director may apply to the United States secretary of health and human services for a waiver of federal statutes and regulations to establish the supplemental drug rebate program.~~

If the director establishes a supplemental drug rebate program, the director shall consult with drug manufacturers regarding the establishment and implementation of the program.

Sec. ~~5101.31~~ 5164.756. Any record, data, pricing information, or other information regarding a drug rebate agreement or a supplemental drug rebate agreement for the medicaid program ~~established under Chapter 5111 of the Revised Code~~ that the department of ~~job and family services~~ medicaid receives from a pharmaceutical manufacturer or creates pursuant to negotiation of the agreement is not a public record under section 149.43 of the Revised Code and shall be treated by the department as confidential information.

Sec. ~~5111.083~~ 5164.757. (A) As used in this section, "licensed health

professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.

~~(B) The medicaid director of job and family services may establish an acquire or specify technologies to provide information regarding medicaid recipient eligibility, claims history, and drug coverage to medicaid providers through electronic health record and e-prescribing system for the medicaid program under which applications.~~

~~If such technologies are acquired or specified, the e-prescribing applications shall enable a medicaid provider who is a licensed health professional authorized to prescribe drugs shall to use an electronic system to prescribe a drug for a medicaid recipient when required to do so by division (C) of this section. The e-prescribing purpose of the electronic system shall is to eliminate the need for such medicaid providers to make issue prescriptions for medicaid recipients by handwriting or telephone. The e-prescribing system technologies acquired or specified by the director also shall provide such medicaid providers with an up-to-date, clinically relevant drug information database and a system of electronically monitoring medicaid recipients' medical history, drug regimen compliance, and fraud and abuse.~~

~~(C) If the director establishes an e-prescribing system under division (B) of this section, the director shall do all of the following:~~

~~(1) Require that a medicaid provider who is a licensed health professional authorized to prescribe drugs use the e-prescribing system during a fiscal year if the medicaid provider was one of the ten medicaid providers who, during the calendar year that precedes that fiscal year, issued the most prescriptions for medicaid recipients receiving hospital services;~~

~~(2) Before the beginning of each fiscal year, determine the ten medicaid providers that issued the most prescriptions for medicaid recipients receiving hospital services during the calendar year that precedes the upcoming fiscal year and notify those medicaid providers that they must use the e-prescribing system for the upcoming fiscal year;~~

~~(3) Seek the most federal financial participation available for the development and implementation of the e-prescribing system.~~

~~Sec. 5111.085 5164.758. Not later than July 1, 2012, the department of job and family services The medicaid director shall adopt rules in accordance with Chapter 119. under section 5164.02 of the Revised Code to implement a coordinated services program for medicaid recipients who are found to have obtained prescription prescribed drugs under the medicaid program at a frequency or in an amount that is not medically necessary. The program shall be implemented in a manner that is consistent with section~~

~~1915(a)(2)~~ of the "Social Security Act," ~~95 Stat. 810 (1981)~~ section 1915(a)(2), 42 U.S.C. 1396n(a)(2), ~~as amended~~, and 42 C.F.R. 431.54(e).

~~Sec. 5111.08~~ 5164.759. In accordance with ~~subsection (g) of section 1927~~ of the "Social Security Act," ~~49 Stat. 320 (1935)~~ section 1927(g), 42 U.S.C.A. 1396r-8(g), ~~as amended~~, the department of ~~job and family services~~ medicaid shall establish an outpatient drug use review program to assure that prescriptions obtained by medicaid recipients ~~of medical assistance under this chapter~~ are appropriate, medically necessary, and unlikely to cause adverse medical results.

~~Sec. 5111.084~~ 5164.7510. (A) There is hereby established the pharmacy and therapeutics committee of the department of ~~job and family services~~ medicaid. The committee shall assist the department with developing and maintaining a preferred drug list for the medicaid program.

The committee shall review and recommend to the medicaid director ~~of job and family services~~ the drugs that should be included on the preferred drug list. The recommendations shall be made based on the evaluation of competent evidence regarding the relative safety, efficacy, and effectiveness of ~~prescription~~ prescribed drugs within a class or classes of ~~prescription~~ prescribed drugs.

(B) The committee shall consist of ten members and shall be appointed by the medicaid director ~~of job and family services~~. The director shall seek recommendations for membership from relevant professional organizations. A candidate for membership recommended by a professional organization shall have professional experience working with medicaid recipients.

The membership of the committee shall include:

(1) Three pharmacists licensed under Chapter 4729. of the Revised Code;

(2) Two doctors of medicine and two doctors of osteopathy who hold certificates to practice issued under Chapter 4731. of the Revised Code, one of whom is a family practice physician;

(3) A registered nurse licensed under Chapter 4723. of the Revised Code;

(4) A pharmacologist who has a doctoral degree;

(5) A psychiatrist who holds a certificate to practice issued under Chapter 4731. of the Revised Code and specializes in psychiatry.

(C) The committee shall elect from among its members a chairperson. Five committee members constitute a quorum.

The committee shall establish guidelines necessary for the committee's operation.

The committee may establish one or more subcommittees to investigate

and analyze issues consistent with the duties of the committee under this section. The subcommittees may submit proposals regarding the issues to the committee and the committee may adopt, reject, or modify the proposals.

A vote by a majority of a quorum is necessary to make recommendations to the director. In the case of a tie, the chairperson shall decide the outcome.

(D) The director shall act on the committee's recommendations not later than thirty days after the recommendation is posted on the department's web site under division (F) of this section. If the director does not accept a recommendation of the committee, the director shall present the basis for this determination not later than fourteen days after making the determination or at the next scheduled meeting of the committee, whichever is sooner.

(E) An interested party may request, and shall be permitted, to make a presentation or submit written materials to the committee during a committee meeting. The presentation or other materials shall be relevant to an issue under consideration by the committee and any written material, including a transcript of testimony to be given on the day of the meeting, may be submitted to the committee in advance of the meeting.

(F) The department shall post the following on the department's web site:

(1) Guidelines established by the committee under division (C) of this section;

(2) A detailed committee agenda not later than fourteen days prior to the date of a regularly scheduled meeting and not later than seventy-two hours prior to the date of a special meeting called by the committee;

(3) Committee recommendations not later than seven days after the meeting at which the recommendation was approved;

(4) The director's final determination as to the recommendations made by the committee under this section.

Sec. ~~5111.025~~ 5164.76. (A) In rules adopted under section ~~5111.02~~ 5164.02 of the Revised Code, the medicaid director ~~of job and family services~~ shall modify the manner or establish a new manner in which the following are paid under medicaid:

(1) Community mental health ~~agencies~~ service providers or facilities for providing community mental health services ~~included in~~ covered by the ~~state medicaid plan program~~ pursuant to section ~~5111.023~~ 5164.15 of the Revised Code;

(2) Providers of alcohol and drug addiction services for providing

alcohol and drug addiction services ~~included in~~ covered by the medicaid program ~~pursuant to rules adopted under section 5111.02 of the Revised Code.~~

(B) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section ~~5111.02 or 5119.61~~ 5119.22 or 5164.02 of the Revised Code that are in effect on June 26, 2003, and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules.

Sec. ~~5111.0213~~ 5164.77. (A) As used in this section:

(1) "Aide services" means all of the following:

(a) Home health aide services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(2);

(b) Home care attendant services available under a home and community-based services medicaid waiver component;

(c) Personal care aide services available under a home and community-based services medicaid waiver component.

(2) ~~"Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

(3) "Independent provider" means an individual who personally provides aide services or nursing services and is not employed by, under contract with, or affiliated with another entity that provides those services.

(4)(3) "Nursing services" means all of the following:

(a) Nursing services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(1);

(b) Private duty nursing services as defined in 42 C.F.R. 440.80;

(c) Nursing services available under a home and community-based services medicaid waiver component.

(B) The department of ~~job and family services~~ medicaid shall do ~~both~~ all of the following:

(1) Effective October 1, 2011, reduce the medicaid program's first-hour-unit price for aide services to ninety-seven per cent of the price paid on June 30, 2011, and for nursing services to ninety-five per cent of the price paid on June 30, 2011;

(2) Effective October 1, 2011, pay for a service that is an aide service or a nursing service provided by an independent provider eighty per cent of the price it pays for the same service provided by a provider that is not an independent provider;

(3) Not sooner than July 1, 2012, adjust the medicaid ~~reimbursement~~ payment rates for aide services and nursing services in a manner that

reflects, at a minimum, labor market data, education and licensure status, home health agency and independent provider status, and length of service visit.

(C) The department shall strive to have the adjustment made under division (B)(3) of this section go into effect on July 1, 2012. The reductions made under divisions (B)(1) and (2) of this section shall remain in effect until the adjustment made under division (B)(3) of this section goes into effect.

~~(D) The director of job and family services shall adopt rules under sections 5111.02 and 5111.85 of the Revised Code as necessary to implement this section.~~

Sec. 5164.78. (A) The medicaid payment rates for physician, pregnancy-related, evaluation, and management services provided by a physician group practice meeting the requirements of division (B) of this section shall be determined in accordance with rule 5101:3-1-60.1 of the Administrative Code as the rule is in effect on the day immediately preceding the effective date of this section.

(B) A physician group practice meets the requirements of this division if both of the following apply to the practice:

(1) The practice is physically attached to a hospital that does not provide physician clinic outpatient services and the practice and hospital have signed a letter of agreement providing for the practice to provide outpatient hospital clinic services for the hospital.

(2) The medicaid provider utilization summary for calendar year 1990 establishes that the practice provided both of the following that year:

(a) At least forty per cent of the total number of medicaid physician visits provided in the county in which the practice is located;

(b) An aggregate total of at least ten per cent of medicaid physician visits provided in the contiguous counties.

(C) Not later than four years after the effective date of this section, the department of medicaid shall submit a report regarding this section to the general assembly in accordance with section 101.68 of the Revised Code.

~~Sec. 5111.0212 5164.80. As necessary to comply with section 1902(a)(13)(A) of the "Social Security Act," 411 Stat. 507 (1997) section 1902(a)(13)(A), 42 U.S.C. 1396a(a)(13)(A), as amended, and any other federal law that requires public notice of proposed changes to reimbursement payment rates for medical assistance provided under the medicaid program services, the medicaid director of job and family services shall give public notice in the register of Ohio of any change to a method or standard used to determine the medicaid reimbursement payment rate for~~

~~medical assistance~~ a medicaid service.

Sec. ~~5111.0214~~ 5164.82. The department of ~~job and family services~~ medicaid shall not knowingly make a medicaid payment for a provider-preventable condition for which federal financial participation is prohibited by regulations adopted under ~~section 2702~~ of the "Patient Protection and Affordable Care Act," ~~124 Stat. 318 (2010)~~ section 2702, 42 U.S.C. 1396b-1. ~~The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.~~

Sec. ~~5111.13~~ 5164.85. (A) As used in this section, "cost-effective" and "group health plan" have the same meanings as in ~~section 1906~~ of the "Social Security Act," ~~104 Stat. 1388-161 (1990)~~ section 1906, 42 U.S.C. 1396e, ~~as amended~~, and any regulations adopted under that section.

(B) The department of ~~job and family services~~ medicaid may ~~submit a medicaid state plan amendment to the United States secretary of health and human services for the purpose of implementing~~ implement a program pursuant to ~~section 1906~~ of the "Social Security Act," ~~104 Stat. 1388-161 (1990)~~ section 1906, 42 U.S.C. 1396e, ~~as amended~~, for the enrollment of medicaid-eligible individuals in group health plans when the department determines that enrollment is cost-effective.

~~(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.~~

Sec. ~~5111.18~~ 5164.86. ~~Not later than September 1, 2007, the~~ The ~~medicaid~~ director of ~~job and family services~~ shall establish a qualified state long-term care insurance partnership program consistent with the definition of that term in the "Social Security Act," section 1917(b)(1)(C)(iii), 42 U.S.C. 1396p(b)(1)(C)(iii). An individual participating in the program who is subject to the medicaid estate recovery program instituted under section ~~5111.14~~ 5162.21 of the Revised Code shall be eligible for the reduced adjustment or recovery under division (D) of that section.

~~The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.~~

Sec. ~~5111.14~~ 5164.88. The medicaid director of ~~job and family services~~ may ~~submit to the United States secretary of health and human services an amendment to the medicaid state plan in order to~~ implement within the medicaid program a system under which medicaid recipients with chronic conditions are provided with coordinated care through health homes, as authorized by ~~section 1945~~ of the "Social Security Act," ~~124 Stat. 319~~

~~(2010)~~ section 1945, 42 U.S.C. 1396w-4.

~~The director may adopt rules under section 5111.02 of the Revised Code to implement this section.~~

Sec. 5164.881. The medicaid director, in consultation with the director of developmental disabilities, may develop and implement within the medicaid program a system under which eligible individuals with chronic conditions, as defined in the "Social Security Act," section 1945 (h)(1), 42 U.S.C. 1396w-4(h)(1), who also have mental retardation or other developmental disabilities may receive health home services, as defined in the "Social Security Act," section 1945 (h)(4), 42 U.S.C. 1396w-4(h)(4). Any such system shall focus on the needs of individuals and have as its goal improving services and outcomes under the medicaid program by improving integration of long-term care services and supportive services with primary and acute health care services.

In developing any system under this section, the directors shall consult with representatives of county boards of developmental disabilities, the Ohio provider resource association, and the arc of Ohio. The directors may consult with any other individuals or entities that have an interest in the well being of individuals with developmental disabilities.

~~Sec. 5111.141~~ 5164.89. The department of ~~job and family services~~ medicaid may require county departments of job and family services to provide case management of nonemergency transportation services provided under the ~~medical assistance~~ medicaid program. County departments shall provide the case management if required by the department in accordance with rules adopted ~~by the director of job and family services~~ under section 5164.02 of the Revised Code.

The department shall determine, for the purposes of claiming federal ~~reimbursement under the medical assistance program~~ financial participation, whether it will claim expenditures for nonemergency transportation services as administrative or program expenditures.

~~Sec. 5111.96~~ 5164.90. (A) As used in this section, "MFP demonstration project" means a money follows the person demonstration project that the United States secretary of health and human services is authorized to award under section 6071 of the "Deficit Reduction Act of 2005" (Pub. L. No. 109-171, as amended).

(B) To the extent funds are available under an MFP demonstration project awarded to the department of ~~job and family services~~ medicaid, the director of ~~job and family services~~ medicaid may operate the helping Ohioans move, expanding (HOME) choice demonstration component of the medicaid program to transition medicaid recipients who qualify for the

demonstration component to community settings. ~~The director may adopt rules in accordance with Chapter 119. of the Revised Code for the administration and operation of the demonstration component.~~

~~Sec. 5111.981 5164.91. (A) As used in this section and section 5111.982 of the Revised Code:~~

~~"Dual eligible individual" has the same meaning as in the "Social Security Act," section 1915(h)(2)(B), 42 U.S.C. 1396n(h)(2)(B).~~

~~"Medicare" means the program created in the "Social Security Act," Title XVIII, 42 U.S.C. 1395 et seq., as amended.~~

~~(B) Subject to division (C) of this section, the medical assistance The medicaid director may implement a demonstration project called the integrated care delivery system to test and evaluate the integration of the care that dual eligible individuals receive under medicare and medicaid. No provision of Title LI of the Revised Code applies to the integrated care delivery system if that provision implements or incorporates a provision of federal law governing medicaid and that provision of federal law does not apply to the system.~~

~~(C) Before implementing the integrated care delivery system under division (B) of this section, the director shall obtain the approval of the United States secretary of health and human services in the form of a federal medicaid waiver, medicaid state plan amendment, or demonstration grant. The director is required to seek the federal approval only if the director seeks to implement the integrated care delivery system. The director shall implement the integrated care delivery system in accordance with the terms of the federal approval, including the terms regarding the duration of the system.~~

Sec. 5164.911. (A) If the medicaid director implements the integrated care delivery system and except as provided in division (D) of this section, the director shall annually evaluate all of the following:

(1) The health outcomes of ICDS participants;

(2) How changes to the administration of the ICDS affect all of the following:

(a) Claims processing;

(b) The appeals process;

(c) The number of reassessments requested;

(d) Prior authorization requests for services.

(3) The provider panel selection process used by medicaid managed care organizations participating in the ICDS.

(B) When conducting an evaluation under division (A) of this section, the director shall do all of the following:

(1) For the purpose of division (A)(1) of this section, do both of the following:

(a) Compare the health outcomes of ICDS participants to the health outcomes of individuals who are not ICDS participants;

(b) Use both of the following:

(i) A control group consisting of ICDS participants who receive health care services from providers not participating in ICDS;

(ii) A control group consisting of ICDS participants who receive health care services from alternative providers that are not part of a participating medicaid managed care organization's provider panel but provide health care services in the geographic service area in which ICDS participants receive health care services.

(2) For the purpose of division (A)(2) of this section, do all of the following:

(a) To the extent the data is available, use data from all of the following:

(i) The fee-for-service component of the medicaid program;

(ii) Medicaid managed care organizations;

(iii) Managed care organizations participating in the medicare advantage program established under Part C of Title XVIII of the "Social Security Act," 42 U.S.C. 1395w-21 et seq.

(b) Identify all of the following:

(i) Changes in the amount of time it takes to process claims and the number of claims denied and the reasons for the changes;

(ii) The impact that changes to the administration of the ICDS had on the appeals process and number of reassessments requested;

(iii) The number of prior authorization denials that were overturned and the reasons for the overturned denials.

(3) Require medicaid managed care organizations participating in the ICDS to submit to the director any data the director needs for the evaluation.

(C) Not later than the first day of each July, the director shall complete a report of the evaluation conducted under this section. The director shall provide a copy of the report to the general assembly in accordance with section 101.68 of the Revised Code and make the report available to the public.

(D) The director is not required to conduct an evaluation under this section for a year if the same evaluation is conducted for that year by an organization under contract with the United States department of health and human services.

Sec. 5111.0210 5164.92. As used in this section, "advanced diagnostic imaging services" means magnetic resonance imaging services, computed

tomography services, positron emission tomography services, cardiac nuclear medicine services, and similar imaging services.

~~Not later than January 1, 2010, the~~ The department of ~~job and family services~~ medicaid shall implement evidence-based, best practice guidelines or protocols and decision support tools for advanced diagnostic imaging services ~~available under~~ covered by the fee-for-service component of the medicaid program.

Sec. ~~5111.0215~~ 5164.93. (A) The department of ~~job and family services~~ medicaid may establish a program under which it provides incentive payments, as authorized by the "~~Health Information Technology for Economic and Clinical Health~~ Social Security Act," ~~123 Stat. 489 (2009)~~ section 1903(a)(3)(F) and (t), 42 U.S.C. 1396b(a)(3)(F) and ~~1396b(t)~~, as ~~amended~~, to encourage the adoption and use of electronic health record technology by medicaid providers who are identified under that federal law as eligible professionals.

(B) After the department has made a determination regarding the amount of a medicaid provider's electronic health record incentive payment or the denial of an incentive payment, the department shall notify the provider. The provider may request that the department reconsider its determination.

A request for reconsideration shall be submitted in writing to the department not later than fifteen days after the provider receives notification of the determination. The request shall be accompanied by written materials setting forth the basis for, and supporting, the reconsideration request.

On receipt of a timely request, the department shall reconsider the determination. On the basis of the written materials accompanying the request, the department may uphold, reverse, or modify its original determination. The department shall mail to the provider by certified mail a written notice of the reconsideration decision.

In accordance with Chapter 2505. of the Revised Code, the medicaid provider may appeal the reconsideration decision by filing a notice of appeal with the court of common pleas of Franklin county. The notice shall identify the decision being appealed and the specific grounds for the appeal. The notice of appeal shall be filed not later than fifteen days after the department mails its notice of the reconsideration decision. A copy of the notice of appeal shall be filed with the department not later than three days after the notice is filed with the court.

(C) The medicaid director of ~~job and family services~~ may adopt rules ~~in accordance with Chapter 119.~~ under section 5162.02 of the Revised Code as necessary to implement this section. The rules, if any, shall be adopted in

accordance with Chapter 119. of the Revised Code.

Sec. ~~5111.20~~ 5165.01. As used in sections ~~5111.20 to 5111.331~~ of the Revised Code this chapter:

(A) "Affiliated operator" means an operator affiliated with either of the following:

(1) The exiting operator for whom the affiliated operator is to assume liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;

(2) The entering operator involved in the change of operator with the exiting operator specified in division (A)(1) of this section.

(B) "Allowable costs" are those a nursing facility's costs determined by that the department of job and family services to be medicaid determines are reasonable and do not include fines. Fines paid under sections ~~5111.35~~ 5165.60 to ~~5111.64~~ 5165.89 and section ~~5111.99~~ 5165.99 of the Revised Code are not allowable costs.

(B)(C) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs, tax costs, or capital costs. "Ancillary and support costs" includes, but is not limited to, costs of activities, social services, pharmacy consultants, habilitation supervisors, qualified mental retardation professionals, program directors, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, medical equipment, utilities, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services under section ~~5111.02~~ 5165.02 of the Revised Code, for personnel listed in this division. "Ancillary and support costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the nursing facility's cost report for the cost reporting period ending December 31, 1992.

(C)(D)(1) "Capital costs" means costs of ownership and, in the case of an intermediate care facility for the mentally retarded, costs of nonextensive

renovation the actual expense incurred by a nursing facility for all of the following:

(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements;

(iii) Except as provided in division (C) of this section, equipment;

(iv) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Lease and rent of land, buildings, and equipment.

(2) The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.

(1) "Cost of ownership" means the actual expense incurred for all of the following:

(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements that are not approved as nonextensive renovations under section 5111.251 of the Revised Code;

(iii) Except as provided in division (B) of this section, equipment;

(iv) In the case of an intermediate care facility for the mentally retarded, extensive renovations;

(v) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment.

The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.

(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.

(D)(E) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

(E) "Case-mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct care resources needed to

~~provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.~~

(F) "Case-mix score" means a measure determined under section 5165.192 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a nursing facility resident.

(G) "Change of operator" means an entering operator becoming the operator of a nursing facility in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing facility is also transferred;

(c) A lease of the nursing facility to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing facility as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(H) "Cost center" means the following:

(1) Ancillary and support costs;

(2) Capital costs;

(3) Direct care costs;

(4) Tax costs.

(I) "Custom wheelchair" means a wheelchair to which both of the following apply:

(1) It has been measured, fitted, or adapted in consideration of either of the following:

(a) The body size or disability of the individual who is to use the wheelchair;

(b) The individual's period of need for, or intended use of, the wheelchair.

(2) It has customized features, modifications, or components, such as adaptive seating and positioning systems, that the supplier who assembled the wheelchair, or the manufacturer from which the wheelchair was ordered, added or made in accordance with the instructions of the physician of the individual who is to use the wheelchair.

(J)(1) "Date of licensure;" for a means the following:

(a) In the case of a nursing facility originally that was required by law to be licensed as a nursing home under Chapter 3721. of the Revised Code when it originally began to be operated as a nursing home, means the date specific beds were the nursing facility was originally so licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.;

If (b) In the case of a nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were facility that was not required by law to be licensed as a nursing home when they were it originally used to provide began to be operated as a nursing home or residential facility services, "date of licensure" means the date the beds it first were used to provide began to be operated as a nursing home or residential facility services, regardless of the date the present provider obtained licensure nursing facility was first licensed as a nursing home.

(2) If a facility adds, after a nursing facility's original date of licensure, more nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure are added to the nursing facility, it will have the nursing facility has a different date of

licensure for the additional beds ~~or extensively renovated portion of the facility, unless the beds are added in a space. This does not apply, however, to additional beds when both of the following apply:~~

~~(a) The additional beds are located in a part of the nursing facility that was constructed at the same time as the previously licensed continuing beds but already located in that part of the nursing facility;~~

~~(b) The part of the nursing facility in which the additional beds are located was constructed as part of the nursing facility at a time when the nursing facility was not required by law to be licensed under Chapter 3721, or section 5123.19 of the Revised Code at that time as a nursing home.~~

~~(2)(3) The definition of "date of licensure" in this section applies in determinations of the nursing facilities' medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded payment rates but does not apply in determinations of the nursing facilities' franchise permit fee for a nursing facility or intermediate care facility for the mentally retarded fees.~~

~~(G)(K) "Desk-reviewed" means that a nursing facility's costs as reported on a cost report submitted under section 5111.26 5165.10 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 5165.108 of the Revised Code and preliminarily determined to be allowable costs.~~

~~(H)(L) "Direct care costs" means all of the following costs incurred by a nursing facility:~~

~~(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the nursing facility;~~

~~(b)(2) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, and except as provided in division (H)(2)(L)(8) of this section, other persons holding degrees qualifying them to provide therapy;~~

~~(c)(3) Costs of purchased nursing services;~~

~~(d)(4) Costs of quality assurance;~~

~~(e)(5) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119, under section 5165.02 of the Revised Code, for personnel listed in divisions (H)(L)(1)(a), (b)(2), and (d)(4), and (8) of this section;~~

~~(f)(6) Costs of consulting and management fees related to direct care;~~

~~(g)(7) Allocated direct care home office costs;~~

~~(2) In addition to the costs specified in division (H)(1) of this section,~~

~~for nursing facilities only, direct care costs include costs:~~

~~(8) Costs of habilitation staff (other than habilitation supervisors), medical supplies, emergency oxygen, over-the-counter pharmacy products, behavioral and mental health services, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, wheelchairs, resident transportation, and universal precautions supplies;~~

~~(3) In addition to the costs specified in division (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:~~

~~(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified mental retardation professionals, program directors, social services staff, activities staff, off-site day programming, psychologists and psychology assistants, and social workers and counselors;~~

~~(b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in division (H)(3)(a) of this section.~~

~~(4)(9) Until January 1, 2014, costs of oxygen, wheelchairs, and resident transportation;~~

~~(10) Beginning January 1, 2014, costs of both of the following:~~

~~(a) Emergency oxygen;~~

~~(b) Wheelchairs other than the following:~~

~~(i) Custom wheelchairs;~~

~~(ii) Repairs to and replacements of custom wheelchairs and parts that are made in accordance with the instructions of the physician of the individual who uses the custom wheelchair.~~

~~(11) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5111.02 5165.02 of the Revised Code.~~

~~(H)(M) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.~~

~~(N) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility.~~

~~(O) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility resides in the nursing facility.~~

~~(P) "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the~~

nursing facility.

(Q) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid residents other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.

(R) "Entering operator" means the person or government entity that will become the operator of a nursing facility when a change of operator occurs or following an involuntary termination.

(S) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of a nursing facility on the effective date of a change of operator;

(2) An operator that will cease to be the operator of a nursing facility on the effective date of a facility closure;

(3) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation;

(4) An operator of a nursing facility that is undergoing or has undergone an involuntary termination.

(T)(1) Subject to divisions (T)(2) and (3) of this section, "facility closure" means either of the following:

(a) Discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility that results in the relocation of all of the nursing facility's residents;

(b) Conversion of the building, or part of the building, that houses a nursing facility to a different use with any necessary license or other approval needed for that use being obtained and one or more of the nursing facility's residents remaining in the building, or part of the building, to receive services under the new use.

(2) A facility closure occurs regardless of any of the following:

(a) The operator completely or partially replacing the nursing facility by constructing a new nursing facility or transferring the nursing facility's license to another nursing facility;

(b) The nursing facility's residents relocating to another of the operator's nursing facilities;

(c) Any action the department of health takes regarding the nursing facility's medicaid certification that may result in the transfer of part of the nursing facility's survey findings to another of the operator's nursing facilities;

(d) Any action the department of health takes regarding the nursing facility's license under Chapter 3721. of the Revised Code.

(3) A facility closure does not occur if all of the nursing facility's

residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the nursing facility not later than thirty days after the evacuation occurs.

(U) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

~~(J)(V)~~ "Franchise permit fee" means ~~the following:~~

~~(1) In the context of nursing facilities, the fee imposed by sections 3721.50 5168.40 to 3721.58 5168.56 of the Revised Code;~~

~~(2) In the context of intermediate care facilities for the mentally retarded, the fee imposed by sections 5112.30 to 5112.39 of the Revised Code.~~

~~(K) "Indirect care costs" means all reasonable costs incurred by an intermediate care facility for the mentally retarded other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help wanted advertising, informational advertising, start up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in this division. Notwithstanding division (C)(1) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.~~

~~(L)(W)~~ "Inpatient days" means ~~the following:~~

~~(1) In the context of a nursing facility, both of the following:~~

~~(a)(1) All days during which a resident, regardless of payment source, occupies a bed in a nursing facility that is included in the nursing facility's certified medicaid-certified capacity under Title XIX;~~

~~(b)(2) Fifty per cent of the days for which payment is made under section 5111.331 5165.34 of the Revised Code.~~

~~(2) In the context of an intermediate care facility for the mentally retarded, both of the following:~~

~~(a) All days during which a resident, regardless of payment source, occupies a bed in an intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX;~~

~~(b) All days for which payment is made under section 5111.33 of the Revised Code.~~

~~(M) "Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX.~~

~~(N)(X) "Involuntary termination" means the department of medicaid's termination of the operator's provider agreement for the nursing facility when the termination is not taken at the operator's request.~~

~~(Y) "Low resource utilization resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid payment rate for direct care costs, is placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data.~~

~~(Z) "Maintenance and repair expenses" means, except as provided in division (BB)(2) of this section, a nursing facility's expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the cost costs of ordinary repairs such as painting and wallpapering.~~

~~(O)(AA) "Medicaid-certified capacity" means the number of a nursing facility's beds that are certified for participation in medicaid as nursing facility beds.~~

~~(BB) "Medicaid days" means the following:~~

~~(1) In the context of a nursing facility, both of the following:~~

~~(a)(1) All days during which a resident who is a medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's ~~certified~~ medicaid-certified capacity under Title XIX;~~

~~(b)(2) Fifty per cent of the days for which payment is made under section ~~5111.33~~ 5165.34 of the Revised Code.~~

~~(2) In the context of an intermediate care facility for the mentally retarded, both of the following:~~

~~(a) All days during which a resident who is a medicaid recipient eligible for intermediate care facility for the mentally retarded services occupies a bed in an intermediate care facility for the mentally retarded that is included~~

~~in the facility's certified capacity under Title XIX;~~

~~(b) All days for which payment is made under section 5111.33 of the Revised Code.~~

~~(P)(CC)(1) "New nursing facility" means a nursing facility for which the provider obtains an initial provider agreement following medicaid certification of the nursing facility by the director of health, including such a nursing facility that replaces one or more nursing facilities for which a provider previously held a provider agreement.~~

~~(2) "New nursing facility" does not mean a nursing facility for which the entering operator seeks a provider agreement pursuant to section 5165.511 or 5165.512 or (pursuant to section 5165.515) section 5165.07 of the Revised Code.~~

~~(DD) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is certified as a skilled nursing facility by the director in accordance with Title XVIII has the same meaning as in the "Social Security Act," section 1919(a), 42 U.S.C. 1396r(a).~~

~~(Q)(EE) "Nursing facility services" has the same meaning as in the "Social Security Act," section 1905(f), 42 U.S.C. 1396d(f).~~

~~(FF) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.~~

~~(GG) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility or intermediate care facility for the mentally retarded.~~

~~(R) "Other protected costs" means costs incurred by an intermediate care facility for the mentally retarded for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted under section 5111.02 of the Revised Code.~~

~~(S)(HH)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing facility or intermediate care facility for the mentally retarded:~~

- ~~(a) The land on which the nursing facility is located;~~
- ~~(b) The structure in which the nursing facility is located;~~
- ~~(c) Any mortgage, contract for deed, or other obligation secured in~~

whole or in part by the land or structure on or in which the nursing facility is located;

(d) Any lease or sublease of the land or structure on or in which the nursing facility is located.

(2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility ~~or intermediate care facility for the mentally retarded~~ and purchased at public issue or a regulated lender that has made a loan related to the nursing facility unless the holder or lender operates the nursing facility directly or through a subsidiary.

~~(T)~~ "Patient" includes "resident."

~~(U)~~ Except as provided in divisions ~~(U)(1) and (2) of this section,~~ "per ~~(II)~~ "Per diem" means a nursing facility's ~~or intermediate care facility for the mentally retarded's~~ actual, allowable costs in a given cost center in a cost reporting period, divided by the nursing facility's inpatient days for that cost reporting period.

~~(1) When calculating indirect care costs for the purpose of establishing rates under section 5111.241 of the Revised Code, "per diem" means an intermediate care facility for the mentally retarded's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty five per cent.~~

~~(2) When calculating capital costs for the purpose of establishing rates under section 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety five per cent.~~

~~(V)~~(JJ) "Provider" means an operator with a provider agreement.

~~(W)~~(KK) "Provider agreement" means a contract provider agreement, as defined in section 5164.01 of the Revised Code, that is between the department of ~~job and family services~~ medicaid and the operator of a nursing facility ~~or intermediate care facility for the mentally retarded~~ for the provision of nursing facility services ~~or intermediate care facility services for the mentally retarded~~ under the medicaid program.

~~(X)~~(LL) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the nursing facility.

~~(Y)~~(MM) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care

facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

~~(Z)~~(NN) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities ~~or intermediate care facilities for the mentally retarded~~ from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by ~~the~~ nursing facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

~~(AA)~~(OO) "Relative of owner" means an individual who is related to an owner of a nursing facility ~~or intermediate care facility for the mentally retarded~~ by one of the following relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

- (4) Stepparent, stepchild, stepbrother, or stepsister;
- (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;
- (6) Grandparent or grandchild;
- (7) Foster caregiver, foster child, foster brother, or foster sister.

~~(BB) "Renovation" and "extensive renovation" mean:~~

~~(1) Any betterment, improvement, or restoration of an intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992.~~

~~(2) In the case of betterments, improvements, and restorations of intermediate care facilities for the mentally retarded started on or after July 1, 1993:~~

~~(a) "Renovation" means the betterment, improvement, or restoration of an intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.~~

~~(b) "Extensive renovation" means a renovation that costs more than sixty five per cent and no more than eighty five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.~~

~~For the purposes of division (BB)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~

~~The department of job and family services may treat a renovation that costs more than eighty five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.~~

~~(CC)(PP) "Residents' rights advocate" has the same meaning as in~~

section 3721.10 of the Revised Code.

(QQ) "Skilled nursing facility" has the same meaning as in the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a).

(RR) "Sponsor" has the same meaning as in section 3721.10 of the Revised Code.

(SS) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.

~~(DD)~~(TT) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended et seq.

~~(EE)~~(UU) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended et seq.

(VV) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.

Sec. ~~5111.201~~ 5165.011. ~~Whenever~~ (A) Except as provided in division (B) of this section, whenever "skilled nursing facility," "intermediate care facility," or "dual skilled nursing and intermediate care facility" is referred to or designated in any statute, rule, contract, provider agreement, or other document pertaining to the ~~medical assistance~~ medicaid program, the reference or designation is deemed to refer to a nursing facility, ~~except that~~ a.

(B) A reference to or designation of an "intermediate care facility for the ~~mentally retarded~~ individuals with intellectual disabilities" or "ICF/IID" is not deemed to refer to a nursing facility.

Sec. 5165.02. The medicaid director shall adopt rules as necessary to implement this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. ~~5111.202~~ 5165.03. (A) As used in this section:

(1) "Dementia" includes Alzheimer's disease or a related disorder.

(2) "Serious mental illness" means "serious mental illness," as defined by the United States department of health and human services in regulations adopted under ~~section 1919(e)(7)(G)(i) of the "Social Security Act," 49 Stat. 620 (1935)~~ section 1919(e)(7)(G)(i), 42 U.S.C.A. 301, as amended 1396r(e)(7)(G)(i).

(3) "Mentally ill individual" means an individual who has a serious mental illness other than either of the following:

(a) A primary diagnosis of dementia;

(b) A primary diagnosis that is not a primary diagnosis of dementia and

a primary diagnosis of something other than a serious mental illness.

(4) "Mentally retarded individual" means an individual who is mentally retarded or has a related condition, as described in ~~section 1905(d) of the~~ "Social Security Act," section 1905(d), 42 U.S.C. 1396d(d).

(5) "Specialized services" means the services specified by the United States department of health and human services in regulations adopted under ~~section 1919(e)(7)(G)(iii) of the~~ "Social Security Act," section 1919(e)(7)(G)(iii), 42 U.S.C. 1396r(e)(7)(G)(iii).

(B)(1) Except as provided in division (D) of this section, no nursing facility shall admit as a resident any mentally ill individual unless the facility has received evidence that the department of ~~mental health~~ mental health and addiction services has determined both of the following under ~~section 5119.061~~ 5119.40 of the Revised Code:

(a) That the individual requires the level of services provided by a nursing facility because of the individual's physical and mental condition;

(b) Whether the individual requires specialized services for mental illness.

(2) Except as provided in division (D) of this section, no nursing facility shall admit as a resident any mentally retarded individual unless the facility has received evidence that the department of developmental disabilities has determined both of the following under section 5123.021 of the Revised Code:

(a) That the individual requires the level of services provided by a nursing facility because of the individual's physical and mental condition;

(b) Whether the individual requires specialized services for mental retardation.

(C) The department of ~~job and family services~~ medicaid shall not make medicaid payments ~~under the medical assistance program~~ to a nursing facility on behalf of any individual who is admitted to the facility in violation of division (B) of this section for the period beginning on the date of admission and ending on the date the requirements of division (B) of this section are met.

(D) A determination under division (B) of this section is not required for any individual who is exempted from the requirement that a determination be made by division (B)(2) of section ~~5119.061~~ 5119.40 of the Revised Code or rules adopted by the department of ~~mental health~~ mental health and addiction services under division (E)(3) of that section, or by division (B)(2) of section 5123.021 of the Revised Code or rules adopted by the department of developmental disabilities under division (E)(3) of that section.

~~Sec. 5111.203~~ 5165.031. ~~Regardless of whether or not an applicant~~ An

~~individual who applies for admission to a nursing facility or resident of~~
~~resides in a nursing facility is an applicant for or recipient of medical~~
~~assistance, the department of job and family services shall provide notice~~
~~and an opportunity for a hearing to any applicant for admission to a nursing~~
~~facility or resident of a nursing facility who is~~ may appeal if ~~adversely~~
~~affected by a determination made by the department of mental health~~ mental
health and addiction services ~~under section 5119.061~~ 5119.40 ~~of the Revised~~
~~Code or by the department of developmental disabilities under section~~
~~5123.021 of the Revised Code. The hearing shall be conducted in the same~~
~~manner as hearings conducted under~~ If the individual is an applicant for or
recipient of medicaid, the individual may appeal pursuant to section 5160.31
of the Revised Code. If the individual is not an applicant for or recipient of
medicaid, the individual may appeal pursuant to a process the department of
medicaid shall establish, which shall be similar to the appeals process
established by section 5101.35 of the Revised Code. The department of
medicaid shall provide notice of the right to appeal to individuals adversely
affected by determinations made under sections 5119.40 and 5123.021 of
the Revised Code. Any decision made by the department of job and family
services on the basis of the hearing such an appeal is binding on the
department of mental health mental health and addiction services ~~and the~~
~~department of developmental disabilities.~~

Sec. ~~5111.204~~ 5165.04. (A) As used in this section, "representative" means a person acting on behalf of an applicant for or recipient of medicaid. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant or recipient.

(B) The department of ~~job and family services~~ medicaid may require each applicant for or recipient of medicaid who applies or intends to apply for admission to a nursing facility or resides in a nursing facility to undergo an assessment to determine whether the applicant or recipient needs the level of care provided by a nursing facility. The assessment may be performed concurrently with a long-term care consultation provided under section 173.42 of the Revised Code.

To the maximum extent possible, the assessment shall be based on information from the resident assessment instrument specified in rules ~~adopted~~ authorized ~~by the director of job and family services under division~~ ~~(E)~~ ~~of section 5111.232~~ 5165.191 of the Revised Code. The assessment shall also be based on criteria and procedures established in rules ~~adopted under~~ authorized by ~~division (F) of this section and information provided by the person being assessed or the person's representative.~~

The department of ~~job and family services~~ medicaid, or if the

assessment is performed by an agency under contract with the department pursuant to division (G) of this section, the agency, shall, not later than the time the level of care determination based on the assessment is required to be provided under division (C) of this section, give written notice of its conclusions and the basis for them to the person assessed and, if the department ~~of job and family services~~ or agency under contract with the department has been informed that the person has a representative, to the representative.

(C) The department ~~of job and family services~~ or agency under contract with the department, whichever performs the assessment, shall provide a level of care determination based on the assessment as follows:

(1) In the case of a person applying or intending to apply for admission to a nursing facility while hospitalized, not later than one of the following:

(a) One working day after the person or the person's representative submits the application or notifies the department of the person's intention to apply and submits all information required for providing the level of care determination, as specified in rules ~~adopted under~~ authorized by division (F)(2) of this section;

(b) A later date requested by the person or the person's representative.

(2) In the case of a person applying or intending to apply for admission to a nursing facility who is not hospitalized, not later than one of the following:

(a) Five calendar days after the person or the person's representative submits the application or notifies the department of the person's intention to apply and submits all information required for providing the level of care determination, as specified in rules ~~adopted under~~ authorized by division (F)(2) of this section;

(b) A later date requested by the person or the person's representative.

(3) In the case of a person who resides in a nursing facility, not later than one of the following:

(a) Five calendar days after the person or the person's representative submits an application for ~~medical assistance~~ medicaid and submits all information required for providing the level of care determination, as specified in rules ~~adopted under~~ authorized by division (F)(2) of this section;

(b) A later date requested by the person or the person's representative.

(4) In the case of an emergency, as specified in rules ~~adopted under~~ authorized by division (F)(4) of this section, within the number of days specified in the rules.

(D) A person assessed under this section or the person's representative may ~~request a state hearing to dispute~~ appeal the conclusions reached by the

department of ~~job and family services~~ or agency under contract with the department on the basis of the assessment. The ~~request for a state hearing appeal~~ shall be made ~~in accordance with~~ pursuant to section ~~5101.35~~ ~~5160.31~~ of the Revised Code. The department of ~~job and family services~~ or agency under contract with the department shall provide to the person or the person's representative and the nursing facility written notice of the person's right to request a state hearing. The notice shall include an explanation of the procedure for requesting a state hearing. If a state hearing is requested, the state shall be represented in the hearing by the department of ~~job and family services~~ or the agency under contract with the department, whichever performed the assessment.

(E) A nursing facility that admits or retains a person determined pursuant to an assessment required under this section not to need the level of care provided by the nursing facility shall not be ~~reimbursed~~ paid under the medicaid program for the person's care.

(F) The medicaid director of ~~job and family services~~ shall adopt rules ~~in accordance with Chapter 119.~~ under section 5165.02 of the Revised Code to implement and administer this section. The rules shall include all of the following:

(1) Criteria and procedures to be used in determining whether admission to a nursing facility or continued stay in a nursing facility is appropriate for the person being assessed;

(2) Information the person being assessed or the person's representative must provide to the department or agency under contract with the department for purposes of the assessment and providing a level of care determination based on the assessment;

(3) Circumstances under which a person is not required to be assessed;

(4) Circumstances that constitute an emergency for purposes of division (C)(4) of this section and the number of days within which a level of care determination must be provided in the case of an emergency.

(G) Pursuant to section ~~5111.91~~ 5162.35 of the Revised Code, the department of ~~job and family services~~ medicaid may enter into contracts in the form of interagency agreements with one or more other state agencies to perform the assessments required under this section. The interagency agreements shall specify the responsibilities of each agency in the performance of the assessments.

Sec. ~~5111.21~~ 5165.06. (A) ~~In order to be~~ Subject to section 5165.072 of the Revised Code, an operator is eligible for medicaid payments, the operator of to enter into a provider agreement for a nursing facility or intermediate care facility for the mentally retarded shall do if all of the

following apply:

~~(1) Enter into a provider agreement with the department as provided in section 5111.22, 5111.671, or 5111.672 of the Revised Code (A) The nursing facility is certified by the director of health for participation in medicaid;~~

~~(2) Apply for and maintain a valid license to operate (B) The nursing facility is licensed by the director of health as a nursing home if so required by law;~~

~~(3) Subject to division (B) of this section, (C) The operator and nursing facility comply with all applicable state and federal laws and rules.~~

~~(B) A state rule that requires the operator of an intermediate care facility for the mentally retarded to have received approval of a plan for the proposed facility pursuant to section 5123.042 of the Revised Code as a condition of the operator being eligible for medicaid payments for the facility does not apply if, under former section 5123.193 of the Revised Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly or section 5123.197 of the Revised Code, a residential facility license was obtained or modified for the facility without obtaining approval of such a plan.~~

~~(C)(1) Except as provided in division (C)(2) of this section, the operator of a nursing facility that elects to obtain and maintain eligibility for payments under the medicaid program shall qualify all of the facility's medicaid-certified beds in the medicare program established by Title XVIII. The director of job and family services may adopt rules under section 5111.02 of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.~~

~~(2) The department of veterans services is not required to qualify all of the medicaid-certified beds in a nursing facility the agency maintains and operates under section 5907.01 of the Revised Code in the medicare program.~~

Sec. 5111.22 5165.07. (A) Except as provided in section 5165.072 of the Revised Code, the department of medicaid shall enter into a provider agreement with a nursing facility operator who applies, and is eligible, for the provider agreement.

(B) A provider agreement between the department of job and family services and the provider of a nursing facility or intermediate care facility for the mentally retarded shall contain require the following provisions:

(A) The department agrees to make medicaid payments to the provider, as provided in sections 5111.20 to 5111.331 of the Revised Code, in accordance with this chapter for medicaid-covered nursing facility services

the nursing facility provides to ~~a resident of the~~ its residents who are medicaid recipients eligible for nursing facility who is a medicaid recipient services. ~~No payment shall be made for the day a medicaid recipient is discharged from the facility.~~

~~(B)~~ (C) A provider agreement shall require the provider agrees to do all of the following:

(1) Maintain eligibility for the provider agreement as provided in section ~~5111.21~~ 5165.06 of the Revised Code;

(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with ~~division (B) of~~ section ~~5111.27~~ 5165.109 of the Revised Code, six years after all appeal rights relating to the audit report are exhausted;

(3) File reports as required by the department;

(4) Open all records relating to the costs of ~~its~~ the nursing facility's services for inspection and audit by the department;

(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect;

(6) Supply to the department such information as it requires concerning the nursing facility's services to residents who are, or are eligible to be, medicaid recipients;

(7) Comply with section ~~5111.31~~ 5165.08 of the Revised Code.

~~The~~ (D) A provider agreement may contain other provisions that are consistent with law and considered necessary by the department.

~~A provider agreement shall be effective for no longer than twelve months, except that if federal statute or regulations authorize a longer term, it may be effective for a longer term so authorized. A provider agreement may be renewed only if the facility is certified by the department of health for participation in the medicaid program.~~

~~The department of job and family services, in accordance with rules adopted under section 5111.02 of the Revised Code, may elect not to enter into, not to renew, or to terminate a provider agreement when the department determines that such an agreement would not be in the best interests of medicaid recipients or of the state.~~

~~Sec. 5111.223 5165.071. The A nursing facility operator of a nursing facility or intermediate care facility for the mentally retarded may enter into provider agreements for more than one nursing facility or intermediate care facility for the mentally retarded.~~

Sec. 5165.072. The department of medicaid shall not revalidate a nursing facility provider agreement if the provider fails to maintain

eligibility for the provider agreement as provided in section 5165.06 of the Revised Code.

~~Sec. 5111.30~~ 5165.073. The department of ~~job and family services~~ medicaid shall terminate the provider agreement with a nursing facility provider that does not comply with the requirements of section 3721.071 of the Revised Code for the installation of fire extinguishing and fire alarm systems.

~~Sec. 5111.31~~ 5165.08. (A) As used in this section:

"Bed need" means the number of long-term care beds a county needs as determined by the director of health pursuant to division (B)(3) of section 3702.593 of the Revised Code.

"Bed need excess" means that a county's bed need is such that one or more long-term care beds may be relocated from the county according to the director's determination of the county's bed need.

~~(B) Every provider agreement with the a nursing facility provider of a nursing facility or intermediate care facility for the mentally retarded shall do both of the following:~~

(1) Permit the provider to exclude one or more parts of the nursing facility from the provider agreement, even though those parts meet federal and state standards for medicaid certification, if all of the following apply:

(a) The nursing facility initially obtained both its nursing home license under Chapter 3721. of the Revised Code and medicaid certification on or after January 1, 2008.

(b) The nursing facility is located in a county that has a bed need excess at the time the provider excludes the parts from the provider agreement.

(c) Federal law permits the provider to exclude the parts from the provider agreement.

(d) The provider gives the department of medicaid written notice of the exclusion not less than forty-five days before the first day of the calendar quarter in which the exclusion is to occur.

(2) Prohibit the provider from doing either of the following:

(a) Discriminating against a resident on the basis of race, color, sex, creed, or national origin;

(b) Subject to division (D) of this section, failing or refusing to ~~retain~~ do either of the following:

(i) Except as otherwise prohibited under section 5165.82 of the Revised Code, admit as a resident of the nursing facility an individual because the individual is, or may (as a resident of the nursing facility) become, a medicaid recipient unless at least twenty-five per cent of the nursing facility's medicaid-certified beds are occupied by medicaid recipients at the

time the person would otherwise be admitted:

~~(ii) Retain as a patient any person resident of the nursing facility an individual because the person individual is, becomes, or may (as a resident of the nursing facility) become, as a patient in the facility, become a medicaid recipient. For the purposes of this division, a medicaid recipient who is a patient in a facility shall be considered a patient in the facility during any hospital stays totaling less than twenty five days during any twelve month period. Recipients who have been identified by the department of job and family services or its designee as requiring the level of care of an intermediate care facility for the mentally retarded shall not be subject to a maximum period of absences during which they are considered patients if prior authorization of the department for visits with relatives and friends and participation in therapeutic programs is obtained under rules adopted under section 5111.02 of the Revised Code.~~

~~(2) Except as provided by division (B)(1) of this section, include any part of the facility that meets standards for certification of compliance with federal and state laws and rules for participation in the medicaid program.~~

~~(3) Prohibit the provider from discriminating against any patient on the basis of race, color, sex, creed, or national origin.~~

~~(4) Except as otherwise prohibited under section 5111.55 of the Revised Code, prohibit the provider from failing or refusing to accept a patient because the patient is, becomes, or may, as a patient in the facility, become a medicaid recipient if less than eighty per cent of the patients in the facility are medicaid recipients.~~

~~(B)(1) Except as provided by division (B)(2) of this section, the following are not required to be included in a provider agreement unless otherwise required by federal law:~~

~~(a) Beds added during the period beginning July 1, 1987, and ending July 1, 1993, to a nursing home licensed under Chapter 3721. of the Revised Code;~~

~~(b) Beds in an intermediate care facility for the mentally retarded that are designated for respite care under a medicaid waiver component operated pursuant to a waiver sought under section 5111.87 of the Revised Code.~~

~~(2) If a provider chooses to include a bed specified in division (B)(1)(a) of this section in a provider agreement, the bed may not be removed from the provider agreement unless the provider withdraws the facility in which the bed is located from the medicaid program.~~

~~(C) For the purpose of division (B)(2)(b)(ii) of this section, a medicaid recipient who is a resident of a nursing facility shall be considered a resident of the nursing facility during any hospital stays totaling less than twenty-five~~

days during any twelve-month period.

(D) Nothing in this section shall bar a provider ~~that~~ from doing any of the following:

(1) If the provider is a religious organization operating a religious or denominational nursing facility ~~or intermediate care facility for the mentally retarded~~ from giving preference to persons of the same religion or denomination. ~~Nothing in this section shall bar any provider from giving:~~

(2) Giving preference to persons with whom the provider has contracted to provide continuing care-

~~(D) Nothing in this section shall bar the provider of;~~

(3) If the nursing facility is a county home organized under Chapter 5155. of the Revised Code ~~from,~~ admitting residents exclusively from the county in which the county home is located-

~~(E) No provider of a nursing facility or intermediate care facility for the mentally retarded for which a provider agreement is in effect shall violate the provider contract obligations imposed under this section.~~

~~(F) Nothing in divisions (A) and (C) of this section shall bar a provider from retaining patients;~~

(4) Retaining residents who have resided in the provider's nursing facility for not less than one year as private pay patients and who subsequently become medicaid recipients, but refusing to accept as a patient resident any person who is, or may, (as a patient in resident of the nursing facility,) become a medicaid recipient, if all of the following apply:

~~(1)(a) The provider does not refuse to retain any patient resident who has resided in the provider's nursing facility for not less than one year as a private pay patient resident because the patient resident becomes a medicaid recipient, except as necessary to comply with division (F)(2)(D)(4)(b) of this section;~~

~~(2)(b) The number of medicaid recipients retained under this division (D)(4) of this section does not at any time exceed ten per cent of all the patients residents in the nursing facility;~~

~~(3)(c) On July 1, 1980, all the patients residents in the nursing facility were private pay patients residents.~~

(E) No provider shall violate the provider agreement obligations imposed by this section.

(F) A nursing facility provider who excludes one or more parts of the nursing facility from a provider agreement pursuant to division (B)(1) of this section does not violate division (C) of section 3702.53 of the Revised Code.

Sec. 5111.32 5165.081. Any patient A nursing facility resident has a

cause of action against ~~the a nursing facility provider of a nursing facility or intermediate care facility for the mentally retarded~~ for breach of the provider agreement obligations or other duties imposed by section ~~5111.31~~ 5165.08 of the Revised Code. The action may be commenced by the ~~patient~~ resident, or on the ~~patient's~~ resident's behalf by the ~~patient's~~ resident's sponsor or a residents' rights advocate, ~~as either is defined under section 3721.10 of the Revised Code,~~ by the filing of a civil action in the court of common pleas of the county in which the nursing facility is located, or in the court of common pleas of Franklin county.

If ~~the a~~ of common pleas finds that a ~~breach of the provider has breached a~~ provider agreement obligations obligation or other duty imposed by section ~~5111.31~~ 5165.08 of the Revised Code ~~has occurred,~~ the court may ~~enjoin~~ do one or more of the following:

(A) Enjoin the provider from engaging in the practice, ~~order;~~

(B) Order such affirmative relief as may be necessary, ~~and award;~~

(C) Award to ~~the patient~~ a resident and a ~~person~~ sponsor or ~~public agency government entity~~ that brings ~~an~~ the action on behalf of a patient resident actual damages, costs, and reasonable attorney's fees.

Sec. ~~5111.26~~ 5165.082. (A) Except as provided in division (B) of this section, the operator of a nursing facility that elects to have the nursing facility participate in the medicaid program shall qualify all of the nursing facility's medicaid-certified beds in the medicare program. The medicaid director may adopt rules under section 5165.02 of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.

(B) The department of veterans services is not required to qualify all of the medicaid-certified beds in a nursing facility the department maintains and operates under section 5907.01 of the Revised Code in the medicare program.

Sec. ~~5111.26~~ 5165.10. (A)(1)(a) Except as provided in division (A)(1)(b)(D) of this section, each nursing facility provider shall file with the department of job and family services medicaid an annual cost report for each of the provider's nursing facilities and intermediate care facilities for the mentally retarded that participate in the medicaid program. A provider shall prepare the reports in accordance with guidelines established by the department. A The cost report for a year shall cover a the calendar year or the portion of a the calendar year during which the nursing facility participated in the medicaid program. A provider shall file the reports within Except as provided in division (E) of this section, the cost report is due not later than ninety days after the end of the calendar year, or portion of the calendar year, that the cost report covers. The department, for good cause,

~~may grant a fourteen-day extension of the time for filing cost reports upon written request from a provider. The director of job and family services shall prescribe, in rules adopted under section 5111.02 of the Revised Code, the cost reporting form and a uniform chart of accounts for the purpose of cost reporting, and shall distribute cost reporting forms or computer software for electronic submission of the cost report to each provider at least sixty days before the reporting date.~~

~~(b) If rates for a provider's nursing facility or intermediate care facility for the mentally retarded were most recently established under section 5111.254 or 5111.255 of the Revised Code, the provider shall submit a cost report for that facility no later than ninety days after the end of the facility's first three full calendar months of operation. If a nursing facility or intermediate care facility for the mentally retarded undergoes a change of provider that the department determines, in accordance with rules adopted under section 5111.02 of the Revised Code, is an arm's length transaction, the new provider shall submit a cost report for that facility not later than ninety days after the end of the facility's first three full calendar months of operation under the new provider. The provider of a facility that opens or undergoes a change of provider that is an arm's length transaction after the first day of October in any calendar year is not required to file a cost report for that calendar year.~~

~~(e)(B) If a nursing facility undergoes a change of provider that the department determines, in accordance with rules adopted under section 5111.02 5165.02 of the Revised Code, is not an ~~arms~~ arm's length transaction, the new provider shall file a the nursing facility's cost report ~~under in accordance with~~ division (A)(1)(a) of this section ~~for the facility.~~ ~~The~~ and the cost report shall cover the portion of the calendar year during which the new provider operated the nursing facility and the portion of the calendar year during which the previous provider operated the nursing facility.~~

~~(2) If a provider required to submit a cost report for a nursing facility or intermediate care facility for the mentally retarded does not file the report within the required time period or within fourteen days thereafter if an extension is granted under division (A)(1)(a) of this section, or files an incomplete or inadequate report for the facility, the department shall provide immediate written notice to the provider that the provider agreement for the facility will be terminated in thirty days unless the provider submits a complete and adequate cost report for the facility within thirty days. During the thirty-day termination period or any additional time allowed for an appeal of the proposed termination of a provider agreement, the provider~~

~~shall be paid the facility's then current per resident per day rate, minus two dollars. On July 1, 1994, the department shall adjust the two dollar reduction to reflect the rate of inflation during the preceding twelve months, as shown in the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics. On July 1, 1995, and the first day of July of each year thereafter, the department shall adjust the amount of the reduction in effect during the previous twelve months to reflect the rate of inflation during the preceding twelve months, as shown in the same index.~~

~~(B) No provider shall report fines paid under sections 5111.35 to 5111.62 or section 5111.99 of the Revised Code in any cost report filed under this section.~~

~~(C) The department shall develop an addendum to the cost report form that a provider may use to set forth costs that the provider believes may be disputed by the department. Any costs reported by the provider on the addendum may be considered by the department in setting the facility's rate. If the department does not consider the costs listed on the addendum in setting the facility's rate, the provider may seek reconsideration of that determination under section 5111.29 of the Revised Code. If the department subsequently includes the costs listed in the addendum in the facility's rate, the department shall pay the provider interest at a reasonable rate established in rules adopted under section 5111.02 of the Revised Code for the time that the rate paid excluded the costs. If the medicaid payment rate for a new nursing facility was most recently determined in accordance with section 5165.151 of the Revised Code, the provider shall file with the department a cost report for the new nursing facility not later than, except as provided in division (E) of this section, ninety days after the end of the new nursing facility's first three full calendar months of operation. The cost report shall cover the period that begins with the nursing facility's first day of operation and ends on the first day of the month immediately following the first three full months of operation.~~

~~(D) A nursing facility provider is not required to file a cost report for a nursing facility for a calendar year in accordance with division (A) of this section if the provider files a cost report for the nursing facility under division (C) of this section and that cost report covers a period that begins after the first day of October of that calendar year. The provider shall file a cost report for the nursing facility in accordance with division (A) of this section for the immediately following calendar year.~~

~~(E) The department may grant to a provider a fourteen-day extension to file a cost report under this section if the provider provides the department a~~

written request for the extension and the department determines that there is good cause for the extension.

Sec. ~~5111.266~~ 5165.101. A nursing facility provider of a nursing facility filing the nursing facility's cost report with the department of job and family services medicaid under section ~~5111.26~~ 5165.10 or 5165.522 of the Revised Code shall report as a nonreimbursable expense the cost of the nursing facility's franchise permit fee.

Sec. 5165.102. No nursing facility provider shall report fines paid under sections 5165.60 to 5165.89 or section 5165.99 of the Revised Code in a cost report filed under section 5165.10 or 5165.522 of the Revised Code.

Sec. 5165.103. Cost reports shall be completed using the form prescribed under section 5165.104 of the Revised Code and in accordance with the guidelines established under that section.

Sec. 5165.104. The department of medicaid shall do all of the following:

(A) Prescribe the form to be used for completing a cost report and a uniform chart of accounts for the purpose of reporting costs on the form;

(B) Distribute a paper copy of the form, or computer software for electronic submission of the form, to each provider at least sixty days before the date the cost report is due;

(C) Establish guidelines for completing the form.

Sec. 5165.105. The department of medicaid shall develop an addendum to the cost report form that a nursing facility provider may use to set forth costs that the provider believes the department may dispute. The department may consider such costs in determining a nursing facility's medicaid payment rate. If the department does not consider such costs in determining a nursing facility's medicaid payment rate, the provider may seek reconsideration of the determination in accordance with section 5165.38 of the Revised Code. If the department subsequently includes such costs in a nursing facility's medicaid payment rate, the department shall pay the provider interest at a reasonable rate established in rules adopted under section 5165.02 of the Revised Code for the period that the rate excluded the costs.

Sec. 5165.106. If a nursing facility provider required by section 5165.10 of the Revised Code to file a cost report for the nursing facility fails to file the cost report by the date it is due or the date, if any, to which the due date is extended pursuant to division (E) of that section, or files an incomplete or inadequate report for the nursing facility under that section, the department of medicaid shall provide immediate written notice to the provider that the provider agreement for the nursing facility will be terminated in thirty days

unless the provider submits a complete and adequate cost report for the nursing facility within thirty days. During the thirty-day termination period or any additional time allowed for an appeal of the proposed termination of a provider agreement, the provider shall be paid the nursing facility's then current per medicaid day payment rate, minus the dollar amount by which nursing facility's per medicaid day payment rates are reduced during fiscal year 2013 in accordance with division (A)(2) of section 5111.26 of the Revised Code (renumbered as section 5165.10 of the Revised Code by H.B. 59 of the 130th general assembly) as that section existed on the day immediately preceding the effective date of this section. On the first day of each July, the department shall adjust the amount of the reduction in effect during the previous twelve months to reflect the rate of inflation during the preceding twelve months, as shown in the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.

Sec. ~~5111.26~~ 5165.107. (A) Except as provided in division (B) of this section and not later than three years after a nursing facility provider files a cost report with the department of ~~job and family services~~ medicaid under section ~~5111.26~~ 5165.10 of the Revised Code, the provider may amend the cost report if the provider discovers a material error in the cost report or additional information to be included in the cost report. The department shall review the amended cost report for accuracy and notify the provider of its determination.

(B) A provider may not amend a cost report if the department has notified the provider that an audit of the cost report or a cost report of the provider for a subsequent cost reporting period is to be conducted under section ~~5111.27~~ 5165.109 of the Revised Code. The provider may, however, provide the department information that affects the costs included in the cost report. Such information may not be provided after the adjudication of the final settlement of the cost report.

Sec. ~~5111.27~~ 5165.108. (A) The department of ~~job and family services~~ medicaid shall conduct a desk review of each cost report it receives under section ~~5111.26~~ 5165.10 or 5165.522 of the Revised Code. Based on the desk review, the department shall make a preliminary determination of whether the reported costs are allowable costs. The department shall notify each nursing facility provider of whether any of the reported costs are preliminarily determined not to be allowable, the medicaid payment rate calculation ~~determined~~ under sections ~~5111.20 to 5111.331~~ of the Revised Code this chapter that results from that determination, and the reasons for the determination and resulting rate. The department shall allow the provider

to verify the calculation and submit additional information.

~~(B) The department may conduct an audit, as defined by rule adopted under section 5111.02 of the Revised Code, of any cost report. The decision whether to conduct an audit and the scope of the audit, which may be a desk or field audit, may be determined based on prior performance of the provider, a risk analysis, or other evidence that gives the department reason to believe that the provider has reported costs improperly. A desk or field audit may be performed annually, but is required whenever a provider does not pass the risk analysis tolerance factors. An audit shall be conducted by auditors under contract with or employed by the department. The department shall notify a provider of the findings of an audit by issuing an audit report. An audit report regarding a nursing facility shall include notice of any fine imposed under section 5111.271 of the Revised Code. The department shall issue the audit report no later than three years after the cost report is filed, or upon the completion of a desk or field audit on the report or a report for a subsequent cost reporting period, whichever is earlier.~~

~~The department may establish a contract for the auditing of facilities by outside firms. Each contract entered into by bidding shall be effective for one to two years. The department shall establish an audit manual and program which shall require that all field audits, conducted either pursuant to a contract or by department employees:~~

~~(1) Comply with the applicable rules prescribed pursuant to Titles XVIII and XIX;~~

~~(2) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants;~~

~~(3) Include a written summary as to whether the costs included in the report examined during the audit are allowable and are presented in accordance with state and federal laws and regulations, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care;~~

~~(4) Are conducted by accounting firms or auditors who, during the period of the auditors' professional engagement or employment and during the period covered by the cost reports, do not have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;~~

~~(5) Are conducted by accounting firms or auditors who, as a condition of the contract or employment, shall not audit any facility that has been a client of the firm or auditor;~~

~~(6) Are conducted by auditors who are otherwise independent as~~

~~determined by the standards of independence included in the government auditing standards produced by the United States government accountability office;~~

~~(7) Are completed within the time period specified by the department;~~

~~(8) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to calculate with reasonable certainty those costs that are allowable and the rate to which the provider's facility is entitled.~~

~~For the purposes of division (B)(4) of this section, employment of a member of an auditor's family by a nursing facility or intermediate care facility for the mentally retarded that the auditor does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.~~

~~(C) The department, pursuant to rules adopted under section 5111.02 of the Revised Code, may conduct an exception review of assessment data submitted under section 5111.232 of the Revised Code. The department may conduct an exception review based on the findings of a certification survey conducted by the department of health, a risk analysis, or prior performance of the provider.~~

~~Exception reviews shall be conducted at the facility by appropriate health professionals under contract with or employed by the department of job and family services. The professionals may review resident assessment forms and supporting documentation, conduct interviews, and observe residents to identify any patterns or trends of inaccurate assessments and resulting inaccurate case mix scores.~~

~~The rules shall establish an exception review program that requires that exception reviews do all of the following:~~

~~(1) Comply with Titles XVIII and XIX;~~

~~(2) Provide a written summary that states whether the resident assessment forms have been completed accurately;~~

~~(3) Are conducted by health professionals who, during the period of their professional engagement or employment with the department, neither have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;~~

~~(4) Are conducted by health professionals who, as a condition of their engagement or employment with the department, shall not review any provider that has been a client of the professional.~~

~~For the purposes of division (C)(3) of this section, employment of a member of a health professional's family by a nursing facility or intermediate care facility for the mentally retarded that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.~~

~~If an exception review is conducted before the effective date of the rate that is based on the case mix data subject to the review and the review results in findings that exceed tolerance levels specified in the rules adopted under this division, the department, in accordance with those rules, may use the findings to recalculate individual resident case mix scores, quarterly average facility case mix scores, and annual average facility case mix scores. The department may use the recalculated quarterly and annual facility average case mix scores to calculate the facility's rate for direct care costs for the appropriate calendar quarter or quarters.~~

~~(D) The department shall prepare a written summary of any audit disallowance or exception review finding that is made after the effective date of the rate that is based on the cost or case mix data. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance or finding, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5111.28 of the Revised Code.~~

~~(E) The department shall not reduce rates calculated under sections 5111.20 to 5111.331 of the Revised Code on the basis that the provider charges a lower rate to any resident who is not eligible for the medicaid program.~~

~~(F) The department shall adjust the rates calculated under sections 5111.20 to 5111.331 of the Revised Code to account for reasonable additional costs that must be incurred by intermediate care facilities for the mentally retarded to comply with requirements of federal or state statutes, rules, or policies enacted or amended after January 1, 1992, or with orders issued by state or local fire authorities.~~

Sec. 5165.109. (A) The department of medicaid may conduct an audit, as defined in rules adopted under section 5165.02 of the Revised Code, of any cost report filed under section 5165.10 or 5165.522 of the Revised Code. The decision whether to conduct an audit and the scope of the audit, which may be a desk or field audit, may be determined based on prior performance of the provider, a risk analysis, or other evidence that gives the department reason to believe that the provider has reported costs improperly. A desk or field audit may be performed annually, but is required whenever a provider does not pass the risk analysis tolerance factors.

(B) Audits shall be conducted by auditors under contract with the department, auditors working for firms under contract with the department, or auditors employed by the department.

The department may establish a contract for the auditing of nursing facilities by outside firms. Each contract entered into by bidding shall be effective for one to two years.

(C) The department shall notify a provider of the findings of an audit of a cost report by issuing an audit report. The audit report shall include notice of any fine imposed under section 5165.1010 of the Revised Code. The department shall issue the audit report not later than three years after the earlier of the following:

(1) The date the cost report is filed;

(2) The date a desk or field audit of the cost report or a cost report for a subsequent cost reporting period is completed.

(D) The department shall prepare a written summary of any audit disallowance that is made after the effective date of the rate that is based on the cost. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5165.41 of the Revised Code.

(E)(1) The department shall establish an audit manual and program for field audits conducted under this section. Each auditor conducting a field audit under this section shall follow the audit manual and program, regardless of whether the auditor is under contract with the department, works for a firm under contract with the department, or is employed by the department. The manual and program shall do both of the following:

(a) Require each field audit to be conducted by an auditor to whom all of the following apply:

(i) During the period of the auditor's contract, firm's contract, or auditor's employment with the department, the auditor or firm does not have and is not committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of nursing facilities in this state.

(ii) The auditor does not audit any provider that has been a client of the auditor or the auditor's firm.

(iii) The auditor is otherwise independent as determined by the standards of independence included in the government auditing standards produced by the United States government accountability office.

(b) Require each auditor conducting a field audit to do all of the following:

(i) Comply with applicable rules prescribed pursuant to Title XVIII and

Title XIX:

(ii) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants;

(iii) Include a written summary as to whether the costs included in the cost report examined during the audit are allowable and are presented in accordance with state and federal laws and regulations, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care;

(iv) Complete the audit within the time period specified by the department;

(v) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to calculate with reasonable certainty those costs that are allowable and the rate to which the provider's nursing facility is entitled.

(2) For the purpose of division (E)(1)(a)(i) of this section, employment of a member of an auditor's family by a nursing facility that the auditor does not audit does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the nursing facility.

Sec. ~~5444.271~~ 5165.1010. (A) Subject to division (D) of this section, the department of ~~job and family services~~ medicaid shall fine the provider of a nursing facility if the report of an audit conducted under ~~division (B) of section 5444.27~~ 5165.109 of the Revised Code regarding a cost report for the nursing facility includes either of the following:

(1) Adverse findings that exceed three per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report;

(2) Adverse findings that exceed twenty per cent of ~~medicaid-reimbursable~~ medicaid-allowable costs for a particular cost center reported in the cost report.

(B) A fine issued under this section shall equal the greatest of the following:

(1) If the adverse findings exceed three per cent but do not exceed ten per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report, the greater of three per cent of those reported costs or ten thousand dollars;

(2) If the adverse findings exceed ten per cent but do not exceed twenty per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report, the greater of six per cent of those reported costs or twenty-five thousand dollars;

(3) If the adverse findings exceed twenty per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report, the greater of ten per cent of those reported costs or fifty thousand dollars;

(4) If the adverse findings exceed twenty per cent but do not exceed twenty-five per cent of ~~medicaid-reimbursable~~ medicaid-allowable costs for a particular cost center reported in the cost report, the greater of three per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report or ten thousand dollars;

(5) If the adverse findings exceed twenty-five per cent but do not exceed thirty per cent of ~~medicaid-reimbursable~~ medicaid-allowable costs for a particular cost center reported in the cost report, the greater of six per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report or twenty-five thousand dollars;

(6) If the adverse findings exceed thirty per cent of ~~medicaid-reimbursable~~ medicaid-allowable costs for a particular cost center reported in the cost report, the greater of ten per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report or fifty thousand dollars.

(C) Fines paid under this section shall be deposited into the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code.

(D) The department may not collect a fine under this section until all appeal rights relating to the audit report that is the basis for the fine are exhausted.

Sec. ~~5111.222~~ 5165.15. (A) ~~As used in this section, "low resource utilization resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid reimbursement rate for direct care costs, is placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data.~~

~~(B) Except as otherwise provided by sections 5111.20 5165.151 to 5111.331 5165.156 and 5165.34 of the Revised Code and by division (C) of this section, the total per medicaid day payment rate that the department of job and family services medicaid shall agree to pay for a fiscal year to the provider of a nursing facility pursuant to a provider agreement provider for nursing facility services the provider's nursing facility provides during a fiscal year shall equal the sum of all of the following:~~

~~(1) The rate for direct care costs determined for the nursing facility under section 5111.231 of the Revised Code;~~

~~(2) The per medicaid day payment rate for ancillary and support costs~~

determined for the nursing facility's ancillary and support cost peer group facility under section ~~5111.24~~ 5165.16 of the Revised Code;

~~(3)~~(2) The per medicaid day payment rate for capital costs determined for the nursing facility under section 5165.17 of the Revised Code;

(3) The per medicaid day payment rate for direct care costs determined for the nursing facility under section 5165.19 of the Revised Code;

(4) The per medicaid day payment rate for tax costs determined for the nursing facility under section ~~5111.242~~ 5165.21 of the Revised Code;

~~(4) The quality incentive payment paid to the nursing facility under section ~~5111.244~~ of the Revised Code;~~

(5) If the nursing facility qualifies as a critical access nursing facility, the nursing facility's critical access incentive payment paid to the nursing facility under section ~~5111.246~~ 5165.23 of the Revised Code;

~~(6) The rate for capital costs determined for the nursing facility's capital costs peer group under section ~~5111.25~~ quality incentive payment paid to the nursing facility under section 5165.25 of the Revised Code.~~

~~(C) The total rate determined under division (B) of this section shall not be paid for nursing facility services provided to low resource utilization residents. Instead, the total rate for nursing facility services that a nursing facility provides to low resource utilization residents shall be one hundred thirty dollars per medicaid day.~~

~~(D)~~(B) In addition to paying a nursing facility provider the nursing facility's total rate determined under division ~~(B)~~ or ~~(C)~~(A) of this section for a fiscal year, the department shall pay the provider a quality bonus under section ~~5111.245~~ 5165.26 of the Revised Code for that fiscal year if the provider's nursing facility is a qualifying nursing facility, as defined in that section, for that fiscal year. The quality bonus shall not be part of the total rate.

Sec. ~~5111.254~~ 5165.151. (A) ~~The department of job and family services shall establish initial rates for a nursing facility with a first date of licensure that is on or after July 1, 2006, including a facility that replaces one or more existing facilities, or for a nursing facility with a first date of licensure before that date that was initially certified for the medicaid program on or after that date, total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be the initial rate for nursing facility services provided by a new nursing facility. Instead, the initial total per medicaid day payment rate for nursing facility services provided by a new nursing facility shall be determined in the following manner:~~

(1) The initial rate for ancillary and support costs shall be the rate for the new nursing facility's peer group determined under division (D) of

section 5165.16 of the Revised Code.

(2) The initial rate for capital costs shall be the rate for the new nursing facility's peer group determined under division (D) of section 5165.17 of the Revised Code;

(3) The initial rate for direct care costs shall be the product of the cost per case-mix unit determined under division (D) of section 5111.231 5165.19 of the Revised Code for the new nursing facility's peer group and the new nursing facility's case-mix score determined under division (B) of this section. For the purpose of division (A)(1) of this section, the nursing facility's case-mix score shall be the following:

(a) Unless the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the median annual average case-mix score for the nursing facility's peer group;

(b) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5111.232 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and replacement nursing facilities.

(2) The rate for ancillary and support costs shall be the rate for the facility's peer group determined under division (D) of section 5111.24 of the Revised Code.

(3) The rate for capital costs shall be the rate for the facility's peer group determined under division (D) of section 5111.25 of the Revised Code.

(4) The initial rate for tax costs shall be the median rate for tax costs for the new nursing facility's peer group in which the nursing facility is placed under division (C) of section 5111.24 5165.16 of the Revised Code.

(5) The quality incentive payment shall be the mean payment made to nursing facilities under section 5111.244 5165.25 of the Revised Code.

(B) For the purpose of division (A)(3) of this section, a new nursing facility's case-mix score shall be the following:

(1) Unless the new nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the new nursing facility begins participating in the medicaid program, the median annual average case-mix score for the new nursing facility's peer group;

(2) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the new nursing facility begins participating in the medicaid program, the semiannual

case-mix score most recently determined under section 5165.192 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and new nursing facilities.

(C) Subject to division ~~(C)~~(D) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under ~~sections 5111.20 to 5111.331 of the Revised Code~~ this chapter.

~~(C)~~(D) If a rate for direct care costs is determined under this section for a new nursing facility using the median annual average case-mix score for the new nursing facility's peer group, the rate shall be redetermined to reflect the ~~replacement~~ new nursing facility's actual semiannual average case-mix score determined under section ~~5111.232~~ 5165.192 of the Revised Code after the new nursing facility submits its first two quarterly assessment data that qualify for use in calculating a case-mix score in accordance with rules authorized by ~~division (E) of section 5111.232~~ 5165.192 of the Revised Code. If the new nursing facility's quarterly submissions do not qualify for use in calculating a case-mix score, the department shall continue to use the median annual average case-mix score for the new nursing facility's peer group in lieu of the new nursing facility's semiannual case-mix score until the new nursing facility submits two consecutive quarterly assessment data that qualify for use in calculating a case-mix score.

Sec. 5165.152. The total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be paid for nursing facility services provided to low resource utilization residents. Instead, the total rate for such nursing facility services shall be one hundred thirty dollars per medicaid day.

~~Sec. 5111.258~~ 5165.153. (A) ~~Notwithstanding sections 5111.20 to 5111.331 of the Revised Code (except section 5111.259 of the Revised Code), the director of job and family services shall adopt rules under section 5111.02 of the Revised Code that establish a methodology for calculating the prospective rates that will be paid each fiscal year to a provider for each of the provider's eligible nursing facilities and intermediate care facilities for the mentally retarded, and discrete units of the provider's nursing facilities or intermediate care facilities for the mentally retarded, that serve residents who have diagnoses~~ The total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be paid for nursing facility services provided by a nursing facility, or discrete unit of a nursing facility, designated by the department of medicaid as an outlier nursing

facility or unit. Instead, the provider of a designated outlier nursing facility or unit shall be paid each fiscal year a total per medicaid day payment rate that the department shall prospectively determine in accordance with a methodology established in rules authorized by this section.

(B) The department may designate a nursing facility, or discrete unit of a nursing facility, as an outlier nursing facility or unit if the nursing facility or unit serves residents who have either of the following:

(1) Diagnoses or special care needs that require direct care resources that are not measured adequately by the applicable resident assessment instrument specified in rules authorized by section 5111.232 5165.191 of the Revised Code, or who have diagnoses;

(2) Diagnoses or special care needs specified in the rules authorized by this section as otherwise qualifying for consideration under this section. The facilities and units of facilities whose rates are established under this division may include, but shall not be limited to, any of the following:

(1) In the case of nursing facilities, facilities and units of facilities that serve medically fragile pediatric residents, residents who are dependent on ventilators, or residents who have severe traumatic brain injury, end-stage Alzheimer's disease, or end-stage acquired immunodeficiency syndrome;

(2) In the case of intermediate care facilities for the mentally retarded, facilities and units of facilities that serve residents who have complex medical conditions or severe behavioral problems.

The department shall use the methodology established under this division to pay for services rendered by such facilities and units after June 30, 1993.

(C) Notwithstanding any other provision of this chapter (except section 5165.156 of the Revised Code), the costs incurred by a designated outlier nursing facility or unit shall not be considered in establishing medicaid payment rates for other nursing facilities or units.

(D) The medicaid director shall adopt rules under section 5165.02 of the Revised Code as necessary to implement this section.

(1)(a) The rules authorized by this division shall specify do both of the following:

(i) Specify the criteria and procedures the department will apply when designating facilities and units that qualify for calculation of rates under this division a nursing facility, or discrete unit of a nursing facility, as an outlier nursing facility or unit;

(ii) Establish a methodology for prospectively determining the total per medicaid day payment rate that will be paid each fiscal year for nursing facility services provided by a designated outlier nursing facility or unit. The

~~criteria shall include~~

(b) The rules authorized by division (D)(1)(a)(i) of this section regarding the criteria for designating outlier nursing facilities and units shall do both of the following:

(i) Provide for consideration of whether all of the allowable costs of ~~the~~ a nursing facility, or discrete unit of a nursing facility, would be paid by rates established a rate determined under sections 5111.20 to 5111.331 section 5165.15 of the Revised Code, and shall establish a:

(ii) Specify the minimum bed size for a number of nursing facility beds that a nursing facility, or discrete unit to qualify to of a nursing facility, must have its rates established under this division to be designated an outlier nursing facility or unit, which may vary based on the diagnoses or special care needs of the residents served by the nursing facility or unit. ~~The criteria shall not be designed to require that residents be served only in~~

(c) The rules authorized by division (D)(1)(a)(i) of this section regarding the criteria for designating outlier nursing facilities and units shall not limit the designation to nursing facilities, or discrete units of nursing facilities, located in large cities. ~~The~~

(d) The rules authorized by division (D)(1)(a)(ii) of this section regarding the methodology for prospectively determining the rates of designated outlier nursing facilities and units shall provide for the methodology established by the rules shall to consider the historical costs of providing care nursing facility services to the residents of ~~the~~ designated outlier nursing facilities or and units.

(2)(a) The rules may require do both of the following:

(i) Include for designation as an outlier nursing facility or unit, a nursing facility, or discrete unit of a nursing facility, that serves medically fragile pediatric residents; residents who are dependent on ventilators; residents who have severe traumatic brain injury, end-stage Alzheimer's disease, or end-stage acquired immunodeficiency syndrome; or residents with other diagnoses or special care needs specified in the rules;

(ii) Require that a designated outlier nursing facility designated under this division or containing a unit designated under this division receive authorization from the department to admit before admitting or retain retaining a resident to the facility or unit and.

(b) If the director adopts rules authorized by division (D)(2)(a)(ii) of this section regarding the authorization of a designated outlier nursing facility or unit to admit or retain a resident, the rules shall specify the criteria and procedures the department will apply when granting that authorization.

~~Notwithstanding any other provision of sections 5111.20 to 5111.331 of~~

~~the Revised Code (except section 5111.259 of the Revised Code), the costs incurred by facilities or units whose rates are established under this division shall not be considered in establishing payment rates for other facilities or units.~~

~~(B) The director may adopt rules under section 5111.02 of the Revised Code under which the department, notwithstanding any other provision of sections 5111.20 to 5111.331 of the Revised Code (except section 5111.259 of the Revised Code), may adjust the rates determined under sections 5111.20 to 5111.331 of the Revised Code for a facility that serves a resident who has a diagnosis or special care need that, in the rules authorized by division (A) of this section, would qualify a facility or unit of a facility to have its rate determined under that division, but who is not in such a unit. The rules may require that a facility that qualifies for a rate adjustment under this division receive authorization from the department to admit or retain a resident who qualifies the facility for the rate adjustment and shall specify the criteria and procedures the department will apply when granting that authorization.~~

Sec. 5165.154. (A) To the extent, if any, provided for in rules authorized by this section, the total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be paid for nursing facility services that a nursing facility not designated as an outlier nursing facility or unit provides to a resident who meets the criteria for admission to a designated outlier nursing facility or unit, as specified in rules authorized by section 5165.153 of the Revised Code. Instead, the provider of a nursing facility providing nursing facility services to such a resident shall be paid each fiscal year a total per medicaid day payment rate that the department of medicaid shall prospectively determine in accordance with a methodology established in rules authorized by this section.

(B) The medicaid director may adopt rules under section 5165.02 of the Revised Code to implement this section. The rules may require that a nursing facility receive authorization from the department before admitting or retaining a resident who meets the criteria for admission to a designated outlier nursing facility or unit. If the director adopts such rules, the rules shall specify the criteria and procedures the department will apply when granting the authorization.

~~Sec. 5111.225~~ 5165.155. (A) As used in this section:

~~"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).~~

~~"Medicaid," "medicaid maximum allowable amount" means one hundred~~

per cent of a nursing facility's total per diem ~~total per diem~~ medicaid day payment rate ~~for a medicaid day.~~

(B) ~~The~~ Instead of paying the total per medicaid day payment rate determined under section 5165.15 of the Revised Code, the department of job and family services medicaid shall pay the provider of a nursing facility the lesser of the following for nursing facility services the nursing facility provides on or after January 1, 2012, to a dual eligible individual who is eligible for nursing facility services under the medicaid program and post-hospital extended care services under Part A of Title XVIII:

(1) The coinsurance amount for the services as provided under Part A of Title XVIII;

(2) The medicaid maximum allowable amount for the services, less the amount paid under Part A of Title XVIII for the services.

~~Sec. 5111.259~~ 5165.156. ~~The~~ medicaid ~~director of job and family services~~ may ~~submit a request to the United States secretary of health and human services for approval to~~ establish a centers of excellence component of the medicaid program. The purpose of the centers of excellence component is to increase the efficiency and quality of nursing facility services provided to medicaid recipients with complex nursing facility service needs. ~~If federal approval for the centers of excellence component is granted, the~~ The director may adopt rules under section ~~5111.02~~ 5165.02 of the Revised Code governing the component, including rules that establish a method of determining the medicaid ~~reimbursement~~ payment rates for nursing facilities providing nursing facility services to medicaid recipients participating in the component. The rules may specify the extent to which, if any, of the provisions of ~~section 5111.258~~ sections 5165.153 and 5165.154 of the Revised Code are to apply to the centers of excellence component. If such rules are adopted, the nursing facilities that provide nursing facility services to medicaid recipients participating in the centers of excellence component shall be paid for those services in accordance with the method established in the rules ~~notwithstanding anything to the contrary in sections 5111.20 to 5111.331~~ instead of the total per medicaid day payment rate determined under section 5165.15 of the Revised Code.

~~Sec. 5111.24~~ 5165.16. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of ~~job and family services'~~ medicaid's initial determination under division (D) of this section of each peer group's rate for ancillary and support costs, calendar year 2003;

(b) For the purpose of the department's rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer ~~groups'~~ group's rate for ancillary and support costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of ~~job and family services~~ medicaid shall ~~pay a provider for~~ determine each of the ~~provider's eligible~~ nursing facilities ~~a facility's per resident per medicaid day payment rate for ancillary and support costs determined for the.~~ A nursing facility's peer group rate shall be the rate determined under division (D) of this section for the nursing facility's peer group. However, for the period beginning October 1, 2013, and ending on the first day of the first rebasing, the rate for a nursing facility located in Mahoning or Stark county shall be the rate determined for the following:

(1) If the nursing facility has fewer than one hundred beds, the nursing facilities in peer group three:

(2) If the nursing facility has one hundred or more beds, the nursing facilities in peer group four.

(C) For the purpose of determining nursing facilities' ~~rate~~ rates for ancillary and support costs, the department shall establish six peer groups.

~~Each~~ (1) Until the first rebasing occurs, the peer groups shall be composed as follows:

(a) Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

(b) Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

(c) Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens,

Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(2) Beginning with the first rebasing, the peer groups shall be composed as they are under division (C)(1) of this section except as follows:

(a) Each nursing facility that has fewer than one hundred beds and is located in Mahoning or Stark county shall be placed in peer group three rather than peer group five.

(b) Each nursing facility that has one hundred or more beds and is located in Mahoning or Stark county shall be placed in peer group four rather than peer group six.

(D)(1) The department shall determine the rate for ancillary and support costs for each peer group established under division (C) of this section. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made to this section by Am. Sub. H.B. 153 and Sub. H.B. 303, both of the 129th general assembly, the rate for ancillary and support costs determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's rate for ancillary and support costs, the department shall do all of the following:

(a) Subject to division (D)(2) of this section, determine the rate for ancillary and support costs for each nursing facility in the peer group for the applicable calendar year by using the greater of the nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been ninety per cent;

(b) Subject to division (D)(3) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the rate for ancillary and support costs for the applicable calendar year determined under division (D)(1)(a) of this section;

(c) Multiply the rate for ancillary and support costs determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section by the rate of inflation for the

eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the following:

(i) Until the first rebasing occurs, the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics, as that index existed on July 1, 2005;

(ii) Effective with the first rebasing and except as provided in division (D)(1)(c)(iii) of this section, the consumer price index for all items for all urban consumers for the midwest region, published by the United States bureau of labor statistics;

(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)(c)(ii) of this section, the index the bureau subsequently publishes that covers urban consumers' prices for items for the region that includes this state.

(d) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(c) of this section by five and eight hundredths per cent.

(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.

(3) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(4) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

Sec. ~~5111.25~~ 5165.17. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of ~~job and family services'~~ medicaid's initial determination under division (D) of this section of each peer group's rate for capital costs, calendar year 2003;

(b) For the purpose of the department's rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer ~~groups'~~ group's rate for capital costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of ~~job and family services~~ medicaid shall ~~pay a provider for~~ determine each of the ~~provider's eligible~~ nursing facilities ~~a facility's per resident per medicaid day payment~~ rate for capital costs ~~determined for the~~. A nursing facility's peer group rate shall be the rate determined under division (D) of this section. However, for the period beginning October 1, 2013, and ending on the first day of the first rebasing, the rate for a nursing facility located in Mahoning or Stark county shall be the rate determined for the following:

(1) If the nursing facility has fewer than one hundred beds, the nursing facilities in peer group three:

(2) If the nursing facility has one hundred or more beds, the nursing facilities in peer group four.

(C) For the purpose of determining nursing facilities' ~~rate~~ rates for capital costs, the department shall establish six peer groups.

~~Each~~ (1) Until the first rebasing occurs, the peer groups shall be composed as follows:

(a) Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

(b) Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

(c) Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens,

Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(2) Beginning with the first rebasing, the peer groups shall be composed as they are under division (C)(1) of this section except as follows:

(a) Each nursing facility that has fewer than one hundred beds and is located in Mahoning or Stark county shall be placed in peer group three rather than peer group five.

(b) Each nursing facility that has one hundred or more beds and is located in Mahoning or Stark county shall be placed in peer group four rather than peer group six.

(D)(1) The department shall determine the rate for capital costs for each peer group established under division (C) of this section. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made to this section by Am. Sub. H.B. 153 and Sub. H.B. 303, both of the 129th general assembly, the rate for capital costs determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's rate for capital costs, the department shall do both of the following:

(a) Determine the rate for capital costs for the nursing facility in the peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year;

(b) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(a) of this section by five and eight hundredths per cent.

(2) To identify the nursing facility in a peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year, the department shall do both of the following:

(a) Subject to division (D)(3) of this section, use the greater of each nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been one hundred per cent;

(b) Exclude both of the following:

(i) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(ii) Nursing facilities whose capital costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem capital cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) For the purpose of determining a nursing facility's occupancy rate under division (D)(2)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity after June 30, 2005, unless the nursing facility also removes the beds from its licensed bed capacity.

(4) The department shall not redetermine a peer group's rate for capital costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for capital costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

(E) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted under section ~~5111.02~~ 5165.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in capital costs unless that part of the payment under ~~sections 5111.20 to 5111.331 of the Revised Code~~ this chapter is used to reimburse the government agency.

(F) The capital cost basis of nursing facility assets shall be determined in the following manner:

(1) Except as provided in division (F)(3) of this section, for purposes of calculating the rates to be paid for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the fiscal year during which the rate will be paid.

(2) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program ~~established under Title XVIII~~, except as otherwise

provided in ~~sections 5111.20 to 5111.331 of the Revised Code~~ this chapter.

(3) Except as provided in division (F)(4) of this section, if a provider transfers an interest in a facility to another provider after June 30, 1993, there shall be no increase in the capital cost basis of the asset if the providers are related parties or the provider to which the interest is transferred authorizes the provider that transferred the interest to continue to operate the facility under a lease, management agreement, or other arrangement. If the previous sentence does not prohibit the adjustment of the capital cost basis under this division, the basis of the asset shall be adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.

(4) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (F)(3) of this section if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) Except as provided in division (F)(4)(c)(ii) of this section, the provider making the transfer retains no ownership interest in the facility;

(c) The department ~~of job and family services~~ determines that the transfer is an arm's length transaction pursuant to rules adopted under section ~~5111.02~~ 5165.02 of the Revised Code. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable ~~cost of ownership~~ capital costs was determined most recently under division (G)(9) of this section.

(G) As used in this division:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to division (B) of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (B) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(3) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable capital costs shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable capital costs shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of financing costs and interest expense at the inception of the lease or the imputed interest expense calculated at the inception of the lease using seventy per cent of the lessor's historical capital asset cost basis.

(4) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that was not initially operated under a lease and has been in existence for ten years, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the entire historical capital asset cost basis of one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(5) Subject to division (B) of this section, for a new lease of a facility that was operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual new lease expense or the annual old lease payment. If the old lease was in effect for ten years or longer, the old lease payment from the beginning of the old lease shall be adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

(6) Subject to division (B) of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division (G)(2), (3), (4), or (6) of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be, for purposes of calculating the annual amount under division (G)(2), (3), (4), or (6) of this section, adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

In the case of a lease under division (G)(3) of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the annual amount.

(7) For any revision of a lease described in division (G)(1), (2), (3), (4), (5), or (6) of this section, or for any subsequent lease of a facility operated under such a lease, other than execution of a new lease, the portion of actual, allowable capital costs attributable to the lease shall be the same as before the revision or subsequent lease.

(8) Except as provided in division (G)(9) of this section, if a provider leases an interest in a facility to another provider who is a related party or

previously operated the facility, the related party's or previous operator's actual, allowable capital costs shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable capital costs shall include the annual lease expense, subject to the limitations specified in divisions (G)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division (G)(9)(c)(ii) of this section, in only the real property and any improvements on the real property;

(c) The department of ~~job and family services~~ determines that the lease is an arm's length transaction pursuant to rules adopted under section ~~5111.02~~ 5165.02 of the Revised Code. The rules shall provide that a lease is an arm's length transaction if all of the following apply:

(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (G)(9)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The lease satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable capital costs were determined most recently under division (G)(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

Sec. ~~5111.231~~ 5165.19. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of ~~job and family services'~~ medicaid's initial determination under division (D) of this section of each peer group's cost per case-mix unit, calendar year 2003;

(b) For the purpose of the department's rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer ~~groups'~~ group's cost per case-mix unit using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such costs.

~~(B) The Semiannually, the department of job and family services medicaid shall pay a provider for determine each of the provider's eligible nursing facilities a facility's per resident per medicaid day payment rate for direct care costs determined semiannually by multiplying the cost per case-mix unit determined under division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section 5111.232 5165.192 of the Revised Code by the cost per case-mix unit determined under division (D) of this section for the facility's peer group. However, for the period beginning October 1, 2013, and ending on the first day of the first rebasing, the rate for a nursing facility located in Mahoning or Stark county shall be determined semiannually by multiplying the facility's semiannual case-mix score determined under section 5165.192 of the Revised Code by the cost per case-mix unit determined under division (D) of this section for the nursing facilities in peer group two.~~

(C) For the purpose of determining nursing facilities' ~~rate~~ rates for direct care costs, the department shall establish three peer groups.

~~Each~~ (1) Until the first rebasing occurs, the peer groups shall be composed as follows:

(a) Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren.

(b) Each nursing facility located in any of the following counties shall be placed in peer group two: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

(c) Each nursing facility located in any of the following counties shall be placed in peer group three: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton,

Washington, Wayne, Williams, and Wyandot.

(2) Beginning with the first rebasing, the peer groups shall be composed as they are under division (C)(1) of this section except that each nursing facility located in Mahoning or Stark county shall be placed in peer group two rather than peer group three.

(D)(1) The department shall determine a cost per case-mix unit for each peer group established under division (C) of this section. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made to this section by Am. Sub. H.B. 153 and Sub. H.B. 303, both of the 129th general assembly, and H.B. 59 of the 130th general assembly, the cost per case-mix unit determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's cost per case-mix unit, the department shall do all of the following:

(a) Determine the cost per case-mix unit for each nursing facility in the peer group for the applicable calendar year by dividing each facility's desk-reviewed, actual, allowable, per diem direct care costs for the applicable calendar year by the facility's annual average case-mix score determined under section ~~5444.232~~ 5165.192 of the Revised Code for the applicable calendar year;

(b) Subject to division (D)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the cost per case-mix units determined under division (D)(1)(a) of this section;

(c) Calculate the amount that is two per cent above the cost per case-mix unit determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section;

(d) Using the index specified in division (D)(3) of this section, multiply the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year by the amount calculated under division (D)(1)(c) of this section;

(e) Add the following to the amount calculated under division (D)(1)(d) of this section:

(i) Until the earlier of January 1, 2014, or when the first rebasing occurs, add one dollar and eighty-eight cents to the amount calculated under division (D)(1)(d) of this section;

(ii) Unless the first rebasing occurs before January 1, 2014, beginning January 1, 2014, and until the first rebasing occurs, eighty-six cents.

(f) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(e) of this section by five and eight hundredths per cent.

(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose cost per case-mix unit is more than one standard deviation from the mean cost per case-mix unit for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The following index shall be used for the purpose of the calculation made under division (D)(1)(d) of this section:

(a) Until the first rebasing occurs, the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics, as the index existed on July 1, 2005;

(b) Effective with the first rebasing and except as provided in division (D)(3)(c) of this section, the employment cost index for total compensation, nursing and residential care facilities occupational group, published by the United States bureau of labor statistics;

(c) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(3)(b) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs.

(4) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination.

Sec. 5165.191. Each calendar quarter, each nursing facility provider shall compile complete assessment data for each resident of each of the provider's nursing facilities, regardless of payment source, who is in the nursing facility, or on hospital or therapeutic leave from the nursing facility, on the last day of the quarter. A resident assessment instrument specified in rules authorized by this section shall be used to compile the resident assessment data. Each provider shall submit the resident assessment data to the department of health and, if required by the rules, the department of medicaid. The resident assessment data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled. If the resident assessment data is to be submitted to the department of medicaid, it shall be submitted to the department through the medium or media specified in the rules.

Rules adopted under section 5165.02 of the Revised Code shall do all of

the following:

(A) In a manner consistent with the "Social Security Act," section 1919(e)(5), 42 U.S.C. 1396r(e)(5), specify a resident assessment instrument to be used by nursing facility providers under this section;

(B) Specify whether nursing facility providers must submit the resident assessment data to the department of medicaid;

(C) If the rules specify that nursing facility providers must submit the resident assessment data to the department, specify the medium or media through which the data is to be submitted.

Sec. ~~5111.232~~ 5165.192. (A)(1) The Except as provided in division (B) of this section and in accordance with the process specified in rules authorized by this section, the department of job and family services medicaid shall do all of the following:

(a) Every quarter, determine the following two case-mix scores for each nursing facility:

(i) A quarterly case-mix score that includes each resident who is a medicaid recipient and is not a low resource utilization resident;

(ii) A quarterly case-mix score that includes each resident regardless of payment source.

(b) Every six months, determine a semiannual ~~and annual~~ average case-mix ~~scores~~ score for each nursing ~~facilities~~ facility by using ~~all of the following:~~ quarterly case-mix scores determined for the nursing facility pursuant to division (A)(1)(a)(i) of this section;

(c) After the end of each calendar year, determine an annual average case-mix score for each nursing facility by using the quarterly case-mix scores determined for the nursing facility pursuant to division (A)(1)(a)(ii) of this section.

(2) When determining case-mix scores under division (A)(1) of this section, the department shall use all of the following:

(a) Data from a resident assessment instrument specified in rules ~~adopted under~~ authorized by section ~~5111.02~~ 5165.191 of the Revised Code pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, for the following residents:

(i) When ~~determining semiannual case-mix scores for fiscal year 2012,~~ each resident who is a medicaid recipient;

(ii) When ~~determining semiannual case-mix scores for fiscal year 2013 and thereafter,~~ each resident who is a medicaid recipient and not placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data;

~~(iii) When determining annual average case-mix scores, each resident regardless of payment source.~~

~~(b) Except as provided in rules authorized by divisions (A)(2)(a) and (b) of this section, the case-mix values established by the United States department of health and human services;~~

~~(c) Except as modified in rules authorized by division (A)(2)(e) of this section, the grouper methodology used on June 30, 1999, by the United States department of health and human services for prospective payment of skilled nursing facilities under the medicare program established by Title XVIII.~~

~~(2) The director of job and family services may adopt rules under section 5111.02 of the Revised Code that do any of the following:~~

~~(a) Adjust the case-mix values specified in division (A)(1)(b) of this section to reflect changes in relative wage differentials that are specific to this state;~~

~~(b) Express all of those case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case-mix values to one another;~~

~~(c) Modify the grouper methodology specified in division (A)(1)(e) of this section as follows:~~

~~(i) Establish a different hierarchy for assigning residents to case-mix categories under the methodology;~~

~~(ii) Prohibit the use of the index maximizer element of the methodology;~~

~~(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999;~~

~~(iv) Make other changes the department determines are necessary.~~

~~(B) The department shall determine case-mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted under section 5111.02 of the Revised Code and expressed in case-mix values established by the department in those rules.~~

~~(C) Each calendar quarter, each provider shall compile complete assessment data, from the resident assessment instrument specified in rules authorized by division (A) or (B) of this section, for each resident of each of the provider's facilities, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter. Providers of a nursing facility shall submit the data to the department of health and, if required by rules, the department of job and~~

~~family services. Providers of an intermediate care facility for the mentally retarded shall submit the data to the department of job and family services. The data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled.~~

~~Except as provided in division (D) of this section, the department, every six months and after the end of each calendar year, shall calculate a semiannual and annual average case mix score for each nursing facility using the facility's quarterly case mix scores for that six month period or calendar year. Also except as provided in division (D) of this section, the department, after the end of each calendar year, shall calculate an annual average case mix score for each intermediate care facility for the mentally retarded using the facility's quarterly case mix scores for that calendar year. The department shall make the calculations pursuant to procedures specified in rules adopted under section 5111.02 of the Revised Code.~~

~~(D)(1) If a Subject to division (B)(2) of this section, the department, for one or more months of a calendar quarter, may assign to a nursing facility a case-mix score that is five per cent less than the nursing facility's case-mix score for the immediately preceding calendar quarter if any of the following apply:~~

~~(a) The provider does not timely submit information complete and accurate resident assessment data necessary to determine the nursing facility's case-mix score for a the calendar quarter necessary to calculate a facility's case mix score, or submits incomplete or inaccurate information for a calendar quarter, the department may assign the facility a quarterly average case mix score that is five per cent less than the facility's quarterly average case mix score for the preceding calendar quarter. If the:~~

~~(b) The nursing facility was subject to an exception review under division (C) of section 5111.27 5165.193 of the Revised Code for the immediately preceding calendar quarter, the department may assign a quarterly average case mix score that is five per cent less than the score determined by the exception review. If the:~~

~~(c) The nursing facility was assigned a quarterly average case-mix score for the immediately preceding calendar quarter, the department may assign a quarterly average case mix score that is five per cent less than that score assigned for the preceding quarter.~~

~~The department may use a quarterly average case mix score assigned under division (D)(1) of this section, instead of a quarterly average case mix score calculated based on the provider's submitted information, to calculate the facility's rate for direct care costs being established under section 5111.23 or 5111.231 of the Revised Code for one or more months, as~~

~~specified in rules authorized by division (E) of this section, of the quarter for which the rate established under section 5111.23 or 5111.231 of the Revised Code will be paid.~~

~~(2) Before taking action under division (D)(1) of this section assigning a case-mix score to a nursing facility due to the submission of incorrect resident assessment data, the department shall permit the provider a reasonable period of time, specified in rules authorized by division (E) of this section, to correct the information data. In the case of an intermediate care facility for the mentally retarded, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the provider fails to submit corrected information prior to the eighty first day after the end of the calendar quarter to which the information pertains. In the case of a nursing facility, the~~ The ~~department shall not~~ may ~~assign a quarterly average~~ the ~~case-mix score due to late submission of corrections to assessment information unless if~~ the ~~provider fails to submit~~ the ~~corrected information prior to~~ resident assessment data not later than ~~the earlier of the forty sixth~~ forty-fifth ~~day after the end of the calendar quarter to which the information data pertains or the deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Titles~~ Title XVIII and Title XIX.

~~(2)(3) If, for more than six months in a calendar year, a provider is paid a rate determined for a nursing facility calculated using a quarterly average case-mix score assigned to the nursing facility under division (D)(B)(1) of this section for more than six months in a calendar year, the department may assign the nursing facility a cost per case-mix unit that is five per cent less than the nursing facility's actual or assigned cost per case-mix unit for the immediately preceding calendar year. The department may use the assigned cost per case-mix unit, instead of calculating determining the nursing facility's actual cost per case-mix unit in accordance with section 5111.23 or 5111.231 5165.19 of the Revised Code, to establish the nursing facility's rate for direct care costs for the following fiscal year immediately following the calendar year for which the cost per case-mix unit is assigned.~~

~~(3)(4) The department shall take action under division (D)(B)(1) or (2), or (3) of this section only in accordance with rules authorized by division (E) of this section. The department shall not take an action that affects rates for prior payment periods except in accordance with sections 5111.27 5165.41 and 5111.28 5165.42 of the Revised Code.~~

~~(E)(C) The medicaid director shall adopt rules under section 5111.02 5165.02 of the Revised Code that as necessary to implement this section.~~

(1) The rules shall do all of the following:

~~(1) Specify whether providers of a nursing facility must submit the assessment data to the department of job and family services;~~

~~(2) Specify the medium or media through which the completed assessment data shall be submitted;~~

~~(3)(a) Specify the process for determining the semiannual and annual average case-mix scores for nursing facilities;~~

(b) Adjust the case-mix values specified in division (A)(2)(b) of this section to reflect changes in relative wage differentials that are specific to this state;

(c) Express all of those case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case-mix values to one another;

(d) Modify the grouper methodology specified in division (A)(2)(c) of this section as follows:

(i) Establish a different hierarchy for assigning residents to case-mix categories under the methodology;

(ii) Prohibit the use of the index maximizer element of the methodology;

(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999;

(iv) Make other changes the department determines are necessary.

(e) Establish procedures under which the resident assessment data shall be reviewed for accuracy and providers shall be notified of any data that requires correction;

~~(4)(f) Establish procedures for providers to correct resident assessment data and specify a reasonable period of time by which providers shall submit the corrections. The procedures may limit the content of corrections by providers of nursing facilities in the manner required by regulations adopted by the United States department of health and human services under Titles Title XVIII and Title XIX.~~

~~(5)(g) Specify when and how the department will assign case-mix scores or costs per case-mix unit to a nursing facility under division (D)(B) of this section if information necessary to calculate the nursing facility's case-mix score is not provided or corrected in accordance with the procedures established by the rules. Notwithstanding~~

(2) Notwithstanding any other provision of sections 5111.20 to 5111.331 of the Revised Code this chapter, the rules also may provide for the following:

~~(a) Exclusion of case-mix scores assigned under division (D) of this~~

~~section from calculation of an intermediate care facility for the mentally retarded's annual average case mix score and the maximum cost per case mix unit for the facility's peer group;~~

~~(b) Exclusion~~ exclusion of case-mix scores assigned to a nursing facility under division ~~(D)~~(B) of this section from ~~calculation~~ the determination of a the nursing facility's semiannual or annual average case-mix score and the cost per case-mix unit for the nursing facility's peer group.

Sec. 5165.193. (A) The department of medicaid may, pursuant to rules authorized by this section, conduct an exception review of resident assessment data submitted by a nursing facility provider under section 5165.191 of the Revised Code. The department may conduct an exception review based on the findings of a medicaid certification survey conducted by the department of health, a risk analysis, or prior performance of the provider.

Exception reviews shall be conducted at the nursing facility by appropriate health professionals under contract with or employed by the department. The professionals may review resident assessment forms and supporting documentation, conduct interviews, and observe residents to identify any patterns or trends of inaccurate resident assessments and resulting inaccurate case-mix scores.

(B) If an exception review is conducted before the effective date of a nursing facility's rate for direct care costs that is based on the resident assessment data being reviewed and the review results in findings that exceed tolerance levels specified in the rules authorized by this section, the department, in accordance with those rules, may use the findings to redetermine individual resident case-mix scores, the nursing facility's case-mix score for the quarter, and the nursing facility's annual average case-mix score. The department may use the nursing facility's redetermined quarterly and annual average case-mix scores to determine the nursing facility's rate for direct care costs for the appropriate calendar quarter or quarters.

(C) The department shall prepare a written summary of any exception review finding that is made after the effective date of a nursing facility's rate for direct care costs that is based on the resident assessment data that was reviewed. Where the provider is pursuing judicial or administrative remedies in good faith regarding the finding, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5165.41 of the Revised Code.

(D)(1) The medicaid director shall adopt rules under section 5165.02 of

the Revised Code as necessary to implement this section. The rules shall establish an exception review program that does all of the following:

(a) Requires each exception review to comply with Title XVIII and Title XIX;

(b) Requires a written summary for each exception review that states whether resident assessment forms have been completed accurately;

(c) Prohibits each health professional who conducts an exception review from doing either of the following:

(i) During the period of the professional's contract or employment with the department, having or being committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of nursing facilities in this state;

(ii) Reviewing any provider that has been a client of the professional.

(2) For the purposes of division (D)(1)(c)(i) of this section, employment of a member of a health professional's family by a nursing facility that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the nursing facility.

Sec. ~~5111.242~~ 5165.21. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of ~~job and family services'~~ medicaid's initial determination under this section of nursing facilities' rate for tax costs, calendar year 2003;

(b) For the purpose of the department's rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division ~~(C)~~(B) of this section of each nursing facility's rate for tax costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

~~(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for tax costs determined under division (C) of this section.~~

~~(C)~~ (B) The department of medicaid shall determine ~~the~~ each nursing facility's per medicaid day payment rate for tax costs ~~for each nursing facility~~. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made to this section by Sub. H.B. 303 of the 129th general assembly, the rate for tax costs determined under this division for a nursing facility shall be used for subsequent years until the department conducts a rebasing. To determine a nursing facility's rate for tax costs and except as provided in division ~~(D)~~(C) of this section, the department shall do both of the

following:

(1) Divide the nursing facility's desk-reviewed, actual, allowable tax costs paid for the applicable calendar year by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during the applicable calendar year;

(2) Until the first rebasing occurs, increase the amount calculated under division ~~(C)~~(B)(1) of this section by five and eight hundredths per cent.

~~(D)~~(C) If a nursing facility had a credit regarding its real estate taxes reflected on its cost report for calendar year 2003, the department shall determine, as follows, its rate for tax costs for the period beginning on July 1, 2010, and ending on the first day of the fiscal year for which the department first conducts a rebasing:

(1) Divide the nursing facility's desk-reviewed, actual, allowable tax costs paid for calendar year 2004 by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during calendar year 2004;

(2) Until the first rebasing occurs, increase the amount calculated under division ~~(D)~~(C)(1) of this section by five and eight hundredths per cent.

Sec. ~~5111.246~~ 5165.23. (A) Each fiscal year, the department of ~~job and family services~~ medicaid shall ~~pay a~~ determine the critical access incentive payment ~~to the provider of~~ for each nursing facility that qualifies as a critical access nursing facility. To qualify as a critical access nursing facility for a fiscal year, a nursing facility must meet all of the following requirements:

(1) The nursing facility must be located in an area that, on December 31, 2011, was designated an empowerment zone under ~~section 1391~~ of the "Internal Revenue Code of 1986," ~~407 Stat. 543~~ section 1391, 26 U.S.C. 1391, ~~as amended~~.

(2) The nursing facility must have an occupancy rate of at least eighty-five per cent as of the last day of the calendar year immediately preceding the fiscal year.

(3) The nursing facility must have a medicaid utilization rate of at least sixty-five per cent as of the last day of the calendar year immediately preceding the fiscal year.

(4) The nursing facility must have been awarded at least five points for meeting accountability measures under section 5165.25 of the Revised Code for the fiscal year and at least one of the five points must have been awarded for meeting the following:

(a) For fiscal year 2014, the accountability measures identified in divisions (C)(10), (11), (12), and (13) of section 5165.25 of the Revised Code;

(b) For fiscal year 2015 and each fiscal year thereafter, the accountability measures identified in divisions (D)(9), (10), (11), (12), and (14) of section 5165.25 of the Revised Code.

(B) A critical access nursing facility's critical access incentive payment for a fiscal year shall equal five per cent of the portion of the nursing facility's total rate for the fiscal year that is the sum of the rates and payment identified in divisions ~~(B)(A)~~(1) to (4) and (6) of section ~~5111.222~~ 5165.15 of the Revised Code.

Sec. ~~5111.244~~ 5165.25. (A) As used in this section:

(1) ~~"Applicable percentage" means, for the accountability measures identified in divisions (C)(10) to (13) of this section, the following:~~

~~(a) For fiscal year 2013, whichever of the following applies:~~

~~(i) The percentage that the department of job and family services specifies for an accountability measure pursuant to division (E)(1)(b) or (E)(2)(a)(ii) of this section;~~

~~(ii) The percentage specified for an accountability measure in division (E)(2)(b), (ii), (iii), (iv), or (v) of this section.~~

~~(b) For fiscal year 2014, whichever of the following applies:~~

~~(i) The percentage used pursuant to division (F)(2) of this section;~~

~~(ii) The percentage that the department specifies for an accountability measure pursuant to division (F)(3)(a) of this section.~~

~~(c) For fiscal year 2015 and thereafter, whichever of the following applies:~~

~~(i) The percentage used pursuant to division (F)(2) of this section;~~

~~(ii) The percentage used pursuant to division (F)(3)(b) of this section.~~

~~(2) "Complaint surveys" has the same meaning as in 42 C.F.R. 488.30.~~

~~(3)(2) "Customer satisfaction survey" means the annual survey of long-term care facilities required by section 173.47 of the Revised Code.~~

~~(4)(3) "Deficiency" has the same meaning as in 42 C.F.R. 488.301.~~

(4) "Exempted hospital discharge" has the same meaning as in 42 C.F.R. 483.106(b)(2)(i).

(5) "Family satisfaction survey" means a customer satisfaction survey, or part of a customer satisfaction survey, that contains the results of information obtained from the families of a nursing facility's residents.

(6) "Minimum data set" means the standardized, uniform comprehensive assessment of nursing facility residents that is used to identify potential problems, strengths, and preferences of residents and is part of the resident assessment instrument required by ~~section 1919(e)(5) of the "Social Security Act," 401 Stat. 1330-197 (1987)~~ section 1919(e)(5), 42 U.S.C. 1396r(e)(5), as amended.

~~(7) "National voluntary consensus standards for nursing homes" means measures used to determine the quality of care provided by nursing facilities as endorsed by the national quality forum.~~

(8) "Nurse aide" has the same meaning as in section 3721.21 of the Revised Code.

~~(9)~~(8) "Resident satisfaction survey" means a customer satisfaction survey, or part of a customer satisfaction survey, that contains the results of information obtained from a nursing facility's residents.

~~(10)~~(9) "Room mirror" means a mirror that is located in either of the following rooms:

(a) A resident bathroom if the sink used by a resident after the resident uses the resident bathroom is in the resident bathroom;

(b) A resident's room if the sink used by a resident after the resident uses the resident bathroom is in the resident's room.

~~(11)~~(10) "Room sink" means a sink that is located in either of the following rooms:

(a) A resident bathroom if the sink used by a resident after the resident uses the resident bathroom is in the resident bathroom;

(b) A resident's room if the sink used by a resident after the resident uses the resident bathroom is in the resident's room.

~~(12)~~(11) "Standard survey" has the same meaning as in 42 C.F.R. 488.301.

(12) "Special focus facility list" means the list of nursing facilities that the United States department of health and human services creates under the special focus facility program required by the "Social Security Act," section 1919(f)(10), 42 U.S.C. 1396r(f)(10).

(13) "Substantial wall" means a permanent structure that reaches from floor to ceiling and divides a semiprivate room into two distinct living spaces, each with its own window.

(14) "Table B of the special focus facility list" means the table included in the special focus facility list that identifies nursing facilities that have not improved.

(B)(1) Each fiscal year, the department of ~~job and family services~~ medicaid shall ~~pay a~~ determine each nursing facility's quality incentive payment to the provider of each nursing facility that is awarded one or more points for meeting accountability measures under ~~division (C) of this section~~. Subject to ~~division~~ divisions (B)(2) and (3) of this section, the per medicaid day amount of a quality incentive payment paid to a nursing facility provider shall be the product of the following:

(a) The number of points the provider's nursing facility is awarded for

meeting accountability measures under ~~division (C)~~ of this section;

(b) Three dollars and twenty-nine cents.

(2) The maximum quality incentive payment that may be paid to ~~the provider~~ of a nursing facility provider for a fiscal year 2014 shall be sixteen dollars and forty-four cents per medicaid day.

(3) The maximum quality incentive payment that may be paid to a nursing facility provider for fiscal year 2015 and each fiscal year thereafter shall be the following:

(a) Sixteen dollars and forty-four cents if at least one of the points awarded to the nursing facility for meeting accountability measures is for an accountability measure identified in division (D)(9), (10), (11), (12), or (14) of this section:

(b) Thirteen dollars and sixteen cents if division (B)(3)(a) of this section does not apply.

(C) Subject For fiscal year 2014 only and subject to ~~divisions (D)~~, ~~division~~ (E), and ~~(F)~~ of this section, the department shall award each nursing facility participating in the medicaid program one point for each of the following accountability measures the facility meets:

(1) The facility's overall score on its resident satisfaction survey is at least eighty-six.

(2) The facility's overall score on its family satisfaction survey is at least eighty-eight.

(3) The facility satisfies the requirements for participation in the advancing excellence in America's nursing homes campaign.

(4) The facility had neither of the following on the facility's most recent standard survey conducted not later than the last day of the calendar year immediately preceding the fiscal year for which the point is to be awarded or any complaint surveys conducted in the calendar year immediately preceding the fiscal year for which the point is to be awarded:

(a) A health deficiency with a scope and severity level greater than F;

(b) A deficiency that constitutes a substandard quality of care.

(5) The facility offers at least fifty per cent of its residents at least one of the following dining choices for at least one meal each day:

(a) Restaurant-style dining in which food is brought from the food preparation area to residents per the residents' orders;

(b) Buffet-style dining in which residents obtain their own food, or have the facility's staff bring food to them per the residents' directions, from the buffet;

(c) Family-style dining in which food is customarily served on a serving dish and shared by residents;

(d) Open dining in which residents have at least a two-hour period to choose when to have a meal;

(e) Twenty-four-hour dining in which residents may order meals from the facility any time of the day.

(6) At least fifty per cent of the facility's residents are able to take a bath or shower as often as they choose.

(7) The facility has at least both of the following scores on its resident satisfaction survey:

(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at least eighty-nine;

(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least seventy-six.

(8) The facility has at least both of the following scores on its family satisfaction survey:

(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at least eighty-eight;

(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least seventy-five.

(9) All of the following apply to the facility:

(a) At least seventy-five per cent of the facility's residents have the opportunity, following admission to the facility and before completing or quarterly updating their individual plans of care, to discuss their goals for the care they are to receive at the facility, including their preferences for advance care planning, with a member of the residents' ~~healthcare~~ health care teams that the facility, residents, and residents' sponsors consider appropriate.

(b) The facility records the residents' care goals, including the residents' advance care planning preferences, in their medical records.

(c) The facility uses the residents' care goals, including the residents' advance care planning preferences, in the development of the residents' individual plans of care.

(10) Not more than ~~the applicable percentage~~ thirteen and thirty-five hundredths per cent of the facility's long-stay residents report severe to moderate pain during the minimum data set assessment process.

(11) Not more than ~~the applicable percentage~~ five and seventy-three hundredths per cent of the facility's long-stay, high-risk residents have been assessed as having one or more stage two, three, or four pressure ulcers during the minimum data set assessment process.

(12) Not more than ~~the applicable percentage~~ one and fifty-two hundredths per cent of the facility's long-stay residents were physically

restrained as reported during the minimum data set assessment process.

(13) Less than ~~the applicable percentage~~ seven and seventy-eight hundredths per cent of the facility's long-stay residents had a urinary tract infection as reported during the minimum data set assessment process.

(14) The facility uses a tool for tracking residents' admissions to hospitals.

(15) An average of at least fifty per cent of the facility's medicaid-certified beds are in private rooms.

(16) The facility has accessible resident bathrooms, all of which meet at least two of the following standards and at least some of which meet all of the following standards:

(a) There are room mirrors that are accessible to residents in wheelchairs, can be adjusted so as to be visible to residents who are seated or standing, or both.

(b) There are room sinks that are accessible to residents in wheelchairs and have clearance for wheelchairs.

(c) There are room sinks that have faucets with adaptive or easy-to-use lever or paddle handles.

(17) The facility does both of the following:

(a) Maintains a written policy that prohibits the use of overhead paging systems or limits the use of overhead paging systems to emergencies, as defined in the policy;

(b) Communicates the policy to its staff, residents, and families of residents.

(18) The facility has a score of at least ninety on its resident satisfaction survey with regard to the question in the survey regarding residents' ability to personalize their rooms with personal belongings.

(19) The facility has a score of at least ninety-five on its family satisfaction survey with regard to the question in the survey regarding residents' ability to personalize their rooms with personal belongings.

(20) The facility does both of the following:

(a) Maintains a written policy that requires consistent assignment of nurse aides and specifies the goal of having a resident receive nurse aide care from not more than eight different nurse aides during a thirty-day period;

(b) Communicates the policy to its staff, residents, and families of residents.

(21) The facility's staff retention rate is at least seventy-five per cent.

(22) The facility's turnover rate for nurse aides is not higher than sixty-five per cent.

(23) For at least fifty per cent of the resident care conferences in the facility, a nurse aide who is a primary caregiver for the resident attends and participates in the conference.

(D) For fiscal year 2015 and each fiscal year thereafter and subject to division (E) of this section, the department shall award each nursing facility participating in the medicaid program one point for each of the following accountability measures the facility meets:

(1) The facility's overall score on its resident satisfaction survey is at least eighty-seven and five-tenths.

(2) The facility's overall score on its family satisfaction survey is at least eighty-five and nine-tenths.

(3) The facility satisfies the requirements for participation in the advancing excellence in America's nursing homes campaign.

(4) Both of the following apply to the facility:

(a) The facility had not been listed on table B of the special focus facility list for eighteen or more consecutive months during any time during the calendar year immediately preceding the fiscal year for which the point is to be awarded.

(b) The facility had neither of the following on the facility's most recent standard survey conducted not later than the last day of the calendar year immediately preceding the fiscal year for which the point is to be awarded or any complaint surveys conducted in the calendar year immediately preceding the fiscal year for which the point is to be awarded:

(i) A health deficiency with a scope and severity level greater than F;

(ii) A deficiency that constitutes a substandard quality of care.

(5) The facility does all of the following:

(a) Offers at least fifty per cent of its residents at least one of the following dining choices for at least two meals each day:

(i) Restaurant-style dining in which food is brought from the food preparation area to residents per the residents' orders;

(ii) Buffet-style dining in which residents obtain their own food, or have the facility's staff bring food to them per the residents' directions, from the buffet;

(iii) Family-style dining in which food is customarily served on a serving dish and shared by residents;

(iv) Open dining in which residents have at least a two-hour period to choose when to have a meal;

(v) Twenty-four-hour dining in which residents may order meals from the facility any time of the day.

(b) Maintains a written policy specifying the manner or manners in

which residents' dining choices for meals are offered:

(c) Communicates the policy to its staff, residents, and families of residents.

(6) The facility does all of the following:

(a) Enables at least fifty per cent of the facility's residents to take a bath or shower when they choose;

(b) Maintains a written policy regarding residents' choices in bathing;

(c) Communicates the policy to its staff, residents, and families of residents.

(7) The facility has at least both of the following scores on its resident satisfaction survey:

(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at least eighty-nine;

(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least seventy-six.

(8) The facility has at least both of the following scores on its family satisfaction survey:

(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at least eighty-eight;

(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least seventy-five.

(9) Not more than thirteen and thirty-five hundredths per cent of the facility's long-stay residents report severe to moderate pain during the minimum data set assessment process.

(10) Not more than five and sixteen hundredths per cent of the facility's long-stay, high-risk residents have been assessed as having one or more stage two, three, or four pressure ulcers during the minimum data set assessment process.

(11) Not more than one and fifty-two hundredths per cent of the facility's long-stay residents were physically restrained as reported during the minimum data set assessment process.

(12) Less than seven per cent of the facility's long-stay residents had a urinary tract infection as reported during the minimum data set assessment process.

(13) The facility does both of the following:

(a) Uses a tool for tracking residents' admissions to hospitals;

(b) Annually reports to the department data on hospital admissions by month for all residents.

(14) Both of the following apply:

(a) At least ninety-five per cent of the facility's long-stay residents are

vaccinated against pneumococcal pneumonia, decline the vaccination, or are not vaccinated because the vaccination is medically contraindicated.

(b) At least ninety-three per cent of the facility's long-stay residents are vaccinated against seasonal influenza, decline the vaccination, or are not vaccinated because the vaccination is medically contraindicated.

(15) An average of at least fifty per cent of the facility's medicaid-certified beds are in either, or in a combination of both, of the following:

(a) Private rooms;

(b) Semiprivate rooms to which all of the following apply:

(i) Each room provides a distinct territory for each resident occupying the room.

(ii) Each distinct territory has a window and is separated by a substantial wall from the other distinct territories in the room.

(iii) Each resident is able to enter and exit the distinct territory of the resident's room without entering or exiting another resident's distinct territory.

(iv) Complete visual privacy for each distinct territory may be obtained by drawing a curtain or other screen.

(16) The facility obtains at least a ninety-five per cent compliance rate with requesting resident reviews required by 42 C.F.R. 483.106(b)(2)(ii) for individuals who are exempted hospital discharges.

(17) The facility does both of the following:

(a) Maintains a written policy that requires consistent assignment of nurse aides and specifies the goal of having a resident receive nurse aide care from not more than twelve different nurse aides during a thirty-day period;

(b) Communicates the policy to its staff, residents, and families of residents.

(18) The facility's staff retention rate is at least seventy-five per cent.

(19) The facility's turnover rate for nurse aides is not higher than sixty-five per cent.

(20) For at least fifty per cent of the resident care conferences in the facility, a nurse aide who is a primary caregiver for the resident attends and participates in the conference.

(21) All of the following apply to the facility:

(a) At least seventy-five per cent of the facility's residents have the opportunity, following admission to the facility and before completing or quarterly updating their individual plans of care, to discuss their goals for the care they are to receive at the facility, including their preferences for

advance care planning, with a member of the residents' health care teams that the facility, residents, and residents' sponsors consider appropriate.

(b) The facility records the residents' care goals, including the residents' advance care planning preferences, in their medical records.

(c) The facility uses the residents' care goals, including the residents' advance care planning preferences, in the development of the residents' individual plans of care.

(22) The facility does both of the following:

(a) Maintains a written policy that prohibits the use of overhead paging systems or limits the use of overhead paging systems to emergencies, as defined in the policy;

(b) Communicates the policy to its staff, residents, and families of residents.

(E)(1) To be awarded a point for meeting an accountability measure under division (C) or (D) of this section other than the accountability measure identified in ~~division~~ divisions (C)(4) and (D)(4)(b) of this section, a nursing facility must meet the accountability measure in the calendar year immediately preceding the fiscal year for which the point is to be awarded. ~~However, a nursing facility must meet the accountability measures specified in divisions (C)(3), (5), (6), (9), (14) to (17), (20), (22), and (23) of this section in the period beginning January 1, 2012, and ending March 31, 2012, to be awarded points for those accountability measures for fiscal year 2013.~~

(2) The department shall award points pursuant to ~~division~~ divisions (C)(1), (7), ~~or and~~ (18) and (D)(1) and (7) of this section to a nursing facility only if a resident satisfaction survey was initiated under section 173.47 of the Revised Code for the nursing facility in the calendar year immediately preceding the fiscal year for which the points are to be awarded.

(3) The department shall award points pursuant to ~~division~~ divisions (C)(2), (8), ~~or and~~ (19) and (D)(2) and (8) of this section to a nursing facility only if a family satisfaction survey was initiated under section 173.47 of the Revised Code for the nursing facility in the calendar year immediately preceding the fiscal year for which the points are to be awarded.

(4) The department shall award points pursuant to divisions (D)(21) and (22) of this section only for fiscal year 2015.

(5) Not later than July 1, 2013, the department shall adjust the score used for the purpose of division (C)(8)(b) of this section in a manner that causes at least fifty per cent of nursing facilities to meet division (C)(8)(b) of this section.

~~(E) For the purposes of awarding points under divisions (C)(10) to (13)~~

of this section for fiscal year 2013, the following apply:

~~(1) If, by July 1, 2012, the United States centers for medicare and medicaid services makes calculations using the 3.0 version of the minimum data set that indicate whether nursing facilities meet those accountability measures, the department shall do both of the following:~~

~~(a) Rely on those calculations;~~

~~(b) Specify the percentages to be used for the purposes of those accountability measures and, in specifying the percentages, provide for at least fifty per cent of nursing facilities to earn points for meeting those accountability measures.~~

~~(2) If, by July 1, 2012, the United States centers for medicare and medicaid services does not make calculations using the 3.0 version of the minimum data set that indicate whether nursing facilities meet those accountability measures, the department shall do either of the following:~~

~~(a) Do both of the following:~~

~~(i) Make the calculations using the 3.0 version of the minimum data set in accordance with the national voluntary consensus standards for nursing homes;~~

~~(ii) Specify the percentages to be used for the purposes of those accountability measures and, in specifying the percentages, provide for at least fifty per cent of nursing facilities to earn points for meeting those accountability measures.~~

~~(b) Do all of the following:~~

~~(i) Rely on the most recent calculations the United States centers for medicare and medicaid services made using the 2.0 version of the minimum data set that indicate whether nursing facilities meet those accountability measures;~~

~~(ii) Use four per cent as the applicable percentage for the accountability measure identified in division (C)(10) of this section;~~

~~(iii) Use nine per cent as the applicable percentage for the accountability measure identified in division (C)(11) of this section;~~

~~(iv) Use two per cent as the applicable percentage for the accountability measure identified in division (C)(12) of this section;~~

~~(v) Use ten per cent as the applicable percentage for the accountability measure identified in division (C)(13) of this section.~~

~~(F) For the purposes of awarding points under divisions (C)(10) to (13) of this section for fiscal year 2014 and thereafter, the department shall do the following:~~

~~(1) Rely on calculations the United States centers for medicare and medicaid services makes using the 3.0 version of the minimum data set that~~

~~indicate whether nursing facilities meet those accountability measures;~~

~~(2) If the department takes action pursuant to division (E)(1) of this section for fiscal year 2013, continue to use the percentages the department specifies pursuant to division (E)(1)(b) of this section for the purposes of those accountability measures;~~

~~(3) If the department takes action pursuant to division (E)(2) of this section for fiscal year 2013, do the following:~~

~~(a) For fiscal year 2014, specify the percentages to be used for the purposes of those accountability measures and, in specifying the percentages, provide for at least fifty per cent of nursing facilities to earn points for meeting those accountability measures;~~

~~(b) For fiscal year 2015 and thereafter, continue to use the percentages the department specifies pursuant to division (F)(3)(a) of this section for the purposes of those accountability measures. Not later than July 1, 2014, the department shall submit, in accordance with section 101.68 of the Revised Code, recommendations to the general assembly for accountability measures to replace the accountability measures identified in divisions (D)(21) and (22) of this section.~~

~~(G) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.~~

~~The rules Rules adopted under section 5165.02 of the Revised Code may specify what is meant by "some" as that word is used in division (C)(16) of this section.~~

~~Sec. 5111.245 5165.26. (A) As used in this section:~~

~~(1) "Budgeted amount for quality incentive payments for a fiscal year" means the amount determined for a fiscal year as follows:~~

~~(a) Multiply the total number of medicaid days in the immediately preceding fiscal year by sixteen dollars and forty-four cents;~~

~~(b) Determine the total amount of quality incentive payments that was paid under section 5165.25 of the Revised Code to all nursing facility providers for the immediately preceding fiscal year;~~

~~(c) Subtract the amount determined under division (A)(1)(b) of this section from the product calculated under division (A)(1)(a) of this section;~~

~~(d) Add thirty million dollars to the difference calculated under division (A)(1)(c) of this section.~~

~~(2) "Point days for a fiscal year" means the product of the following:~~

~~(a) A qualifying nursing facility's quality bonus points for the fiscal year;~~

~~(b) The number of the qualifying nursing facility's medicaid days in the immediately preceding fiscal year.~~

~~(2)~~(3) "Qualifying nursing facility" means a nursing facility that qualifies for a quality bonus for a fiscal year as determined under division (B) of this section.

~~(3)~~(4) "Quality bonus points for a fiscal year" means the amount determined by subtracting five from the number of points awarded to a qualifying nursing facility for meeting accountability measures under ~~division (C) of section 5111.244~~ 5165.25 of the Revised Code for a fiscal year.

~~(4)~~ "Residual budgeted amount for quality incentive payments for a fiscal year" means the amount determined for a fiscal year as follows:

~~(a)~~ Multiply the total number of medicaid days in the fiscal year by sixteen dollars and forty four cents;

~~(b)~~ Determine the total amount of quality incentive payments that was paid under section 5111.244 of the Revised Code to all nursing facility providers for the fiscal year;

~~(c)~~ Subtract the amount determined under division (A)(4)(b) of this section from the product calculated under division (A)(4)(a) of this section.

(B) ~~The~~ Not later than the first day of November of each fiscal year, the department of job and family services medicaid shall pay a nursing facility provider a quality bonus for a the fiscal year if ~~both of the following apply:~~

~~(1)~~ The provider's nursing facility is awarded more than five points for meeting accountability measures under division (C) of section 5111.244 5165.25 of the Revised Code for the fiscal year and the following applies:

(1) For fiscal year 2014, at least two of the points are awarded to the nursing facility pursuant to division (C)(10), (11), (12), (13), or (14) of section 5165.25 of the Revised Code.

(2) For fiscal year 2015 and each fiscal year thereafter, at least two of the points are awarded to the nursing facility pursuant to division (D)(9), (10), (11), (12), (13), or (14) of section 5165.25 of the Revised Code.

~~(2)~~ The residual budgeted amount for quality incentive payments for the fiscal year is greater than zero.

(C) The total quality bonus to be paid to the provider of a qualifying nursing facility for a fiscal year shall equal the product of the following:

(1) The quality bonus per medicaid day for the fiscal year determined for the provider's qualifying nursing facility under division (D) of this section;

(2) The number of the qualifying nursing facility's medicaid days in the immediately preceding fiscal year.

(D) A qualifying nursing facility's quality bonus per medicaid day for a fiscal year shall be the product of the following:

(1) The nursing facility's quality bonus points for the fiscal year;
(2) The quality bonus per point for the fiscal year determined under division (E) of this section.

(E) The quality bonus per point for a fiscal year shall be determined as follows:

(1) Determine the number of each qualifying nursing facility's point days for the fiscal year;

(2) Determine the sum of all qualifying nursing facilities' point days for the fiscal year;

(3) Divide the ~~residual~~ budgeted amount for quality incentive payments for the fiscal year by the sum determined under division (E)(2) of this section.

(F) The calculation of a qualifying nursing facility's bonus payment is not subject to appeal under Chapter 119. of the Revised Code.

~~(G) The director of job and family services may adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.~~

Sec. ~~5111.257~~ 5165.28. If a provider of a nursing facility adds or replaces one or more medicaid certified beds to or at the nursing facility, or renovates one or more of the nursing facility's beds, the medicaid payment rate for the added, replaced, or renovated beds shall be the same as the medicaid payment rate for the nursing facility's existing beds.

Sec. ~~5111.265~~ 5165.29. If one or more medicaid-certified beds are relocated from one nursing facility to another nursing facility owned by a different person or government entity and the application for the certificate of need authorizing the relocation is filed with the director of health on or after ~~the effective date of this section~~ July 1, 2005, amortization of the cost of acquiring operating rights for the relocated beds is not an allowable cost for the purpose of determining the nursing facility's medicaid reimbursement payment rate.

Sec. ~~5111.264~~ 5165.30. Except as provided in section ~~5111.25~~ 5111.251 5165.17 of the Revised Code, the costs of goods, services, and facilities, furnished to a nursing facility provider by a related party are includable in the allowable costs of the provider at the reasonable cost to the related party.

Sec. 5165.32. The department of medicaid shall not reduce a nursing facility's medicaid payment rate determined under this chapter on the basis that the provider charges a lower rate to any resident who is not eligible for medicaid.

Sec. 5165.33. No medicaid payment shall be made to a nursing facility provider for the day a medicaid recipient is discharged from the nursing

facility.

Sec. ~~5111.331~~ 5165.34. (A) The department of ~~job and family services~~ medicaid may make medicaid payments to a nursing facility provider ~~of a nursing facility~~ under ~~sections 5111.20 to 5111.331 of the Revised Code~~ this chapter to reserve a bed for a recipient during a temporary absence under conditions prescribed by the department, to include hospitalization for an acute condition, visits with relatives and friends, and participation in therapeutic programs outside the facility, when the resident's plan of care provides for such absence and federal financial participation ~~in~~ for the payments is available.

(B) The maximum period for which payments may be made to reserve a bed in a nursing facility shall not exceed thirty days in a calendar year.

(C) The department shall establish the per ~~diem~~ medicaid day payment rates ~~to be paid to providers of nursing facilities~~ for reserving beds under this section. In establishing the per ~~diem~~ medicaid day payment rates, the department shall ~~do the following:~~

(1) ~~In the case of a payment to reserve a bed for a day during calendar year 2011, set the per diem rate at an amount not exceeding fifty per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day;~~

(2) ~~In the case of a payment to reserve a bed for a day during calendar year 2012 and each calendar year thereafter, set the per diem medicaid day payment rate at an amount equal to the following:~~

(a)(1) ~~In the case of a nursing facility that had an occupancy rate in the preceding calendar year exceeding ninety-five per cent, an amount not exceeding fifty per cent of the per diem medicaid day payment rate the provider would be paid if the recipient were not absent from the nursing facility that day;~~

(b)(2) ~~In the case of a nursing facility that had an occupancy rate in the preceding calendar year not exceeding ninety-five per cent, an amount not exceeding eighteen per cent of the per diem medicaid day payment rate the provider would be paid if the recipient were not absent from the nursing facility that day.~~

(D) For the purpose of setting a nursing facility's per medicaid day payment rate to reserve a bed for a day during the period beginning on the effective date of this amendment and ending December 31, 2013, the department shall determine the nursing facility's occupancy rate by using information reported on the nursing facility's cost report for calendar year 2012. For the purpose of setting a nursing facility's per medicaid day payment rate to reserve a bed for January 1, 2014, or thereafter, the

department shall determine the nursing facility's occupancy rate by using information reported on the nursing facility's cost report for the calendar year preceding the fiscal year in which the reservation falls.

~~Sec. 5111.212 5165.35. As used in this section, "effective date of an involuntary termination" and "involuntary termination" have the same meanings as in section 5111.65 of the Revised Code.~~

Medicaid payments may be made for nursing facility services ~~and intermediate care facility for the mentally retarded services~~ provided not later than thirty days after the effective date of an involuntary termination of the nursing facility that provides the services if the services are provided to a medicaid recipient who is eligible for the services and resided in the nursing facility before the effective date of the involuntary termination.

~~Sec. 5111.224 5165.37. The department of job and family services~~ medicaid shall make its best efforts each year to calculate nursing facilities' medicaid payment rates under ~~sections 5111.20 to 5111.331 of the Revised Code~~ this chapter in time to ~~use them to make pay the payments due to providers rates~~ by the fifteenth day of August of each fiscal year. If the department is unable to calculate the rates so that they can be paid by that date, the department shall pay each provider the rate calculated for the provider's nursing facilities ~~and intermediate care facilities for the mentally retarded~~ under ~~those sections~~ this chapter at the end of the previous fiscal year. If the department also is unable to calculate the rates to ~~make the payments due~~ pay the rates by the fifteenth day of September and the fifteenth day of October, the department shall pay the previous fiscal year's rate to make those payments. The department may increase by five per cent the previous fiscal year's rate paid for any nursing facility pursuant to this section at the request of the provider. The department shall use rates calculated for the current fiscal year to make the payments due by the fifteenth day of November.

If the rate paid to a provider for a nursing facility pursuant to this section is lower than the rate calculated for the nursing facility for the current fiscal year, the department shall pay the provider the difference between the two rates for the number of days for which the provider was paid for the nursing facility pursuant to this section. If the rate paid for a nursing facility pursuant to this section is higher than the rate calculated for it for the current fiscal year, the provider shall refund to the department the difference between the two rates for the number of days for which the provider was paid for the nursing facility pursuant to this section.

~~Sec. 5111.29 5165.38. (A) The~~ medicaid ~~director of job and family services~~ shall adopt rules under section ~~5111.02~~ 5165.02 of the Revised

Code that establish a process under which a nursing facility provider, or a group or association of nursing facility providers, may seek reconsideration of medicaid payment rates established under ~~sections 5111.20 to 5111.331 of the Revised Code~~ this chapter, including a rate for direct care costs recalculated before the effective date of the rate as a result of an exception review of resident assessment ~~information~~ data conducted under section ~~5111.27~~ 5165.193 of the Revised Code. The

~~(1) Except as provided in divisions (A)(2) to (4) of this section, the only issue that a provider, group, or association may raise in the rate reconsideration shall be whether the rate was calculated in accordance with sections 5111.20 to 5111.331 of the Revised Code~~ this chapter and the rules adopted under section ~~5111.02~~ 5165.02 of the Revised Code. ~~The rules shall permit a provider, group, or association to~~ may submit written arguments or other materials that support its position. ~~The rules shall specify provider, group, or association and department of medicaid shall take actions regarding the rate reconsideration within time frames within which the provider, group, or association and the department must act specified in rules authorized by this section.~~ If

If the department determines, as a result of the rate reconsideration, that the rate ~~established~~ determined for one or more nursing facilities ~~of a provider~~ is less than the rate to which the nursing facility is entitled, the department shall increase the rate. If the department has paid the incorrect rate for a period of time, the department shall pay the provider the difference between the amount the provider was paid for that period for the nursing facility and the amount the provider should have been paid for the nursing facility.

~~(2) The rules shall provide that during a fiscal year, the department, by means of the rate reconsideration process, may increase the rate determined for an intermediate care facility for the mentally retarded as calculated under sections 5111.20 to 5111.331 of the Revised Code if the provider of the facility demonstrates that the facility's actual, allowable costs have increased because of extreme circumstances. A facility may qualify for a rate increase only if the facility's per diem, actual, allowable costs have increased to a level that exceeds its total rate. The rules shall specify the circumstances that would justify a rate increase under division (A)(2) of this section. The rules shall provide that the extreme circumstances include natural disasters, renovations approved under division (D) of section 5111.251 of the Revised Code, an increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program, increased security costs for an inner city facility, and a change of~~

~~ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health. An increase under division (A)(2) of this section is subject to any rate limitations or maximum rates established by sections 5111.20 to 5111.331 of the Revised Code for specific cost centers. Any rate increase granted under division (A)(2) of this section shall take effect on the first day of the first month after the department receives the request.~~

~~(3) The rules shall provide that the department, through the rate reconsideration process, may increase an intermediate care facility for the mentally retarded's rate as calculated under sections 5111.20 to 5111.331 of the Revised Code if the department, in the department's sole discretion, determines that the rate as calculated under those sections works an extreme hardship on the facility.~~

~~(4) The rules shall provide that when beds certified for the medicaid program are added to an existing intermediate care facility for the mentally retarded or replaced at the same site, the department, through the rate reconsideration process, shall increase the intermediate care facility for the mentally retarded's rate for capital costs proportionately, as limited by any applicable limitation under section 5111.251 of the Revised Code, to account for the costs of the beds that are added or replaced. The department shall make this increase one month after the first day of the month after the department receives sufficient documentation of the costs. Any rate increase granted under division (A)(4) of this section after June 30, 1993, shall remain in effect until the effective date of a rate calculated under section 5111.251 of the Revised Code that includes costs incurred for a full calendar year for the bed addition or bed replacement. The facility shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which a rate adjustment is granted under division (A)(4) of this section, if the facility is operated by the same provider, the provider shall subtract from the interest costs it reports on its cost report an amount equal to the difference between the following:~~

~~(a) The actual, allowable interest costs for the loan during the calendar year for which the costs are being reported;~~

~~(b) The actual, allowable interest costs attributable to the loan that were used to calculate the rates paid to the provider for the facility during the same calendar year.~~

~~(5) The department's decision at the conclusion of the reconsideration process shall not be subject to any administrative proceedings under Chapter 119, or any other provision of the Revised Code.~~

~~(B) All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code:~~

~~(1) Any audit disallowance that the department makes as the result of an audit under section 5111.27 of the Revised Code;~~

~~(2) Any adverse finding that results from an exception review of resident assessment information conducted under section 5111.27 of the Revised Code after the effective date of the facility's rate that is based on the assessment information;~~

~~(3) Any medicaid payment deemed an overpayment under section 5111.683 of the Revised Code;~~

~~(4) Any penalty the department imposes under division (C) of section 5111.28 of the Revised Code or section 5111.683 of the Revised Code.~~

Sec. ~~5111.28~~ 5165.40. (A) If a nursing facility provider properly amends ~~its~~ a cost report for the nursing facility under section ~~5111.261~~ 5165.107 of the Revised Code and the amended report shows that the provider received a lower medicaid payment rate under the original cost report than ~~it~~ the provider was entitled to receive, the department of ~~job and family services~~ medicaid shall adjust the provider's rate for the nursing facility prospectively to reflect the corrected information. The department shall pay the adjusted rate beginning two months after the first day of the month after the provider files the amended cost report. ~~If~~

If the department finds, from an exception review of resident assessment ~~information~~ data conducted pursuant to section 5165.193 of the Revised Code after the effective date of ~~the~~ a nursing facility's rate for direct care costs that is based on the resident assessment ~~information~~ data, that inaccurate resident assessment ~~information~~ data resulted in the provider receiving a lower rate for the nursing facility than it was entitled to receive, the department prospectively shall adjust the provider's rate accordingly ~~and~~. The department shall make payments to the provider using the adjusted rate for the remainder of the ~~calendar quarter~~ six-month period for which the resident assessment ~~information~~ data is used to determine the rate, beginning one month after the first day of the month after the exception review is completed.

~~(B) If the provider properly amends its cost report under section 5111.261 of the Revised Code, the department makes a finding based on an audit under section 5111.27 of the Revised Code, or the department makes a finding based on an exception review of resident assessment information conducted under section 5111.27 of the Revised Code after the effective date of the rate for direct care costs that is based on the assessment information, any of which results in a determination that the provider has~~

~~received a higher rate than it was entitled to receive, the department shall recalculate the provider's rate using the revised information. The department shall apply the recalculated rate to the periods when the provider received the incorrect rate to determine the amount of the overpayment. The provider shall refund the amount of the overpayment.~~

~~In addition to requiring a refund under this division, the department may charge the provider interest at the applicable rate specified in this division from the time the overpayment was made.~~

~~(1) If the overpayment resulted from costs reported for calendar year 1993, the interest shall be no greater than one and one half times the average bank prime rate.~~

~~(2) If the overpayment resulted from costs reported for subsequent calendar years:~~

~~(a) The interest shall be no greater than two times the average bank prime rate if the overpayment was equal to or less than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to establish a rate.~~

~~(b) The interest shall be no greater than two and one half times the current average bank prime rate if the overpayment was greater than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to establish a rate.~~

~~(C) The department also may impose the following penalties:~~

~~(1) If a provider does not furnish invoices or other documentation that the department requests during an audit within sixty days after the request, no more than the greater of one thousand dollars per audit or twenty five per cent of the cumulative amount by which the costs for which documentation was not furnished increased the total medicaid payments to the provider during the fiscal year for which the costs were used to establish a rate;~~

~~(2) If an exiting operator or owner fails to provide notice of a facility closure, voluntary termination, or voluntary withdrawal of participation in the medicaid program as required by section 5111.66 of the Revised Code, or an exiting operator or owner and entering operator fail to provide notice of a change of operator as required by section 5111.67 of the Revised Code, no more than the current average bank prime rate plus four per cent of the last two monthly payments.~~

~~(D) If the provider continues to participate in the medicaid program, the department shall deduct any amount that the provider is required to refund under this section, and the amount of any interest charged or penalty imposed under this section, from the next available payment from the department to the provider. The department and the provider may enter into~~

~~an agreement under which the amount, together with interest, is deducted in installments from payments from the department to the provider.~~

~~(E) The department shall transmit refunds and penalties to the treasurer of state for deposit in the general revenue fund.~~

~~(F) For the purpose of this section, the department shall determine the average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, or any successor publication. If statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the department shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.~~

Sec. 5165.41. (A) The department of medicaid shall redetermine a provider's medicaid payment rate for a nursing facility using revised information if any of the following results in a determination that the provider received a higher medicaid payment rate for the nursing facility than the provider was entitled to receive:

(1) The provider properly amends a cost report for the nursing facility under section 5165.107 of the Revised Code;

(2) The department makes a finding based on an audit under section 5165.109 of the Revised Code;

(3) The department makes a finding based on an exception review of resident assessment data conducted under section 5165.193 of the Revised Code after the effective date of the nursing facility's rate for direct care costs that is based on the resident assessment data;

(4) The department makes a finding based on a post-payment review conducted under section 5165.49 of the Revised Code.

(B) The department shall apply the redetermined rate to the periods when the provider received the incorrect rate to determine the amount of the overpayment. The provider shall refund the amount of the overpayment. The department may charge the provider the following amount of interest from the time the overpayment was made:

(1) If the overpayment resulted from costs reported for calendar year 1993, the interest shall be no greater than one and one-half times the current average bank prime rate.

(2) If the overpayment resulted from costs reported for a subsequent calendar year:

(a) The interest shall be no greater than two times the current average bank prime rate if the overpayment was no more than one per cent of the total medicaid payments to the provider for the fiscal year for which the overpayment was made.

(b) The interest shall be no greater than two and one-half times the current average bank prime rate if the overpayment was more than one per cent of the total medicaid payments to the provider for the fiscal year for which the overpayment was made.

Sec. 5165.42. In addition to the other penalties authorized by this chapter, the department of medicaid may impose the following penalties on a nursing facility provider:

(A) If the provider does not furnish invoices or other documentation that the department requests during an audit within sixty days after the request, a fine of no more than the greater of the following:

(1) One thousand dollars per audit;

(2) Twenty-five per cent of the cumulative amount by which the costs for which documentation was not furnished increased the total medicaid payments to the provider during the fiscal year for which the costs were used to determine a rate.

(B) If an exiting operator or owner fails to provide notice of a facility closure or voluntary withdrawal of participation in the medicaid program as required by section 5165.50 of the Revised Code, or an exiting operator or owner and entering operator fail to provide notice of a change of operator as required by section 5165.51 of the Revised Code, a fine of not more than the current average bank prime rate plus four per cent of the last two monthly payments.

Sec. 5165.43. For the purposes of sections 5165.41 and 5165.42 of the Revised Code, the department of medicaid shall determine the current average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, or any successor publication. If statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the department shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.

Sec. 5165.44. (A) Except as provided in division (B) of this section, the department of medicaid shall deduct the following from the next available medicaid payment the department makes to a nursing facility provider who continues to participate in medicaid:

(1) Any amount the provider is required to refund, and any interest charged, under section 5165.41 of the Revised Code;

(2) The amount of any penalty imposed on the provider under section 5165.42 of the Revised Code.

(B) The department and a nursing facility provider may enter into an agreement under which a deduction required by division (A) of this section

is taken in installments from payments the department makes to the provider.

Sec. 5165.45. The department of medicaid shall transmit to the treasurer of state for deposit in the general revenue fund amounts collected from the following:

(A) Refunds required by, and interest charged under, section 5165.41 of the Revised Code;

(B) Amounts collected from penalties imposed under section 5165.42 of the Revised Code.

Sec. 5165.46. All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(A) Any audit disallowance that the department of medicaid makes as the result of an audit under section 5165.109 of the Revised Code;

(B) Any adverse finding that results from an exception review of resident assessment data conducted for a nursing facility under section 5165.193 of the Revised Code after the effective date of the nursing facility's medicaid payment rate for direct care costs that is based on the resident assessment data;

(C) Any medicaid payment deemed an overpayment under section 5165.523 of the Revised Code;

(D) Any penalty the department imposes under section 5165.42 of the Revised Code or section 5165.523 of the Revised Code.

~~Sec. 5111.262~~ 5165.47. No person, other than the a nursing facility provider of a nursing facility, shall submit a claim for medicaid reimbursement payment for a service provided to a nursing facility resident if the service is included in a medicaid payment made to the nursing facility provider of a nursing facility under sections 5111.20 to 5111.33 of the Revised Code this chapter or in the reimbursable allowable expenses reported on a provider's cost report for a nursing facility. No nursing facility provider of a nursing facility shall submit a separate claim for medicaid reimbursement payment for a service provided to a resident of the nursing facility if the service is included in a medicaid payment made to the provider under sections 5111.20 to 5111.331 of the Revised Code this chapter or in the reimbursable allowable expenses on the provider's cost report for the nursing facility.

~~Sec. 5111.0211~~ 5165.48. As used in this section, "nursing facility" and "provider" have the same meanings as in section 5111.20 of the Revised Code.

The provider of a nursing facility is not required to submit a claim to the department of ~~job and family services~~ medicaid regarding the medicare

cost-sharing expenses of a resident of the nursing facility who, under federal law, is eligible to have the medicaid program pay for a part of the cost-sharing expenses if the provider determines that, under rules adopted under section ~~5111.02~~ 5165.02 of the Revised Code, the nursing facility would not receive a medicaid payment for any part of the medicare cost-sharing expenses. In such a situation, a claim for the medicare cost-sharing expenses shall be considered to have been adjudicated at no payment.

Sec. 5165.49. The department of medicaid may conduct a post-payment review of a claim submitted by a nursing facility provider and paid by the medicaid program to determine whether the provider was overpaid. The department shall provide the provider a written summary of the review's results. The review's results are not subject to an adjudication under Chapter 119. of the Revised Code; however, the provider may request that the medicaid director reconsider the review's results. The director shall reconsider the review's results on receipt of a request made in good faith. The department shall not deduct any amounts the department claims to be due from the provider as a result of the review from the provider's medicaid payments pursuant to section 5165.44 of the Revised Code until the conclusion of the director's reconsideration, if any, of the review.

Sec. ~~5111.66~~ 5165.50. An exiting operator or owner of a nursing facility or intermediate care facility for the mentally retarded participating in the medicaid program shall provide the department of job and family services medicaid written notice of a facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation not less than ninety days before the effective date of the facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation. The written notice shall be provided to the department in accordance with the method specified in rules ~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the Revised Code.

The written notice shall include all of the following:

(A) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(B) The name of the nursing facility ~~or intermediate care facility for the mentally retarded~~ that is the subject of the written notice;

(C) The exiting operator's medicaid provider agreement number for the nursing facility that is the subject of the written notice;

(D) The effective date of the facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation;

(E) The signature of the exiting operator's or owner's representative.

Sec. ~~5111.661~~ 5165.501. An operator shall comply with section

~~1919(c)(2)(F)~~ of the "Social Security Act," ~~79 Stat. 286 (1965)~~ section 1919(c)(2)(F), 42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility undergoes a voluntary withdrawal of participation.

Sec. ~~5111.67~~ 5165.51. (A) An exiting operator or owner and entering operator shall provide the department of ~~job and family services~~ medicaid written notice of a change of operator if the nursing facility ~~or intermediate care facility for the mentally retarded~~ participates in the medicaid program and the entering operator seeks to continue the nursing facility's participation. The written notice shall be provided to the department in accordance with the method specified in rules ~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the Revised Code. The written notice shall be provided to the department not later than forty-five days before the effective date of the change of operator if the change of operator does not entail the relocation of residents. The written notice shall be provided to the department not later than ninety days before the effective date of the change of operator if the change of operator entails the relocation of residents.

The written notice shall include all of the following:

- (1) The name of the exiting operator and, if any, the exiting operator's authorized agent;
 - (2) The name of the nursing facility ~~or intermediate care facility for the mentally retarded~~ that is the subject of the change of operator;
 - (3) The exiting operator's seven-digit medicaid legacy number and ten-digit national provider identifier number for the nursing facility that is the subject of the change of operator;
 - (4) The name of the entering operator;
 - (5) The effective date of the change of operator;
 - (6) The manner in which the entering operator becomes the nursing facility's operator, including through sale, lease, merger, or other action;
 - (7) If the manner in which the entering operator becomes the nursing facility's operator involves more than one step, a description of each step;
 - (8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator;
 - (9) The names and addresses of the persons to whom the department should send initial correspondence regarding the change of operator;
 - (10) If the nursing facility also participates in the medicare program, notification of whether the entering operator intends to accept assignment of the exiting operator's medicare provider agreement;
 - (11) The signature of the exiting operator's or owner's representative.
- (B) An exiting operator or owner and entering operator immediately

shall provide the department written notice of any changes to information included in a written notice of a change of operator that occur after that notice is provided to the department. The notice of the changes shall be provided to the department in accordance with the method specified in rules ~~adopted under~~ authorized by section 5111.689 5165.53 of the Revised Code.

Sec. ~~5111.671 5165.511~~. The department of ~~job and family services~~ medicaid may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the effective date of the change of operator if all of the following requirements are met:

(A) The department receives a properly completed written notice required by section ~~5111.67 5165.51~~ of the Revised Code on or before the date required by that section.

(B) The department receives both of the following in accordance with the method specified in rules ~~adopted under~~ authorized by section 5111.689 5165.53 of the Revised Code and not later than ten days after the effective date of the change of operator:

(1) From the entering operator, a completed application for a provider agreement and all other forms and documents specified in rules ~~adopted under~~ authorized by section 5111.689 5165.53 of the Revised Code;

(2) From the exiting operator or owner, all forms and documents specified in rules ~~adopted under~~ authorized by section 5111.689 5165.53 of the Revised Code.

(C) The entering operator is eligible for medicaid payments as provided in section ~~5111.21 5165.06~~ of the Revised Code.

Sec. ~~5111.672 5165.512~~. (A) The department of ~~job and family services~~ medicaid may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the date determined under division (B) of this section if all of the following are the case:

(1) The department receives a properly completed written notice required by section ~~5111.67 5165.51~~ of the Revised Code.

(2) The department receives, from the entering operator and in accordance with the method specified in rules ~~adopted under~~ authorized by section 5111.689 5165.53 of the Revised Code, a completed application for a provider agreement and all other forms and documents specified in rules adopted under that section.

(3) The department receives, from the exiting operator or owner and in accordance with the method specified in rules ~~adopted under~~ authorized by section 5111.689 5165.53 of the Revised Code, all forms and documents specified in rules adopted under that section.

(4) One or more of the following apply:

(a) The requirement of division (A)(1) of this section is met after the time required by section ~~5111.67~~ 5165.51 of the Revised Code;

(b) The requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator;

(c) The requirement of division (A)(3) of this section is met more than ten days after the effective date of the change of operator.

(5) The entering operator is eligible for medicaid payments as provided in section ~~5111.21~~ 5165.06 of the Revised Code.

(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows:

(1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate payments are made, and make the withholding required by section ~~5111.681~~ 5165.521 of the Revised Code.

(2) The effective date shall be not earlier than the latest of the following:

(a) The effective date of the change of operator;

(b) The date that the entering operator complies with section ~~5111.67~~ 5165.51 of the Revised Code and division (A)(2) of this section;

(c) The date that the exiting operator or owner complies with section ~~5111.67~~ 5165.51 of the Revised Code and division (A)(3) of this section.

(3) The effective date shall be not later than the following after the later of the dates specified in division (B)(2) of this section:

(a) Forty-five days if the change of operator does not entail the relocation of residents;

(b) Ninety days if the change of operator entails the relocation of residents.

Sec. ~~5111.673~~ 5165.513. (A) A provider that enters into a provider agreement with the department of ~~job and family services~~ medicaid under section ~~5111.671~~ 5165.511 or ~~5111.672~~ 5165.512 of the Revised Code shall do all of the following:

~~(A)(1)~~ Comply with all applicable federal statutes and regulations;

~~(B)(2)~~ Comply with section ~~5111.22~~ 5165.07 of the Revised Code and all other applicable state statutes and rules;

~~(C) Comply~~ (3) Subject to division (B) of this section, comply with all the terms and conditions of the exiting operator's provider agreement, including, but not limited to, all of the following:

~~(1)(a)~~ Any plan of correction;

~~(2)(b)~~ Compliance with health and safety standards;

~~(3)(c)~~ Compliance with the ownership and financial interest disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;

~~(4)~~(d) Compliance with the civil rights requirements of 45 C.F.R. parts 80, 84, and 90;

~~(5)~~(e) Compliance with additional requirements imposed by the department;

~~(6)~~(f) Any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies.

(B) Division (A)(3) of this section does not prohibit a nursing facility provider from excluding one or more parts of the nursing facility from the provider agreement pursuant to division (B)(1) of section 5165.08 of the Revised Code.

Sec. ~~5111.674~~ 5165.514. In the case of a change of operator, the exiting operator shall be considered to be the operator of the nursing facility ~~or intermediate care facility for the mentally retarded~~ for purposes of the medicaid program, including medicaid payments, until the effective date of the entering operator's provider agreement if the provider agreement is entered into under section ~~5111.674~~ 5165.511 or ~~5111.672~~ 5165.512 of the Revised Code.

Sec. ~~5111.675~~ 5165.515. The department of ~~job and family services~~ medicaid may enter into a provider agreement as provided in section ~~5111.22~~ 5165.07 of the Revised Code, rather than section ~~5111.674~~ 5165.511 or ~~5111.672~~ 5165.512 of the Revised Code, with an entering operator if the entering operator does not agree to a provider agreement that satisfies the requirements of division ~~(C)(A)(3)~~ of section ~~5111.673~~ 5165.513 of the Revised Code. The department may not enter into the provider agreement unless the department of health certifies the nursing facility ~~or intermediate care facility for the mentally retarded~~ under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as ~~amended~~ for participation in medicaid. The effective date of the provider agreement shall not precede any of the following:

(A) The date that the department of health certifies the nursing facility;

(B) The effective date of the change of operator;

(C) The date the requirement of section ~~5111.67~~ 5165.51 of the Revised Code is satisfied.

Sec. ~~5111.676~~ 5165.516. The medicaid director ~~of job and family services~~ may adopt rules ~~in accordance with Chapter 119.~~ under section 5165.02 of the Revised Code governing adjustments to the medicaid reimbursement payment rate for a nursing facility ~~or intermediate care facility for the mentally retarded~~ that undergoes a change of operator. No

rate adjustment resulting from a change of operator shall be effective before the effective date of the entering operator's provider agreement. This is the case regardless of whether the provider agreement is entered into under section ~~5111.671~~ 5165.511, section ~~5111.672~~ 5165.512, or, pursuant to section ~~5111.675~~ 5165.515, section ~~5111.22~~ 5165.07 of the Revised Code.

Sec. ~~5111.677~~ 5165.517. ~~Neither of the following~~ The department of health's determination that a change of operator has or has not occurred for purposes of licensure under Chapter 3721. of the Revised Code shall not affect the department of ~~job and family services'~~ medicaid's determination of whether or when a change of operator occurs or the effective date of an entering operator's provider agreement under section ~~5111.671~~ 5165.511, section ~~5111.672~~ 5165.512, or, pursuant to section ~~5111.675~~ 5165.515, section ~~5111.22~~ 5165.07 of the Revised Code:

(A) ~~The department of health's determination that a change of operator has or has not occurred for purposes of licensure under Chapter 3721. of the Revised Code;~~

(B) ~~The department of developmental disabilities' determination that a change of operator has or has not occurred for purposes of licensure under section 5123.19 of the Revised Code.~~

Sec. ~~5111.68~~ 5165.52. (A) On receipt of a written notice under section ~~5111.66~~ 5165.50 of the Revised Code of a facility closure, ~~voluntary termination,~~ or voluntary withdrawal of participation, on receipt of a written notice under section ~~5111.67~~ 5165.51 of the Revised Code of a change of operator, or on the effective date of an involuntary termination, the department of ~~job and family services~~ medicaid shall estimate the amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program, including a franchise permit fee.

(B) In estimating the exiting operator's other actual and potential debts to the department and the United States centers for medicare and medicaid services under the medicaid program, the department shall use a debt estimation methodology the medicaid director of ~~job and family services~~ shall establish in rules ~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the Revised Code. The methodology shall provide for estimating all of the following that the department determines are applicable:

(1) Refunds due the department under section ~~5111.27~~ 5165.41 of the Revised Code;

(2) Interest owed to the department and United States centers for

medicare and medicaid services;

(3) Final civil monetary and other penalties for which all right of appeal has been exhausted;

(4) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program;

(5) Other amounts the department determines are applicable.

(C) The department shall provide the exiting operator written notice of the department's estimate under division (A) of this section not later than thirty days after the department receives the notice under section ~~5111.66~~ 5165.50 of the Revised Code of the facility closure, ~~voluntary termination,~~ or voluntary withdrawal of participation; the department receives the notice under section ~~5111.67~~ 5165.51 of the Revised Code of the change of operator; or the effective date of the involuntary termination. The department's written notice shall include the basis for the estimate.

Sec. ~~5111.681~~ 5165.521. (A) Except as provided in divisions (B), (C), and (D) of this section, the department of ~~job and family services~~ medicaid may withhold from payment due an exiting operator under the medicaid program the total amount specified in the notice provided under division (C) of section ~~5111.68~~ 5165.52 of the Revised Code that the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program.

(B) In the case of a change of operator and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or entering operator or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section:

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section ~~5111.685~~ 5165.525 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (B)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section ~~5111.68~~ 5165.52 of the Revised Code and the amount for which

the exiting operator, entering operator, or affiliated operator assumes liability.

(C) In the case of a ~~voluntary termination~~, voluntary withdrawal of participation; or facility closure and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section:

(1) If the exiting operator or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section ~~5111.685~~ 5165.525 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator or affiliated operator assumes liability for only the portion of the amount specified in division (C)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section ~~5111.68~~ 5165.52 of the Revised Code and the amount for which the exiting operator or affiliated operator assumes liability.

(D) In the case of an involuntary termination and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator, the entering operator, or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section and the department approves the successor liability agreement:

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section ~~5111.685~~ 5165.525 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (D)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section ~~5111.68~~ 5165.52 of the Revised Code and the amount for which the exiting operator, entering operator, or affiliated operator assumes liability.

(E) For an exiting operator or affiliated operator to be eligible to enter

into a successor liability agreement under division (B), (C), or (D) of this section, both of the following must apply:

(1) The exiting operator or affiliated operator must have one or more valid provider agreements, other than the provider agreement for the nursing facility ~~or intermediate care facility for the mentally retarded~~ that is the subject of the involuntary termination, ~~voluntary termination~~, voluntary withdrawal of participation, facility closure, or change of operator;

(2) During the twelve-month period preceding either the effective date of the involuntary termination or the month in which the department receives the notice of the ~~voluntary termination~~, voluntary withdrawal of participation, or facility closure under section ~~5111.66~~ 5165.50 of the Revised Code or the notice of the change of operator under section ~~5111.67~~ 5165.51 of the Revised Code, the average monthly medicaid payment made to the exiting operator or affiliated operator pursuant to the exiting operator's or affiliated operator's one or more provider agreements, other than the provider agreement for the nursing facility ~~or intermediate care facility for the mentally retarded~~ that is the subject of the involuntary termination, ~~voluntary termination~~, voluntary withdrawal of participation, facility closure, or change of operator, must equal at least ninety per cent of the sum of the following:

(a) The average monthly medicaid payment made to the exiting operator pursuant to the exiting operator's provider agreement for the nursing facility ~~or intermediate care facility for the mentally retarded~~ that is the subject of the involuntary termination, ~~voluntary termination~~, voluntary withdrawal of participation, facility closure, or change of operator;

(b) Whichever of the following apply:

(i) If the exiting operator or affiliated operator has assumed liability under one or more other successor liability agreements, the total amount for which the exiting operator or affiliated operator has assumed liability under the other successor liability agreements;

(ii) If the exiting operator or affiliated operator has not assumed liability under any other successor liability agreements, zero.

(F) A successor liability agreement executed under this section must comply with all of the following:

(1) It must provide for the operator who executes the successor liability agreement to assume liability for either of the following as specified in the agreement:

(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section ~~5111.685~~

5165.525 of the Revised Code;

(b) The portion of the amount specified in division (F)(1)(a) of this section that represents the franchise permit fee the exiting operator owes.

(2) It may not require the operator who executes the successor liability agreement to furnish a surety bond.

(3) It must provide that the department, after determining under section ~~5111.685~~ 5165.525 of the Revised Code the actual amount of debt the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program, may deduct the lesser of the following from medicaid payments made to the operator who executes the successor liability agreement:

(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section ~~5111.685~~ 5165.525 of the Revised Code;

(b) The amount for which the operator who executes the successor liability agreement assumes liability under the agreement.

(4) It must provide that the deductions authorized by division (F)(3) of this section are to be made for a number of months, not to exceed six, agreed to by the operator who executes the successor liability agreement and the department or, if the operator who executes the successor liability agreement and department cannot agree on a number of months that is less than six, a greater number of months determined by the attorney general pursuant to a claims collection process authorized by statute of this state.

(5) It must provide that, if the attorney general determines the number of months for which the deductions authorized by division (F)(3) of this section are to be made, the operator who executes the successor liability agreement shall pay, in addition to the amount collected pursuant to the attorney general's claims collection process, the part of the amount so collected that, if not for division (H) of this section, would be required by section 109.081 of the Revised Code to be paid into the attorney general claims fund.

(G) Execution of a successor liability agreement does not waive an exiting operator's right to contest the amount specified in the notice the department provides the exiting operator under division (C) of section ~~5111.68~~ 5165.52 of the Revised Code.

(H) Notwithstanding section 109.081 of the Revised Code, the entire amount that the attorney general, whether by employees or agents of the attorney general or by special counsel appointed pursuant to section 109.08 of the Revised Code, collects under a successor liability agreement, other

than the additional amount the operator who executes the agreement is required by division (F)(5) of this section to pay, shall be paid to the department of ~~job and family services~~ medicaid for deposit into the appropriate fund. The additional amount that the operator is required to pay shall be paid into the state treasury to the credit of the attorney general claims fund created under section 109.081 of the Revised Code.

Sec. ~~5111.682~~ 5165.522. (A) Except as provided in division (B) of this section, an exiting operator shall file with the department of ~~job and family services~~ medicaid a cost report not later than ninety days after the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall cover the period that begins with the day after the last day covered by the operator's most recent previous cost report required by section ~~5111.26~~ 5165.10 of the Revised Code and ends on the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall include, as applicable, all of the following:

(1) The sale price of the nursing facility ~~or intermediate care facility for the mentally retarded~~;

(2) A final depreciation schedule that shows which assets are transferred to the buyer and which assets are not transferred to the buyer;

(3) Any other information the department requires.

(B) The department, at its sole discretion, may waive the requirement that an exiting operator file a cost report in accordance with division (A) of this section.

Sec. ~~5111.683~~ 5165.523. If an exiting operator required by section ~~5111.682~~ 5165.522 of the Revised Code to file a cost report with the department of ~~job and family services~~ medicaid fails to file the cost report in accordance with that section, all payments under the medicaid program for the period the cost report is required to cover are deemed overpayments until the date the department receives the properly completed cost report. The department may impose on the exiting operator a penalty of one hundred dollars for each calendar day the properly completed cost report is late.

Sec. ~~5111.684~~ 5165.524. The department of ~~job and family services~~ medicaid may not provide an exiting operator final payment under the medicaid program until the department receives all properly completed cost reports the exiting operator is required to file under sections ~~5111.26~~ 5165.10 and ~~5111.682~~ 5165.522 of the Revised Code.

Sec. ~~5111.685~~ 5165.525. The department of ~~job and family services~~ medicaid shall determine the actual amount of debt an exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program by completing all final fiscal audits not already completed and performing all other appropriate actions the department determines to be necessary. The department shall issue an initial debt summary report on this matter not later than sixty days after the date the exiting operator files the properly completed cost report required by section ~~5111.682~~ 5165.522 of the Revised Code with the department or, if the department waives the cost report requirement for the exiting operator, sixty days after the date the department waives the cost report requirement. The initial debt summary report becomes the final debt summary report thirty-one days after the department issues the initial debt summary report unless the exiting operator, or an affiliated operator who executes a successor liability agreement under section ~~5111.684~~ 5165.521 of the Revised Code, requests a review before that date.

The exiting operator, and an affiliated operator who executes a successor liability agreement under section ~~5111.684~~ 5165.521 of the Revised Code, may request a review to contest any of the department's findings included in the initial debt summary report. The request for the review must be submitted to the department not later than thirty days after the date the department issues the initial debt summary report. The department shall conduct the review on receipt of a timely request and issue a revised debt summary report. If the department has withheld money from payment due the exiting operator under division (A) of section ~~5111.684~~ 5165.521 of the Revised Code, the department shall issue the revised debt summary report not later than ninety days after the date the department receives the timely request for the review unless the department and exiting operator or affiliated operator agree to a later date. The exiting operator or affiliated operator may submit information to the department explaining what the operator contests before and during the review, including documentation of the amount of any debt the department owes the operator. The exiting operator or affiliated operator may submit additional information to the department not later than thirty days after the department issues the revised debt summary report. The revised debt summary report becomes the final debt summary report thirty-one days after the department issues the revised debt summary report unless the exiting operator or affiliated operator timely submits additional information to the department. If the exiting operator or affiliated operator timely submits additional information to the department, the department shall consider the additional

information and issue a final debt summary report not later than sixty days after the department issues the revised debt summary report unless the department and exiting operator or affiliated operator agree to a later date.

Each debt summary report the department issues under this section shall include the department's findings and the amount of debt the department determines the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program. The department shall explain its findings and determination in each debt summary report.

The exiting operator, and an affiliated operator who executes a successor liability agreement under section ~~5111.684~~ 5165.521 of the Revised Code, may request, in accordance with Chapter 119. of the Revised Code, an adjudication regarding a finding in a final debt summary report that pertains to an audit or alleged overpayment made under the medicaid program to the exiting operator. The adjudication shall be consolidated with any other uncompleted adjudication that concerns a matter addressed in the final debt summary report.

Sec. ~~5111.686~~ 5165.526. The department of ~~job and family services~~ medicaid shall release the actual amount withheld under division (A) of section ~~5111.681~~ 5165.521 of the Revised Code, less any amount the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program, as follows:

(A) Unless the department issues the initial debt summary report required by section ~~5111.685~~ 5165.525 of the Revised Code not later than sixty days after the date the exiting operator files the properly completed cost report required by section ~~5111.682~~ 5165.522 of the Revised Code, sixty-one days after the date the exiting operator files the properly completed cost report;

(B) If the department issues the initial debt summary report required by section ~~5111.685~~ 5165.525 of the Revised Code not later than sixty days after the date the exiting operator files a properly completed cost report required by section ~~5111.682~~ 5165.522 of the Revised Code, not later than the following:

(1) Thirty days after the deadline for requesting an adjudication under section ~~5111.685~~ 5165.525 of the Revised Code regarding the final debt summary report if the exiting operator, and an affiliated operator who executes a successor liability agreement under section ~~5111.681~~ 5165.521 of the Revised Code, fail to request the adjudication on or before the deadline;

(2) Thirty days after the completion of an adjudication of the final debt summary report if the exiting operator, or an affiliated operator who

executes a successor liability agreement under section ~~5111.681~~ 5165.521 of the Revised Code, requests the adjudication on or before the deadline for requesting the adjudication.

(C) Unless the department issues the initial debt summary report required by section ~~5111.685~~ 5165.525 of the Revised Code not later than sixty days after the date the department waives the cost report requirement of section ~~5111.682~~ 5165.522 of the Revised Code, sixty-one days after the date the department waives the cost report requirement;

(D) If the department issues the initial debt summary report required by section ~~5111.685~~ 5165.525 of the Revised Code not later than sixty days after the date the department waives the cost report requirement of section ~~5111.682~~ 5165.522 of the Revised Code, not later than the following:

(1) Thirty days after the deadline for requesting an adjudication under section ~~5111.685~~ 5165.525 of the Revised Code regarding the final debt summary report if the exiting operator, and an affiliated operator who executes a successor liability agreement under section ~~5111.681~~ 5165.521 of the Revised Code, fail to request the adjudication on or before the deadline;

(2) Thirty days after the completion of an adjudication of the final debt summary report if the exiting operator, or an affiliated operator who executes a successor liability agreement under section ~~5111.681~~ 5165.521 of the Revised Code, requests the adjudication on or before the deadline for requesting the adjudication.

Sec. ~~5111.687~~ 5165.527. The department of ~~job and family services~~ medicaid, at its sole discretion, may release the amount withheld under division (A) of section ~~5111.681~~ 5165.521 of the Revised Code if the exiting operator submits to the department written notice of a postponement of a change of operator, facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation and the transactions leading to the change of operator, facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation are postponed for at least thirty days but less than ninety days after the date originally proposed for the change of operator, facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation as reported in the written notice required by section ~~5111.66~~ 5165.50 or ~~5111.67~~ 5165.51 of the Revised Code. The department shall release the amount withheld if the exiting operator submits to the department written notice of a cancellation or postponement of a change of operator, facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation and the transactions leading to the change of operator, facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation are canceled or postponed for more than ninety days after the date originally proposed for

the change of operator, facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation as reported in the written notice required by section ~~5111.66~~ 5165.50 or ~~5111.67~~ 5165.51 of the Revised Code. A written notice shall be provided to the department in accordance with the method specified in rules ~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the Revised Code.

After the department receives a written notice regarding a cancellation or postponement of a facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation, the exiting operator or owner shall provide new written notice to the department under section ~~5111.66~~ 5165.50 of the Revised Code regarding any transactions leading to a facility closure, ~~voluntary termination~~, or voluntary withdrawal of participation at a future time. After the department receives a written notice regarding a cancellation or postponement of a change of operator, the exiting operator or owner and entering operator shall provide new written notice to the department under section ~~5111.67~~ 5165.51 of the Revised Code regarding any transactions leading to a change of operator at a future time.

Sec. ~~5111.688~~ 5165.528. (A) All amounts withheld under section ~~5111.681~~ 5165.521 of the Revised Code from payment due an exiting operator under the medicaid program shall be deposited into the medicaid payment withholding fund created by the controlling board pursuant to section 131.35 of the Revised Code. Money in the fund shall be used as follows:

(1) To pay an exiting operator when a withholding is released to the exiting operator under section ~~5111.686~~ 5165.526 or ~~5111.687~~ 5165.527 of the Revised Code;

(2) To pay the department of ~~job and family services~~ medicaid and United States centers for medicare and medicaid services the amount an exiting operator owes the department and United States centers under the medicaid program.

(B) Amounts paid from the medicaid payment withholding fund pursuant to division (A)(2) of this section shall be deposited into the appropriate department fund.

Sec. ~~5111.689~~ 5165.53. The medicaid director of ~~job and family services~~ shall adopt rules under section ~~5111.02~~ 5165.02 of the Revised Code to implement sections ~~5111.65~~ 5165.50 to ~~5111.689~~ 5165.53 of the Revised Code, including rules applicable to an exiting operator that provides written notification under section ~~5111.66~~ 5165.50 of the Revised Code of a voluntary withdrawal of participation. Rules adopted under this section shall comply with section ~~1919(e)(2)(F)~~ of the "Social Security Act," ~~79 Stat. 286~~

~~(1965)~~ section 1919(c)(2)(F), 42 U.S.C. 1396r(c)(2)(F), regarding restrictions on transfers or discharges of nursing facility residents in the case of a voluntary withdrawal of participation. The rules may prescribe a medicaid ~~reimbursement~~ payment methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the ~~reimbursement~~ payment methodology and other procedures that would otherwise apply. The rules shall specify all of the following:

(A) The method by which written notices to the department required by sections ~~5111.65~~ 5165.50 to ~~5111.689~~ 5165.53 of the Revised Code are to be provided;

(B) The forms and documents that are to be provided to the department of medicaid under sections ~~5111.671~~ 5165.511 and ~~5111.672~~ 5165.512 of the Revised Code, which shall include, in the case of such forms and documents provided by entering operators, all the fully executed leases, management agreements, merger agreements and supporting documents, and fully executed sales contracts and any other supporting documents culminating in the change of operator;

(C) The method by which the forms and documents identified in division (B) of this section are to be provided to the department.

Sec. ~~5111.35~~ 5165.60. As used in this section, "a resident's rights" means the rights of a nursing facility resident under sections 3721.10 to 3721.17 of the Revised Code ~~and subsection (c) of section 1819 or 1919 of~~, the "Social Security Act," ~~49 Stat. 620 (1935) sections 1819(c) and 1919(c),~~ 42 U.S.C.A. 301, ~~as amended 1395i-3(c) and 1396r(c),~~ and federal regulations issued under those subsections sections of the "Social Security Act."

As used in sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code:

(A) "Certification requirements" means the requirements for nursing facilities established under ~~sections 1819 and 1919 of the "Social Security Act,"~~ sections 1819 and 1919, 42 U.S.C. 1395i-3 and 1396r.

(B) "Compliance" means substantially meeting all applicable certification requirements.

(C) "Contracting agency" means a state agency that has entered into a contract with the department of ~~job and family services~~ medicaid under section ~~5111.38~~ 5165.63 of the Revised Code.

(D)(1) "Deficiency" means a finding cited by the department of health during a survey, on the basis of one or more actions, practices, situations, or incidents occurring at a nursing facility, that constitutes a severity level

three finding, severity level four finding, scope level three finding, or scope level four finding. Whenever the finding is a repeat finding, "deficiency" also includes any finding that is a severity level two and scope level one finding, a severity level two and scope level two finding, or a severity level one and scope level two finding.

(2) "Cluster of deficiencies" means deficiencies that result from noncompliance with two or more certification requirements and are causing or resulting from the same action, practice, situation, or incident.

(E) "Emergency" means either of the following:

(1) A deficiency or cluster of deficiencies that creates a condition of immediate jeopardy;

(2) An unexpected situation or sudden occurrence of a serious or urgent nature that creates a substantial likelihood that one or more residents of a nursing facility may be seriously harmed if allowed to remain in the facility, including the following:

(a) A flood or other natural disaster, civil disaster, or similar event;

(b) A labor strike that suddenly causes the number of staff members in a nursing facility to be below that necessary for resident care.

(F) "Finding" means a finding of noncompliance with certification requirements determined by the department of health under section ~~5111.41~~ 5165.66 of the Revised Code.

(G) "Immediate jeopardy" means that one or more residents of a nursing facility are in imminent danger of serious physical or life-threatening harm.

(H) "Medicaid eligible resident" means a person who is a resident of a nursing facility, or is applying for admission to a nursing facility, and is eligible ~~to receive financial assistance for nursing facility services under the medical assistance~~ medicaid program ~~for the care the person receives in such a facility.~~

(I) "Noncompliance" means failure to substantially meet all applicable certification requirements.

(J) "Nursing facility" ~~has the same meaning as in section 5111.20 of the Revised Code~~ includes a skilled nursing facility to the extent the context requires.

(K) ~~"Provider" means a person, institution, or entity that furnishes nursing facility services under a medical assistance program provider agreement.~~

(L) ~~"Provider agreement" means a contract between the department of job and family services and a provider for the provision of nursing facility services under the medicaid program.~~

(M) "Repeat finding" or "repeat deficiency" means a finding or

deficiency cited pursuant to a survey, to which both of the following apply:

(1) The finding or deficiency involves noncompliance with the same certification requirement, and the same kind of actions, practices, situations, or incidents caused by or resulting from the noncompliance, as were cited in the immediately preceding standard survey or another survey conducted subsequent to the immediately preceding standard survey of the facility. For purposes of this division, actions, practices, situations, or incidents may be of the same kind even though they involve different residents, staff, or parts of the facility.

(2) The finding or deficiency is cited subsequent to a determination by the department of health that the finding or deficiency cited on the immediately preceding standard survey, or another survey conducted subsequent to the immediately preceding standard survey, had been corrected.

~~(N)~~(L)(1) "Scope level one finding" means a finding of noncompliance by a nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect one or a very limited number of facility residents and involve one or a very limited number of facility staff members.

(2) "Scope level two finding" means a finding of noncompliance by a nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect more than a limited number of facility residents or involve more than a limited number of facility staff members, but the number or percentage of facility residents affected or staff members involved and the number or frequency of the actions, situations, practices, or incidents in short succession does not establish any reasonable degree of predictability of similar actions, situations, practices, or incidents occurring in the future.

(3) "Scope level three finding" means a finding of noncompliance by a nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect more than a limited number of facility residents or involve more than a limited number of facility staff members, and the number or percentage of facility residents affected or staff members involved or the number or frequency of the actions, situations, practices, or incidents in short succession establishes a reasonable degree of predictability of similar actions, situations, practices, or incidents occurring in the future.

(4) "Scope level four finding" means a finding of noncompliance by a nursing facility causing or resulting from actions, situations, practices, or incidents that involve a sufficient number or percentage of facility residents

or staff members or occur with sufficient regularity over time that the noncompliance can be considered systemic or pervasive in the facility.

~~(O)~~(M)(1) "Severity level one finding" means a finding of noncompliance by a nursing facility that has not caused and, if continued, is unlikely to cause physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(2) "Severity level two finding" means a finding of noncompliance by a nursing facility that, if continued over time, will cause, or is likely to cause, physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(3) "Severity level three finding" means a finding of noncompliance by a nursing facility that has caused physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(4) "Severity level four finding" means a finding of noncompliance by a nursing facility that has caused life-threatening harm to a facility resident or caused a resident's death.

~~(P)~~(N) "State agency" has the same meaning as in section 1.60 of the Revised Code.

~~(Q)~~(O) "Substandard care" means care furnished in a facility in which the department of health has cited a deficiency or deficiencies that constitute one of the following:

(1) A severity level four finding, regardless of scope;

(2) A severity level three and scope level four finding, in the quality of care provided to residents;

(3) A severity level three and scope level three finding, in the quality of care provided to residents.

~~(R)~~(P)(1) "Survey" means a survey of a nursing facility conducted under section ~~5111.39~~ 5165.64 of the Revised Code.

(2) "Standard survey" means a survey conducted by the department of health under division (A) of section ~~5111.39~~ 5165.64 of the Revised Code and includes an extended survey.

(3) "Follow-up survey" means a survey conducted by the department of health to determine whether a nursing facility has substantially corrected deficiencies cited in a previous survey.

Sec. ~~5111.36~~ 5165.61. The medicaid director of ~~job and family services~~ may adopt rules under ~~Chapter 119~~: section 5165.02 of the Revised Code that are consistent with regulations, guidelines, and procedures issued by the

United States secretary of health and human services under ~~sections 1819 and 1919~~ of the "Social Security Act," ~~49 Stat. 620 (1935)~~ sections 1819 and 1919, 42 U.S.C.A. ~~301, as amended 1395i-3 and 1396r~~, and necessary for administration and enforcement of sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. If the secretary does not issue appropriate regulations for enforcement of those sections ~~1819 and 1919~~ of the "Social Security Act" on or before December 13, 1990, the medicaid director of ~~job and family services~~ may adopt, under ~~Chapter 119, section 5165.02~~ of the Revised Code, rules that are consistent with those sections and with sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code.

Sec. ~~5111.37~~ 5165.62. The department of ~~job and family services~~ medicaid is hereby authorized to enforce sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. The department may enforce the sections directly or through contracting agencies. The department and agencies shall enforce the sections in accordance with the requirements of ~~sections 1819 and 1919~~ of the "Social Security Act," ~~49 Stat. 620 (1935)~~ sections 1819 and 1919, 42 U.S.C.A. ~~301, as amended 1395i-3 and 1396r~~, that apply to nursing facilities; with regulations, guidelines, and procedures adopted by the United States secretary of health and human services for the enforcement of those sections ~~1819 and 1919~~ of the "Social Security Act"; and with the rules ~~adopted under~~ authorized by section ~~5111.36~~ 5165.61 of the Revised Code. The department and agencies shall enforce sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code for purposes of the medicare program, Title XVIII of the "Social Security Act," only to the extent prescribed by the regulations, guidelines, and procedures issued by the secretary under ~~section 1819 of that act~~ the "Social Security Act," section 1819, 42 U.S.C. 1395i-3.

Sec. ~~5111.38~~ 5165.63. The department of ~~job and family services~~ medicaid may enter into contracts with other state agencies pursuant to section 5162.35 of the Revised Code that authorize the agencies to perform all or part of the duties assigned to the department of ~~job and family services~~ medicaid under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. Each contract shall specify the duties the agency is authorized to perform and the sections of the Revised Code under which the agency is authorized to perform those duties.

Sec. ~~5111.39~~ 5165.64. (A) The department of health shall conduct a survey, titled a standard survey, of every nursing facility in this state on a statewide average of not more than once every twelve months. Each nursing facility shall undergo a standard survey at least once every fifteen months as a condition of meeting certification requirements. The department may

extend a standard survey; such a survey is titled an extended survey.

(B) The department may conduct surveys in addition to standard surveys when it considers them necessary.

(C) The department shall conduct surveys in accordance with the regulations, guidelines, and procedures issued by the United States secretary of health and human services under ~~Titles~~ Title XVIII and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, sections ~~5111.40~~ 5165.65 to ~~5111.42~~ 5165.68 of the Revised Code, and rules adopted under section 3721.022 of the Revised Code.

Sec. ~~5111.40~~ 5165.65. (A) At the conclusion of each survey, the department of health survey team shall conduct an exit interview with the administrator or other person in charge of the nursing facility and any other facility staff members designated by the administrator or person in charge of the facility. During the exit interview, at the request of the administrator or other person in charge of the facility, the survey team shall provide one of the following, as selected by the survey team:

(1) Copies of all survey notes and any other written materials created during the survey;

(2) A written summary of the survey team's recommendations regarding findings of noncompliance with certification requirements;

(3) An audio or audiovisual recording of the interview. If the survey team selects this option, at least two copies of the recording shall be made and the survey team shall select one copy to be kept by the survey team for use by the department of health.

(B) All expenses of copying under division (A)(1) of this section or recording under division (A)(3) of this section, including the cost of the copy of the recording kept by the survey team, shall be paid by the facility.

Sec. ~~5111.41~~ 5165.66. (A) Except as provided in section 3721.17 of the Revised Code, a finding shall be cited only on the basis of a survey and a determination that one or more actions, practices, situations, or incidents at a nursing facility caused or resulted from the facility's failure to comply with one or more certification requirements. The department of health shall determine whether the actions, practices, situations, or incidents can be justified by either of the following:

(1) The actions, practices, situations, or incidents resulted from a resident exercising the resident's rights guaranteed under the laws of the United States or of this state;

(2) The actions, practices, situations, or incidents resulted from a facility following the orders of a person licensed under Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine and

surgery.

(B) If the department of health determines both that the actions, practices, situations, or incidents cannot be justified by the factors identified in division (A) of this section and that one or more of the following are applicable, the department shall declare that the actions, practices, situations, or incidents constitute a finding:

(1) The actions, practices, situations, or incidents could have been prevented by one or more persons involved in the facility's operation;

(2) No person involved in the facility's operation identified the actions, practices, situations, or incidents prior to the survey;

(3) Prior to the survey, no person involved in the facility's operation initiated action to correct the noncompliance caused by or resulting in the actions, practices, situations, or incidents;

(4) The facility does not have in effect, if needed, a contingency plan that is reasonably calculated to prevent physical, mental, or emotional harm to residents while permanent corrective action is being taken.

(C) The department of health shall determine the severity level and scope level of each finding.

(D) A deficiency that is substantially corrected within the time limits specified in sections ~~5111.52~~ 5165.79 to ~~5111.56~~5165.83 of the Revised Code and for which no remedy is imposed, shall be counted as a deficiency for the purpose of determining whether a deficiency is a repeat deficiency.

(E) Whenever the department of health determines that during the period between two surveys a finding existed at the facility, but the facility substantially corrected it prior to the second survey, the department shall cite it. However, the department of ~~job and family services~~ medicaid or a contracting agency shall impose a remedy only as provided in division (C) of section ~~5111.46~~ 5165.72 of the Revised Code.

(F) Immediately upon determining the severity and scope of a finding at a nursing facility, the department of health shall notify the department of ~~job and family services~~ medicaid and any contracting agency of the finding, the severity and scope of the finding, and whether the finding creates immediate jeopardy. Immediately upon determining that an emergency exists at a facility that does not result from a deficiency that creates immediate jeopardy, the department of health shall notify the department of ~~job and family services~~ medicaid and any contracting agency.

Sec. ~~5111.411~~ 5165.67. The results of a survey of a nursing facility that is conducted under section ~~5111.39~~ 5165.64 of the Revised Code, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the survey, shall be used solely to determine the

nursing facility's compliance with certification requirements or with this chapter or another chapter of the Revised Code. Those results of a survey, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an administrative action by the department of ~~job and family services~~ medicaid or contracting agency under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code.

Nothing in this section prohibits the results of a survey, a statement of deficiencies, or the findings and deficiencies cited in that statement on the basis of the survey under this section from being used in a criminal investigation or prosecution.

Sec. ~~5111.42~~ 5165.68. (A) Not later than ten days after an exit interview, the department of health shall deliver to the nursing facility a detailed statement, titled a statement of deficiencies, setting forth all findings and deficiencies cited on the basis of the survey, including any finding cited pursuant to division (E) of section ~~5111.41~~ 5165.66 of the Revised Code. The statement shall indicate the severity and scope level of each finding and fully describe the incidents or other facts that form the basis of the department's determination of the existence of each finding and deficiency. A failure by the survey team to completely disclose in the exit interview every finding that may result from the survey does not affect the validity of any finding or deficiency cited in the statement of deficiencies. On request of the facility, the department shall provide a copy of any written worksheet or other document produced by the survey team in making recommendations regarding scope and severity levels of findings and deficiencies.

(B) At the same time the department of health delivers a statement of deficiencies, it also shall deliver to the facility a separate written notice that states all of the following:

(1) That the department of ~~job and family services~~ medicaid or a contracting agency will issue an order under section ~~5111.57~~ 5165.84 of the Revised Code denying payment for any medicaid eligible residents admitted on and after the effective date of the order if the facility does not substantially correct, within ninety days after the exit interview, the deficiency or deficiencies cited in the statement of deficiencies in accordance with the plan of correction it submitted under section ~~5111.43~~ 5165.69 of the Revised Code;

(2) If a condition of substandard care has been cited on the basis of a

standard survey and a condition of substandard care was also cited on the immediately preceding standard survey, that the department of ~~job and family services~~ medicaid or a contracting agency will issue an order under section ~~5111.57~~ 5165.84 of the Revised Code denying payment for any medicaid eligible residents admitted on and after the effective date of the order if a condition of substandard care is cited on the basis of the next standard survey;

(3) That the department of ~~job and family services~~ medicaid or a contracting agency will issue an order under section ~~5111.58~~ 5165.88 of the Revised Code terminating the facility's participation in the ~~medical assistance~~ medicaid program if either of the following applies:

(a) The facility does not substantially correct the deficiency or deficiencies in accordance with the plan of correction it submitted under section ~~5111.43~~ 5165.69 of the Revised Code within six months after the exit interview.

(b) The facility substantially corrects the deficiency or deficiencies within the six-month period, but after correcting it, the department of health, based on a follow-up survey conducted during the remainder of the six-month period, determines that the facility has failed to maintain compliance with certification requirements.

Sec. ~~5111.43~~ 5165.69. (A) Whenever a nursing facility receives a statement of deficiencies under section ~~5111.42~~ 5165.68 of the Revised Code, the facility shall submit to the department of health for its approval a plan of correction for each finding cited in the statement. The plan shall ~~describe~~ include all of the following:

(1) Detailed descriptions of the actions the facility will take to correct each finding and specify the, including actions the facility will take to protect residents situated similarly to the residents affected by the causes of the findings;

(2) The date by which each finding will be corrected. In the case of;

(3) A detailed description of an ongoing monitoring and improvement process to be used at the facility that is focused on preventing any recurrence of the causes of the findings;

(4) If the plan concerns a finding assigned a severity level indicating that a resident was harmed or immediate jeopardy exists, all of the following:

(a) Detailed analyses of the facts and circumstances of the finding, including identification of its cause;

(b) A detailed explanation of how the corrective actions described pursuant to division (A)(1) of this section relate to the cause of the finding

identified pursuant to division (A)(4)(a) of this section:

(c) A detailed explanation of the relationship between the ongoing monitoring and improvement process described pursuant to division (A)(3) of this section and the cause of the finding identified pursuant to division (A)(4)(a) of this section.

(5) If the plan concerns a finding cited pursuant to division (E) of section ~~5111.41~~ 5165.66 of the Revised Code, the plan shall describe a description of the actions the facility took to correct the finding and the date on which it was corrected.

(B)(1) The department shall approve any plan, and any modification of an existing plan a nursing facility submits to the department, that conforms does both of the following:

(a) Conforms to the requirements for approval of plans of corrections, and modifications, established in the regulations, guidelines, and procedures issued by the United States secretary of health and human services under Titles ~~Title~~ XVIII and ~~Title~~ XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(b) Includes all the information required by division (A) of this section. The department also shall approve any modification of an existing plan submitted by a facility, if the plan as modified conforms to those regulations, guidelines, and procedures. The

(2) The department may consult with the department of medicaid, department of aging, and office of the state long-term care ombudsman program when determining whether a plan, or modification of an existing plan, to which division (A)(4) of this section applies conforms to the requirements for approval. The department of health has sole authority to make the determination regardless of whether it consults with the other departments or office. The department shall not reject a facility's plan of correction or modification on the ground that the facility disputes the finding, if the plan or modification is reasonably calculated to correct the finding.

(C) A facility that complies with this section shall not be considered to have admitted the existence of a finding cited by the department.

Sec. ~~5111.44~~ 5165.70. The department of health may appoint employees of the department to conduct on-site monitoring of a nursing facility whenever a finding is cited, including any finding cited pursuant to division (E) of section ~~5111.41~~ 5165.66 of the Revised Code, or an emergency is found to exist. Appointment of monitors under this section is not subject to appeal under section ~~5111.60~~ 5165.87 or any other section of the Revised Code. No employee of a facility for which monitors are appointed, no

person employed by the facility within the previous two years, and no person who currently has a consulting or other contract with the department or the facility, shall be appointed as a monitor under this section. Every monitor appointed under this section shall have the professional qualifications necessary to monitor correction of the finding or elimination of the emergency.

Sec. ~~5111.45~~ 5165.71. (A) If the department of health cites a deficiency or deficiencies that was not substantially corrected before a survey and that does not constitute a severity level four finding or create immediate jeopardy, the department of ~~job and family services~~ medicaid or a contracting agency shall permit the nursing facility to continue participating in the ~~medical assistance~~ medicaid program for up to six months after the exit interview, if all of the following apply:

(1) The facility meets the requirements, established in regulations issued by the United States secretary of health and human services under Title XIX of the "Social Security Act," ~~49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ for certification of nursing facilities that have a deficiency.

(2) The department of health has approved a plan of correction submitted by the facility under section ~~5111.43~~ 5165.69 of the Revised Code for each deficiency.

(3) The provider agrees to repay the department of ~~job and family services~~ medicaid, in accordance with section ~~5111.58~~ 5165.85 of the Revised Code, the federal share of all payments made by the department to the facility during the six-month period following the exit interview if the facility does not within the six-month period substantially correct the deficiency or deficiencies in accordance with the plan of correction submitted under section ~~5111.43~~ 5165.69 of the Revised Code.

(B) If any of the conditions in divisions (A)(1) to (3) of this section do not apply, the department of ~~job and family services~~ medicaid or contracting agency shall issue an order terminating the facility's participation in the ~~medical assistance~~ medicaid program. An order issued under this division is subject to appeal under Chapter 119. of the Revised Code. The order shall not take effect prior to the later of the thirtieth day after it is delivered to the facility or, if the order is appealed, the date on which a final adjudication order upholding the termination becomes effective pursuant to Chapter 119. of the Revised Code.

(C) At the time the department of ~~job and family services~~ medicaid or contracting agency issues an order under division (B) of this section terminating a nursing facility's participation in the ~~medical assistance~~ medicaid program, it may also impose, subject to section ~~5111.50~~ 5165.76

of the Revised Code, other remedies under sections ~~5111.46~~ 5165.72 to ~~5111.48~~ 5165.74 of the Revised Code.

Sec. ~~5111.46~~ 5165.72. (A) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level four finding, the department of ~~job and family services~~ medicaid or contracting agency shall, subject to sections ~~5111.52~~ 5165.79 to ~~5111.56~~ 5165.83 of the Revised Code, impose a remedy for the deficiency or cluster of deficiencies. The department or agency may act under either division (A)(1) or (2) of this section:

(1) The department or agency may impose one or more of the following remedies:

(a) Issue an order terminating the nursing facility's participation in the ~~medical assistance~~ medicaid program.

(b) Do either of the following:

(i) Regardless of whether the provider consents, appoint a temporary manager of the facility.

(ii) Apply to the common pleas court of the county in which the facility is located for such injunctive or other equitable relief as is necessary for the appointment of a special master with such powers and authority over the facility and length of appointment as the court considers necessary.

(c) Do either of the following:

(i) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for all medicaid eligible residents admitted after the effective date of the order;

(ii) Impose a fine.

(d) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency.

(2) The department or agency may impose one or more of the following remedies:

(a) Appoint, subject to the continuing consent of the provider, a temporary manager of the facility;

(b) Do either of the following:

(i) Regardless of whether the provider consents, appoint a temporary manager of the facility;

(ii) Apply to the common pleas court of the county in which the facility is located for such injunctive or other equitable relief as is necessary for the appointment of a special master with such powers and authority over the facility and length of appointment as the court considers necessary.

(c) Do either of the following:

(i) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for all medicaid eligible residents admitted after the effective date of the order;

(ii) Impose a fine.

(d) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(e) Issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section ~~5111.43~~ 5165.69 of the Revised Code.

(B) The department of ~~job and family services~~ medicaid or contracting agency shall deliver a written order issued under division (A)(1) of this section terminating a nursing facility's participation in the ~~medical assistance~~ medicaid program to the facility within five days after the exit interview. If the facility alleges, at any time prior to the later of the twentieth day after the exit interview or the fifteenth day after it receives the order, that the deficiency or cluster of deficiencies for which the order was issued has been substantially corrected, the department of health shall conduct a follow-up survey to determine whether the deficiency or cluster of deficiencies has been substantially corrected. The order shall take effect and the facility's participation shall terminate on the twentieth day after the exit interview, unless the facility has substantially corrected the deficiency or cluster of deficiencies that constituted a severity level four finding or did not receive notice from the department of ~~job and family services~~ medicaid or contracting agency within five days after the exit interview. In the latter case, the order shall take effect and the facility's participation shall terminate on the fifteenth day after the facility received the order.

(C) If the department of health cites a deficiency or cluster of deficiencies pursuant to division (E) of section ~~5111.41~~ 5165.66 of the Revised Code that constituted a severity level four finding, the department of ~~job and family services~~ medicaid or a contracting agency shall, subject to section ~~5111.56~~ 5165.83 of the Revised Code, impose a fine. The fine shall be in effect for a period equal to the number of days the deficiency or cluster of deficiencies existed at the facility.

Sec. ~~5111.47~~ 5165.73. If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level three and scope level three or four finding,

the department of ~~job and family services~~ medicaid or a contracting agency may, subject to sections ~~5111.55~~ 5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, impose one or more of the following remedies:

(A) Do either of the following:

(1) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for all medicaid eligible residents admitted after the effective date of the order;

(2) Impose a fine.

(B) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(C) Issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section ~~5111.43~~ 5165.69 of the Revised Code.

Sec. ~~5111.48~~ 5165.74. (A) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level three and scope level two finding, the department of ~~job and family services~~ medicaid or a contracting agency may, subject to sections ~~5111.55~~ 5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, impose one or more of the following remedies:

(1) Do either of the following:

(a) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for all medicaid eligible residents admitted after the effective date of the order;

(b) Impose a fine.

(2) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(3) Issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction proposed by the facility and approved by the department of health under section ~~5111.43~~ 5165.69 of the Revised Code.

(B) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level three and scope level one finding, the department of ~~job and family services~~ medicaid or a contracting agency may, subject to sections ~~5111.55~~ 5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, impose

one or more of the following remedies:

(1) Impose a fine;

(2) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(3) Issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction proposed by the facility and approved by the department of health under section ~~5111.43~~ 5165.69 of the Revised Code.

(C) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level two and a scope level three or four finding, the department of ~~job and family services~~ medicaid or a contracting agency may, subject to sections ~~5111.55~~ 5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, impose one or more of the following remedies:

(1) Impose a fine;

(2) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(3) Issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section ~~5111.43~~ 5165.69 of the Revised Code.

(D) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey, constitutes a severity level two and scope level one or two finding, and is a repeat finding, the department of ~~job and family services~~ medicaid or a contracting agency may issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section ~~5111.43~~ 5165.69 of the Revised Code.

(E) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level one and scope level three or four finding, the department of ~~job and family services~~ medicaid or a contracting agency may issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section ~~5111.43~~ 5165.69 of the

Revised Code.

(F) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey, constitutes a severity level one and scope level two finding, and is a repeat finding, the department of ~~job and family services~~ medicaid or a contracting agency may issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section ~~5111.43~~ 5165.69 of the Revised Code.

Sec. ~~5111.49~~ 5165.75. (A) In determining which remedies to impose under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code, including whether a fine should be imposed, the department of ~~job and family services~~ medicaid or a contracting agency shall do both of the following:

(1) Impose the remedies that are most likely to achieve correction of deficiencies, encourage sustained compliance with certification requirements, and protect the health, safety, and rights of facility residents, but that are not directed at punishment of the facility;

(2) Consider all of the following:

- (a) The presence or absence of immediate jeopardy;
- (b) The relationships of groups of deficiencies to each other;
- (c) The facility's history of compliance with certification requirements generally and in the specific area of the deficiency or deficiencies;
- (d) Whether the deficiency or deficiencies are directly related to resident care;
- (e) The corrective, long-term compliance, resident protective, and nonpunitive outcomes sought by the department or agency;
- (f) The nature, scope, and duration of the noncompliance with certification requirements;
- (g) The existence of repeat deficiencies;
- (h) The category of certification requirements with which the facility is out of compliance;
- (i) Any period of noncompliance with certification requirements that occurred between two certifications by the department of health that the facility was in compliance with certification requirements;
- (j) The facility's degree of culpability;
- (k) The accuracy, extent, and availability of facility records;
- (l) The facility's financial condition, exclusive of any moneys donated to a facility that is an organization described in subsection 501(c)(3) and is tax exempt under subsection 501(a) of the "Internal Revenue Code of 1986,"

100 Stat. 2085, 26 U.S.C.A. 1;

(m) Any adverse effect that the action or fine would have on the health and safety of facility residents;

(n) If the noncompliance that resulted in the citation of a deficiency or cluster of deficiencies existed before a change in ownership of the facility, whether the new owner or owners have had sufficient time to correct the noncompliance.

(B) Whenever the department or agency imposes remedies under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code, it shall provide a written statement to the nursing facility that specifies all of the following:

(1) The effective date of each remedy;

(2) The deficiency or cluster of deficiencies for which each remedy is imposed;

(3) The severity and scope of the deficiency or cluster of deficiencies;

(4) The rationale, including all applicable factors specified in division (A) of this section, for imposing the remedies.

Sec. ~~5111.50~~ 5165.76. At the time the department of ~~job and family services~~ medicaid or a contracting agency, under section ~~5111.45~~ 5165.71, ~~5111.46~~ 5165.72, or ~~5111.51~~ 5165.77 of the Revised Code, issues an order terminating a nursing facility's participation in the ~~medical assistance~~ medicaid program, the department or agency may also impose a fine, in accordance with sections ~~5111.46~~ 5165.72 to ~~5111.48~~ 5165.74 and ~~5111.56~~ 5165.83 of the Revised Code, to be collected in the event the termination order does not take effect. The department or agency shall not collect this fine if the termination order takes effect.

Sec. ~~5111.51~~ 5165.77. (A) If the department of health finds during a survey that an emergency exists at a nursing facility, as the result of a deficiency or cluster of deficiencies that creates immediate jeopardy, the department of ~~job and family services~~ medicaid or a contracting agency shall impose one or more of the remedies described in division (A)(1) of this section and, in addition, may take one or both of the actions described in division (A)(2) of this section.

(1) The department or agency shall impose one or more of the following remedies:

(a) Appoint, subject to the continuing consent of the provider, a temporary manager of the facility;

(b) Apply to the common pleas court of the county in which the facility is located for a temporary restraining order, preliminary injunction, or such other injunctive or equitable relief as is necessary to close the facility,

transfer one or more residents to other nursing facilities or other appropriate care settings, or otherwise eliminate the condition of immediate jeopardy. If the court grants such an order, injunction, or relief, it may appoint a special master empowered to implement the court's judgment under the court's direct supervision.

(c) Issue an order terminating the facility's participation in the ~~medical assistance~~ medicaid program;

(d) Regardless of whether the provider consents, appoint a temporary manager of the facility.

(2) The department or agency may do one or both of the following:

(a) Issue an order denying ~~payment~~ medicaid payments to the facility for all medicaid eligible residents admitted after the effective date of the order;

(b) Impose remedies under sections ~~5111.46~~ 5165.72 to ~~5111.48~~ 5165.74 of the Revised Code appropriate to the severity and scope of the deficiency or cluster of deficiencies, except that the department or agency shall not impose a fine for the same deficiency for which the department or agency has issued an order under division (A)(2)(a) of this section.

(B) If the department of health, department of ~~job and family services~~ medicaid, or a contracting agency finds on the basis of a survey or other visit to the facility by representatives of that department or agency that an emergency exists at a facility that is not the result of a deficiency or cluster of deficiencies that constitutes immediate jeopardy, the department of ~~job and family services~~ medicaid or contracting agency may do either of the following:

(1) Appoint, subject to the continuing consent of the provider, a temporary manager of the facility;

(2) Apply to the common pleas court of the county in which the facility is located for a temporary restraining order, preliminary injunction, or such other injunctive or equitable relief as is necessary to close the facility, transfer one or more residents to other nursing facilities or other appropriate care settings, or otherwise eliminate the emergency. If the court grants such an order, injunction, or relief, it may appoint a special master empowered to implement the court's judgment under the court's direct supervision.

(C)(1) Prior to acting under division (A)(1)(b), (c), (d), or (2), or (B)(2) of this section, the department of ~~job and family services~~ medicaid or contracting agency shall give written notice to the facility specifying all of the following:

(a) The nature of the emergency, including the nature of any deficiency or deficiencies that caused the emergency;

(b) The nature of the action the department or agency intends to take unless the department of health determines that the facility, in the absence of state intervention, possesses the capacity to eliminate the emergency;

(c) The rationale for taking the action.

(2) If the department of health determines that the facility does not possess the capacity to eliminate the emergency in the absence of state intervention, the department of ~~job and family services~~ medicaid or contracting agency may immediately take action under division (A) or (B) of this section. If the department of health determines that the facility possesses the capacity to eliminate the emergency, the department of ~~job and family services~~ medicaid or contracting agency shall direct the facility to eliminate the emergency within five days after the facility's receipt of the notice. At the end of the five-day period, the department of health shall conduct a follow-up survey that focuses on the emergency. If the department of health determines that the facility has eliminated the emergency within the time period, the department of ~~job and family services~~ medicaid or contracting agency shall not act under division (A)(1)(b), (c), (d), or (2)(a), or (B)(2) of this section. If the department of health determines that the facility has failed to eliminate the emergency within the five-day period, the department of ~~job and family services~~ medicaid or contracting agency shall take appropriate action under division (A)(1)(b), (c), (d), or (2), or (B)(2) of this section.

(3) Until the written notice required by division (C)(1) of this section is actually delivered, no action taken by the department of ~~job and family services~~ medicaid or contracting agency under division (A)(1)(b), (c), (d), or (2), or (B)(2) of this section shall have any legal effect. In addition to the written notice, the department of health survey team shall give oral notice to the facility, at the time of the survey, concerning any recommendations the survey team intends to make that could form the basis of a determination that an emergency exists.

(D) The department of ~~job and family services~~ medicaid or contracting agency shall deliver a written order issued under division (A)(1) of this section terminating a nursing facility's participation in the ~~medical assistance~~ medicaid program to the facility within five days after the exit interview. If the facility alleges, at any time prior to the later of the twentieth day after the exit interview or the fifteenth day after it receives the order, that the condition of immediate jeopardy for which the order was issued has been eliminated, the department of health shall conduct a follow-up survey to determine whether the immediate jeopardy has been eliminated. The order shall take effect and the facility's participation shall terminate on the

twentieth day after the exit interview, unless the facility has eliminated the immediate jeopardy or did not receive notice from the department of ~~job and family services~~ medicaid or contracting agency within five days after the exit interview. In the latter case, the order shall take effect and the facility's participation shall terminate on the fifteenth day after the facility received the order.

(E) Any action taken by the department of ~~job and family services~~ medicaid or a contracting agency under division (A)(1)(c), (d), or (2)(a) of this section is subject to appeal under Chapter 119. of the Revised Code, except that the department or agency may take such action prior to and during the pendency of any proceeding under that chapter. No action taken by a facility under division (C) of this section to eliminate an emergency cited by the department of health shall be considered an admission by the facility of the existence of an emergency.

Sec. 5165.771. (A) As used in this section:

"SFF list" means the list of nursing facilities that the United States department of health and human services creates under the special focus facility program.

"Special focus facility program" means the program conducted by the United States secretary of health and human services pursuant to the "Social Security Act," section 1919(f)(10), 42 U.S.C. 1396r(f)(10).

"Table A" means the table included in the SFF list that identifies nursing facilities that are newly added to the SFF list.

"Table B" means the table included in the SFF list that identifies nursing facilities that have not improved.

"Table C" means the table included in the SFF list that identifies nursing facilities that have shown improvement.

"Table D" means the table included in the SFF list that identifies nursing facilities that have recently graduated from the special focus facility program.

(B) The department of medicaid shall issue an order terminating a nursing facility's participation in the medicaid program if any of the following apply:

(1) The nursing facility is listed in table A or table B on the effective date of this section and fails to be placed in table C not later than twelve months after the effective date of this section.

(2) The nursing facility is listed in table A, table B, or table C on the effective date of this section and fails to be placed in table D not later than twenty-four months after the effective date of this section.

(3) The nursing facility is placed in table A after the effective date of

this section and fails to be placed in table C not later than twelve months after the nursing facility is placed in table A.

(4) The nursing facility is placed in table A after the effective date of this section and fails to be placed in table D not later than twenty-four months after the nursing facility is placed in table A.

(C) An order issued under this section is not subject to appeal under Chapter 119. of the Revised Code.

(D) To help a nursing facility avoid having its participation in the medicaid program terminated pursuant to division (B) of this section, the department of aging shall provide the nursing facility technical assistance through the nursing home quality initiative established under section 173.60 of the Revised Code at least four months before the department of medicaid would be required to terminate the nursing facility's participation.

Sec. ~~5111.511~~ 5165.78. (A) If the department of ~~job and family services~~ medicaid determines that a nursing facility is experiencing or is likely to experience a serious financial loss or failure that jeopardizes or is likely to jeopardize the health, safety, and welfare of its residents, the department, subject to the provider's consent, may appoint a temporary resident safety assurance manager in the nursing facility to take actions the department determines are appropriate to ensure the health, safety, and welfare of the residents.

(B) A temporary resident safety assurance manager appointed under this section is vested with the authority necessary to take actions the department of ~~job and family services~~ medicaid determines are appropriate to ensure the health, safety, and welfare of the residents.

(C) A temporary resident safety assurance manager appointed under this section may use any of the following funds to pay for costs the manager incurs on behalf of the nursing facility:

(1) Medicaid payments made in accordance with the provider agreement for the nursing facility;

(2) Funds from the residents protection fund that the department provides the manager under section ~~5111.62~~ 5162.66 of the Revised Code;

(3) Other funds the department determines are appropriate if such use of the funds is consistent with the appropriations that authorize the use of the funds and all other state and federal laws governing the use of the funds.

(D) The provider is liable to the department for the amount of any payments the department makes to the temporary resident safety assurance manager, other than payments specified in division (C)(1) of this section. The department may recover the amount the provider owes the department by doing any of the following:

(1) Offsetting medicaid payments made to the provider in accordance with the provider agreement;

(2) Placing a lien on any of the provider's real and personal property;

(3) Initiating other collection actions.

(E) No action the department takes under this section is subject to appeal under Chapter 119. of the Revised Code.

(F) In rules ~~adopted under~~ authorized by section ~~5111.36~~ 5165.61 of the Revised Code, the medicaid director of ~~job and family services~~ may establish all of the following:

(1) Qualifications persons must meet to be appointed temporary resident safety assurance managers under this section;

(2) Procedures for maintaining a list of qualified temporary resident safety assurance managers;

(3) Procedures consistent with federal law for paying for the services of temporary resident safety assurance managers;

(4) Accounting and reporting requirements for temporary resident safety assurance managers;

(5) Other procedures and requirements the director determines are necessary to implement this section.

Sec. ~~5111.52~~ 5165.79. (A) As used in this section, "terminating" includes not renewing.

(B) A nursing facility's participation in the ~~medical assistance~~ medicaid program shall be terminated under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code as follows:

(1) If the department of ~~job and family services~~ medicaid is terminating the facility's participation, it shall issue an order terminating the facility's provider agreement.

(2) If the department of health, acting as a contracting agency, is terminating the facility's participation, it shall issue an order terminating certification of the facility's compliance with certification requirements. When the department of health terminates certification, the department of ~~job and family services~~ medicaid shall terminate the facility's provider agreement. The department of ~~job and family services~~ medicaid is not required to provide an adjudication hearing when it terminates a provider agreement following termination of certification by the department of health.

(3) If a state agency other than the department of health, acting as a contracting agency, is terminating the facility's participation, it shall notify the department of ~~job and family services~~ medicaid, and the department of ~~job and family services~~ medicaid shall issue an order terminating the

facility's provider agreement. The contracting agency shall conduct any administrative proceedings concerning the order.

(C) If the following conditions are met, the department of ~~job and family services~~ medicaid may make ~~medical assistance~~ medicaid payments to a nursing facility for a period not exceeding thirty days after the effective date of termination under sections ~~5111.35 5165.60~~ to ~~5111.62 5165.89~~ of the Revised Code of the facility's participation in the ~~medical assistance~~ medicaid program:

(1) The payments are for medicaid eligible residents admitted to the facility prior to the effective date of the termination;

(2) The provider is making reasonable efforts to transfer medicaid eligible residents to other care settings.

The period during which payments may be made under this division begins on the later of the effective date of the termination or, if the facility has appealed a termination order, the date of issuance of the adjudication order upholding termination.

Sec. ~~5111.53 5165.80~~. (A) Whenever a nursing facility is closed under sections ~~5111.35 5165.60~~ to ~~5111.62 5165.89~~ of the Revised Code, the department of ~~job and family services~~ medicaid or contracting agency shall arrange for the safe and orderly transfer of all residents, including residents who are not medicaid eligible residents, to other appropriate care settings. Whenever a nursing facility's participation in the ~~medical assistance~~ medicaid program is terminated under sections ~~5111.35 5165.60~~ to ~~5111.62 5165.89~~ of the Revised Code, the department or agency shall arrange for the safe and orderly transfer of all medicaid eligible residents or, if the termination results in the closure of the facility, of all residents. The provider and all persons involved in the facility's operation shall cooperate with and assist in the transfer of residents.

(B) After a nursing facility's participation in the ~~medical assistance~~ medicaid program is terminated under section ~~5111.45 5165.71~~, ~~5111.46 5165.72~~, ~~5111.51 5165.77~~, ~~5165.771~~, or ~~5111.58 5165.85~~ of the Revised Code, the department of ~~job and family services~~ medicaid or contracting agency may appoint a temporary manager subject to the continuing consent of the provider, or may apply to the common pleas court of the county in which the facility is located for such injunctive relief as is necessary for the appointment of a special master, to ensure the transfer of medicaid eligible residents to other appropriate care settings and, if applicable, the orderly closure of the facility.

Sec. ~~5111.54 5165.81~~. (A) A temporary manager of a nursing facility appointed by the department of ~~job and family services~~ medicaid or a

contracting agency under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code shall meet all of the following qualifications:

(1) Be licensed as a nursing home administrator under Chapter 4751. of the Revised Code;

(2) Have demonstrated competence as a nursing home administrator;

(3) Have had no disciplinary action taken against the temporary manager by any licensing board or professional society in this state.

(B) The salary of a temporary manager or special master appointed under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code shall be paid by the facility and set by the department of ~~job and family services~~ medicaid or contracting agency, in the case of a temporary manager, or by the court, in the case of a special master, at a rate not to exceed the maximum allowable compensation for an administrator under the ~~medical assistance~~ medicaid program. The extent to which this compensation is allowable under the ~~medical assistance~~ medicaid program is subject to and limited by this chapter and rules ~~of the department~~ adopted under section 5165.02 of the Revised Code.

Subject to division (C) of this section, any costs incurred on behalf of a nursing facility by a temporary manager or special master appointed under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code shall be paid by the facility. The allowability of these costs under the ~~medical assistance~~ medicaid program shall be subject to and governed by this chapter and ~~the rules of the department~~ adopted under section 5165.02 of the Revised Code. This division does not prohibit a facility from applying for or receiving any waiver of cost ceilings available under ~~the~~ rules ~~of the department~~.

(C) No temporary manager or special master appointed under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code shall enter into any employment contract on behalf of a facility, or purchase any capital goods using facility funds totaling more than ten thousand dollars, unless the temporary manager or special master has obtained prior approval for the contract or purchase from either the provider or the court.

(D)(1) A temporary manager appointed for a nursing facility under section ~~5111.46~~ 5165.72 of the Revised Code is hereby vested, subject to division (C) of this section, with the legal authority necessary to correct any deficiency or cluster of deficiencies at a facility, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(2) A temporary manager appointed under section ~~5111.51~~ 5165.77 of the Revised Code is hereby vested, subject to division (C) of this section,

with the authority necessary to eliminate the emergency, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(3) A temporary manager appointed under section ~~5111.53~~ 5165.80 of the Revised Code is hereby vested, subject to division (C) of this section, with the authority necessary to ensure the transfer of medicaid eligible residents to other appropriate care settings and, if applicable, the orderly closure of the facility, and to otherwise ensure the health and safety of the residents.

(E) Prior to acting under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72 of the Revised Code to appoint a temporary manager or apply for a special master, the department of ~~job and family services~~ medicaid or contracting agency shall order the facility to substantially correct the deficiency or deficiencies within five days after receiving the statement and inform the facility, in the statement it provides pursuant to division (B) of section ~~5111.49~~ 5165.75 of the Revised Code, of the order and that it will not take that action unless the facility fails to substantially correct the deficiency or deficiencies within that five-day period. At the end of the five-day period, the department of health shall conduct a follow-up survey that focuses on the deficiency or deficiencies. If the department of health determines that the facility has substantially corrected the deficiency or deficiencies within that time, the department of ~~job and family services~~ medicaid or contracting agency shall not appoint a temporary manager or apply for a special master. If the department of health determines that the facility has failed to substantially correct the deficiency or deficiencies within that time, the department of ~~job and family services~~ medicaid or contracting agency may proceed with appointment of the temporary manager or application for a special master. Until the statement required under division (B) of section ~~5111.49~~ 5165.75 of the Revised Code is actually delivered, no action taken by the department or agency to appoint a temporary manager or apply for a temporary manager under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72 of the Revised Code shall have any legal effect. No action taken by a facility under this division to substantially correct a deficiency or deficiencies shall be considered an admission by the facility of the existence of a deficiency or deficiencies.

(F) Appointment of a temporary manager under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72 or division (A)(1)(d) of section ~~5111.51~~ 5165.77 of the Revised Code shall expire at the end of the seventh day following the appointment. If the department of ~~job and family services~~ medicaid or contracting agency finds that the deficiency or deficiencies that

prompted the appointment under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72 of the Revised Code cannot be substantially corrected, or the condition of immediate jeopardy that prompted the appointment under division (A)(1)(d) of section ~~5111.51~~ 5165.77 of the Revised Code cannot be eliminated, prior to the expiration of the appointment, it may take one of the following actions:

(1) Appoint, subject to the continuing consent of the provider, a temporary manager for the facility;

(2) Apply to the common pleas court of the county in which the facility is located for an order appointing a special master who, under the authority and direct supervision of the court and subject to divisions (B) and (C) of this section, may take such additional actions as are necessary to correct the deficiency or deficiencies or eliminate the condition of immediate jeopardy and bring the facility into compliance with certification requirements.

(G) The court, on finding that the deficiency or deficiencies for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72 of the Revised Code has been substantially corrected, or the emergency for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (B)(2) of section ~~5111.51~~ 5165.77 of the Revised Code has been eliminated, that the facility has been brought into compliance with certification requirements, and that the provider has established the management capability to ensure continued compliance with the certification requirements, shall immediately terminate its jurisdiction over the facility and return control and management of the facility to the provider. If the deficiency or deficiencies cannot be substantially corrected, or the emergency cannot be eliminated practicably within a reasonable time following appointment of the special master, the court may order the special master to close the facility and transfer all residents to other nursing facilities or other appropriate care settings.

(H) This section does not apply to temporary resident safety assurance managers appointed under section ~~5111.511~~ 5165.78 of the Revised Code.

Sec. ~~5111.55~~ 5165.82. (A) An order issued under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, ~~5111.48~~ 5165.74, ~~5111.51~~ 5165.77, or ~~5111.57~~ 5165.84 of the Revised Code denying ~~payment~~ medicaid payments to a nursing facility for all medicaid eligible residents admitted after its effective date, or an order issued under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code denying ~~payment~~ medicaid payments to a nursing facility for medicaid eligible residents admitted after the effective date of the order who have specified diagnoses or special care

needs, shall also apply to individuals admitted to the facility on and after the effective date of the order who are not medicaid eligible residents but become medicaid eligible residents after admission. Such an order shall not apply to any of the following:

(1) An individual who was a medicaid eligible resident of the facility on the day immediately preceding the effective date of the order and continues to be a medicaid eligible resident on and after that date;

(2) An individual who was a resident of the facility on the day immediately preceding the effective date of the order, continues to be a resident on and after that date, and becomes medicaid eligible on or after that date;

(3) An individual who was a medicaid eligible resident of the facility prior to the effective date of the order, is temporarily absent from the facility on that or a subsequent date due to hospitalization or participation in therapeutic programs outside the facility, and chooses to return to the facility;

(4) An individual who was a resident of the facility prior to the effective date of the order, is temporarily absent from the facility on that or a subsequent date due to hospitalization or participation in therapeutic programs outside the facility, becomes medicaid eligible on or after that date, and chooses to return to the facility.

(B) An order issued under section ~~5111.46~~ 5165.72 of the Revised Code denying ~~payment~~ medicaid payments to a nursing facility for all medicaid eligible residents admitted after its effective date, or denying ~~payment~~ medicaid payments to a facility for medicaid eligible residents admitted after the effective date of the order who have specified diagnoses or special care needs shall not take effect prior to the fifth day after the order is delivered to the facility. Such an order issued under section ~~5111.47~~ 5165.73 or ~~5111.48~~ 5165.74 of the Revised Code shall not take effect prior to the twentieth day after it is delivered to the facility.

(C) No nursing facility that has received an order under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, ~~5111.48~~ 5165.74, ~~5111.51~~ 5165.77, or ~~5111.57~~ 5165.84 of the Revised Code denying ~~payment~~ medicaid payments for all new admissions of medicaid eligible residents shall admit a medicaid eligible resident on or after the effective date of the order, unless the resident is described in division (A)(3) or (4) of this section, until the order is terminated pursuant to this section. No nursing facility that has received an order under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code denying ~~payment~~ medicaid payments to a nursing facility for new admissions of medicaid eligible residents with

specified diagnoses or special care needs shall admit such a resident on or after the effective date of the order, unless the resident is described in division (A)(3) or (4) of this section, until the order is terminated pursuant to this section.

(D) In the case of an order imposed under division (B) of section ~~5111.57~~ 5165.84 of the Revised Code, the department or agency shall appoint monitors in accordance with section ~~5111.44~~ 5165.70 of the Revised Code to conduct on-site monitoring.

(E)(1) A facility may give written notice to the department of health whenever any of the following apply:

(a) With respect to an order denying payment issued under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code, either of the following is the case:

(i) The facility has completed implementation of the plan of correction it submitted under section ~~5111.43~~ 5165.69 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(ii) The facility has reduced the severity or scope of all of the deficiencies to a level at which sections ~~5111.46~~ 5165.72 to ~~5111.48~~ 5165.74 of the Revised Code do not authorize the order.

(b) With respect to an order denying payment issued under section ~~5111.51~~ 5165.77 of the Revised Code, the facility has eliminated the immediate jeopardy.

(c) With respect to an order denying ~~payment~~ medicaid payments issued under division (A) of section ~~5111.57~~ 5165.84 of the Revised Code, the facility has completed implementation of the plan of correction it submitted under section ~~5111.43~~ 5165.69 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(d) With respect to an order denying ~~payment~~ medicaid payments issued under division (B) of section ~~5111.57~~ 5165.84 of the Revised Code, both of the following are the case:

(i) The facility has completed implementation of the plan of correction it submitted under section ~~5111.43~~ 5165.69 of the Revised Code and substantially corrected all deficiencies for which the order was issued.

(ii) The facility is in compliance with certification requirements and has provided adequate assurance that it will remain in compliance with them.

(2) Within ten working days after it receives the notice under division (E)(1) of this section, the department of health shall conduct a follow-up survey that focuses on the cited deficiency or deficiencies, unless the department is able to determine, on the basis of documentation provided by the facility, that the facility has completed the applicable action described in

divisions (E)(1)(a) to (d) of this section. If the department of health makes that determination on the basis of the documentation, the department of ~~job and family services~~ medicaid or contracting agency shall terminate the order denying ~~payment~~ medicaid payments as of the date the facility completed the applicable action, as subsequently verified by the department of health. If the department of health conducts a follow-up survey, the department of ~~job and family services~~ medicaid or contracting agency shall terminate the order denying ~~payment~~ medicaid payments as of the date the department of health makes the determination that the facility completed the applicable action.

(F) The department of ~~job and family services~~ medicaid or contracting agency shall provide public notice implementing an order under section ~~5111.46 5165.72, 5111.47 5165.73, 5111.48 5165.74, 5111.51 5165.77, or 5111.57 5165.84~~ of the Revised Code denying ~~payment~~ medicaid payments to a nursing facility ~~under the medical assistance program~~ for all medicaid eligible residents by publishing in a newspaper of general circulation in the county in which the facility is located an announcement stating: "By order of the (Ohio Department of ~~Job and Family Services~~ Medicaid or name of contracting agency), effective on and after (effective date of order), (name of facility) is no longer authorized to admit Medicaid eligible residents." Immediately following termination of any such order, the department or agency shall publish in a newspaper of general circulation in the county in which the facility is located an announcement stating: "By order of the (Ohio Department of ~~Job and Family Services~~ Medicaid or name of contracting agency), effective on and after (effective date of termination), (name of facility) is hereby authorized to admit Medicaid eligible residents." Neither the department nor the contracting agency shall issue public notice of an order under section ~~5111.46 5165.72, 5111.47 5165.73, or 5111.48 5165.74~~ of the Revised Code denying payment to a nursing facility for medicaid eligible residents with specified diagnoses or special care needs; public notice is not required for such an order to take effect.

(G) A facility that complies with division (E) of this section shall not be considered to have admitted to the existence of the deficiency that constitutes the basis of the department's or agency's order.

Sec. ~~5111.56 5165.83~~. (A) As used in this section, "certified beds" means beds certified under Title XVIII or ~~Title XIX of the "Social Security Act,"~~ 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(B) If the department of ~~job and family services~~ medicaid or a contracting agency imposes a fine on a nursing facility under section ~~5111.46 5165.72, 5111.47 5165.73, or 5111.48 5165.74~~ of the Revised

Code, it may impose one or more of the following:

(1) One hundred sixty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level four and scope level four finding;

(2) One hundred forty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level four and scope level three finding;

(3) One hundred twenty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level four and scope level two finding;

(4) The amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level four and scope level one finding or any deficiency or cluster of deficiencies that constitutes a severity level three and scope level four finding;

(5) Ninety per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level three and scope level three finding;

(6) Eighty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level three and scope level two finding;

(7) Seventy per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level three and scope level one finding;

(8) Fifty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level two and scope level four finding;

(9) Forty per cent of the amount calculated under division (C) of this section for any deficiency or cluster of deficiencies that constitutes a severity level two and scope level three finding.

(C) The amount subject to division (B) of this section shall be the product of multiplying two dollars and fifty cents for each day the fine is in effect by the total number of licensed nursing home beds or certified beds, whichever is greater, in the facility as of the date the deficiency or cluster of deficiencies that is the reason for the fine was cited.

(D)(1) The department of ~~job and family services~~ medicaid or contracting agency shall not impose on a facility, at any one time, more than four fines as a result of any one survey.

(2) The department of ~~job and family services~~ medicaid or contracting agency shall not impose more than one fine based on a deficiency or cluster of deficiencies. However, if the department of health, in a follow-up or other

subsequent survey, finds a change in the scope or severity of the deficiency or cluster of deficiencies, the department of ~~job and family services~~ medicaid or contracting agency may increase or decrease the fine in accordance with division (B) of this section to reflect the change in scope or severity. The department or agency shall give the facility written notice of the change in the amount of the fine. The change shall take effect on the date the follow-up or other subsequent survey is completed.

If the department of health finds that a deficiency is a repeat deficiency, the department of ~~job and family services~~ medicaid or contracting agency may impose a fine that is one hundred per cent greater than the fine specified in division (B) of this section for the deficiency.

(E) The total amount of fines the department of ~~job and family services~~ medicaid or contracting agency may impose on a facility in a single calendar year shall not exceed five hundred dollars for each licensed nursing home bed or certified bed, whichever is greater in number, in the facility.

(F)(1) Except as provided in division (F)(2) of this section, the department of ~~job and family services~~ medicaid or contracting agency shall not impose a fine under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code if the deficiency or cluster of deficiencies is substantially corrected within twenty days after the nursing facility receives the statement provided under division (B) of section ~~5111.49~~ 5165.75 of the Revised Code. The department or agency shall inform the nursing facility in that statement that the fine will not be imposed if the deficiency or cluster of deficiencies is substantially corrected within the twenty-day period.

(2) If a nursing facility has substantially corrected a deficiency or cluster of deficiencies within six months after the exit interview of a survey that was the basis for citing a deficiency or cluster of deficiencies, but after correcting it has been cited for the same deficiency or cluster of deficiencies by the department of health on the basis of a subsequent survey conducted during the remainder of the six-month period, the department of ~~job and family services~~ medicaid or contracting agency may impose a fine beginning on the date of the exit interview of the subsequent survey.

(G) Whenever a facility believes that it has completed implementation of the plan of correction it submitted under section ~~5111.43~~ 5165.69 of the Revised Code and substantially corrected the cited deficiency or cluster of deficiencies that is the basis for a fine, it may give written notice to that effect to the department of health. After receiving the notice, the department shall conduct a follow-up survey of the facility that focuses on the deficiency or cluster, unless the department is able to determine, on the basis

of documentation provided by the facility, that the facility has substantially corrected the deficiency or cluster. If, based on the follow-up survey, the department establishes that the facility had not completed implementation of the plan of correction at the time the department received the notice, any fine based on the deficiency or cluster shall be doubled effective from the date the department received the notice. A facility that complies with this division shall not be considered to have admitted the existence of the deficiency or cluster that is the basis for the fine.

(H) Except for a fine imposed under division (C) of section ~~5111.46~~ 5165.72 of the Revised Code and as provided in division (F)(2) of this section, the department of ~~job and family services~~ medicaid or contracting agency shall impose a fine only if the facility fails to give notice under division (G) of this section within twenty days after it receives the statement required by division (B) of section ~~5111.49~~ 5165.75 of the Revised Code or if the department of health determines, based on a follow-up survey, that the deficiency or cluster of deficiencies for which the fine is proposed has not been substantially corrected within the twenty-day period. The fine shall be imposed effective on the twenty-first day after the facility receives the statement under division (B) of section ~~5111.49~~ 5165.75 of the Revised Code. The fine shall remain in effect until the earliest of the following:

(1) The date the department of health receives notice under division (G) of this section, unless the department determines, on the basis of a follow-up survey, that the deficiency or cluster of deficiencies that is the basis for the fine has not been substantially corrected as of that date;

(2) The date on which the department of health makes a determination, on the basis of a follow-up survey, that the deficiency or cluster of deficiencies has been substantially corrected;

(3) The date the facility substantially corrected the deficiency or cluster, as subsequently determined by the department of health on the basis of documentation provided by the facility.

(I) Any fine imposed by the department of ~~job and family services~~ medicaid or contracting agency under this section is subject to appeal under Chapter 119. of the Revised Code. If the facility does not request a hearing under Chapter 119. of the Revised Code and either pays or agrees in writing to pay the fine when payment becomes due under division (J) of this section, the department or agency shall reduce the fine by fifty per cent. The department or agency may compromise any claim for payment of a fine under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code.

(J) The department of ~~job and family services~~ medicaid or contracting agency shall collect interest on fines, at the rate per calendar month that

equals one-twelfth of the rate per year prescribed by section 5703.47 of the Revised Code for the calendar year that includes the month for which the interest charge accrues. Payment of a fine is due, and interest begins to accrue on the unpaid fine or balance, on the thirty-first day after the department or agency issues a final adjudication order imposing the fine. If the deficiency or deficiencies on which the fine is based have not been corrected when the final adjudication order is issued, the payment is due, and interest begins to accrue on the unpaid fine or balance, on the thirty-first day after the deficiency or deficiencies are corrected and the department or agency mails a notice specifying the amount of the fine to the facility.

(K) The department of ~~job and family services~~ medicaid or contracting agency shall collect fines and interest imposed under this section through one of the following means:

(1) A lump sum payment from the provider;

(2) Periodic payments for a period not to exceed twelve months, in accordance with a schedule approved by the department or agency;

(3) Appropriately reducing the amounts of medicaid payments made to the facility for ~~care~~ nursing facility services provided to medicaid eligible residents for a period not to exceed twelve months following the date on which payment of the fine becomes due under division (J) of this section. An amount equal to the amount by which each payment is reduced shall be deposited to the credit of the residents protection fund in accordance with section ~~5111.62~~ 5162.66 of the Revised Code.

Sec. ~~5111.57~~ 5165.84. (A) The department of ~~job and family services~~ medicaid or a contracting agency shall issue an order denying ~~payment~~ medicaid payments to a nursing facility for all medicaid eligible residents admitted to the facility on or after the effective date of the order, if the facility has failed to substantially correct within ninety days after the exit interview a deficiency or cluster of deficiencies in accordance with the plan of correction it submitted under section ~~5111.43~~ 5165.69 of the Revised Code, as determined by the department of health on the basis of a follow-up survey.

(B) The department of ~~job and family services~~ medicaid or contracting agency shall issue an order denying ~~payment~~ medicaid payments to a nursing facility for all medicaid eligible residents admitted to the facility on or after the effective date of the order, if during three consecutive standard surveys conducted after December 13, 1990, the department of health has found a condition of substandard care in a facility.

(C) An order issued under division (A) or (B) of this section shall take effect on the later of the date the facility receives the order or the date the

public notice required under division (F) of section ~~5111.55~~ 5165.82 of the Revised Code is published. The order is subject to appeal under Chapter 119. of the Revised Code; however the order may take effect prior to or during the pendency of any hearing under that chapter. In that case, the department or agency shall provide the facility an opportunity for a hearing in accordance with section ~~5111.60~~ 5165.87 of the Revised Code.

Sec. ~~5111.58~~ 5165.85. (A) If a nursing facility notifies the department of ~~job and family services~~ medicaid or a contracting agency, at any time during the six-month period following the exit interview of a survey that was the basis for citing a deficiency or deficiencies, that the deficiency or deficiencies have been substantially corrected in accordance with the plan of correction submitted and approved under section ~~5111.43~~ 5165.69 of the Revised Code, the department of health shall conduct a follow-up survey to determine whether the deficiency or deficiencies have been substantially corrected in accordance with the plan.

(B) The department of ~~job and family services~~ medicaid or a contracting agency shall terminate a nursing facility's participation in the ~~medical assistance~~ medicaid program whenever the facility has not substantially corrected, within six months after the exit interview of the survey on the basis of which it was cited, a deficiency or deficiencies in accordance with the plan of correction submitted under section ~~5111.43~~ 5165.69 of the Revised Code, as determined by the department of health on the basis of a follow-up survey.

(C) Unless the facility has substantially corrected the deficiency or deficiencies in accordance with the plan of correction, as determined by the department of health on the basis of a follow-up survey, the department of ~~job and family services~~ medicaid or contracting agency shall deliver to the facility, at least thirty days prior to the day that is six months after the exit interview, a written order terminating the facility's participation in the ~~medical assistance~~ medicaid program. The order shall take effect and the facility's participation shall terminate on the day that is six months after the exit interview. The order shall not take effect if, after it is delivered to the facility and prior to the effective date of the order, the department of health determines on the basis of a follow-up survey that the facility has corrected the deficiency or deficiencies.

An order issued under this section is subject to appeal under Chapter 119. of the Revised Code; however, the order may take effect prior to or during the pendency of any hearing under that chapter. In that case, the department of ~~job and family services~~ medicaid or contracting agency shall provide the facility an opportunity for a hearing in accordance with section

~~5111.60~~ 5165.87 of the Revised Code.

(D) Except as provided in division (E) of this section, whenever the department of ~~job and family services~~ medicaid or a contracting agency terminates a facility's participation in the ~~medical assistance~~ medicaid program pursuant to this section, the provider shall repay the department the federal share of all medicaid payments made by the department to the facility ~~under the medical assistance program~~ during the six-month period following the exit interview of the survey that was the basis for citing the deficiency or cluster of deficiencies. The provider shall repay the department within thirty days after the department repays to the federal government the federal share of medicaid payments made to the facility during that six-month period.

(E) A provider is not required to repay the department of ~~job and family services~~ medicaid if either of the following is the case:

(1) The facility has brought an appeal under Chapter 119. of the Revised Code of termination of its participation in the ~~medical assistance~~ medicaid program, except that the provider shall repay the department of ~~job and family services~~ medicaid within thirty days after the facility exhausts its right to appeal under that chapter.

(2) The facility complied with the plan of correction approved by the department of health and the obligation to repay resulted from the department's failure to provide timely verification to the United States department of health and human services of the facility's compliance with the plan of correction.

(F) If a provider's obligation to repay the department of ~~job and family services~~ medicaid under division (D) of this section results from disallowance of federal financial participation by the United States department of health and human services, the provider shall not be required to repay the department of ~~job and family services~~ medicaid until the federal disallowance becomes final.

(G) Any fines paid under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code during any period for which the facility is required to repay the department of ~~job and family services~~ medicaid under division (D) of this section shall be offset against the amount the provider is required to repay the department for that period.

(H) Prior to a change of ownership of a facility for which a provider has an obligation to repay the department of ~~job and family services~~ medicaid under division (D) of this section that has not become final, or has become final but not been paid, the department may do one or more of the following:

(1) Require the provider to place money in escrow, or obtain a bond, in

sufficient amount to indemnify the state against the provider's failure to repay the department after the change of ownership occurs;

(2) Place a lien on the facility's real property;

(3) Use any method to recover the medicaid payments that is available to the attorney general to recover payments on behalf of the department of ~~job and family services~~ medicaid.

Sec. ~~5111.59~~ 5165.86. The department of ~~job and family services~~ medicaid, the department of health, and any contracting agency shall deliver a written notice, statement, or order to a nursing facility under sections ~~5111.35~~ 5165.60 to ~~5111.41~~ 5165.66 and ~~5111.43~~ 5165.69 to ~~5111.62~~ 5165.89 of the Revised Code by certified mail or hand delivery. If the notice, statement, or order is mailed, it shall be addressed to the administrator of the facility as indicated in the department's or agency's records. If it is hand delivered, it shall be delivered to a person at the facility who would appear to the average prudent person to have authority to accept it.

Delivery of written notice by a nursing facility to the department of health, the department of ~~job and family services~~ medicaid, or a contracting agency under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code shall be by certified mail or hand delivery to the appropriate department or the agency.

Sec. ~~5111.60~~ 5165.87. (A) Except as provided in division (B) of this section, the following remedies are subject to appeal under Chapter 119. of the Revised Code:

(1) An order issued under section ~~5111.45~~ 5165.71, ~~5111.46~~ 5165.72, ~~5111.51~~ 5165.77, or ~~5111.58~~ 5165.85 of the Revised Code terminating a nursing facility's participation in the ~~medical assistance~~ medicaid program;

(2) Appointment of a temporary manager of a facility under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72, or division (A)(1)(d) of section ~~5111.51~~ 5165.77 of the Revised Code;

(3) An order issued under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, ~~5111.48~~ 5165.74, ~~5111.51~~ 5165.77, or ~~5111.57~~ 5165.84 of the Revised Code denying ~~payment~~ medicaid payments to a facility ~~under the medical assistance program~~ for all medicaid eligible residents admitted after the effective date of the order;

(4) An order issued under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code denying ~~payment~~ medicaid payments to a facility ~~under the medical assistance program~~ for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(5) A fine imposed under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code.

(B) The department of ~~job and family services~~ medicaid or contracting agency may do any of the following prior to or during the pendency of any proceeding under Chapter 119. of the Revised Code:

(1) Issue and execute an order under section ~~5111.46~~ 5165.72, ~~5111.51~~ 5165.77, or ~~5111.58~~ 5165.85 of the Revised Code terminating a nursing facility's participation in the ~~medical assistance~~ medicaid program;

(2) Appoint a temporary manager under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72 or division (A)(1)(d) of section ~~5111.51~~ 5165.77 of the Revised Code;

(3) Issue and execute an order under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, ~~5111.51~~ 5165.77, or ~~5111.57~~ 5165.84 of the Revised Code denying ~~payment~~ medicaid payments to a facility for all medicaid eligible residents admitted after the effective date of the order;

(4) Issue and execute an order under section ~~5111.46~~ 5165.72 or ~~5111.47~~ 5165.73 or division (A), (B), or (C) of section ~~5111.48~~ 5165.74 of the Revised Code denying ~~payment~~ medicaid payments to a facility for medicaid eligible residents admitted after the effective date of the order who have specified diagnoses or special care needs.

(C) Whenever the department or agency imposes a remedy listed in division (B) of this section prior to or during the pendency of a proceeding, all of the following apply:

(1) The provider against whom the action is taken shall have ten days after the date the facility actually receives the notice specified in section 119.07 of the Revised Code to request a hearing.

(2) The hearing shall commence within thirty days after the date the department or agency receives the provider's request for a hearing.

(3) The hearing shall continue uninterrupted from day to day, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the provider and the department or agency.

(4) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations within ten days after the close of the hearing.

(5) The provider shall have five days after the date the hearing officer files the report and recommendations within which to file objections to the report and recommendations.

(6) Not later than fifteen days after the date the hearing officer files the report and recommendations, the medicaid director of ~~job and family services~~ or the director of the contracting agency shall issue an order

approving, modifying, or disapproving the report and recommendations of the hearing examiner.

(D) If the department or agency imposes more than one remedy as the result of deficiencies cited in a single survey, the proceedings for all of the remedies shall be consolidated. If any of the remedies are imposed during the pendency of a hearing, as permitted by division (B) of this section, the consolidated hearing shall be conducted in accordance with division (C) of this section. The consolidation of the remedies for purposes of a hearing does not affect the effective dates prescribed in sections ~~5111.35~~ 5165.60 to ~~5111.58~~ 2165.85 of the Revised Code.

(E) If a contracting agency conducts administrative proceedings pertaining to remedies imposed under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code, the department of ~~job and family services~~ medicaid shall not be considered a party to the proceedings.

Sec. ~~5111.64~~ 5165.88. (A)(1) Except as required by court order, as necessary for the administration or enforcement of any statute relating to nursing facilities, or as provided in division (C) of this section, the department of ~~job and family services~~ medicaid and any contracting agency shall not release any of the following information without the permission of the individual or the individual's legal representative:

- (a) The identity of any resident of a nursing facility;
- (b) The identity of any individual who submits a complaint about a nursing facility;
- (c) The identity of any individual who provides the department or agency with information about a nursing facility and has requested confidentiality;
- (d) Any information that reasonably would tend to disclose the identity of any individual described in division (A)(1)(a) to (c) of this section.

(2) An agency or individual to whom the department or contracting agency is required, by court order or for the administration or enforcement of a statute relating to nursing facilities, to release information described in division (A)(1) of this section shall not release the information without the permission of the individual who would be or would reasonably tend to be identified, or of the individual's legal representative, unless the agency or individual is required to release it by division (C) of this section, by court order, or for the administration or enforcement of a statute relating to nursing facilities.

(B) Except as provided in division (C) of this section, any record that identifies an individual described in division (A)(1) of this section or that reasonably would tend to identify such an individual is not a public record

for the purposes of section 149.43 of the Revised Code, and is not subject to inspection and copying under section 1347.08 of the Revised Code.

(C) If the department or a contracting agency, or an agency or individual to whom the department or contracting agency was required by court order or for administration or enforcement of a statute relating to nursing facilities to release information described in division (A)(1) of this section, uses information in any administrative or judicial proceeding against a facility that reasonably would tend to identify an individual described in division (A)(1) of this section, the department, agency, or individual shall disclose that information to the facility. However, the department, agency, or individual shall not disclose information that directly identifies an individual described in divisions (A)(1)(a) to (c) of this section, unless the individual is to testify in the proceedings.

(D) No person shall knowingly register a false complaint about a nursing facility with the department or a contracting agency, or knowingly swear or affirm the truth of a false complaint, when the allegation is made for the purpose of incriminating another.

~~Sec. 5111.63 5165.89. For the purposes of this section, "facility," "medicare," and "medicaid" have the same meanings as in section 3721.10 of the Revised Code.~~

The department of health shall be the designee of the department of ~~job and family services~~ medicaid for the purpose of conducting a hearing pursuant to section 3721.162 of the Revised Code concerning a nursing facility's decision to transfer or discharge a resident if the resident is a medicaid recipient or medicare beneficiary.

~~Sec. 5111.99 5165.99.~~ (A) Whoever violates ~~division (B) of section 5111.26 5165.102~~ or division (E) of section ~~5111.34 5165.08~~ of the Revised Code shall be fined not less than five hundred dollars nor more than one thousand dollars for the first offense and not less than one thousand dollars nor more than five thousand dollars for each subsequent offense. Fines paid under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(B) Whoever violates division (D) of section ~~5111.64 5165.88~~ of the Revised Code is guilty of registering a false complaint, a misdemeanor of the first degree.

Sec. 5166.01. As used in this chapter:

"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of medicaid or, if a state agency or political subdivision contracts with the department under section 5162.35 of the Revised Code to administer the

component, that state agency or political subdivision.

"Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

"Home and community-based services medicaid waiver component" means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital services, nursing facility services, or ICF/IID services.

"Hospital" has the same meaning as in section 3727.01 of the Revised Code.

"Hospital long-term care unit" has the same meaning as in section 5168.40 of the Revised Code.

"ICDS participant" has the same meaning as in section 5164.01 of the Revised Code.

"ICF/IID" and "ICF/IID services" have the same meanings as in section 5124.01 of the Revised Code.

"Integrated care delivery system" and "ICDS" have the same meanings as in section 5164.01 of the Revised Code.

"Level of care determination" means a determination of whether an individual needs the level of care provided by a hospital, nursing facility, or ICF/IID and whether the individual, if determined to need that level of care, would receive hospital services, nursing facility services, or ICF/IID services if not for a home and community-based services medicaid waiver component.

"Medicaid buy-in for workers with disabilities program" has the same meaning as in section 5163.01 of the Revised Code.

"Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under the "Social Security Act," section 1115 or 1915, 42 U.S.C. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5167.03 of the Revised Code.

"Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.

"Ohio home care waiver program" means the home and community-based services medicaid waiver component that is known as Ohio home care and was created pursuant to section 5166.11 of the Revised Code.

"Ohio transitions II aging carve-out program" means the home and

community-based services medicaid waiver component that is known as Ohio transitions II aging carve-out and was created pursuant to section 5166.11 of the Revised Code.

"Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

"Residential treatment facility" means a residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code, or an institution certified by the department of job and family services under section 5103.03 of the Revised Code, that serves children and either has more than sixteen beds or is part of a campus of multiple facilities or institutions that, combined, have a total of more than sixteen beds.

"Skilled nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5166.14 of the Revised Code.

~~Sec. 5111.85 5166.02. (A) As used in this section and sections 5111.851 to 5111.856 of the Revised Code:~~

~~"Home and community based services medicaid waiver component" means a medicaid waiver component under which home and community based services are provided as an alternative to hospital, nursing facility, or intermediate care facility for the mentally retarded services.~~

~~"Hospital" has the same meaning as in section 3727.01 of the Revised Code.~~

~~"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.~~

~~"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5111.16 of the Revised Code.~~

~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

~~(B) The medicaid director of job and family services may shall adopt rules under in accordance with Chapter 119. of the Revised Code governing medicaid waiver components that. The rules may establish all of the following:~~

- ~~(1) Eligibility requirements for the medicaid waiver components;~~

(2) The type, amount, duration, and scope of medicaid services the medicaid waiver components ~~provide cover~~;

(3) The conditions under which the medicaid waiver components cover medicaid services;

(4) The ~~amount~~ amounts the medicaid waiver components pay for medicaid services or the ~~method~~ methods by which the ~~amount is~~ amounts are determined;

(5) The ~~manner~~ manners in which the medicaid waiver components pay for medicaid services;

(6) Safeguards for the health and welfare of medicaid recipients receiving medicaid services under a medicaid waiver component;

(7) Procedures for prioritizing and approving for enrollment individuals who are eligible for a home and community-based services medicaid waiver component and choose to be enrolled in the component;

(8) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating ~~medicaid~~ provider agreements. The procedures shall include due process protections.

(9) Other policies necessary for the efficient administration of the medicaid waiver components.

~~(C)~~(B) The director of ~~job and family services~~ may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.

~~(D)~~(C) The following apply to procedures established under division ~~(B)~~(A)(7) of this section:

(1) Any such procedures established for the medicaid-funded component of the PASSPORT program shall be consistent with section ~~173.401~~ 173.521 of the Revised Code.

(2) Any such procedures established for the medicaid-funded component of the assisted living program shall be consistent with section 173.542 of the Revised Code.

(3) Any such procedures established for the Ohio home care waiver program shall be consistent with section ~~5111.862~~ 5166.121 of the Revised Code.

~~(3)~~(4) Any such procedures established for the unified long-term services and support medicaid waiver program shall be consistent with section ~~5111.865~~ 5166.141 of the Revised Code.

~~(4) Any such procedures established for the medicaid-funded component of the assisted living program shall be consistent with section~~

~~5111.894 of the Revised Code.~~

~~Sec. 5111.84~~ 5166.03. The medicaid director of ~~job and family services~~ may not submit a request to the United States secretary of health and human services for a medicaid waiver under ~~section 1115 of the "Social Security Act of 1935," section 1115,~~ section 1115, 42 U.S.C. 1315, unless the director provides the speaker of the house of representatives and president of the senate written notice of the director's intent to submit the request at least ten days before the date the director submits the request to the United States secretary. The notice shall include a detailed explanation of the medicaid waiver the director proposes to seek.

~~Sec. 5111.851~~ 5166.04. (A) ~~As used in sections 5111.851 to 5111.855 of the Revised Code:~~

~~"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of job and family services or, if a state agency or political subdivision contracts with the department under section 5111.91 of the Revised Code to administer the component, that state agency or political subdivision.~~

~~"Level of care determination" means a determination of whether an individual needs the level of care provided by a hospital, nursing facility, or intermediate care facility for the mentally retarded and whether the individual, if determined to need that level of care, would receive hospital, nursing facility, or intermediate care facility for the mentally retarded services if not for a home and community-based services medicaid waiver component.~~

~~"Medicaid buy in for workers with disabilities program" means the component of the medicaid program established under sections 5111.70 to 5111.7011 of the Revised Code.~~

~~"Skilled nursing facility" means a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.~~

~~(B)~~ The following requirements apply to each home and community-based services medicaid waiver component:

~~(1)~~(A) Only an individual who qualifies for a component shall receive that component's medicaid services.

~~(2)~~(B) A level of care determination shall be made as part of the process of determining whether an individual qualifies for a component and shall be made each year after the initial determination if, during such a subsequent year, the administrative agency determines there is a reasonable indication that the individual's needs have changed.

~~(3)~~(C) A written plan of care or individual service plan based on an

individual assessment of the medicaid services that an individual needs to avoid needing admission to a hospital, nursing facility, or ~~intermediate care facility for the mentally retarded~~ ICF/IID shall be created for each individual determined eligible for a component.

(4)(D) Each individual determined eligible for a component shall receive that component's medicaid services in accordance with the individual's level of care determination and written plan of care or individual service plan.

(5)(E) No individual may receive medicaid services under a component while the individual is a hospital inpatient or resident of a skilled nursing facility, nursing facility, or ~~intermediate care facility for the mentally retarded~~ ICF/IID.

(6)(F) No individual may receive prevocational, educational, or supported employment services under a component if the individual is eligible for such services that are funded with federal funds provided under 29 U.S.C. 730 or the "Individuals with Disabilities Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended.

(7)(G) Safeguards shall be taken to protect the health and welfare of individuals receiving medicaid services under a component, including safeguards established in rules adopted under section ~~544.85~~ 5166.02 of the Revised Code and safeguards established by licensing and certification requirements that are applicable to the providers of that component's medicaid services.

(8)(H) No medicaid services may be provided under a component by a provider that is subject to standards that the "Social Security Act," section 1616(e)(1), 42 U.S.C. 1382e(e)(1), requires be established if the provider fails to comply with the standards applicable to the provider.

(9)(I) Individuals determined to be eligible for a component, or such individuals' representatives, shall be informed of that component's medicaid services, including any choices that the individual or representative may make regarding the component's medicaid services, and given the choice of either receiving medicaid services under that component or, as appropriate, hospital services, nursing facility services, or ~~intermediate care facility for the mentally retarded~~ ICF/IID services.

(10)(J) No individual shall lose eligibility for services under a component, or have the services reduced or otherwise disrupted, on the basis that the individual also receives services under the medicaid buy-in for workers with disabilities program.

(11)(K) No individual shall lose eligibility for services under a component, or have the services reduced or otherwise disrupted, on the basis

that the individual's income or resources increase to an amount above the eligibility limit for the component if the individual is participating in the medicaid buy-in for workers with disabilities program and the amount of the individual's income or resources does not exceed the eligibility limit for the medicaid buy-in for workers with disabilities program.

~~(12)~~(L) No individual receiving services under a component shall be required to pay any cost sharing expenses for the services for any period during which the individual also participates in the medicaid buy-in for workers with disabilities program.

Sec. ~~5111.852~~ 5166.05. The department of ~~job and family services~~ medicaid may review and approve, modify, or deny written plans of care and individual service plans that section ~~5111.851~~ 5166.04 of the Revised Code requires be created for individuals determined eligible for a home and community-based services medicaid waiver component. If a state agency or political subdivision contracts with the department under section ~~5111.91~~ 5162.35 of the Revised Code to administer a home and community-based services medicaid waiver component and approves, modifies, or denies a written plan of care or individual service plan pursuant to the agency's or subdivision's administration of the component, the department may review the agency's or subdivision's approval, modification, or denial and order the agency or subdivision to reverse or modify the approval, modification, or denial. The state agency or political subdivision shall comply with the department's order.

The department of ~~job and family services~~ medicaid shall be granted full and immediate access to any records the department needs to implement its duties under this section.

Sec. ~~5111.853~~ 5166.06. Each administrative agency shall maintain, for a period of time the department of ~~job and family services~~ medicaid shall specify, financial records documenting the costs of medicaid services provided under the home and community-based services medicaid waiver components that the agency administers, including records of independent audits. The administrative agency shall make the financial records available on request to the United States secretary of health and human services, United States comptroller general, and their designees.

Sec. ~~5111.854~~ 5166.07. Each administrative agency is financially accountable for funds expended for medicaid services ~~provided under covered by~~ the home and community-based services medicaid waiver components that the agency administers.

Sec. ~~5111.855~~ 5166.08. Each state agency and political subdivision that enters into a contract with the department of ~~job and family services~~

medicaid under section ~~5111.91~~ 5162.35 of the Revised Code to administer a home and community-based services medicaid waiver component, or one or more aspects of such a component, shall provide the department a written assurance that the agency or subdivision will not violate any of the requirements of sections ~~5111.85~~ 5166.01 to ~~5111.854~~ 5166.07 of the Revised Code.

Sec. ~~5111.856~~ 5166.10. To the extent necessary for the efficient and economical administration of medicaid waiver components, the department of ~~job and family services~~ medicaid may transfer an individual enrolled in a medicaid waiver component administered by the department to another medicaid waiver component the department administers if the individual is eligible for the medicaid waiver component and the transfer does not jeopardize the individual's health or safety.

Sec. ~~5111.86~~ 5166.11. (A) As used in this section:

(1) ~~"Hospital" has the same meaning as in section 3727.01 of the Revised Code.~~

(2) ~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

(3) ~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

(4) ~~"Ohio home care program" means the program the department of job and family services~~ medicaid administers that provides state plan services and medicaid waiver component services pursuant to rules adopted ~~under sections 5111.01 and 5111.02 of the Revised Code for the medicaid program~~ and a medicaid waiver that went into effect July 1, 1998.

(B) ~~The director~~ department of job and family services medicaid may submit requests to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain waivers of federal medicaid requirements that would otherwise be violated in the creation and ~~implementation of~~ create and administer two or more medicaid waiver components under which home and community-based services are provided to eligible individuals who need the level of care provided by a nursing facility or hospital. In administering the requests medicaid waiver components, the ~~director~~ department may specify the following:

(1) The maximum number of individuals who may be enrolled in each of the medicaid waiver components ~~included in the requests~~;

(2) The maximum amount the medicaid program may expend each year for each individual enrolled in the medicaid waiver components;

(3) The maximum amount the medicaid program may expend each year

for all individuals enrolled in the medicaid waiver components;

(4) Any other requirements the ~~director~~ department selects for the medicaid waiver components.

~~(C) If the secretary approves the medicaid waivers requested under this section, the director may create and implement the medicaid waiver components in accordance with the provisions of the approved waivers. The department of job and family services shall administer the medicaid waiver components.~~

~~(D) After the first of any of the medicaid waiver components created that the department administers under this section begins to enroll eligible individuals, the ~~director~~ department may submit to the United States secretary of health and human services an amendment to a medicaid waiver component of the Ohio home care program authorizing the department to cease enrolling to enroll additional individuals in that a medicaid waiver component of the Ohio home care program. If the secretary approves the amendment, the director may cease to enroll additional individuals in that medicaid waiver component of the Ohio home care program.~~

~~Sec. 5111.861 5166.12. (A) As used in this section:~~

~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

~~"Unified long term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.~~

~~(B) Subject to division (C) of this section, there is hereby created the Ohio home care program. The program shall provide home and community-based services. The department of job and family services medicaid shall administer the program.~~

~~(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and ~~job and family services~~ medicaid shall ~~work together~~ collaborate to determine whether the Ohio home care waiver program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the Ohio home care waiver program should be terminated, the program shall cease to exist on a date the departments shall specify.~~

~~Sec. 5111.862 5166.121. (A) As used in this section:~~

~~"Hospital long term care unit" has the same meaning as in section 3721.50 of the Revised Code.~~

~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

~~"Ohio home care program" means the medicaid waiver component~~

~~created under section 5111.861 of the Revised Code.~~

~~"Residential treatment facility" means a residential facility licensed by the department of mental health under section 5119.22 of the Revised Code, or an institution certified by the department of job and family services under section 5103.03 of the Revised Code, that serves children and either has more than sixteen beds or is part of a campus of multiple facilities or institutions that, combined, have a total of more than sixteen beds.~~

~~(B) Subject to division (C) of Unless the Ohio home care waiver program is terminated pursuant to section 5111.861 5165.12 of the Revised Code, the department of job and family services medicaid shall establish a home first component for the Ohio home care waiver program. An individual is eligible for the Ohio home care waiver program's home first component if the individual has been determined to be eligible for the Ohio home care waiver program and at least one of the following applies:~~

(1) If the individual is under twenty-one years of age, the individual received inpatient hospital services for at least fourteen consecutive days, or had at least three inpatient hospital stays during the twelve months, immediately preceding the date the individual applies for the Ohio home care waiver program.

(2) If the individual is at least twenty-one but less than sixty years of age, the individual received inpatient hospital services for at least fourteen consecutive days immediately preceding the date the individual applies for the Ohio home care waiver program.

(3) The individual received private duty nursing services under the medicaid program for at least twelve consecutive months immediately preceding the date the individual applies for the Ohio home care waiver program.

(4) The individual does not reside in a nursing facility or hospital long-term care unit at the time the individual applies for the Ohio home care waiver program but is at risk of imminent admission to a nursing facility or hospital long-term care unit due to a documented loss of a primary caregiver.

(5) The individual resides in a nursing facility at the time the individual applies for the Ohio home care waiver program.

(6) At the time the individual applies for the Ohio home care waiver program, the individual participates in the money follows the person demonstration project authorized by section 6071 of the "Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, and either resides in a residential treatment facility or inpatient hospital setting.

~~(C)~~(B) An individual determined to be eligible for the home first

component of the Ohio home care waiver program shall be enrolled in the ~~Ohio home care~~ program in accordance with rules adopted under section ~~5111.85~~ 5166.02 of the Revised Code.

Sec. ~~5111.863~~ 5166.13. (A) As used in this section:

~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

~~"Unified long term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.~~

~~(B) Subject to division (C) of this section, there is hereby created the Ohio transitions II aging carve-out program. The program shall provide home and community-based services. The department of job and family services shall administer the program.~~

~~(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services medicaid shall ~~work together~~ collaborate to determine whether the Ohio transitions II aging carve-out program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the Ohio transitions II aging carve-out program should be terminated, the program shall cease to exist on a date the departments shall specify.~~

Sec. ~~5111.864~~ 5166.14. (A) As used in this section:

~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

~~(B) The ~~director~~ department of job and family services medicaid shall submit a request to the United States secretary of health and human services pursuant to section 1915n of the "Social Security Act," 95 Stat. 809 (1981); 42 U.S.C. 1396n, as amended, to obtain approval to create a unified long-term services and support medicaid waiver component to provide home and community-based services to eligible individuals of any age who require the level of care provided by nursing facilities. The ~~director~~ department of job and family services medicaid shall ~~work~~ collaborate with the ~~director~~ department of aging in seeking approval of the unified long-term services and support medicaid waiver component and, if the approval is obtained, in creating and implementing the component.~~

~~If the request to create the unified long-term services and support medicaid waiver component is approved, the The medicaid director of job and family services, ~~working~~ shall collaborate with the director of aging;~~

~~shall adopt when adopting~~ rules under section ~~5111.85~~ 5166.02 of the Revised Code to implement the component. ~~The rules may authorize the director of aging to adopt rules in accordance with Chapter 119. of the Revised Code governing aspects of the unified long-term services and support medicaid waiver component.~~

Sec. ~~5111.865~~ 5166.141. (A) ~~As used in this section, "unified long-term services and support medicaid waiver program" or "program" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.~~

~~(B) If the United States secretary of health and human services approves the request submitted under section 5111.864 of the Revised Code to create the unified long-term services and support medicaid waiver program, the~~ The department of job and family services medicaid shall establish a home first component for the unified long-term services and support medicaid waiver program. The home first component shall be similar to the home first component of the medicaid-funded component of the PASSPORT program established under section ~~173.401~~ 173.521 of the Revised Code, ~~the home first component of the Ohio home care program established under section 5111.862 of the Revised Code, and the home first component of the medicaid-funded component of the assisted living program established under section 5111.894~~ 173.542 of the Revised Code, and the home first component of the Ohio home care waiver program established under section 5166.121 of the Revised Code.

Sec. 5166.16. (A) As used in this section, "ODA or MCD medicaid waiver component" means all of the following:

(1) The medicaid-funded component of the PASSPORT program, unless it is terminated pursuant to division (C) of section 173.52 of the Revised Code;

(2) The choices program, unless it is terminated pursuant to division (B) of section 173.53 of the Revised Code;

(3) The medicaid-funded component of the assisted living program, unless it is terminated pursuant to division (C) of section 173.54 of the Revised Code;

(4) The Ohio home care waiver program, unless it is terminated pursuant to section 5166.12 of the Revised Code;

(5) The Ohio transitions II aging carve-out program, unless it is terminated pursuant to section 5166.13 of the Revised Code.

(B) The medicaid director may create a home and community-based services medicaid waiver component as part of the integrated care delivery system. If the ICDS medicaid waiver component is created, both of the

following apply:

(1) The department of medicaid shall administer it;

(2) When it begins to accept enrollments, no ICDS participant who is eligible for the ICDS medicaid waiver component shall be enrolled in an ODA or MCD medicaid waiver component regardless of whether the participant prefers to remain or be enrolled in an ODA or MCD medicaid waiver component.

(C) A dual eligible individual who is eligible for an ODA or MCD medicaid waiver component may enroll in the component before the individual becomes an ICDS participant. The dual eligible individual shall disenroll from the ODA or MCD medicaid waiver component and enroll in the ICDS medicaid waiver component once the individual becomes an ICDS participant and it is possible to enroll the individual in the ICDS medicaid waiver component. The disenrollment from the ODA or MCD medicaid waiver component and enrollment into the ICDS medicaid waiver component shall occur regardless of whether the individual prefers to remain enrolled in the ODA or MCD medicaid waiver component.

(D) An ICDS participant's disenrollment from an ODA or MCD medicaid waiver component and enrollment in the ICDS medicaid waiver component resulting from division (B)(2) or (C) of this section shall be accomplished without a disruption in the participant's services under the components.

~~Sec. 5111.87 5166.20. (A) As used in this section and section 5111.871 of the Revised Code:~~

~~(1) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.~~

~~(2) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

~~(B) The director department of job and family services medicaid may apply to the United States secretary of health and human services for both of create the following:~~

~~(1) One or more medicaid waiver components under which home and community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the mentally retarded ICFs/IID;~~

~~(2) One or more medicaid waiver components under which home and community-based services are provided in the form of any of the following:~~

~~(a) Early intervention and supportive services for children under three years of age who have developmental delays or disabilities the director department determines are significant;~~

(b) Therapeutic services for children who have autism;

(c) Specialized habilitative services for individuals who are eighteen years of age or older and have autism.

~~(C)~~(B) No medicaid waiver component ~~authorized by~~ created pursuant to division ~~(B)(A)(2)(b)~~ or (c) of this section shall provide services that are available under another medicaid waiver component. No medicaid waiver component ~~authorized by~~ created pursuant to division ~~(B)(A)(2)(b)~~ of this section shall provide services to an individual that the individual is eligible to receive through an individualized education program as defined in section 3323.01 of the Revised Code.

~~(D)~~(C) The director of developmental disabilities ~~or~~ and director of health may request that the ~~director~~ department of ~~job and family services~~ apply for medicaid ~~create~~ one or more medicaid ~~waivers~~ waiver components under this section.

~~(E)~~(D) Before ~~applying for~~ creating a medicaid waiver component under this section, the ~~director~~ department of ~~job and family services~~ medicaid shall seek, accept, and consider public comments.

Sec. ~~5111.871~~ 5166.21. The department of ~~job and family services~~ medicaid shall enter into a contract with the department of developmental disabilities under section ~~5111.94~~ 5162.35 of the Revised Code with regard to one or more of the medicaid waiver components ~~established~~ created by the department of ~~job and family services~~ medicaid under section ~~5111.87~~ 5166.20 of the Revised Code. ~~Subject, if needed, to the approval of the United States secretary of health and human services, the~~ The contract shall include the medicaid waiver component known as the transitions developmental disabilities waiver. The contract shall provide for the department of developmental disabilities to administer the components in accordance with the terms of the federal medicaid ~~waivers~~ authorizing the components. The contract shall include a schedule for the department of developmental disabilities to begin administering the transitions developmental disabilities waiver. ~~The directors of job and family services and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing the components.~~

If the department of developmental disabilities or the department of ~~job and family services~~ medicaid denies an individual's application for home and community-based services provided under any of these medicaid components, the department that denied the services shall give timely notice to the individual that the individual may ~~request a hearing under appeal~~ pursuant to section ~~5101.35~~ 5160.31 of the Revised Code.

The departments of developmental disabilities and ~~job and family~~

~~services~~ medicaid may approve, reduce, deny, or terminate a medicaid service included in the individualized service plan developed for a medicaid recipient eligible for home and community-based services provided under any of these medicaid components. The departments shall consider the recommendations a county board of developmental disabilities makes under division (A)(1)(c) of section 5126.055 of the Revised Code. If either department approves, reduces, denies, or terminates a medicaid service, that department shall give timely notice to the medicaid recipient that the recipient may ~~request a hearing under~~ appeal pursuant to section ~~5101.35~~ 5160.31 of the Revised Code.

If supported living, as defined in section 5126.01 of the Revised Code, is to be provided as a medicaid service under any of these components, any person or government entity with a current, valid ~~medicaid~~ provider agreement and a current, valid certificate under section 5123.161 of the Revised Code may provide the medicaid service.

If a medicaid service is to be provided under any of these components by a residential facility, as defined in section 5123.19 of the Revised Code, any person or government entity with a current, valid ~~medicaid~~ provider agreement and a current, valid license under section 5123.19 of the Revised Code may provide the medicaid service.

Sec. ~~5111.872~~ 5166.22. (A) Subject to division (B) of this section, when the department of developmental disabilities allocates enrollment numbers to a county board of developmental disabilities for home and community-based services specified in division ~~(B)~~(A)(1) of section ~~5111.87~~ 5166.20 of the Revised Code and provided under any of the medicaid waiver components that the department administers under section ~~5111.871~~ 5166.21 of the Revised Code, the department shall consider all of the following:

(1) The number of individuals with mental retardation or other developmental disability who are on a waiting list the county board establishes under section 5126.042 of the Revised Code for those services and are given priority on the waiting list;

(2) The implementation component required by division (A)(3) of section 5126.054 of the Revised Code of the county board's plan approved under section 5123.046 of the Revised Code;

(3) Anything else the department considers necessary to enable county boards to provide those services to individuals in accordance with the priority requirements for waiting lists established under section 5126.042 of the Revised Code for those services.

(B) Division (A) of this section applies to home and community-based

services provided under the medicaid waiver component known as the transitions developmental disabilities waiver only to the extent, if any, provided by the contract required by section ~~5111.871~~ 5166.21 of the Revised Code regarding the ~~waiver component~~.

Sec. ~~5111.873~~ 5166.23. (A) Subject to division (D) of this section, the ~~medicaid director of job and family services~~ shall adopt rules ~~in accordance with Chapter 119. under section 5166.02~~ of the Revised Code establishing the ~~amount of reimbursement~~ payment amounts or the methods by which the ~~payment~~ amounts of reimbursement are to be determined for home and community-based services specified in division ~~(B)~~(A)(1) of section ~~5111.87~~ 5166.20 of the Revised Code and provided under the components of the medicaid program that the department of developmental disabilities administers under section ~~5111.871~~ 5166.21 of the Revised Code. With respect to these rules, all of the following apply:

(1) The rules shall establish procedures for the department of developmental disabilities to follow in arranging for the initial and ongoing collection of cost information from a comprehensive, statistically valid sample of persons and government entities providing the services at the time the information is obtained.

(2) The rules shall establish procedures for the collection of consumer-specific information through an assessment instrument the department of developmental disabilities shall provide to the department of ~~job and family services~~ medicaid.

(3) With the information collected pursuant to divisions (A)(1) and (2) of this section, an analysis of that information, and other information the director determines relevant, the rules shall establish ~~reimbursement~~ payment standards that do all of the following:

(a) Assure that ~~reimbursement is~~ payment amounts are consistent with efficiency, economy, and quality of care;

(b) Consider the intensity of consumer resource need;

(c) Recognize variations in different geographic areas regarding the resources necessary to assure the health and welfare of consumers;

(d) Recognize variations in environmental supports available to consumers.

(B) As part of the process of adopting rules ~~under~~ authorized by this section, the director shall consult with the director of developmental disabilities, representatives of county boards of developmental disabilities, persons who provide the home and community-based services, and other persons and government entities the director identifies.

(C) The ~~directors of job and family services~~ medicaid director and

director of developmental disabilities shall review the rules ~~adopted under~~ authorized by this section at times they determine are necessary to ensure that the ~~amount of reimbursement~~ payment amounts or the methods by which the ~~payment amounts of reimbursement~~ payment amounts are to be determined continue to meet the ~~reimbursement~~ payment standards established under division (A)(3) of this section.

(D) This section applies to home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver only to the extent, if any, provided by the contract required by section ~~5111.871~~ 5166.21 of the Revised Code regarding the ~~waiver component~~.

Sec. ~~5111.88~~ 5166.30. (A) As used in sections ~~5111.88~~ 5166.30 to ~~5111.8811~~ 5166.3010 of the Revised Code:

(1) "Adult" means an individual at least eighteen years of age.

(2) "Appropriate director" means the following:

(a) The medicaid director in the context of all of the following:

(i) The Ohio home care waiver program, unless it is terminated pursuant to section 5166.12 of the Revised Code;

(ii) The Ohio transitions II aging carve-out program, unless it is terminated pursuant to section 5166.13 of the Revised Code;

(iii) The integrated care delivery system medicaid waiver component authorized by section 5166.16 of the Revised Code.

(b) The director of aging in the context of the medicaid-funded component of the PASSPORT program, unless it is terminated pursuant to division (C) of section 173.52 of the Revised Code.

(3) "Authorized representative" means the following:

(a) In the case of a consumer who is a minor, the consumer's parent, custodian, or guardian;

(b) In the case of a consumer who is an adult, an individual selected by the consumer pursuant to section ~~5111.8810~~ 5166.3010 of the Revised Code to act on the consumer's behalf for purposes regarding home care attendant services.

~~(3)~~(4) "Authorizing health care professional" means a health care professional who, pursuant to section ~~5111.887~~ 5166.307 of the Revised Code, authorizes a home care attendant to assist a consumer with self-administration of medication, nursing tasks, or both.

~~(4)~~(5) "Consumer" means an individual to whom all of the following apply:

(a) The individual is enrolled in a participating medicaid waiver component.

(b) The individual has a medically determinable physical impairment to which both of the following apply:

(i) It is expected to last for a continuous period of not less than twelve months.

(ii) It causes the individual to require assistance with activities of daily living, self-care, and mobility, including either assistance with self-administration of medication or the performance of nursing tasks, or both.

(c) In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of selecting, directing the actions of, and dismissing a home care attendant.

(d) In the case of an individual who is a minor, the individual has an authorized representative who is capable of selecting, directing the actions of, and dismissing a home care attendant.

~~(5)~~(6) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

~~(6)~~(7) "Custodian" has the same meaning as in section 2151.011 of the Revised Code.

~~(7)~~(8) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach.

~~(8)~~(9) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

~~(9)~~(10) "Health care professional" means a physician or registered nurse.

~~(10)~~(11) "Home care attendant" means an individual holding a valid ~~medicaid~~ provider agreement in accordance with section ~~5111.881~~ 5166.301 of the Revised Code that authorizes the individual to provide home care attendant services to consumers.

~~(11)~~(12) "Home care attendant services" means all of the following as provided by a home care attendant:

- (a) Personal care aide services;
- (b) Assistance with the self-administration of medication;
- (c) Assistance with nursing tasks.

~~(12)~~(13) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum.

~~(13)~~ "Medicaid waiver component" has the same meaning as in section ~~5111.85~~ of the Revised Code.

(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.

(15) "Minor" means an individual under eighteen years of age.

(16) "Participating medicaid waiver component" means ~~both~~ all of the following:

(a) The medicaid-funded component of the PASSPORT program, unless it is terminated pursuant to division (C) of section 173.52 of the Revised Code;

(b) The Ohio home care waiver program created under, unless it is terminated pursuant to section 5111.861 5166.12 of the Revised Code;

~~(b)(c)~~ The Ohio transitions II aging carve-out program created under, unless it is terminated pursuant to section 5111.863 5166.13 of the Revised Code;

(d) The integrated care delivery system medicaid waiver component authorized by section 5166.16 of the Revised Code.

(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(18) "Practice of nursing as a registered nurse," "practice of nursing as a licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code. "Registered nurse" includes an advanced practice registered nurse, as defined in section 4723.01 of the Revised Code.

(19) "Schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code.

~~(B) The director of job and family services may submit requests to the United States secretary of health and human services to amend the federal medicaid waivers authorizing the participating Participating medicaid waiver components to have those components may cover home care attendant services in accordance with sections 5111.88 5166.30 to 5111.8810 5166.3010 of the Revised Code and rules adopted under section 5111.8811 5166.02 of the Revised Code. Notwithstanding sections 5111.881 to 5111.8811 of the Revised Code, those sections shall be implemented regarding a participating medicaid waiver component only if the secretary approves a waiver amendment for the component.~~

Sec. ~~5111.881~~ 5166.301. The medicaid director ~~of job and family services~~ shall enter into a medicaid provider agreement with an individual to authorize the individual to provide home care attendant services to consumers if the individual does both of the following:

(A) Agrees to comply with the requirements of sections 5111.88 5166.30 to 5111.8810 5166.3010 and rules adopted under section 5111.8811 5166.02 of the Revised Code;

(B) Provides the director evidence satisfactory to the director of all of

the following:

(1) That the individual either meets the personnel qualifications specified in 42 C.F.R. 484.4 for home health aides or has successfully completed at least one of the following:

(a) A competency evaluation program or training and competency evaluation program approved or conducted by the director of health under section 3721.31 of the Revised Code;

(b) A training program approved by the ~~department of job and family services~~ appropriate director that includes training in at least all of the following and provides training equivalent to a training and competency evaluation program specified in division (B)(1)(a) of this section or meets the requirements of 42 C.F.R. 484.36(a):

(i) Basic home safety;

(ii) Universal precautions for the prevention of disease transmission, including hand-washing and proper disposal of bodily waste and medical instruments that are sharp or may produce sharp pieces if broken;

(iii) Personal care aide services;

(iv) The labeling, counting, and storage requirements for schedule II, III, IV, and V medications.

(2) That the individual has obtained a certificate of completion of a course in first aid from a first aid course to which all of the following apply:

(a) It is not provided solely through the internet.

(b) It includes hands-on training provided by a first aid instructor who is qualified to provide such training according to standards set in rules adopted under section ~~5111.8811~~ 5166.02 of the Revised Code.

(c) It requires the individual to demonstrate successfully that the individual has learned the first aid taught in the course.

(3) That the individual meets any other requirements for the medicaid provider agreement specified in rules adopted under section ~~5111.8811~~ 5166.02 of the Revised Code.

Sec. ~~5111.882~~ 5166.302. A home care attendant shall complete not less than twelve hours of in-service continuing education regarding home care attendant services each year and provide the appropriate director ~~of job and family services~~ evidence satisfactory to the appropriate director that the attendant satisfied this requirement. The evidence shall be submitted to the appropriate director not later than the annual anniversary of the issuance of the home care attendant's initial ~~medicaid~~ provider agreement.

Sec. ~~5111.883~~ 5166.303. A home care attendant shall do all of the following:

(A) Maintain a clinical record for each consumer to whom the attendant

provides home care attendant services in a manner that protects the consumer's privacy;

(B) Participate in a face-to-face visit every ninety days with all of the following to monitor the health and welfare of each of the consumers to whom the attendant provides home care attendant services:

- (1) The consumer;
- (2) The consumer's authorized representative, if any;
- (3) A registered nurse who agrees to answer any questions that the attendant, consumer, or authorized representative has about consumer care needs, medications, and other issues.

(C) Document the activities of each visit required by division (B) of this section in the consumer's clinical record with the assistance of the registered nurse.

Sec. ~~5111.884~~ 5166.304. (A) A home care attendant may assist a consumer with nursing tasks or self-administration of medication only after the attendant does both of the following:

- (1) Subject to division (B) of this section, completes consumer-specific training in how to provide the assistance that the authorizing health care professional authorizes the attendant to provide to the consumer;
- (2) At the request of the consumer, consumer's authorized representative, or authorizing health care professional, successfully demonstrates that the attendant has learned how to provide the authorized assistance to the consumer.

(B) The training required by division (A)(1) of this section shall be provided by either of the following:

- (1) The authorizing health care professional;
- (2) The consumer or consumer's authorized representative in cooperation with the authorizing health care professional.

Sec. ~~5111.885~~ 5166.305. A home care attendant shall comply with both of the following when assisting a consumer with nursing tasks or self-administration of medication:

(A) The written consent of the consumer or consumer's authorized representative provided to the appropriate director ~~of job and family services~~ under section ~~5111.886~~ 5166.306 of the Revised Code;

(B) The authorizing health care professional's written authorization provided to the appropriate director under section ~~5111.887~~ 5166.307 of the Revised Code.

Sec. ~~5111.886~~ 5166.306. To consent to a home care attendant assisting a consumer with nursing tasks or self-administration of medication, the consumer or consumer's authorized representative shall provide the

~~appropriate~~ director of ~~job and family services~~ a written statement signed by the consumer or authorized representative under which the consumer or authorized representative consents to both of the following:

(A) Having the attendant assist the consumer with nursing tasks or self-administration of medication;

(B) Assuming responsibility for directing the attendant when the attendant assists the consumer with nursing tasks or self-administration of medication.

Sec. ~~5111.887~~ 5166.307. To authorize a home care attendant to assist a consumer with nursing tasks or self-administration of medication, a health care professional shall provide the ~~appropriate~~ director of ~~job and family services~~ a written statement signed by the health care professional that includes all of the following:

(A) The consumer's name and address;

(B) A description of the nursing tasks or self-administration of medication with which the attendant is to assist the consumer, including, in the case of assistance with self-administration of medication, the name and dosage of the medication;

(C) The times or intervals when the attendant is to assist the consumer with the self-administration of each dosage of the medication or nursing tasks;

(D) The dates the attendant is to begin and cease providing the assistance;

(E) A list of severe adverse reactions the attendant must report to the health care professional should the consumer experience one or more of the reactions;

(F) At least one telephone number at which the attendant can reach the health care professional in an emergency;

(G) Instructions the attendant is to follow when assisting the consumer with nursing tasks or self-administration of medication, including instructions for maintaining sterile conditions and for storage of task-related equipment and supplies;

(H) The health care professional's attestation of both of the following:

(1) That the consumer or consumer's authorized representative has demonstrated to the health care professional the ability to direct the attendant;

(2) That the attendant has demonstrated to the health care professional the ability to provide the consumer assistance with nursing tasks or self-administration of medication that the health care professional has specifically authorized the attendant to provide and that the consumer or

consumer's authorized representative has indicated to the health care professional that the consumer or authorized representative is satisfied with the attendant's demonstration.

Sec. ~~5111.888~~ 5166.308. When authorizing a home care attendant to assist a consumer with nursing tasks or self-administration of medication, a health care professional may not authorize a home care attendant to do any of the following:

(A) Perform a task that is outside of the health care professional's scope of practice;

(B) Assist the consumer with the self-administration of a medication, including a schedule II, schedule III, schedule IV, or schedule V drug unless both of the following apply:

(1) The medication is administered orally, topically, or via a gastrostomy tube or jejunostomy tube, including through any of the following:

(a) In the case of an oral medication, a metered dose inhaler;

(b) In the case of a topical medication, including a transdermal medication, either of the following:

(i) An eye, ear, or nose drop or spray;

(ii) A vaginal or rectal suppository.

(c) In the case of a gastrostomy tube or jejunostomy tube, only through a pre-programmed pump.

(2) The medication is in its original container and the label attached to the container displays all of the following:

(a) The consumer's full name in print;

(b) The medication's dispensing date, which must not be more than twelve months before the date the attendant assists the consumer with self-administration of the medication;

(c) The exact dosage and means of administration that match the health care professional's authorization to the attendant.

(C) Assist the consumer with the self-administration of a schedule II, schedule III, schedule IV, or schedule V medication unless, in addition to meeting the requirements of division (B) of this section, all of the following apply:

(1) The medication has a warning label on its container.

(2) The attendant counts the medication in the consumer's or authorized representative's presence when the medication is administered to the consumer and records the count on a form used for the count as specified in rules adopted under section ~~5111.881~~ 5166.02 of the Revised Code.

(3) The attendant recounts the medication in the consumer's or

authorized representative's presence at least monthly and reconciles the recount on a log located in the consumer's clinical record.

(4) The medication is stored separately from all other medications and is secured and locked at all times when not being administered to the consumer to prevent unauthorized access.

(D) Perform an intramuscular injection;

(E) Perform a subcutaneous injection unless it is for a routine dose of insulin;

(F) Program a pump used to deliver a medication unless the pump is used to deliver a routine dose of insulin;

(G) Insert, remove, or discontinue an intravenous access device;

(H) Engage in intravenous medication administration;

(I) Insert or initiate an infusion therapy;

(J) Perform a central line dressing change.

Sec. ~~5111.889~~ 5166.309. A home care attendant who provides home care attendant services to a consumer in accordance with the authorizing health care professional's authorization does not engage in the practice of nursing as a registered nurse or in the practice of nursing as a licensed practical nurse in violation of section 4723.03 of the Revised Code.

A consumer or the consumer's authorized representative shall report to the appropriate director of ~~job and family services~~ if a home care attendant engages in the practice of nursing as a registered nurse or the practice of nursing as a licensed practical nurse beyond the authorizing health care professional's authorization. The appropriate director shall forward a copy of each report to the board of nursing.

Sec. ~~5111.8810~~ 5166.3010. A consumer who is an adult may select an individual to act on the consumer's behalf for purposes regarding home care attendant services by submitting a written notice of the consumer's selection of an authorized representative to the appropriate director of ~~job and family services~~. The notice shall specifically identify the individual the consumer selects as authorized representative and may limit what the authorized representative may do on the consumer's behalf regarding home care attendant services. A consumer may not select the consumer's home care attendant to be the consumer's authorized representative.

Sec. ~~5111.97~~ 5166.35. (A) ~~As used in this section:~~

(1) ~~"Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~

(2) ~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

(B) ~~To the extent funds are available, the~~ The medicaid director of ~~job~~

~~and family services~~ may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility ~~facilities~~ to residing in a community ~~setting~~ settings. The project may be established as a separate nonmedicaid program or integrated into a new or existing home and community-based services medicaid waiver component. The director shall permit any medicaid recipient ~~of medicaid-funded receiving~~ nursing facility services to apply for participation in the project, but may limit the number of project participants.

The director shall ensure that an assessment of an applicant is conducted as soon as practicable to determine whether the applicant is eligible for participation in the project. To the maximum extent possible, the assessment and eligibility determination shall be completed not later than the date that occurs six months after the applicant ~~became a recipient of medicaid-funded~~ begins to receive nursing facility services.

~~(C)~~(B) To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements:

(1) The medicaid recipient must be ~~a recipient of medicaid-funded receiving~~ nursing facility services; at the time of applying for the project benefits.

(2) If the project is established as a nonmedicaid program, the medicaid recipient must be able to remain in the community as a result of receiving project benefits and the projected cost of the benefits to the project does not exceed eighty per cent of the average monthly medicaid cost of a medicaid recipient in a nursing facility.

(3) If the project is integrated into a home and community-based services medicaid waiver component, the medicaid recipient must meet the waiver component's enrollment criteria.

~~(D)~~(C) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following:

- (1) The first month's rent in a community setting;
- (2) Rental deposits;
- (3) Utility deposits;
- (4) Moving expenses;

(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.

~~(E)~~(D) If the project is established as a nonmedicaid program, no participant may receive more than two thousand dollars' worth of benefits under the project.

~~(F)~~(E) If the department of ~~job and family services~~ medicaid enters into

a contract with an entity to provide fiscal management services regarding the project, the contract may provide for a portion of a participant's benefits under the project to be paid to the contracting entity. The contract shall specify the portion to be paid to the contracting entity.

~~(G) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 95 Stat. 809 (1981), 42 U.S.C. 1396n, as amended, to create a home and community based services medicaid waiver component to serve individuals who meet the criteria for participation in the Ohio access success project.~~

~~(H)~~(F) The director may adopt rules in accordance with Chapter 119. of the Revised Code for the administration and operation of the project. If the project is integrated into a home and community-based services medicaid waiver component, the rules shall be adopted under section ~~5111.85~~ 5166.02 of the Revised Code.

Sec. 5167.01. As used in this chapter:

(A) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(B) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

(C) "Emergency services" has the same meaning as in the "Social Security Act," section 1932(b)(2), 42 U.S.C. 1396u-2(b)(2).

(D) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(E) "Medicaid managed care organization" means a managed care organization under contract with the department of medicaid pursuant to section 5167.10 of the Revised Code.

(F) "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(G) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

(H) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.

(I) "Provider" means any person or government entity that furnishes services to a medicaid recipient enrolled in a medicaid managed care organization, regardless of whether the person or entity has a provider agreement.

(J) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

Sec. 5167.02. The medicaid director shall adopt rules as necessary to

implement this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. ~~5111.16~~ 5167.03. (A) As part of the medicaid program, the department of ~~job and family services~~ medicaid shall establish a care management system. ~~The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.~~

(B) The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the department's implementation of the system and designation of participants, all of the following apply:

(1) In the case of individuals who receive medicaid on the basis of being included in the category identified by the department as covered families and children, the department shall implement the care management system in all counties. All individuals included in the category shall be designated for participation, except for individuals included in one or more of the medicaid recipient groups specified in 42 C.F.R. 438.50(d). The department shall ensure that all participants are enrolled in medicaid managed care organizations that are health insuring corporations ~~under contract with the department pursuant to section 5111.17 of the Revised Code.~~

(2) In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, ~~as specified in division (C)(2) of section 5111.01 of the Revised Code,~~ the department shall implement the care management system in all counties. Except as provided in division (C) of this section, all individuals included in the category shall be designated for participation. The department shall ensure that all participants are enrolled in medicaid managed care organizations that are health insuring corporations ~~under contract with the department pursuant to section 5111.17 of the Revised Code.~~

(3) Alcohol, drug addiction, and mental health services covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of those services is provided by a board of alcohol, drug addiction, and mental health services or a state agency other than the department of ~~job and family services~~ medicaid, but the recipients of those services may otherwise be designated for participation in the system.

(C)(1) In designating participants who receive medicaid on the basis of being aged, blind, or disabled, the department shall not include any of the

following, except as provided under division (C)(2) of this section:

(a) Individuals who are under twenty-one years of age;

(b) Individuals who are institutionalized;

(c) Individuals who become eligible for medicaid by spending down their income or resources to a level that meets the medicaid program's financial eligibility requirements;

~~(d) Individuals who are dually Dual eligible under the medicaid program and the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended individuals;~~

(e) Individuals to the extent that they are receiving medicaid services through a medicaid waiver component, ~~as defined in section 5111.85 of the Revised Code.~~

~~(2) If any necessary waiver of federal medicaid requirements is granted, the The department may designate any of the following individuals who receive medicaid on the basis of being aged, blind, or disabled as individuals who are permitted or required to participate in the care management system:~~

~~(a) Individuals who are under twenty-one years of age;~~

~~(b) Individuals who reside in a nursing facility, as defined in section 5111.20 of the Revised Code;~~

~~(c) Individuals who, as an alternative to receiving nursing facility services, are participating in a home and community-based services medicaid waiver component, as defined in section 5111.85 of the Revised Code;~~

~~(d) Individuals who are dually Dual eligible under the medicaid program and the medicare program individuals.~~

(D) Subject to division (B) of this section, the department may do both of the following under the care management system:

(1) Require or permit participants in the system to obtain health care services from providers designated by the department;

(2) Require or permit participants in the system to obtain health care services through medicaid managed care organizations ~~under contract with the department pursuant to section 5111.17 of the Revised Code.~~

~~(E)(1) The department shall prepare an annual report on the care management system. The report shall address the department's ability to implement the system, including all of the following components:~~

~~(a) The required designation of participants included in the category identified by the department as covered families and children;~~

~~(b) The required designation of participants included in the aged, blind, or disabled category of medicaid recipients;~~

~~(e) The use of any programs for enhanced care management.~~

~~(2) The department shall submit each annual report to the general assembly. The first report shall be submitted not later than October 1, 2007.~~

~~(F) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~

Sec. ~~5111.161~~ 5167.031. (A) As used in this section:

(1) "Children's care network" means any of the following:

- (a) A children's hospital;
- (b) A group of children's hospitals;
- (c) A group of pediatric physicians.

(2) "Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

(B) If the department of ~~job and family services~~ medicaid includes in the care management system, pursuant to section ~~5111.16~~ 5167.03 of the Revised Code, individuals under twenty-one years of age who are included in the category of individuals who receive medicaid on the basis of being aged, blind, or disabled, ~~as specified in division (C)(2) of section 5111.01 of the Revised Code,~~ the department shall develop a system to may recognize entities as pediatric accountable care organizations. ~~The purpose of the recognition system shall be to meet the complex medical and behavioral needs of disabled children through new approaches to care coordination. The department shall implement the recognition system not later than July 1, 2012.~~

An entity recognized by the department as a pediatric accountable care organization may develop innovative partnerships between relevant groups and may contract directly or subcontract with the state to provide care coordination and other services to the medicaid recipients under twenty-one years of age described in this division who are permitted or required to participate in the care management system.

(C)(1) To be recognized by the department as a pediatric accountable care organization, an entity shall meet the standards established ~~in rules adopted under this section by the department.~~ Unless required by ~~sections section 2706 and 3022 of the "Patient Protection and Affordable Care Act,"~~ 124 Stat. 325 (2010) and ~~Title XVIII of the "Social Security Act,"~~ ~~424 Stat. 395 (2010)~~ section 1895, 42 U.S.C. 1395jjj, the regulations adopted pursuant to those sections, and the laws of this state, the department shall not require that an entity be a health insuring corporation as a condition of receiving the department's recognition.

(2) Any of the following entities may receive the department's

recognition, if the standards for recognition have been met:

(a) A children's care network;

(b) A children's care network that may include one or more other entities, including, but not limited to, health insuring corporations or other managed care organizations;

(c) Any other entity the department determines is qualified.

(D) The ~~department~~ medicaid director shall consult with all of the following in adopting rules ~~under~~ authorized by division (E) of this section necessary for an entity to be recognized by the department as a pediatric accountable care organization:

(1) The superintendent of insurance;

(2) Children's hospitals;

(3) ~~Managed Medicaid managed~~ care organizations ~~under contract pursuant to section 5111.17 of the Revised Code;~~

(4) Any other relevant entities, as determined necessary by the department, with interests in pediatric accountable care organizations.

(E) ~~The department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.~~ In adopting the rules under section 5167.02 of the Revised Code, the ~~department~~ medicaid director shall do all of the following:

(1) Establish application procedures to be followed by an entity seeking recognition as a pediatric accountable care organization;

(2) Ensure that the standards for recognition as a pediatric accountable care organization are the same as and do not conflict with those specified in ~~sections~~ section 2706 and 3022 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and ~~Title XVIII of the "Social Security Act," 124 Stat. 395 (2010)~~ section 1895, 42 U.S.C. 1395jjj or the regulations adopted pursuant to those sections;

(3) Establish requirements regarding the access to pediatric specialty care provided through or by a pediatric accountable care organization;

(4) Establish accountability and financial requirements for an entity recognized as a pediatric accountable care organization;

(5) Establish quality improvement initiatives consistent with any state medicaid quality plan established by the department;

(6) Establish transparency and consumer protection requirements for an entity recognized as a pediatric accountable care organization;

(7) Establish a process for sharing data.

(F) This section does not limit the authority of the department of insurance to regulate the business of insurance in this state.

Sec. ~~5111.17~~ 5167.10. (A) The department of ~~job and family services~~

medicaid may enter into contracts with managed care organizations, including health insuring corporations, under which the organizations are authorized to provide, or arrange for the provision of, health care services to ~~medical assistance~~ medicaid recipients who are required or permitted to obtain health care services through managed care organizations as part of the care management system established under section ~~5111.16~~ 5167.03 of the Revised Code.

(B) ~~The~~ (1) Subject to division (B)(2)(a) of this section, the department or its actuary shall base the hospital inpatient capital payment portion of the payment made to managed care organizations on data for services provided to all recipients enrolled in managed care organizations with which the department contracts, as reported by hospitals on relevant cost reports submitted pursuant to rules adopted under ~~this~~ section 5167.02 of the Revised Code.

(2)(a) The hospital inpatient capital payment portion of the payment made to medicaid managed care organizations shall not exceed any maximum rate established by the department pursuant to rules adopted under this section.

(b) If a maximum rate is established, a medicaid managed care organization shall not compensate hospitals for inpatient capital costs in an amount that exceeds that rate.

~~(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~

~~(D)~~ The department of ~~job and family services~~ medicaid shall allow a medicaid managed care organization to use providers to render care upon completion of the medicaid managed care organization's credentialing process.

Sec. ~~5111.177~~ 5167.11. When contracting under section ~~5111.17~~ 5167.10 of the Revised Code with a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code, the department of ~~job and family services~~ medicaid shall require the health insuring corporation to provide a grievance process for medicaid recipients in accordance with 42 C.F.R. 438, subpart F.

Sec. ~~5111.172~~ 5167.12. (A) When contracting under section ~~5111.17~~ 5167.10 of the Revised Code with a managed care organization that is a health insuring corporation, the department of ~~job and family services~~ medicaid shall require the health insuring corporation to provide coverage of ~~prescription~~ prescribed drugs for medicaid recipients enrolled in the health insuring corporation. In providing the required coverage, the health insuring

corporation may, subject to the department's approval and the limitations specified in division (B) of this section, use strategies for the management of drug utilization.

(B) The department shall not permit a health insuring corporation to impose a prior authorization requirement in the case of a drug to which all of the following apply:

(1) The drug is an antidepressant or antipsychotic.

(2) The drug is administered or dispensed in a standard tablet or capsule form, except that in the case of an antipsychotic, the drug also may be administered or dispensed in a long-acting injectable form.

(3) The drug is prescribed by either of the following:

(a) A physician whom the health insuring corporation, pursuant to division (C) of section ~~5111.17~~ 5167.10 of the Revised Code, has credentialed to provide care as a psychiatrist;

(b) A psychiatrist practicing at a community mental health ~~agency~~ services provider certified by the department of ~~mental health~~ mental health and addiction services under section ~~5119.611~~ 5119.36 of the Revised Code.

(4) The drug is prescribed for a use that is indicated on the drug's labeling, as approved by the federal food and drug administration.

(C) ~~As used in this division, "controlled substance" has the same meaning as in section 3719.01 of the Revised Code.~~

The department shall permit a health insuring corporation to develop and implement a pharmacy utilization management program under which prior authorization through the program is established as a condition of obtaining a controlled substance pursuant to a prescription.

Sec. ~~5111.179~~ 5167.13. Each contract the department of ~~job and family services~~ medicaid enters into with a managed care organization under section ~~5111.17~~ 5167.10 of the Revised Code shall require the managed care organization to implement a coordinated services program for medicaid recipients enrolled in the organization who are found to have obtained ~~prescription~~ prescribed drugs under the medicaid program at a frequency or in an amount that is not medically necessary. The program shall be implemented in a manner that is consistent with ~~section 1915(a)(2) of the "Social Security Act," 95 Stat. 810 (1981)~~ section 1915(a)(2), 42 U.S.C. 1396n(a)(2), as amended, and 42 C.F.R. 431.54(e).

Sec. ~~5111.1710~~ 5167.14. Each contract the department of ~~job and family services~~ medicaid enters into with a managed care organization under section ~~5111.17~~ 5167.10 of the Revised Code shall require the managed care organization to enter into a data security agreement with the state board of pharmacy governing the managed care organization's use of the board's drug

database established and maintained under section 4729.75 of the Revised Code.

This section does not apply if the board no longer maintains the drug database.

Sec. ~~5111.162~~ 5167.20. (A) ~~As used in this section:~~

(1) ~~"Emergency services" has the same meaning as in section 1932(b)(2) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-2(b)(2), as amended.~~

(2) ~~"Medicaid managed care organization" means a managed care organization that has entered into a contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.~~

~~(B)~~ Except as provided in division ~~(C)~~(B) of this section, when a participant in the care management system established under ~~section 5111.16 of the Revised Code~~ this chapter is enrolled in a medicaid managed care organization and the organization refers the participant to receive services, other than emergency services provided on or after January 1, 2007, at a hospital that participates in the medicaid program but is not under contract with the organization, the hospital shall provide the service for which the referral was made and shall accept from the organization, as payment in full, the amount derived from the ~~reimbursement~~ payment rate used by the department to ~~reimburse~~ pay other hospitals of the same type for providing the same service to a medicaid recipient who is not enrolled in a medicaid managed care organization.

~~(C)~~(B) A hospital is not subject to division ~~(B)~~(A) of this section if all of the following are the case:

(1) The hospital is located in a county in which participants in the care management system are required before January 1, 2006, to be enrolled in a medicaid managed care organization that is a health insuring corporation;

(2) The hospital has entered into a contract before January 1, 2006, with at least one health insuring corporation serving the participants specified in division ~~(C)~~(B)(1) of this section;

(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a health insuring corporation.

~~(D)~~(C) The medicaid director ~~of job and family services~~ shall adopt rules under section 5167.02 of the Revised Code specifying the circumstances under which a medicaid managed care organization is permitted to refer a participant in the care management system to a hospital that is not under contract with the organization. ~~The director may adopt any other rules necessary to implement this section. All rules adopted under this~~

~~section shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~Sec. 5111.163~~ 5167.201. (A) As used in this section:

(1) "Emergency services" has the same meaning as in section 1932(b)(2) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-2(b)(2), as amended.

(2) "~~Medicaid managed care organization~~" has the same meaning as in section ~~5111.162~~ of the Revised Code.

(3) "Provider" means any person, institution, or entity that furnishes emergency services to a medicaid recipient enrolled in a medicaid managed care organization, regardless of whether the person, institution, or entity has a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act."

(B) When a participant in the care management system established under section ~~5111.16~~ of the Revised Code this chapter is enrolled in a medicaid managed care organization and receives emergency services on or after January 1, 2007, from a provider that is not under contract with the organization, the provider shall accept from the organization, as payment in full, not more than the amounts (less any payments for indirect costs of medical education and direct costs of graduate medical education) that the provider could collect if the participant received medicaid other than through enrollment in a managed care organization.

An agreement entered into by a participant, a participant's parent, or a participant's legal guardian that requires payment for emergency services in violation of this section is void and unenforceable.

~~Sec. 5111.982~~ 5167.21. (A) As used in this section:

(1) "Covered skilled nursing facility services" has the same meaning as in the "Social Security Act," section 1888(e)(2)(A), 42 U.S.C. 1395yy(e)(2)(A).

(2) "Current medicare fee-for-service rate" means the fee-for-service rate in effect for a covered skilled nursing facility service under medicare at the time the service is provided.

(3) "Skilled nursing facility" has the same meaning as in the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a).

(B) Except as provided in division (C) of this section, a medicaid managed care organization shall pay a skilled nursing facility at least the current medicare fee-for-service rate, without deduction for any coinsurance, for covered skilled nursing facility services that the skilled nursing facility provides to a dual eligible individual if the medicaid managed care organization is responsible for the payment under the terms of

a contract that the medicaid managed care organization, ~~medical assistance~~ medicaid director, and United States secretary of health and human services jointly enter into under the integrated care delivery system authorized by section ~~5111.981~~ 5164.91 of the Revised Code.

(C) A medicaid managed care organization is required to pay the rate specified in division (B) of this section for covered skilled nursing facility services only if all of the following apply:

(1) The United States secretary agrees to the payment rate as part of the contract that the medicaid managed care organization, ~~medical assistance~~ medicaid director, and United States secretary jointly enter into under the integrated care delivery system;

(2) The medicaid managed care organization receives a federal capitation payment that is an actuarially sufficient amount for the costs that the medicaid managed care organization incurs in paying the rate;

(3) No state funds are used for any part of the costs that the medicaid managed care organization incurs in paying the rate;

(4) The integrated care delivery system provides for dual eligible individuals to receive the covered skilled nursing facility services as part of the system.

Sec. ~~5111.178~~ 5167.25. (A) The medicaid director ~~of job and family services~~ shall determine whether a waiver of federal medicaid requirements is necessary to fulfill the requirements of section 3901.3814 of the Revised Code. If the director determines a waiver is necessary, the department of ~~job and family services~~ medicaid shall apply to the United States secretary of health and human services for the waiver.

(B)(1) If the director determines that section 3901.3814 of the Revised Code can be implemented without a waiver or a waiver is granted, the department shall notify the department of insurance that the section can be implemented. Implementation of the section shall be effective eighteen months after the notice is sent.

(2) At the time the notice is given under division (B)(1) of this section, the department shall also give notice to each health insuring corporation that provides coverage to medicaid recipients. The notice shall inform the corporation that sections 3901.38 and 3901.381 to 3901.3814 of the Revised Code apply to claims for services rendered to recipients on the date determined under division (B)(1) of this section, instead of the prompt payment requirements of 42 C.F.R. 447.46. That date shall be specified in the notice.

Sec. ~~5111.175~~ 5167.26. For the purpose of determining the amount the department of ~~job and family services~~ medicaid pays hospitals under section

~~5112.08~~ 5168.09 of the Revised Code and the amount of disproportionate share hospital payments paid by the medicare program ~~established under Title XVIII of~~ pursuant to the "Social Security Act," ~~79 Stat. 286 (1965) section 1915,~~ 42 U.S.C. 1396n, ~~as amended,~~ a medicaid managed care organization ~~under contract with the department pursuant to section 5111.17 of the Revised Code authorizing the organization to provide, or arrange for the provision of, hospital services to medicaid recipients~~ shall keep detailed records for each hospital with which it contracts ~~about,~~ including records regarding the cost to the hospital of providing ~~the~~ hospital services for the organization, payments made by the organization to the hospital for the services, utilization of hospital services by medicaid recipients enrolled in the organization, and other utilization data required by the department.

Sec. ~~5111.1711~~ 5167.30. (A)(1) The department of ~~job and family services~~ medicaid shall establish a managed care performance payment program. Under the program, the department may provide payments to medicaid managed care organizations ~~under contract with the department pursuant to section 5111.17 of the Revised Code~~ that meet performance standards established by the department.

(2) In establishing performance standards, the department may consult any of the following:

(a) Any quality measurements developed under the pediatric quality measures program established pursuant to the "Social Security Act," section 1139A, 42 U.S.C. 1320b-9a;

(b) Any core set of adult health quality measures for medicaid eligible adults used for purposes of the "Social Security Act," section 1139A, 42 U.S.C. 1320b-9b, and any adult health quality used for purposes of the medicaid quality measurement program when the program is established under ~~42 U.S.C. 1320b-9b~~ that section of the "Social Security Act";

(c) The most recent healthcare effectiveness data and information set and quality measurement tool established by the national committee for quality assurance.

(3) The standards that must be met to receive the payments may be specified in the contract the department enters into with a medicaid managed care organization.

(4) If a medicaid managed care organization meets the performance standards established by the department, the department shall make one or more performance payments to the organization. The amount of each performance payment, the number of payments, and the schedule for making the payments shall be established by the department. The payments shall be discontinued if the department determines that the organization no

longer meets the performance standards. The department shall not make or discontinue payments based on any performance standard that has been in effect as part of the organization's contract for less than six months.

(B) For purposes of the program, the department shall establish an amount that is to be withheld each time a premium payment is made to a medicaid managed care organization. The amount shall be established as a percentage of each premium payment. The percentage shall be the same for all medicaid managed care organizations ~~under contract with the department~~. The sum of all withholdings under this division shall not exceed ~~one~~ two per cent of the total of all premium payments made to all medicaid managed care organizations ~~under contract with the department~~.

Each medicaid managed care organization shall agree to the withholding as a condition of receiving or maintaining its ~~medicaid~~ provider agreement with the department.

When the amount is established and each time the amount is modified thereafter, the department shall certify the amount to the director of budget and management and begin withholding the amount from each premium the department pays to a medicaid managed care organization.

~~(C) There is hereby created in the state treasury the managed care performance payment fund. The fund shall consist of amounts transferred to it by the director of budget and management for the purpose of the program. All investment earnings of the fund shall be credited to the fund. Amounts in the fund shall be used solely to make performance payments to managed care organizations in accordance with this section.~~

~~(D) The department may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. ~~5111.171~~ 5167.31. The department of ~~job and family services~~ medicaid may provide financial incentive awards to medicaid managed care organizations ~~under contract with the department pursuant to section 5111.17 of the Revised Code~~ that meet or exceed performance standards specified in provider agreements or rules adopted by the ~~department~~ medicaid director under section 5167.02 of the Revised Code. The department may specify in a contract with a medicaid managed care organization the amounts of financial incentive awards, methodology for distributing awards, types of awards, and standards for administration by the department.

Sec. ~~5111.173~~ 5167.40. The department of ~~job and family services~~ medicaid shall appoint a temporary manager for a medicaid managed care organization ~~under contract with the department pursuant to section 5111.17~~

~~of the Revised Code~~ if the department determines that the medicaid managed care organization has repeatedly failed to meet substantive requirements specified in ~~section 1903(m) of the "Social Security Act," 79 Stat. 286 (1965)~~ sections 1903(m) and 1932, 42 U.S.C. 1396b(m), as amended; section 1932 of the Social Security Act, 42 U.S.C. and 1396u-2; as amended; or 42 C.F.R. 438 Part I. The appointment of a temporary manager does not preclude the department from imposing other sanctions available to the department against the medicaid managed care organization.

The medicaid managed care organization shall pay all costs of having the temporary manager perform the temporary manager's duties, including all costs the temporary manager incurs in performing those duties. If the temporary manager incurs costs or liabilities on behalf of the medicaid managed care organization, the medicaid managed care organization shall pay those costs and be responsible for those liabilities.

The appointment of a temporary manager is not subject to Chapter 119. of the Revised Code, but the managed care organization may request a reconsideration of the appointment. Reconsiderations shall be requested and conducted in accordance with rules the ~~director of job and family services~~ medicaid director shall adopt ~~in accordance with Chapter 119. of under section 5167.02 of~~ the Revised Code.

The appointment of a temporary manager does not cause the medicaid managed care organization to lose the right to appeal, in accordance with Chapter 119. of the Revised Code, any proposed termination or any decision not to ~~renew~~ revalidate the medicaid managed care organization's medicaid provider agreement or the right to initiate the sale of the medicaid managed care organization or its assets.

~~In addition to the rules required to be adopted under this section, the director may adopt any other rules necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. ~~5111.174~~ 5167.41. The department of ~~job and family services~~ medicaid may disenroll some or all medicaid recipients enrolled in a medicaid managed care organization ~~under contract with the department pursuant to section 5111.17 of the Revised Code~~ if the department proposes to terminate or not to renew the contract and determines that the recipients' access to medically necessary services is jeopardized by the proposal to terminate or not to renew the contract. The disenrollment is not subject to Chapter 119. of the Revised Code, but the medicaid managed care organization may request a reconsideration of the disenrollment. Reconsiderations shall be requested and conducted in accordance with rules the medicaid ~~director of job and family services~~ shall adopt ~~in accordance~~

~~with Chapter 119.~~ under section 5167.02 of the Revised Code. The request for, or conduct of, a reconsideration regarding a proposed disenrollment shall not delay the disenrollment.

~~In addition to the rules required to be adopted under this section, the director may adopt any other rules necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~Sec. 5112.01~~ 5168.01. As used in sections ~~5112.03~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code:

(A) "Bad debt," "charity care," "courtesy care," and "contractual allowances" have the same meanings given these terms in regulations adopted under Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(B) "Cost reporting period" means the twelve-month period used by a hospital in reporting costs for purposes of Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(C) "Disproportionate share hospital" means a hospital that meets the definition of a disproportionate share hospital in rules adopted under section 5168.02 of the Revised Code.

(D) "Federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

(E) "Governmental hospital" means a county hospital with more than five hundred registered beds or a state-owned and -operated hospital with more than five hundred registered beds.

(F)(1) "Hospital" means a nonfederal hospital to which either of the following applies:

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital, and provides inpatient hospital services, as defined in 42 C.F.R. 440.10;

(b) The hospital is recognized under the medicare program ~~established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ as a cancer hospital and is exempt from the medicare prospective payment system.

(2) "Hospital" does not include a hospital operated by a health insuring corporation that has been issued a certificate of authority under section 1751.05 of the Revised Code or a hospital that does not charge patients for services.

~~(2) "Disproportionate share hospital" means a hospital that meets the definition of a disproportionate share hospital in rules adopted under section 5112.03 of the Revised Code.~~

~~(B) "Bad debt," "charity care," "courtesy care," and "contractual allowances" have the same meanings given these terms in regulations adopted under Title XVIII of the "Social Security Act."~~

~~(C) "Cost reporting period" means the twelve month period used by a hospital in reporting costs for purposes of Title XVIII of the "Social Security Act."~~

~~(D) "Governmental hospital" means a county hospital with more than five hundred registered beds or a state owned and operated hospital with more than five hundred registered beds.~~

~~(E)~~(G) "Indigent care pool" means the sum of the following:

(1) The total of assessments to be paid in a program year by all hospitals under section ~~5112.06~~ 5168.06 of the Revised Code, less the assessments deposited into the legislative budget services fund under section ~~5112.19~~ 5168.12 of the Revised Code and into the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code;

(2) The total amount of intergovernmental transfers required to be made in the same program year by governmental hospitals under section ~~5112.07~~ 5168.07 of the Revised Code, less the amount of transfers deposited into the legislative budget services fund under section ~~5112.19~~ 5168.12 of the Revised Code and into the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code;

(3) The total amount of federal matching funds that will be made available in the same program year as a result of funds distributed by the department of ~~job and family services~~ medicaid to hospitals under section ~~5112.08~~ 5168.09 of the Revised Code.

~~(F)~~(H) "Intergovernmental transfer" means any transfer of money by a governmental hospital under section ~~5112.07~~ 5168.07 of the Revised Code.

~~(G) "Medical assistance program" means the program of medical assistance established under section 5111.01 of the Revised Code and Title XIX of the "Social Security Act."~~

~~(H)~~(I) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

(J) "Program year" means a period beginning the first day of October, or a later date designated in rules adopted under section ~~5112.03~~ 5168.02 of the Revised Code, and ending the thirtieth day of September, or an earlier date designated in rules adopted under that section.

~~(I)~~(K) "Registered beds" means the total number of hospital beds

registered with the department of health, as reported in the most recent "directory of registered hospitals" published by the department of health.

~~(J)~~(L) "Third-party payer" means any person or government entity that may be liable by law or contract to make payment to or on behalf of an individual for health care services. "Third-party payer" does not include a hospital.

(M) "Total facility costs" means the total costs for all services rendered to all patients, including the direct, indirect, and overhead cost to the hospital of all services, supplies, equipment, and capital related to the care of patients, regardless of whether patients are enrolled in a health insuring corporation, excluding costs associated with providing skilled nursing services in distinct-part nursing facility units, as shown on the hospital's cost report filed under section ~~5112.04~~ 5168.05 of the Revised Code. Effective October 1, 1993, if rules adopted under section ~~5112.03~~ 5168.02 of the Revised Code so provide, "total facility costs" may exclude costs associated with providing care to recipients of any of the governmental programs listed in division (B) of that section.

~~(K)~~(N) "Uncompensated care" means bad debt and charity care.

Sec. ~~5112.03~~ 5168.02. (A) ~~The director of job and family services shall adopt, and may amend and rescind,~~ medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of administering sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code, including rules that do all of the following:

(1) Define as a "disproportionate share hospital" any hospital included under ~~subsection (b) of section 1923 of the "Social Security Act," 49 Stat.~~ section 1923(b), 42 U.S.C.A. 1396r-4(b), as amended, and any other hospital the director determines appropriate;

(2) Prescribe the form for submission of cost reports under section ~~5112.04~~ 5168.05 of the Revised Code;

(3) Establish, in accordance with division (A) of section ~~5112.06~~ 5168.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section ~~5112.06~~ 5168.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section ~~5112.07~~ 5168.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section ~~5112.06~~ 5168.06 of the Revised Code in the amount of installments on their assessment;

(6) Establish procedures to notify hospitals of adjustments made under

division (D) of section ~~5112.09~~ 5168.08 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;

(7) Establish, in accordance with section ~~5112.08~~ 5168.09 of the Revised Code, the methodology for paying hospitals under that section.

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

(1) ~~Recipients of the medical assistance program~~ Medicaid recipients;

(2) Recipients of disability financial assistance provided under Chapter 5115. of the Revised Code;

(3) Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;

(4) ~~Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~ Medicare beneficiaries;

(5) Recipients of Title V of the "Social Security Act," 42 U.S.C. 701 et seq.;

(6) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., and the rules adopted under that title.

Sec. ~~5112.05~~ 5168.03. The requirements of sections ~~5112.06~~ 5168.06 to ~~5112.09~~ 5168.09 of the Revised Code apply only as long as the United States health care financing administration determines that the assessment imposed under section ~~5112.06~~ 5168.06 of the Revised Code is a permissible health care-related tax pursuant to ~~section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935)~~ section 1903(w), 42 U.S.C.A. 1396b(w), as amended. Whenever the department of ~~job and family services~~ medicaid is informed that the assessment is an impermissible health care-related tax, the department shall promptly refund to each hospital the amount of money currently in the hospital care assurance program fund created by section ~~5112.18~~ 5168.11 of the Revised Code that has been paid by the hospital under section ~~5112.06~~ 5168.06 or ~~5112.07~~ 5168.07 of the Revised Code, plus any investment earnings on that amount.

Sec. ~~5112.10~~ 5168.04. The department of ~~job and family services~~ medicaid shall operate the hospital care assurance program established by sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code on a program year basis. The department shall complete all program

requirements on or before the thirtieth day of September each year.

Sec. ~~5112.04~~ 5168.05. (A) Except as provided in division (C) of this section, each hospital, on or before the first day of July of each year or at a later date approved by the medicaid director ~~of job and family services~~, shall submit to the department of ~~job and family services~~ medicaid a financial statement for the preceding calendar year that accurately reflects the income, expenses, assets, liabilities, and net worth of the hospital, and accompanying notes. A hospital that has a fiscal year different from the calendar year shall file its financial statement within one hundred eighty days of the end of its fiscal year or at a later date approved by the director ~~of job and family services~~. The financial statement shall be prepared by an independent certified public accountant and reflect an official audit report prepared in a manner consistent with generally accepted accounting principles. The financial statement shall, to the extent that the hospital has sufficient financial records, show bad debt and charity care separately from courtesy care and contractual allowances.

(B) Except as provided in division (C) of this section, each hospital, within one hundred eighty days after the end of the hospital's cost reporting period, shall submit to the department a cost report in a format prescribed in rules adopted ~~by the director of job and family services~~ under section ~~5112.03~~ 5168.02 of the Revised Code. The department shall grant a hospital an extension of the one hundred eighty day period if the health care financing administration of the United States department of health and human services extends the date by which the hospital must submit its cost report for the hospital's cost reporting period.

(C) The director ~~of job and family services~~ may adopt rules under section ~~5112.03~~ 5168.02 of the Revised Code specifying financial information that must be submitted by hospitals for which no financial statement or cost report is available. The rules shall specify deadlines for submitting the information. Each such hospital shall submit the information specified in the rules not later than the deadline specified in the rules.

Sec. ~~5112.06~~ 5168.06. (A) For the purpose of distributing funds to hospitals under the ~~medical assistance~~ medicaid program pursuant to sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code and depositing funds into the legislative budget services fund under section ~~5112.19~~ 5168.12 of the Revised Code and into the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code, there is hereby imposed an assessment on all hospitals. Each hospital's assessment shall be based on total facility costs. All hospitals shall be assessed according to the rate or rates established each program year ~~by~~

~~the department of job and family services~~ in rules adopted under section ~~5112.03~~ 5168.02 of the Revised Code. The department shall assess all hospitals uniformly and in a manner consistent with federal statutes and regulations. During any program year, the department shall not assess any hospital more than two per cent of the hospital's total facility costs.

The department shall establish an assessment rate or rates each program year that will do both of the following:

(1) Yield funds that, when combined with intergovernmental transfers and federal matching funds, will produce a program of sufficient size to pay a substantial portion of the indigent care provided by hospitals;

(2) Yield funds that, when combined with intergovernmental transfers and federal matching funds, will produce amounts for distribution to disproportionate share hospitals that do not exceed, in the aggregate, the limits prescribed by the United States health care financing administration under ~~subsection (f) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935)~~ section 1923(f), 42 U.S.C.A. 1396r-4(f), ~~as amended~~.

(B)(1) Except as provided in division (B)(3) of this section, each hospital shall pay its assessment in periodic installments in accordance with a schedule established ~~by the director of job and family services~~ in rules adopted under section ~~5112.03~~ 5168.02 of the Revised Code.

(2) The installments shall be equal in amount, unless either of the following applies:

(a) The department makes adjustments during a program year under division (D) of section ~~5112.09~~ 5168.08 of the Revised Code in the total amount of hospitals' assessments;

(b) The medicaid ~~director of job and family services~~ determines that adjustments in the amounts of installments are necessary for the administration of sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code and that unequal installments will not create cash flow difficulties for hospitals.

(3) The director may adopt rules under section ~~5112.03~~ 5168.02 of the Revised Code establishing alternate schedules for hospitals to pay assessments under this section in order to reduce hospitals' cash flow difficulties.

Sec. ~~5112.07~~ 5168.07. (A) The department of ~~job and family services~~ medicaid may require governmental hospitals to make intergovernmental transfers each program year for the purpose of distributing funds to hospitals under the ~~medical assistance~~ medicaid program pursuant to sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code and depositing funds into the legislative budget services fund under section ~~5112.19~~ 5168.12 of the

Revised Code and into the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code. The department shall not require transfers in an amount that, when combined with hospital assessments paid under section ~~5112.06~~ 5168.06 of the Revised Code and federal matching funds, produce amounts for distribution to disproportionate share hospitals that, in the aggregate, exceed limits prescribed by the United States health care financing administration under ~~subsection (f) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935)~~ section 1923(f), 42 U.S.C.A. 1396r-4(f), as amended.

(B) Before or during each program year, the department shall notify each governmental hospital of the amount of the intergovernmental transfer it is required to make during the program year. Each governmental hospital shall make intergovernmental transfers as required by the department under this section in periodic installments, executed by electronic fund transfer, in accordance with a schedule established in rules adopted under section ~~5112.03~~ 5168.02 of the Revised Code.

Sec. ~~5112.09~~ 5168.08. (A) Before or during each program year, the department of ~~job and family services~~ medicaid shall mail to each hospital by certified mail, return receipt requested, the preliminary determination of the amount that the hospital is assessed under section ~~5112.06~~ 5168.06 of the Revised Code during the program year. The preliminary determination of a hospital's assessment shall be calculated for a cost-reporting period that is specified in rules adopted under section ~~5112.03~~ 5168.02 of the Revised Code.

The department shall consult with hospitals each year when determining the date on which it will mail the preliminary determinations in order to minimize hospitals' cash flow difficulties.

If no hospital submits a request for reconsideration under division (B) of this section, the preliminary determination constitutes the final reconciliation of each hospital's assessment under section ~~5112.06~~ 5168.06 of the Revised Code. The final reconciliation is subject to adjustments under division (D) of this section.

(B) Not later than fourteen days after the preliminary determinations are mailed, any hospital may submit to the department a written request to reconsider the preliminary determinations. The request shall be accompanied by written materials setting forth the basis for the reconsideration. If one or more hospitals submit a request, the department shall hold a public hearing not later than thirty days after the preliminary determinations are mailed to reconsider the preliminary determinations. The department shall mail to each hospital a written notice of the date, time, and

place of the hearing at least ten days prior to the hearing. On the basis of the evidence submitted to the department or presented at the public hearing, the department shall reconsider and may adjust the preliminary determinations. The result of the reconsideration is the final reconciliation of the hospital's assessment under section ~~5112.06~~ 5168.06 of the Revised Code. The final reconciliation is subject to adjustments under division (D) of this section.

(C) The department shall mail to each hospital a written notice of its assessment for the program year under the final reconciliation. A hospital may appeal the final reconciliation of its assessment to the court of common pleas of Franklin county. While a judicial appeal is pending, the hospital shall pay, in accordance with the schedules required by division (B) of section ~~5112.06~~ 5168.06 of the Revised Code, any amount of its assessment that is not in dispute into the hospital care assurance program fund created in section ~~5112.18~~ 5168.11 of the Revised Code.

(D) In the course of any program year, the department may adjust the assessment rate or rates established in rules pursuant to section ~~5112.06~~ 5168.06 of the Revised Code or adjust the amounts of intergovernmental transfers required under section ~~5112.07~~ 5168.07 of the Revised Code and, as a result of the adjustment, adjust each hospital's assessment and intergovernmental transfer, to reflect refinements made by the United States health care financing administration during that program year to the limits it prescribed under ~~subsection (f) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935)~~ section 1923(f), 42 U.S.C.A. 1396r-4(f), as amended. When adjusted, the assessment rate or rates must comply with division (A) of section ~~5112.06~~ 5168.06 of the Revised Code. An adjusted intergovernmental transfer must comply with division (A) of section ~~5112.07~~ 5168.07 of the Revised Code. The department shall notify hospitals of adjustments made under this division and adjust for the remainder of the program year the installments paid by hospitals under sections ~~5112.06~~ 5168.06 and ~~5112.07~~ 5168.07 of the Revised Code in accordance with rules adopted under section ~~5112.03~~ 5168.02 of the Revised Code.

Sec. ~~5112.08~~ 5168.09. The medicaid director of ~~job and family services~~ shall adopt rules under section ~~5112.03~~ 5168.02 of the Revised Code establishing a methodology to pay hospitals that is sufficient to expend all money in the indigent care pool. Under the rules:

(A) The department of ~~job and family services~~ medicaid may classify similar hospitals into groups and allocate funds for distribution within each group.

(B) The department shall establish a method of allocating funds to hospitals, taking into consideration the relative amount of indigent care

provided by each hospital or group of hospitals. The amount to be allocated shall be based on any combination of the following indicators of indigent care that the director considers appropriate:

(1) Total costs, volume, or proportion of services to recipients of the medical assistance program, including recipients enrolled in health insuring corporations;

(2) Total costs, volume, or proportion of services to low-income patients in addition to medicaid recipients ~~of the medical assistance program~~, which may include recipients of Title V of the "Social Security Act," ~~49 Stat. 620 (1935); 42 U.S.C.A. 301~~ 701 et seq., ~~as amended~~, and recipients of disability financial assistance provided under Chapter 5115. of the Revised Code;

(3) The amount of uncompensated care provided by the hospital or group of hospitals;

(4) Other factors that the director considers to be appropriate indicators of indigent care.

(C) The department shall distribute funds to each hospital or group of hospitals in a manner that first may provide for an additional distribution to individual hospitals that provide a high proportion of indigent care in relation to the total care provided by the hospital or in relation to other hospitals. The department shall establish a formula to distribute the remainder of the funds. The formula shall be consistent with ~~section 1923 of~~ the "Social Security Act," section 1923, ~~42 U.S.C.A. 1396r-4, as amended,~~ and shall be based on any combination of the indicators of indigent care listed in division (B) of this section that the director considers appropriate.

(D) The department shall distribute funds to each hospital in installments not later than ten working days after the deadline established in rules for each hospital to pay an installment on its assessment under ~~section 5112.06~~ 5168.06 of the Revised Code. In the case of a governmental hospital that makes intergovernmental transfers, the department shall pay an installment under this section not later than ten working days after the earlier of that deadline or the deadline established in rules for the governmental hospital to pay an installment on its intergovernmental transfer. If the amount in the hospital care assurance program fund created under ~~section 5112.18~~ 5168.11 of the Revised Code and the portion of the health care - federal fund created under ~~section 5111.943~~ 5162.50 of the Revised Code that is credited to that fund pursuant to division (B) of ~~section 5112.18~~ 5168.11 of the Revised Code are insufficient to make the total distributions for which hospitals are eligible to receive in any period, the department shall reduce the amount of each distribution by the percentage by which the amount and portion are insufficient. The department shall

distribute to hospitals any amounts not distributed in the period in which they are due as soon as moneys are available in the funds.

Sec. ~~5112.11~~ 5168.10. Except for moneys deposited into the legislative budget services fund under section ~~5112.19~~ 5168.12 of the Revised Code and the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code, the department of ~~job and family services~~ medicaid shall not use money paid to the department under sections ~~5112.06~~ 5168.06 and ~~5112.07~~ 5168.07 of the Revised Code or money that the department pays to hospitals under section ~~5112.08~~ 5168.09 of the Revised Code to replace any funds appropriated by the general assembly for the ~~medical assistance~~ medicaid program.

Sec. ~~5112.18~~ 5168.11. (A) Except as provided in section ~~5112.19~~ 5168.12 of the Revised Code, all payments of assessments by hospitals under section ~~5112.06~~ 5168.06 of the Revised Code and all intergovernmental transfers under section ~~5112.07~~ 5168.07 of the Revised Code shall be deposited in the state treasury to the credit of the hospital care assurance program fund, hereby created. All investment earnings of the hospital care assurance program fund shall be credited to the fund. The department of ~~job and family services~~ medicaid shall maintain records that show the amount of money in the hospital care assurance program fund at any time that has been paid by each hospital and the amount of any investment earnings on that amount. All moneys credited to the hospital care assurance program fund shall be used solely to make payments to hospitals under division (D) of this section and section ~~5112.08~~ 5168.09 of the Revised Code.

(B) All federal matching funds received as a result of the department distributing funds from the hospital care assurance program fund to hospitals under section ~~5112.08~~ 5168.09 of the Revised Code shall be credited to the health care - federal fund created under section ~~5111.943~~ 5162.50 of the Revised Code.

(C) All distributions of funds to hospitals under section ~~5112.08~~ 5168.09 of the Revised Code are conditional on:

(1) Expiration of the time for appeals under section ~~5112.09~~ 5168.08 of the Revised Code without the filing of an appeal, or on court determinations, in the event of appeals, that the hospital is entitled to the funds;

(2) The sum of the following being sufficient to distribute the funds after the final determination of any appeals:

(a) The available money in the hospital care assurance program fund;

(b) The available portion of the money in the health care - federal fund that is credited to that fund pursuant to division (B) of this section.

(3) The hospital's compliance with section ~~5112.17~~ 5168.14 of the Revised Code.

(D) If an audit conducted by the department of the amounts of payments made and funds received by hospitals under sections ~~5112.06~~ 5168.06, ~~5112.07~~ 5168.07, and ~~5112.08~~ 5168.09 of the Revised Code identifies amounts that, due to errors by the department, a hospital should not have been required to pay but did pay, should have been required to pay but did not pay, should not have received but did receive, or should have received but did not receive, the department shall:

(1) Make payments to any hospital that the audit reveals paid amounts it should not have been required to pay or did not receive amounts it should have received;

(2) Take action to recover from a hospital any amounts that the audit reveals it should have been required to pay but did not pay or that it should not have received but did receive.

Payments made under division (D)(1) of this section shall be made from the hospital care assurance program fund. Amounts recovered under division (D)(2) of this section shall be deposited to the credit of that fund. Any hospital may appeal the amount the hospital is to be paid under division (D)(1) or the amount that is to be recovered from the hospital under division (D)(2) of this section to the court of common pleas of Franklin county.

Sec. ~~5112.19~~ 5168.12. From the first installment of assessments paid under section ~~5112.06~~ 5168.06 of the Revised Code and intergovernmental transfers made under section ~~5112.07~~ 5168.07 of the Revised Code during each program year beginning in an odd-numbered calendar year, the department of ~~job and family services~~ medicaid shall deposit into the state treasury to the credit of the legislative budget services fund, which is hereby created, a total amount equal to the amount by which the biennial appropriation from that fund exceeds the amount of unexpended, unencumbered moneys in that fund. All investment earnings of the legislative budget services fund shall be credited to that fund. Money in the legislative budget services fund shall be used solely to pay the expenses of the legislative budget office of the legislative service commission.

Sec. ~~5112.21~~ 5168.13. Except as specifically required by sections ~~5112.01~~ 5168.01 to ~~5112.19~~ 5168.14 of the Revised Code, information filed under those sections shall not include any patient-identifying material. Information that includes patient-identifying material is not a public record under section 149.43 of the Revised Code, and no patient-identifying material shall be released publicly by the department of ~~job and family services~~ medicaid or by any person under contract with the department who

has access to such information.

~~Sec. 5112.17~~ 5168.14. (A) ~~As used in this section:~~

~~(1) "Federal poverty guideline" means the official poverty guideline as revised annually by the United States secretary of health and human services in accordance with section 673 of the "Community Service Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.~~

~~(2) "Third party payer" means any private or public entity or program that may be liable by law or contract to make payment to or on behalf of an individual for health care services. "Third party payer" does not include a hospital.~~

~~(B)~~ Each hospital that receives funds distributed under sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code shall provide, without charge to the individual, basic, medically necessary hospital-level services to individuals who are residents of this state, are not medicaid recipients ~~of the medical assistance program~~, and whose income is at or below the federal poverty guideline line. Recipients of disability financial assistance provided under Chapter 5115. of the Revised Code qualify for services under this section. The medicaid director ~~of job and family services~~ shall adopt rules under section ~~5112.03~~ 5168.02 of the Revised Code specifying the hospital services to be provided under this section.

~~(C)~~(B) Nothing in this section shall be construed to prevent a hospital from requiring an individual to apply for ~~eligibility under the medical assistance~~ medicaid program before the hospital processes an application under this section. Hospitals may bill any third-party payer for services rendered under this section. Hospitals may bill the ~~medical assistance~~ medicaid program, in accordance with ~~Chapter 5111. of the Revised Code~~ state statutes governing the medicaid program and ~~the rules adopted under that chapter~~ those statutes, for medicaid services rendered under this section if the individual becomes a medicaid recipient ~~of the program~~. Hospitals may bill individuals for services under this section if all of the following apply:

(1) The hospital has an established post-billing procedure for determining the individual's income and canceling the charges if the individual is found to qualify for services under this section.

(2) The initial bill, and at least the first follow-up bill, is accompanied by a written statement that does all of the following:

(a) Explains that individuals with income at or below the federal poverty guideline line are eligible for services without charge;

(b) Specifies the federal poverty ~~guideline~~ line for individuals and families of various sizes at the time the bill is sent;

(c) Describes the procedure required by division (C)(1) of this section.

(3) The hospital complies with any additional rules ~~the department adopts~~ adopted under section ~~5112.03~~ 5168.02 of the Revised Code.

Notwithstanding division (B) of this section, a hospital providing care to an individual under this section is subrogated to the rights of any individual to receive compensation or benefits from any person or governmental entity for the hospital goods and services rendered.

~~(D)~~(C) Each hospital shall collect and report to the department of medicaid, in the form and manner prescribed by the department, information on the number and identity of patients served pursuant to this section.

~~(E)~~(D) This section applies beginning May 22, 1992, regardless of whether ~~the department has adopted~~ have been adopted. Nothing in this section alters the scope or limits the obligation of any governmental entity or program, including the program awarding reparations to victims of crime under sections 2743.51 to 2743.72 of the Revised Code and the program for medically handicapped children established under section 3701.023 of the Revised Code, to pay for hospital services in accordance with state or local law.

Sec. ~~5112.40~~ 5168.20. As used in sections ~~5112.40~~ 5168.20 to ~~5112.48~~ 5168.28 of the Revised Code:

(A) "Applicable assessment percentage" means the percentage specified in rules adopted under section ~~5112.46~~ 5168.26 of the Revised Code that is used in calculating a hospital's assessment under section ~~5112.41~~ 5168.21 of the Revised Code.

(B) "Assessment program year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year.

(C) "Cost reporting period" means the period of time used by a hospital in reporting costs for purposes of the medicare program.

(D) "Federal fiscal year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year.

(E)(1) Except as provided in division (E)(2) of this section, "hospital" means a hospital to which any of the following applies:

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital and provides inpatient hospital services, as defined in 42 C.F.R. 440.10.

(b) The hospital is recognized under the medicare program as a cancer

hospital and is exempt from the medicare prospective payment system.

(c) The hospital is a psychiatric hospital licensed under section ~~5119.20~~ 5119.33 of the Revised Code.

(2) "Hospital" does not include either of the following:

(a) A federal hospital;

(b) A hospital that does not charge any of its patients for its services.

(F) "Hospital care assurance program" means the program established under sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code.

(G) "~~Medicaid~~" ~~has the same meaning as in section 5111.01 of the Revised Code.~~

~~(H) "Medicare" means the program established under Title XVIII of the Social Security Act.~~

~~(I) "State fiscal year" means the twelve-month period beginning the first day of July of a calendar year and ending the last day of June of the following calendar year.~~

~~(J)(H)(1)~~ Except as provided in divisions ~~(J)(H)~~(2) and (3) of this section, "total facility costs" means the total costs to a hospital for all care provided to all patients, including the direct, indirect, and overhead costs to the hospital of all services, supplies, equipment, and capital related to the care of patients, regardless of whether patients are enrolled in a health insuring corporation.

(2) "Total facility costs" excludes all of the following of a hospital's costs as shown on the cost-reporting data used for purposes of determining the hospital's assessment under section ~~5112.41~~ 5168.21 of the Revised Code:

(a) Skilled nursing services provided in distinct-part nursing facility units;

(b) Home health services;

(c) Hospice services;

(d) Ambulance services;

(e) Renting durable medical equipment;

(f) Selling durable medical equipment.

(3) "Total facility costs" excludes any costs excluded from a hospital's total facility costs pursuant to rules, if any, adopted under division (B)(1) of section ~~5112.46~~ 5168.26 of the Revised Code.

Sec. ~~5112.41~~ 5168.21. (A) For the purposes specified in section ~~5112.45~~ 5168.25 of the Revised Code and subject to section ~~5112.48~~ 5168.28 of the Revised Code, there is hereby imposed an assessment on all hospitals each assessment program year. The amount of a hospital's assessment for an assessment program year shall equal the applicable assessment percentage

of the hospital's total facility costs for the period of time specified in division (B) of this section. The amount of a hospital's total facility costs shall be derived from cost-reporting data for the hospital submitted to the department of ~~job and family services~~ medicaid for purposes of the hospital care assurance program. If a hospital has not submitted that cost-reporting data to the department, the amount of a hospital's total facility costs shall be derived from other financial statements that the hospital shall provide to the department as directed by the department. The cost-reporting data or financial statements used to determine a hospital's assessment is subject to the same type of adjustments made to the cost-reporting data under the hospital care assurance program.

(B) The period of time specified in this division is the hospital's cost reporting period that ends in the state fiscal year that ends in the federal fiscal year that precedes the federal fiscal year that precedes the assessment program year for which the assessment is imposed.

(C) The assessment imposed by this section on a hospital is in addition to the assessment imposed by section ~~5112.06~~ 5168.06 of the Revised Code.

Sec. ~~5112.42~~ 5168.22. (A) Before or during each assessment program year, the department of ~~job and family services~~ medicaid shall mail to each hospital by certified mail, return receipt requested, the preliminary determination of the amount that the hospital is assessed under section ~~5112.41~~ 5168.21 of the Revised Code for the assessment program year. Except as provided in division (B) of this section, the preliminary determination becomes the final determination for the assessment program year fifteen days after the preliminary determination is mailed to the hospital.

(B) A hospital may request that the department reconsider the preliminary determination mailed to the hospital under division (A) of this section by submitting to the department a written request for a reconsideration not later than fourteen days after the hospital's preliminary determination is mailed to the hospital. The request must be accompanied by written materials setting forth the basis for the reconsideration. On receipt of the timely request, the department shall reconsider the preliminary determination and may adjust the preliminary determination on the basis of the written materials accompanying the request. The result of the reconsideration is the final determination of the hospital's assessment under section ~~5112.41~~ 5168.21 of the Revised Code for the assessment program year.

(C) The department shall mail to each hospital a written notice of the final determination of its assessment for the assessment program year. A

hospital may appeal the final determination to the court of common pleas of Franklin county. While a judicial appeal is pending, the hospital shall pay, in accordance with section ~~5112.43~~ 5168.23 of the Revised Code, any amount of its assessment that is not in dispute.

Sec. ~~5112.43~~ 5168.23. Unless rules adopted under section ~~5112.46~~ 5168.26 of the Revised Code establish a different payment schedule, each hospital shall pay the amount it is assessed under section ~~5112.41~~ 5168.21 of the Revised Code in accordance with the following payment schedule:

(A) Twenty-eight per cent of a hospital's assessment is due on the last business day of October of each assessment program year.

(B) Thirty-one per cent of a hospital's assessment is due on the last business day of February of each assessment program year.

(C) Forty-one per cent of a hospital's assessment is due on the last business day of May of each assessment program year.

Sec. ~~5112.44~~ 5168.24. The department of ~~job and family services~~ medicaid may audit a hospital to ensure that the hospital properly pays the amount it is assessed under section ~~5112.41~~ 5168.21 of the Revised Code. The department shall take action to recover from a hospital any amount the audit reveals that the hospital should have paid but did not pay.

Sec. ~~5112.45~~ 5168.25. There is hereby created in the state treasury the hospital assessment fund. All installment payments made by hospitals under section ~~5112.43~~ 5168.23 of the Revised Code and all recoveries the department of ~~job and family services~~ medicaid makes under section ~~5112.44~~ 5168.24 of the Revised Code shall be deposited into the fund. All investment earnings of the fund shall be credited to the fund. The department shall use money in the fund to pay for the costs of the medicaid program, including the program's administrative costs.

Sec. ~~5112.46~~ 5168.26. (A) The ~~director of job and family services shall adopt, amend, and rescind~~ medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement sections ~~5112.40~~ 5168.20 to ~~5112.48~~ 5168.28 of the Revised Code, including rules that specify the percentage of hospitals' total facility costs to be used in calculating hospitals' assessments under section ~~5112.41~~ 5168.21 of the Revised Code.

(B) The rules adopted under this section may do the following:

(1) Provide that a hospital's total facility costs for the purpose of the assessment under section ~~5112.41~~ 5168.21 of the Revised Code exclude any of the following:

(a) A hospital's costs associated with providing care to recipients of any of the following:

(i) The medicaid program;
 (ii) The medicare program;
 (iii) The disability financial assistance program established under Chapter 5115. of the Revised Code;

(iv) The program for medically handicapped children established under section 3701.023 of the Revised Code;

(v) Services provided under the maternal and child health services block grant established under Title V of the "Social Security Act," 42 U.S.C. 701 et seq.

(b) Any other category of hospital costs the director deems appropriate under federal law and regulations governing the medicaid program.

(2) Subject to division (C) of this section, provide for the percentage of hospitals' total facility costs used in calculating hospitals' assessments to vary for different hospitals;

(3) To reduce hospitals' cash flow difficulties, establish a schedule for hospitals to pay their assessments that is different from the schedule established under section ~~5112.43~~ 5168.23 of the Revised Code.

(C) Before adopting rules authorized by division (B)(2) of this section that establish varied percentages to be used in calculating hospitals' assessments, the director shall obtain a waiver from the United States secretary of health and human services under ~~section 1903(w)(3)(E)~~ of the "Social Security Act," ~~105 Stat. 1796 (1991)~~ section 1903(w)(3)(E), 42 U.S.C. 1396b(w)(3)(E), ~~as amended,~~ if the varied percentages would cause the assessments to not be imposed uniformly.

Sec. ~~5112.47~~ 5168.27. The medicaid ~~director of job and family services~~ shall implement the assessment imposed by section ~~5112.41~~ 5168.21 of the Revised Code in a manner that does not cause a reduction in federal financial participation for the medicaid program under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w).

Sec. ~~5112.48~~ 5168.28. If the United States secretary of health and human services determines that the assessment imposed by section ~~5112.41~~ 5168.21 of the Revised Code is an impermissible health care-related tax under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w), the medicaid ~~director of job and family services~~ shall take all necessary actions to cease implementation of sections ~~5112.40~~ 5168.20 to ~~5112.47~~ 5168.27 of the Revised Code and shall promptly refund to each hospital the amount of money in the hospital assessment fund at the time the refund is to be made that the hospital paid under section ~~5112.43~~ 5168.23 of the Revised Code, plus any corresponding investment earnings on that amount.

Sec. ~~3721.50~~ 5168.40. As used in sections ~~3721.50~~ 5168.40 to ~~3721.58~~

5168.56 of the Revised Code:

(A) "Bed surrender" means the following:

(1) In the case of a nursing home, the removal of a bed from a nursing home's licensed capacity in a manner that reduces the total licensed capacity of all nursing homes;

(2) In the case of a hospital, the removal of a hospital bed from registration under section 3701.07 of the Revised Code as a skilled nursing facility bed or long-term care bed in a manner that reduces the total number of hospital beds registered under that section as skilled nursing facility beds or long-term care beds.

(B) "Change of operator" means an entering operator becoming the operator of a nursing home or hospital in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing home or hospital is also transferred;

(c) A lease of the nursing home or hospital to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting

operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(C) "Effective date of a change of operator" means the day an entering operator becomes the operator of a nursing home or hospital.

(D) "Entering operator" means the person or government entity that will become the operator of a nursing home or hospital on the effective date of a change of operator.

(E) "Exiting operator" means an operator that will cease to be the operator of a nursing home or hospital on the effective date of a change of operator.

(F) "Franchise permit fee rate" means the following:

~~(1) For fiscal year 2012, eleven dollars and forty-seven cents;~~

~~(2) For fiscal year 2013 and each fiscal year thereafter, eleven dollars and sixty-seven cents~~ rate determined in accordance with section 5168.41 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

(I) "Indirect guarantee percentage" means the percentage specified in ~~section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006)~~ section 1903(w)(4)(C)(ii), 42 U.S.C. 1396b(w)(4)(C)(ii), that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(J) "Medicaid days" ~~has the same meaning as in section 5111.01 of the Revised Code.~~

~~(K) "Medicare" means the program established by Title XVIII.~~

~~(L)~~ and "Nursing nursing facility" ~~has~~ have the same ~~meaning~~ meanings as in section ~~5111.20~~ 5165.01 of the Revised Code.

~~(M)~~(K)(1) "Nursing home" means all of the following:

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include either of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code.

~~(N)~~(L) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing home or hospital.

~~(O)~~(M) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, ~~as amended et seq.~~

~~(P)~~(N) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, ~~as amended et seq.~~

Sec. 5168.41. (A) The franchise permit fee rate shall be determined for each fiscal year as follows:

(1) Determine the estimated total net patient revenues for all nursing homes and hospital long-term care units for the fiscal year;

(2) Multiply the estimated total net patient revenues determined under division (A)(1) of this section by the lesser of the following:

(a) The indirect guarantee percentage;

(b) Six per cent.

(3) Divide the product determined under division (A)(2) of this section by the number of days in the fiscal year;

(4) Determine the sum of the following:

(a) The total number of beds in all nursing homes and hospital long-term care units that are subject to the franchise permit fee for the fiscal year;

(b) The total number of nursing home beds that are exempt from the franchise permit fee for the fiscal year because of the waiver obtained pursuant to section 5168.43 of the Revised Code.

(5) Divide the quotient determined under division (A)(3) of this section

by the sum determined under division (A)(4) of this section.

(B) In determining the estimated total net patient revenues for all nursing homes and hospital long-term care units for a fiscal year, the department of medicaid shall use at least all of the following:

(1) Information from medicaid cost reports filed under section 5165.10 of the Revised Code that are the most recent at the time the determination is made;

(2) The projected total medicaid payment rates for nursing facility services for the fiscal year;

(3) The projected total number of medicaid days for the fiscal year.

Sec. ~~3721.54~~ 5168.42. The department of ~~job and family services~~ medicaid shall do all of the following:

(A) Subject to sections ~~3721.512~~ 5168.44, ~~3721.513~~ 5168.45, and ~~3721.531~~ 5168.48 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section ~~3721.56~~ 5168.54 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section ~~3721.53~~ 5168.47 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section ~~3721.53~~ 5168.47 of the Revised Code.

(B) Subject to sections ~~3721.512~~ 5168.44, ~~3721.513~~ 5168.45, and ~~3721.531~~ 5168.48 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section ~~3721.56~~ 5168.54 of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds, plus any other beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code, on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section ~~3721.53~~ 5168.47 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division

(A) of section ~~3721.53~~ 5168.47 of the Revised Code.

(C) If the total amount of the franchise permit fee assessed under divisions (A) and (B) of this section for a fiscal year exceeds the indirect guarantee percentage of the actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year and seventy-five per cent or more of the combined total number of nursing homes and hospital long-term care units receive enhanced medicaid payments or other state payments equal to seventy-five per cent or more of their total franchise permit fee assessments, do both of the following:

(1) Recalculate the assessments under divisions (A) and (B) of this section using a per bed per day rate equal to the indirect guarantee percentage of actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under divisions (A) and (B) of this section and the amount recalculated under division (C)(1) of this section as a credit against the assessments imposed under divisions (A) and (B) of this section for the subsequent fiscal year.

(D) If the United States centers for medicare and medicaid services determines that the franchise permit fee established by sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised Code is an impermissible health care-related tax under ~~section 1903(w)~~ of the "Social Security Act," ~~49 Stat. 620 (1935)~~ section 1903(w), 42 U.S.C. 1396b(w), ~~as amended~~, take all necessary actions to cease implementation of sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised Code in accordance with rules adopted under section ~~3721.58~~ 5168.56 of the Revised Code.

Sec. ~~3721.51~~ 5168.43. (A) Not later than four months after July 17, 2009, the department of ~~job and family services~~ medicaid shall apply to the United States secretary of health and human services for a waiver under the "Social Security Act," section 1903(w)(3)(E), 42 U.S.C. 1396b(w)(3)(E), as necessary to do both of the following regarding the franchise permit fee assessed under section ~~3721.51~~ 5168.42 of the Revised Code:

(1) Reduce the franchise permit fee rate to zero dollars for each nursing home licensed under section 3721.02 or 3721.09 of the Revised Code to which either of the following applies:

(a) The nursing home:

(i) Is exempt from state taxation under section 140.08 of the Revised Code or is exempt from state taxation as a home for the aged as defined in section 5701.13 of the Revised Code;

(ii) Is exempt from federal income taxation under section 501 of the

Internal Revenue Code of 1986;

(iii) Does not participate in medicaid or medicare; and

(iv) Provides services for the life of each resident without regard to the resident's ability to secure payment for the services.

(b) The nursing home:

(i) Has had a written affiliation agreement with a university in this state for education and research related to Alzheimer's disease for each of the twenty years preceding July 17, 2009, and has such an agreement on July 17, 2009;

(ii) Was constructed pursuant to a certificate of need granted under Section 3 of Am. Sub. S.B. 256 of the 116th general assembly; and

(iii) Does not participate in medicaid or medicare.

(2) For each nursing facility with more than two hundred beds certified as nursing facility beds under Title XIX, reduce the franchise permit fee rate for a number of the nursing facility's beds specified by the department to the amount necessary to obtain approval of the waiver sought under this section.

(B) The effective date of the waiver sought under this section shall be the first day of the quarter beginning after the United States secretary approves the waiver.

Sec. ~~3721.512~~ 5168.44. If the United States secretary of health and human services approves the waiver sought under section ~~3721.511~~ 5168.43 of the Revised Code, the department of ~~job and family services~~ medicaid shall, for each nursing home and hospital that qualifies for a reduction of its franchise permit fee rate under the waiver, reduce the franchise permit fee rate in accordance with the terms of the waiver. For purposes of the first fiscal year during which the waiver takes effect, the department shall determine the amount of the reduction not later than the effective date of the waiver and shall mail to each nursing home and hospital qualifying for the reduction notice of the reduction not later than the last day of the first month of the quarter that begins after the United States secretary approves the waiver. For purposes of subsequent fiscal years, the department shall make such determinations and mail such notices in accordance with section ~~3721.53~~ 5168.47 of the Revised Code.

Sec. ~~3721.513~~ 5168.45. (A) If the United States secretary of health and human services approves the waiver sought under section ~~3721.511~~ 5168.43 of the Revised Code, the department of ~~job and family services~~ medicaid may do both of the following regarding the franchise permit fee assessed under section ~~3721.51~~ 5168.42 of the Revised Code:

(1) Determine how much money the franchise permit fee would have raised in a fiscal year if not for the waiver;

(2) For each nursing home and hospital subject to the franchise permit fee, other than a nursing home or hospital that has its franchise permit fee rate reduced under section ~~3721.512~~ 5168.44 of the Revised Code, uniformly increase the amount of the franchise permit fee rate for a fiscal year to an amount that will have the franchise permit fee raise an amount of money that does not exceed the amount determined under division (A)(1) of this section for that fiscal year.

(B) If the department increases the franchise permit fee rate in accordance with division (A) of this section for the first fiscal year during which the waiver takes effect, the department shall determine the amount of the increase not later than the effective date of the waiver and shall mail to each nursing home and hospital subject to the increase notice of the increase not later than the last day of the first month of the quarter that begins after the United States secretary approves the waiver. If the department increases the franchise permit fee rate in accordance with division (A) of this section for a subsequent fiscal year, the department shall make such determinations and mail such notices in accordance with section ~~3721.53~~ 5168.47 of the Revised Code.

Sec. ~~3721.52~~ 5168.46. The department of health shall do all of the following:

(A) For the purpose of the determinations made under divisions (A) and (B) of section ~~3721.51~~ 5168.42 of the Revised Code and not later than the first day of each June, report to the department of ~~job and family services~~ medicaid the following:

(1) For each nursing home, the number of beds in the nursing home licensed on the preceding first day of May under section 3721.02 or 3721.09 of the Revised Code or certified on that date under Title XVIII or Title XIX;

(2) For each hospital, the number of beds in the hospital registered on the preceding first day of May pursuant to section 3701.07 of the Revised Code as skilled nursing facility or long-term care beds or licensed on that date under section 3721.02 or 3721.09 of the Revised Code as nursing home beds.

(B) For the purpose of the redetermination under section ~~3721.531~~ 5168.48 of the Revised Code and not later than the fifteenth day of each January, report to the department of ~~job and family services~~ medicaid, for each nursing home and hospital, the number of beds for which a bed surrender occurred during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made.

Sec. ~~3721.53~~ 5168.47. (A) Not later than the fifteenth day of September

of each year, the department of ~~job and family services~~ medicaid shall determine the annual franchise permit fee for each nursing home and hospital in accordance with section ~~3721.51~~ 5168.42 of the Revised Code and any adjustments made in accordance with sections ~~3721.512~~ 5168.44 and ~~3721.513~~ 5168.45 of the Revised Code.

(B) Not later than the first day of October of each year, the department shall mail to each nursing home and hospital notice of the amount of the franchise permit fee that has been determined for the nursing home or hospital.

(C) Subject to section ~~3721.531~~ 5168.48 of the Revised Code, each nursing home and hospital shall pay its fee under section ~~3721.51~~ 5168.42 of the Revised Code, as adjusted in accordance with sections ~~3721.512~~ 5168.44 and ~~3721.513~~ 5168.45 of the Revised Code, to the department in four installment payments not later than forty-five days after the last day of each October, December, March, and June.

Sec. ~~3721.531~~ 5168.48. (A) Not later than the last day of February of each year, the department of ~~job and family services~~ medicaid shall redetermine each nursing home's and hospital's franchise permit fee if one or more bed surrenders occur during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made.

(B) In redetermining nursing homes' and hospitals' franchise permit fees under this section, the department shall do both of the following:

(1) Provide for the redetermination to be conducted in a manner consistent with the terms of the waiver sought under section ~~3721.511~~ 5168.43 of the Revised Code;

(2) Recalculate each nursing home's and hospital's franchise permit fee in accordance with division (A) or (B) of section ~~3721.51~~ 5168.42 of the Revised Code with the following changes:

(a) In the case of a nursing home or hospital for which one or more bed surrenders occurred during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made, the number of beds included in the calculation for the purpose of division (A)(1) or (B)(1) of section ~~3721.51~~ 5168.42 of the Revised Code shall exclude the beds for which bed surrenders occurred during that period.

(b) The number of days used in the calculation under division (A)(2) or (B)(2) of section ~~3721.51~~ 5168.42 of the Revised Code shall be the number of days in the first half of the calendar year in which the redetermination is made.

(c) The franchise permit fee rate shall reflect adjustments made under sections ~~3721.512~~ 5168.44 and ~~3721.513~~ 5168.45 of the Revised Code.

(C) Not later than the first day of March of each year, the department shall mail to each nursing home and hospital notice of the amount of its redetermined franchise permit fee.

(D) Each nursing home and hospital shall pay its redetermined fee to the department in two installment payments not later than forty-five days after the last day of March and June of the calendar year in which the redetermination is made.

Sec. ~~3721.532~~ 5168.49. If a nursing home or hospital undergoes a change of operator during a fiscal year, the responsibility for paying the franchise permit fee that was determined for the nursing home or hospital under section ~~3721.53~~ 5168.47 of the Revised Code, or redetermined for the nursing home or hospital under section ~~3721.531~~ 5168.48 of the Revised Code, for that fiscal year shall be divided proportionally. The exiting operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that ends on the day before the effective date of the change of operator. The entering operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that begins on the effective date of the change of operator. The department of ~~job and family services~~ medicaid is not required to mail a notice to the entering operator regarding the amount of that fiscal year's fee for which the entering operator is responsible.

Sec. ~~3721.533~~ 5168.50. No nursing home or hospital shall directly bill its residents for the franchise permit fee paid under section ~~3721.53~~ 5168.47 or ~~3721.531~~ 5168.48 of the Revised Code or otherwise directly pass the fee through to its residents.

Sec. ~~3721.54~~ 5168.51. If a nursing home or hospital fails to pay the full amount of a franchise permit fee installment when due, the department of ~~job and family services~~ medicaid may assess a five per cent penalty on the amount due for each month or fraction thereof the installment is overdue.

Sec. ~~3721.541~~ 5168.52. (A) In addition to assessing a penalty pursuant to section ~~3721.54~~ 5168.51 of the Revised Code, the department of ~~job and family services~~ medicaid may do any of the following if a nursing facility or hospital fails to pay the full amount of a franchise permit fee installment when due:

(1) Withhold an amount less than or equal to the installment and penalty assessed under section ~~3721.54~~ 5168.51 of the Revised Code from a medicaid payment due the nursing facility or hospital until the nursing facility or hospital pays the installment and penalty;

(2) Offset an amount less than or equal to the installment and penalty assessed under section ~~3721.54~~ 5168.51 of the Revised Code from a ~~Medicaid~~ medicaid payment due the nursing facility or hospital;

(3) Terminate the nursing facility or hospital's medicaid provider agreement.

(B) The department may offset a medicaid payment under division (A) of this section without providing notice to the nursing facility or hospital and without conducting an adjudication under Chapter 119. of the Revised Code.

Sec. ~~3721.55~~ 5168.53. (A) A nursing home or hospital may appeal the fee assessed under section ~~3721.51~~ 5168.42 of the Revised Code, as adjusted under section ~~3721.512~~ 5168.44 or ~~3721.513~~ 5168.45 of the Revised Code, and redetermined under section ~~3721.531~~ 5168.48 of the Revised Code solely on the grounds that the department of ~~job and family services~~ medicaid committed a material error in determining or redetermining the amount of the fee. A request for an appeal must be received by the department not later than fifteen days after the date the department mails the notice of the fee and must include written materials setting forth the basis for the appeal.

(B) If a nursing home or hospital submits a request for an appeal within the time required under division (A) of this section, the department of ~~job and family services~~ shall hold a public hearing in Columbus not later than thirty days after the date the department receives the request for an appeal. The department shall, not later than ten days before the date of the hearing, mail a notice of the date, time, and place of the hearing to the nursing home or hospital. The department may hear all the requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or any other evidence submitted by the nursing home or hospital, the department may adjust a fee. The department's decision is final.

Sec. ~~3721.56~~ 5168.54. (A) There is hereby created in the state treasury the nursing home franchise permit fee fund. All payments and penalties paid by nursing homes and hospitals under sections ~~3721.53~~ 5168.47, ~~3721.531~~ 5168.48, and ~~3721.54~~ 5168.51 of the Revised Code shall be deposited into the fund. The fund shall also consist of money deposited into it pursuant to sections 3769.08 and 3769.26 of the Revised Code. Subject to division (B) of section 3769.08 of the Revised Code, the department of ~~job and family services~~ medicaid shall use the money in the fund to make medicaid payments to providers of nursing facility services and providers of home and community-based services. Money in the fund may also be used for the

residential state supplement program established under section ~~5119.69~~ 5119.41 of the Revised Code.

(B) Any money remaining in the nursing home franchise permit fee fund after payments specified in division (A) of this section are made shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make medicaid payments in accordance with division (A) of this section.

Sec. ~~3721.57~~ 5168.55. The department of ~~job and family services~~ medicaid may make any investigation it considers appropriate to obtain information necessary to fulfill its duties under sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised Code. At the request of the department, the attorney general shall aid in any such investigations. The attorney general shall institute and prosecute all necessary actions for the enforcement of sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised Code, except that at the request of the attorney general, the county prosecutor of the county in which a nursing home or hospital that has failed to comply with sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised Code is located shall institute and prosecute any necessary action against the nursing home or hospital.

Sec. ~~3721.58~~ 5168.56. The medicaid director of ~~job and family services~~ shall adopt rules in accordance with Chapter 119. of the Revised Code to do both of the following:

(A) Prescribe the actions the department of ~~job and family services~~ medicaid will take to cease implementation of sections ~~3721.50 through~~ 3721.57 5168.40 to 5168.56 of the Revised Code if the United States centers for medicare and medicaid services determines that the franchise permit fee established by those sections is an impermissible health-care related tax under ~~section 1903(w) of the "Social Security Act," 405 Stat. 1793 (1991)~~ section 1903(w), 42 U.S.C. 1396b(w), as amended;

(B) Establish any requirements or procedures the director considers necessary to implement sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised Code.

Sec. ~~5112.30~~ 5168.60. As used in sections ~~5112.30~~ 5168.60 to ~~5112.39~~ 5168.71 of the Revised Code:

(A) "Franchise permit fee rate" means the following:

(1) For fiscal year ~~2012~~ 2014, ~~seventeen~~ eighteen dollars and ~~ninety-nine~~ twenty-four cents;

(2) For fiscal year ~~2013~~ 2015 and each fiscal year thereafter, eighteen dollars and ~~thirty-two~~ seventeen cents.

(B) "Indirect guarantee percentage" means the percentage specified in

~~section 1903(w)(4)(C)(ii) of the "Social Security Act," 42 Stat. 2994 (2006)~~ section 1903(w)(4)(C)(ii), 42 U.S.C. 1396b(w)(4)(C)(ii), as amended, that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(C) ~~"Intermediate care facility for the mentally retarded ICF/IID"~~ ICF/IID has the same meaning as in section ~~5114.20~~ 5124.01 of the Revised Code; ~~except that, until August 1, 2009, it does not include any such facility operated by the department of developmental disabilities.~~

(D) ~~"Medicaid Medicaid-certified capacity"~~ has the same meaning as in section ~~5114.04~~ 5124.01 of the Revised Code.

(E) "Provider agreement" has the same meaning as in section 5124.01 of the Revised Code.

~~Sec. 5112.34~~ 5168.61. The department of ~~job and family services developmental disabilities~~ shall do all of the following:

(A) Subject to section ~~5112.334~~ 5168.64 of the Revised Code and divisions (B) and (C) of this section and for the purposes specified in section ~~5112.374~~ 5168.69 of the Revised Code, assess for each fiscal year each ~~intermediate care facility for the mentally retarded ICF/IID~~ a franchise permit fee equal to the franchise permit fee rate multiplied by the product of the following:

(1) ~~The number of beds certified under Title XIX of the "Social Security Act"~~ ICF/IID's medicaid-certified capacity on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section ~~5112.33~~ 5168.63 of the Revised Code;

(2) The number of days in the fiscal year.

(B) If the total amount of the franchise permit fee assessed under division (A) of this section for a fiscal year exceeds the indirect guarantee percentage of the actual net patient revenue for all ~~intermediate care facilities for the mentally retarded ICFs/IID~~ for that fiscal year and seventy-five per cent or more of the total number of ~~intermediate care facilities for the mentally retarded ICFs/IID~~ receive enhanced medicaid payments or other state payments equal to seventy-five per cent or more of their total franchise permit fee assessments, do both of the following:

(1) Recalculate the assessments under division (A) of this section using

a per bed per day rate equal to the indirect guarantee percentage of actual net patient revenue for all ~~intermediate care facilities for the mentally retarded~~ ICFs/IID for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under division (A) of this section and the amount recalculated under division (B)(1) of this section as a credit against the assessments imposed under division (A) of this section for the subsequent fiscal year.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections ~~5112.30 5168.60 to 5112.39 5168.71~~ of the Revised Code would be an impermissible health care-related tax under ~~section 1903(w) of the "Social Security Act," 105 Stat. 1793 (1991)~~ section 1903(w), 42 U.S.C. 1396b(w), as amended, take all necessary actions to cease implementation of those sections in accordance with rules adopted under section ~~5112.39 5168.71~~ of the Revised Code.

Sec. ~~5112.32 5168.62~~. For the purpose of the franchise permit fee imposed under section ~~5112.31 5168.61~~ of the Revised Code and not later than the first day of each June, the department of developmental disabilities shall:

(A) ~~Not later than August 1, 1993, report to the department of job and family services the number of beds in each intermediate care facility for the mentally retarded certified on July 1, 1993, under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~

(B) ~~Not later than June 1, 1994, and the first day of each June thereafter, report to the department of job and family services~~ medicaid the number of beds in each ~~such facility certified~~ ICF/IID on the preceding first day of May ~~under that title~~.

Sec. ~~5112.33 5168.63~~. (A) Not later than the fifteenth day of August of each year, the department of ~~job and family services~~ developmental disabilities shall determine the annual franchise permit fee for each ~~intermediate care facility for the mentally retarded~~ ICF/IID in accordance with section ~~5112.31 5168.61~~ of the Revised Code.

(B) Not later than the first day of September of each year, the department shall mail to each ~~intermediate care facility for the mentally retarded~~ ICF/IID notice of the amount of the franchise permit fee the ~~facility~~ ICF/IID has been assessed under section ~~5112.31 5168.61~~ of the Revised Code.

(C) Subject to section ~~5112.33 5168.64~~ of the Revised Code, each ~~intermediate care facility for the mentally retarded~~ ICF/IID shall pay its fee

under section ~~5112.34~~ 5168.61 of the Revised Code to the department in quarterly installment payments not later than forty-five days after the last day of each September, December, March, and June.

Sec. ~~5112.331~~ 5168.64. (A) If, during the period beginning on the first day of May of a calendar year and ending on the first day of January of the immediately following calendar year, the operator of an ~~intermediate care facility for the mentally retarded~~ ICF/IID converts, pursuant to section ~~5111.874~~ 5124.60 of the Revised Code, one or more of the facility's ICF/IID's beds to providing home and community-based services, the department of ~~job and family services~~ developmental disabilities shall do the following:

(1) If the facility's ICF/IID's medicaid certification is terminated because of the conversion, terminate the facility's ICF/IID's franchise permit fee effective on the first day of the quarter immediately following the quarter in which the department receives the notice of the conversion from the director of health;

(2) If the facility's ~~certified~~ ICF/IID's medicaid-certified capacity ~~under medicaid~~ is reduced because of the conversion, redetermine the facility's ICF/IID's franchise permit fee in accordance with division (B) of this section for the second half of the fiscal year for which the fee is assessed.

(B)(1) To redetermine an ~~intermediate care facility for the mentally retarded's~~ ICF/IID's franchise permit fee, the department shall multiply the franchise permit fee rate by the product of the following:

(a) The ~~number of the facility's beds that remain certified under Title XIX of the "Social Security Act"~~ ICF/IID's medicaid-certified capacity as of the date the conversion takes effect;

(b) The number of days in the second half of the fiscal year for which the redetermination is made.

(2) The ~~intermediate care facility for the mentally retarded~~ ICF/IID shall pay its franchise permit fee as redetermined under division (B)(1) of this section in installment payments not later than forty-five days after the last day of March and June of the fiscal year for which the redetermination is made.

Sec. ~~5112.34~~ 5168.65. If an ~~intermediate care facility for the mentally retarded~~ ICF/IID fails to pay the full amount of an installment when due, the department of ~~job and family services~~ developmental disabilities may assess a five per cent penalty on the amount due for each month or fraction thereof the installment is overdue.

Sec. ~~5112.341~~ 5168.66. (A) In addition to assessing a penalty pursuant to section ~~5112.34~~ 5168.65 of the Revised Code, the department of ~~job and~~

~~family services~~ developmental disabilities may do any of the following if an ~~intermediate care facility for the mentally retarded~~ ICF/IID fails to pay the full amount of a franchise permit fee installment when due:

(1) Withhold an amount less than or equal to the installment and penalty assessed under section ~~5112.34~~ 5168.65 of the Revised Code from a medicaid payment due the ~~facility~~ ICF/IID until the ~~facility~~ ICF/IID pays the installment and penalty;

(2) Offset an amount less than or equal to the installment and penalty assessed under section ~~5112.34~~ 5168.65 of the Revised Code from a medicaid payment due the ~~facility~~ ICF/IID;

(3) ~~Terminate~~ Provide for the department of medicaid to terminate the facility's medicaid ICF/IID's provider agreement.

(B) The department may offset a medicaid payment under division (A) of this section without providing notice to the ~~intermediate care facility for the mentally retarded~~ ICF/IID and without conducting an adjudication under Chapter 119. of the Revised Code.

Sec. ~~5112.35~~ 5168.67. (A) An ~~intermediate care facility for the mentally retarded~~ ICF/IID may appeal the franchise permit fee imposed under section ~~5112.34~~ 5168.61 of the Revised Code solely on the grounds that the department of ~~job and family services~~ developmental disabilities committed a material error in determining the amount of the fee. A request for an appeal must be received by the department not later than fifteen days after the date the department mails the notice of the fee and must include written materials setting forth the basis for the appeal.

(B) If an ~~intermediate care facility for the mentally retarded~~ ICF/IID submits a request for an appeal within the time required under division (A) of this section, the department shall hold a public hearing in Columbus not later than thirty days after the date the department receives the request for an appeal. The department shall, not later than ten days before the date of the hearing, mail a notice of the date, time, and place of the hearing to the ~~facility~~ ICF/IID. The department may hear all requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or any other evidence submitted by the ~~intermediate care facility for the mentally retarded~~ ICF/IID, the department may adjust a fee. The department's decision is final.

Sec. ~~5112.37~~ 5168.68. There is hereby created in the state treasury the home and community-based services for the mentally retarded and developmentally disabled fund. All installment payments and penalties paid by an ~~intermediate care facility for the mentally retarded~~ ICF/IID under

sections ~~5112.33~~ 5168.63 and ~~5112.34~~ 5168.65 of the Revised Code shall be deposited into the fund. As soon as possible after the end of each quarter, the medicaid director ~~of job and family services~~ shall certify to the director of budget and management the amount of money that is in the fund as of the last day of that quarter. On receipt of a certification, the director of budget and management shall transfer the amount so certified from the home and community-based services for the mentally retarded and developmentally disabled fund to the department of developmental disabilities operating and services fund created under section ~~5112.371~~ 5168.69 of the Revised Code.

Sec. ~~5112.371~~ 5168.69. There is hereby created in the state treasury the department of developmental disabilities operating and services fund. The fund shall consist of the money transferred to it under section ~~5112.37~~ 5168.68 of the Revised Code. The money in the fund shall be used for the expenses of the programs that the department of developmental disabilities administers and the department's administrative expenses.

Sec. ~~5112.38~~ 5168.70. The department of ~~job and family services~~ developmental disabilities may make any investigation it considers appropriate to obtain information necessary to fulfill its duties under sections ~~5112.30~~ 5168.60 to ~~5112.39~~ 5168.71 of the Revised Code. At the request of the department, the attorney general shall aid in any such investigations. The attorney general shall institute and prosecute all necessary actions for the enforcement of sections ~~5112.30~~ 5168.60 to ~~5112.39~~ 5168.71 of the Revised Code, except that at the request of the attorney general, the county prosecutor of the county in which an ~~intermediate care facility for the mentally retarded~~ ICF/IID that has failed to comply with those sections is located shall institute and prosecute any necessary action against the ~~facility~~ ICF/IID.

Sec. ~~5112.39~~ 5168.71. ~~The~~ To the extent authorized by rules authorized by section 5162.021 of the Revised Code, the director of ~~job and family services~~ developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code to do both of the following:

(A) Prescribe the actions the department of developmental disabilities will take to cease implementation of sections ~~5112.30~~ 5168.60 to ~~5112.39~~ 5168.71 of the Revised Code if the United States secretary of health and human services determines that the franchise permit fee imposed under section ~~5112.31~~ 5168.61 of the Revised Code is an impermissible health care-related tax under ~~section 1903(w) of the "Social Security Act," 105 Stat. 1793 (1991)~~ section 1903(w), 42 U.S.C. 1396b(w), as amended;

(B) Establish any other requirements or procedures the director considers necessary to implement sections ~~5112.30~~ 5168.60 to ~~5112.39~~

5168.71 of the Revised Code.

Sec. ~~5112.99~~ 5168.99. (A) The medicaid director of ~~job and family services~~ shall impose a penalty for each day that a hospital fails to report the information required under section ~~5112.04~~ 5168.05 of the Revised Code on or before the dates specified in that section. The amount of the penalty shall be established by the director in rules adopted under section ~~5112.03~~ 5168.02 of the Revised Code.

(B) In addition to any other remedy available to the department of ~~job and family services~~ medicaid under law to collect unpaid assessments and transfers under sections ~~5112.04~~ 5168.01 to ~~5112.24~~ 5168.14 of the Revised Code, the director shall impose a penalty of ten per cent of the amount due on any hospital that fails to pay assessments or make intergovernmental transfers by the dates required by rules adopted under section ~~5112.03~~ 5168.02 of the Revised Code.

(C) In addition to any other remedy available to the department of ~~job and family services~~ medicaid under law to collect unpaid assessments imposed under section ~~5112.41~~ 5168.21 of the Revised Code, the director shall impose a penalty of ten per cent of the amount due on any hospital that fails to pay the assessment by the date it is due.

(D) The director shall waive the penalties provided for in this section for good cause shown by the hospital.

(E) All penalties imposed under this section shall be deposited into the health care administration fund created by section ~~5111.94~~ 5162.54 of the Revised Code.

Sec. ~~5112.991~~ 5168.991. The department of ~~job and family services~~ medicaid may offset the amount of a hospital's unpaid penalty imposed under section ~~5112.99~~ 5168.99 of the Revised Code from one or more payments due the hospital under the medicaid program. The total amount that may be offset from one or more payments shall not exceed the amount of the unpaid penalty.

Sec. 5302.221. (A) As used in this section:

"Estate" has the same meaning as in section ~~5111.11~~ 5162.21 of the Revised Code.

"Medicaid estate recovery program" means the program instituted under section ~~5111.11~~ 5162.21 of the Revised Code.

(B) The administrator of the medicaid estate recovery program shall prescribe a form on which a beneficiary of a transfer on death designation affidavit as provided in section 5302.22 of the Revised Code, who survives the deceased owner of the real property or an interest in the real property or that is in existence on the date of death of the deceased owner, or that

beneficiary's representative is to indicate both of the following:

(1) Whether the deceased owner was either of the following:

(a) A decedent subject to the medicaid estate recovery program;

(b) The spouse of a decedent subject to the medicaid estate recovery program.

(2) Whether the real property or interest in the real property was part of the estate of a decedent subject to the medicaid estate recovery program.

(C) A county recorder shall obtain a properly completed form prescribed under division (B) of this section from the beneficiary of a transfer on death designation affidavit or the beneficiary's representative and send a copy of the form to the administrator of the medicaid estate recovery program before recording the transfer of the real property or interest in the real property under section 5302.222 of the Revised Code.

Sec. 5309.082. (A) As used in this section:

"Estate" has the same meaning as in section ~~5111.11~~ 5162.21 of the Revised Code.

"Medicaid estate recovery program" means the program instituted under section ~~5111.11~~ 5162.21 of the Revised Code.

(B) The administrator of the medicaid estate recovery program shall prescribe a form on which a surviving tenant under a survivorship tenancy or such a surviving tenant's representative is to indicate both of the following:

(1) Whether the deceased survivorship tenant was either of the following:

(a) A decedent subject to the medicaid estate recovery program;

(b) The spouse of a decedent subject to the medicaid estate recovery program.

(2) Whether the registered land under a survivorship tenancy was part of the estate of a decedent subject to the medicaid estate recovery program.

(C) A county recorder shall obtain a properly completed form prescribed under division (B) of this section from the surviving tenant under a survivorship tenancy or the surviving tenant's representative and send a copy of the form to the administrator of the medicaid estate recovery program before registering the title in the surviving tenants under section 5309.081 of the Revised Code.

Sec. 5309.68. Any person owning real estate, the title to which is registered, may request the withdrawal of such real estate from registration by presenting to the county recorder an affidavit of intention to withdraw. The affidavit shall describe the real estate, shall be properly executed and signed, and shall have attached to it the owner's duplicate certificate of title.

Thereupon the county recorder shall register or record the affidavit and, upon order of the court, cancel said certificate of record, and thereafter record the court's order in the unregistered land official records. Thereafter, said title shall be considered the same as other unregistered lands. All deeds and mortgages heretofore filed conveying registered lands, the A registration certificate of which that has been surrendered as herein provided, shall be recorded according to law, and thereafter the lands conveyed therein shall be considered the same as other unregistered lands.

Sec. 5309.86. (A) Every memorial, notation, or cancellation of such memorial or notation, made on any certificate of title or duplicate thereof that is kept by paper means shall be signed by the county recorder or ~~his~~ the recorder's authorized deputy or clerk.

(B) If a county recorder maintains registered land records by nonpaper means in the manner authorized by section 5309.031 of the Revised Code, the signature and seal of the county recorder or the recorder's authorized deputy or clerk may be reproduced by electronic facsimile on a certificate of title or duplicate thereof. Any prior memorial, notation, or cancellation of such memorial or notation on a certificate of title or duplicate thereof shall note only the name of the prior recorder and need not be signed by the county recorder or the recorder's authorized deputy or clerk.

Sec. 5501.311. (A) Notwithstanding sections 123.01 and 127.16 of the Revised Code the director of transportation may lease or lease-purchase all or any part of a transportation facility to or from one or more persons, one or more governmental agencies, a transportation improvement district, or any combination thereof, and may grant leases, easements, or licenses for lands under the control of the department of transportation. The director may adopt rules necessary to give effect to this section.

(B) Plans and specifications for the construction of a transportation facility under a lease or lease-purchase agreement are subject to approval of the director and must meet or exceed all applicable standards of the department.

(C) Any lease or lease-purchase agreement under which the department is the lessee shall be for a period not exceeding the then current two-year period for which appropriations have been made by the general assembly to the department, and such agreement may contain such other terms as the department and the other parties thereto agree, notwithstanding any other provision of law, including provisions that rental payments in amounts sufficient to pay bond service charges payable during the current two-year lease term shall be an absolute and unconditional obligation of the department independent of all other duties under the agreement without

set-off or deduction or any other similar rights or defenses. Any such agreement may provide for renewal of the agreement at the end of each term for another term, not exceeding two years, provided that no renewal shall be effective until the effective date of an appropriation enacted by the general assembly from which the department may lawfully pay rentals under such agreement. Any such agreement may include, without limitation, any agreement by the department with respect to any costs of transportation facilities to be included prior to acquisition and construction of such transportation facilities. Any such agreement shall not constitute a debt or pledge of the faith and credit of the state, or of any political subdivision of the state, and the lessor shall have no right to have taxes or excises levied by the general assembly, or the taxing authority of any political subdivision of the state, for the payment of rentals thereunder. Any such agreement shall contain a statement to that effect.

(D) A municipal corporation, township, or county may use service payments in lieu of taxes credited to special funds or accounts pursuant to sections 5709.43, 5709.75, and 5709.80 of the Revised Code to provide its contribution to the cost of a transportation facility, provided such facility was among the purposes for which such service payments were authorized. The contribution may be in the form of a lump sum or periodic payments.

(E) Pursuant to the "Telecommunications Act of 1996," 110 Stat. 152, 47 U.S.C. 332 note, the director may grant a lease, easement, or license in a transportation facility to a telecommunications service provider for construction, placement, or operation of a telecommunications facility. An interest granted under this division is subject to all of the following conditions:

(1) The transportation facility is owned in fee simple or easement by this state at the time the lease, easement, or license is granted to the telecommunications provider.

(2) The lease, easement, or license shall be granted on a competitive basis in accordance with policies and procedures to be determined by the director. The policies and procedures may include provisions for master leases for multiple sites.

(3) The telecommunications facility shall be designed to accommodate the state's multi-agency radio communication system, the intelligent transportation system, and the department's communication system as the director may determine is necessary for highway or other departmental purposes.

(4) The telecommunications facility shall be designed to accommodate such additional telecommunications equipment as may feasibly be

co-located thereon as determined in the discretion of the director.

(5) The telecommunications service providers awarded the lease, easement, or license, agree to permit other telecommunications service providers to co-locate on the telecommunications facility, and agree to the terms and conditions of the co-location as determined in the discretion of the director.

(6) The director shall require indemnity agreements in favor of the department as a condition of any lease, easement, or license granted under this division. Each indemnity agreement shall secure this state and its agents from liability for damages arising out of safety hazards, zoning, and any other matter of public interest the director considers necessary.

(7) The telecommunications service provider fully complies with any permit issued under section 5515.01 of the Revised Code pertaining to land that is the subject of the lease, easement, or license.

(8) All plans and specifications shall meet with the director's approval.

(9) Any other conditions the director determines necessary.

(F) In accordance with section 5501.031 of the Revised Code, to further efforts to promote energy conservation and energy efficiency, the director may grant a lease, easement, or license in a transportation facility to a utility service provider that has received its certificate from the Ohio power siting board or appropriate local entity for construction, placement, or operation of an alternative energy generating facility service provider as defined in section 4928.64 of the Revised Code. An interest granted under this division is subject to all of the following conditions:

(1) The transportation facility is owned in fee simple or in easement by this state at the time the lease, easement, or license is granted to the utility service provider.

(2) The lease, easement, or license shall be granted on a competitive basis in accordance with policies and procedures to be determined by the director. The policies and procedures may include provisions for master leases for multiple sites.

(3) The alternative energy generating facility shall be designed to provide energy for the department's transportation facilities with the potential for selling excess power on the power grid, as the director may determine is necessary for highway or other departmental purposes.

(4) The director shall require indemnity agreements in favor of the department as a condition of any lease, easement, or license granted under this division. Each indemnity agreement shall secure this state from liability for damages arising out of safety hazards, zoning, and any other matter of public interest the director considers necessary.

(5) The alternative energy service provider fully complies with any permit issued by the Ohio power siting board under Chapter 4906. of the Revised Code and complies with section 5515.01 of the Revised Code pertaining to land that is the subject of the lease, easement, or license.

(6) All plans and specifications shall meet with the director's approval.

(7) Any other conditions the director determines necessary.

(G) Money the department receives under ~~divisions (E) and (F)~~ of this section shall be deposited into the state treasury to the credit of the highway operating fund.

(H) A lease, easement, or license granted under division (E) or (F) of this section, and any telecommunications facility or alternative energy generating facility relating to such interest in a transportation facility, is hereby deemed to further the essential highway purpose of building and maintaining a safe, energy-efficient, and accessible transportation system.

Sec. 5501.312. (A) The director of transportation may do all of the following:

~~(A)~~(1) Contract in the manner provided by this section with one or more persons, a transportation improvement district, one or more governmental agencies, or any combination thereof, desiring the use or service of a transportation facility, and fix the terms, conditions, rentals, or other charges for such use or services. Such contract may provide for acquisition by such person or governmental agency of all or any part of the facility for such consideration payable over the period of the contract or otherwise as the director in ~~his~~ the director's sole discretion determines to be appropriate.

~~(B)~~(2) Make loans from any available source, including the federal share of a project, for the planning, acquisition, or construction of transportation facilities upon such terms as the director may determine or authorize, including secured or unsecured loans, and in connection therewith, enter into loan agreements, subordination agreements, and other agreements, accept notes and other forms of obligation to evidence the indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure the indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take such actions as are appropriate to protect the security and safeguard against losses, including foreclosure and the bidding upon and purchase of property upon foreclosure or other sale. Repayments of a federal share loan may be obligated by the director for any transportation purpose, including the reloaning of such repaid funds for other projects. Reloaned funds would be considered state loans, not federal share loans.

~~(C)~~(3) Sell transportation facilities under such terms as ~~he~~ the director may determine, including conditional sale or installment sale, under which title may pass prior to or after completion of the facility, or at any time provided in the agreement pertaining to the sale, including sale under an option to purchase at a price which may be a nominal amount or less than true value at the time of the purchase;

~~(D)~~(4) Grant a ~~mortgage~~ mortgage, lien, or other encumbrance on, or pledge or assignment of, or other security interest with respect to, all or any part of a transportation facility, or on, of, or with respect to any lease, sublease, sale, conditional sale or installment sale agreement, loan agreement, or other agreement pertaining to the lease, sublease, sale, or other disposition of a facility or pertaining to a loan made for a facility, or any guaranty or insurance agreement made with respect thereto, or any interest of the department of transportation therein, or any other interest granted, assigned, or released to secure payments to be made by the department, which mortgage, lien, encumbrance, pledge, assignment, or other security interest may be prior or subordinate to or on a parity with any other mortgage assignment, or other security interest, lien, or encumbrance;

~~(E)~~(5) Contract for the acquisition or construction of a transportation facility or any part thereof and for the leasing, subleasing, sale, or other disposition of the facility in a manner determined by the director.

(B) All money received by the department under this section shall be deposited into the state treasury to the credit of the highway operating fund.

Sec. 5501.73. (A) After selecting a solicited or unsolicited proposal for a public-private initiative, the department of transportation shall enter into a public-private agreement for a transportation facility with the selected private entity or any configuration of private entities. An affected jurisdiction may be a party to a public-private agreement entered into by the department and a selected private entity or combination of private entities.

(B) A public-private agreement under this section shall provide for all of the following:

(1) Planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing, or operation of a transportation facility;

(2) Term of the public-private agreement;

(3) Type of property interest, if any, the private entity will have in the transportation facility;

(4) A specific plan to ensure proper maintenance of the transportation facility throughout the term of the agreement and a return of the facility to the department, if applicable, in good condition and repair;

(5) Whether user fees will be collected on the transportation facility and the basis by which such user fees shall be determined and modified;

(6) Compliance with applicable federal, state, and local laws;

(7) Grounds for termination of the public-private agreement by the department or operator;

(8) Disposition of the facility upon completion of the agreement;

(9) Procedures for amendment of the agreement.

(C) A public-private agreement under this section may provide for any of the following:

(1) Review and approval by the department of the operator's plans for the development and operation of the transportation facility;

(2) Inspection by the department of construction of or improvements to the transportation facility;

(3) Maintenance by the operator of a policy of liability insurance or self-insurance;

(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the department;

(5) Filing by the operator, on a periodic basis, of traffic reports in a form acceptable to the department;

(6) Financing obligations of the operator and the department;

(7) Apportionment of expenses between the operator and the department;

(8) Rights and duties of the operator, the department, and other state and local governmental entities with respect to use of the transportation facility;

(9) Rights and remedies available in the event of default or delay;

(10) Terms and conditions of indemnification of the operator by the department;

(11) Assignment, subcontracting, or other delegation of responsibilities of the operator or the department under the agreement to third parties, including other private entities and other state agencies;

(12) Sale or lease to the operator of private property related to the transportation facility;

(13) Traffic enforcement and other policing issues, including any reimbursement by the private entity for such services.

(D)(1) The director of transportation may include in any public-private agreement under sections 5501.70 to 5501.83 of the Revised Code a provision authorizing a binding dispute resolution method for any controversy subsequently arising out of the contract. The binding dispute resolution method may proceed only upon agreement of all parties to the controversy. If all parties do not agree to proceed to a binding dispute

resolution, a party having a claim against the department shall exhaust its administrative remedies specified in the public-private agreement prior to filing any action against the department in the court of claims.

No appeal from the determination of a technical expert lies to any court, except that the court of common pleas of Franklin County may issue an order vacating such a determination upon the application of any party to the binding dispute resolution if any of the following applies:

(a) The determination was procured by corruption, fraud, or undue means.

(b) There was evidence of partiality or corruption on the part of the technical expert.

(c) The technical expert was guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy, or of any other misbehavior by which the rights of any party have been prejudiced.

(2) As used in this division, "binding dispute resolution" means a binding determination after review by a technical expert of all relevant items, which may include documents, and by interviewing appropriate personnel and visiting the project site involved in the controversy. "Binding dispute resolution" does not involve representation by legal counsel or advocacy by any person on behalf of any party to the controversy.

(E) No public-private agreement entered into under this section shall be construed to transfer to a private entity the director's authority to appropriate property under Chapters 163., 5501., and 5519. of the Revised Code.

(F) Money collected by the department pursuant to an agreement entered into under this section shall be deposited into the state treasury to the credit of the highway operating fund.

Sec. 5502.011. (A) As used in this section, "department of public safety" and "department" include all divisions within the department of public safety.

(B) The director of public safety is the chief executive and administrative officer of the department. The director may establish policies governing the department, the performance of its employees and officers, the conduct of its business, and the custody, use, and preservation of departmental records, papers, books, documents, and property. The director also may authorize and approve investigations to be conducted by any of the department's divisions. Whenever the Revised Code imposes a duty upon or requires an action of the department, the director may perform the action or duty in the name of the department or direct such performance to be performed by the director's designee.

(C) In addition to any other duties enumerated in the Revised Code, the director or the director's designee shall do all of the following:

(1) Administer and direct the performance of the duties of the department;

(2) Pursuant to Chapter 119. of the Revised Code, approve, adopt, and prescribe such forms and rules as are necessary to carry out the duties of the department;

(3) On behalf of the department and in addition to any authority the Revised Code otherwise grants to the department, have the authority and responsibility for approving and entering into contracts, agreements, and other business arrangements;

(4) Make appointments for the department as needed to comply with requirements of the Revised Code;

(5) Approve employment actions of the department, including appointments, promotions, discipline, investigations, and terminations;

(6) Accept, hold, and use, for the benefit of the department, any gift, donation, bequest, or devise, and may agree to and perform all conditions of the gift, donation, bequest, or devise, that are not contrary to law;

(7) Apply for, allocate, disburse, and account for grants made available under federal law or from other federal, state, or private sources;

(8) Develop a list of disqualifying offenses for licensure as a private investigator or a security guard provider pursuant to sections 4749.03, 4749.04, 4749.10, and 4776.10 of the Revised Code;

(9) Do all other acts necessary or desirable to carry out this chapter.

(D)(1) The director of public safety may assess a reasonable fee, plus the amount of any charge or fee passed on from a financial institution, on a drawer or indorser for each of the following:

(a) A check, draft, or money order that is returned or dishonored;

(b) An automatic bank transfer that is declined, due to insufficient funds or for any other reason;

(c) Any financial transaction device that is returned or dishonored for any reason.

(2) The director shall deposit any fee collected under this division in an appropriate fund as determined by the director based on the tax, fee, or fine being paid.

(3) As used in this division, "financial transaction device" has the same meaning as in section 113.40 of the Revised Code.

(E) The director shall establish a homeland security advisory council to advise the director on homeland security, including homeland security funding efforts. The advisory council shall include, but not be limited to,

state and local government officials who have homeland security or emergency management responsibilities and who represent first responders. The director shall appoint the members of the council, who shall serve without compensation.

~~(F)(1) The director or the director's designee shall carry out the duties required of the director under Chapter 5507. of the Revised Code. The director may, at the director's discretion, assign employees of the department to provide assistance in carrying out those duties as the director considers necessary.~~

~~(2) The director may adopt rules under Chapter 111. of the Revised Code to approve, adopt, and prescribe such forms and processes as are necessary to carry out the duties required of the director under Chapter 5507. of the Revised Code.~~

Sec. 5505.12. (A) The state highway patrol retirement board shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the state highway patrol retirement system as established pursuant to this chapter. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

- (1) A summary of the benefit provisions evaluated;
- (2) A summary of the census data and financial information used in the valuation;
- (3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system;
- (4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;
- (5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;
- (6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for

retirement legislation immediately upon its availability and not later than the first day of July following the year for which the valuation was made.

(B) At such times as the state highway patrol retirement board determines, and at least once in each five-year period after January 1, 1966, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, and beneficiaries to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

(1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;

(3) A measurement of the financial effect of the recommended changes in actuarial assumptions;

(4) If the investigation required by this division includes the investigation required by division (F) of this section, a report of the result of that investigation.

The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the last fiscal year of the period the report covers.

(C) The board may at any time request the actuary to make any studies or actuarial valuations to determine the adequacy of the rates of contributions provided by section 5505.15 of the Revised Code.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

(1) A summary of the statutory changes that are being evaluated;

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;

(3) A description of the participant group or groups included in the report;

(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years;

(5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under section 5505.28 of the Revised Code. The report shall be made as of December 31, 1997, and the thirty-first day of December of each year thereafter. The report shall include the following:

(1) A description of the statutory authority for the benefits provided;

(2) A summary of the benefits;

(3) A summary of the eligibility requirements for the benefits;

(4) A statement of the number of participants eligible for the benefits;

(5) A description of the accounting, asset valuation, and funding method used to provide the benefits;

(6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;

(7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;

(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;

(9) A description of any significant changes that affect the comparability of the report required under this division;

(10) A statement of the amount paid under division (B) of section

5505.28 of the Revised Code.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the thirtieth day of June following the year for which the report was made.

(F) At least once in each five-year period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the deferred retirement option plan established under section 5505.50 of the Revised Code. The investigation shall include an examination of the financial impact, if any, on the retirement system of offering the plan to members.

The actuary shall prepare a report of the actuarial investigation. The report shall include a determination of whether the plan, as established or modified, has a negative financial impact on the retirement system and, if so, recommendations on how to modify the plan to eliminate the negative financial impact. If the actuarial report indicates that the plan has a negative financial impact on the retirement system, the board shall modify the plan. If the board modifies the plan, the rights and obligations of members who have already elected to participate shall not be altered.

The state's contributions to the employer accumulation fund shall not be increased to offset any negative financial impact of the deferred retirement option plan.

The board may include the actuarial investigation required under this division as part of the actuarial investigation required under division (B) of this section. If the report of the actuarial investigation required by this division is not included in the report required by division (B) of this section, the board shall submit the report required by this division to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the last fiscal year of the period the report covers.

Sec. 5511.03. The director of transportation shall examine the existing highway facilities serving the several hospitals, educational institutions, and correctional and other similar institutions belonging to the state, and located outside municipal corporations. Where the director finds that any such state institution is not located on a state highway or connected with a highway by a suitable road, affording in its present condition adequate transportation facilities to those having occasion to visit such institution, the director may establish a state highway leading to such institution from a convenient point

on an existing highway. Where the director finds that any such institution is not served by adequate highway facilities connecting it with the railroad delivery point from which it principally obtains fuel, provisions, and supplies, the director may establish a highway connecting such institution and railroad delivery point. Limitations imposed on the mileage of state highways shall not apply to highways established under this section.

The director may construct at state expense all highways established under authority of this section and pay the entire cost thereof from the state highway operating fund. Such highways shall be maintained by the department of transportation and the cost shall be paid from the highway operating fund of the department.

The directors of transportation, ~~mental health~~ mental health and addiction services, developmental disabilities, and rehabilitation and correction may cooperate in the establishment, construction, reconstruction, maintenance, and repair of roads within the limits of state institutions. The cost shall be paid from funds appropriated for highway purposes and from the funds appropriated to the department of ~~mental health~~ mental health and addiction services, department of developmental disabilities, or the department of rehabilitation and correction for capital improvements or maintenance in such proportion as may be agreed upon by the directors of transportation, ~~mental health~~ mental health and addiction services, developmental disabilities, and rehabilitation and correction.

Sec. 5515.08. (A) The department of transportation may contract to sell commercial advertising space within or on the outside surfaces of any building located within a roadside rest area under its jurisdiction in exchange for cash payment. Money the department receives under this section shall be deposited in the state treasury to the credit of the ~~roadside rest area improvement~~ highway operating fund, ~~which is hereby created.~~ ~~The department shall use the money in the fund only to improve roadside rest areas in accordance with section 5529.06 of the Revised Code.~~

(B) Advertising placed under this section shall comply with all of the following:

(1) It shall not be libelous or obscene and shall not promote any illegal product or service.

(2) It shall not promote illegal discrimination on the basis of the race, religion, national origin, handicap, age, or ancestry of any person.

(3) It shall not support or oppose any candidate for political office or any political cause, issue, or organization.

(4) It shall comply with any controlling federal or state regulations or restrictions.

(5) To the extent physically and technically practical, it shall state that the advertisement is a paid commercial advertisement and that the state does not endorse the product or service promoted by the advertisement or make any representation about the accuracy of the advertisement or the quality or performance of the product or service promoted by the advertisement.

(6) It shall conform to all applicable rules adopted by the director of transportation under division (E) of this section.

(C) Contracts entered into under this section shall be awarded only to the qualified bidder who submits the highest responsive bid or according to uniformly applied rate classes.

(D) No person, except an advertiser alleging a breach of contract or the improper awarding of a contract, has a cause of action against the state with respect to any contract or advertising authorized by this section. Under no circumstances is the state liable for consequential or noneconomic damages with respect to any contract or advertising authorized under this section.

(E) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules to implement this section. The rules shall be consistent with the policy of protecting the safety of the traveling public and consistent with the national policy governing the use and control of such roadside rest areas. The rules shall regulate the awarding of contracts and may regulate the content, display, and other aspects of the commercial advertising authorized by this section.

Sec. 5540.03. (A) A transportation improvement district may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Adopt an official seal;

(3) Sue and be sued in its own name, plead and be impleaded, provided any actions against the district shall be brought in the court of common pleas of the county in which the principal office of the district is located, or in the court of common pleas of the county in which the cause of action arose, and all summonses, exceptions, and notices of every kind shall be served on the district by leaving a copy thereof at its principal office with the secretary-treasurer;

(4) Purchase, construct, maintain, repair, sell, exchange, police, operate, or lease projects;

(5) Issue either or both of the following for the purpose of providing funds to pay the costs of any project or part thereof:

(a) Transportation improvement district revenue bonds;

(b) Bonds pursuant to Section 13 of Article VIII, Ohio Constitution;

(6) Maintain such funds as it considers necessary;

(7) Direct its agents or employees, when properly identified in writing and after at least five days' written notice, to enter upon lands within its jurisdiction to make surveys and examinations preliminary to the location and construction of projects for the district, without liability of the district or its agents or employees except for actual damage done;

(8) Make and enter into all contracts and agreements necessary or incidental to the performance of its functions and the execution of its powers under this chapter;

(9) Employ or retain or contract for the services of consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, financial advisers, trustees, marketing, remarketing, and administrative agents, attorneys, and other employees, independent contractors, or agents as are necessary in its judgment and fix their compensation, provided all such expenses shall be payable solely from the proceeds of bonds or from revenues;

(10) Receive and accept from the federal or any state or local government, including, but not limited to, any agency, entity, or instrumentality of any of the foregoing, loans and grants for or in aid of the construction, maintenance, or repair of any project, and receive and accept aid or contributions from any source or person of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such loans, grants, and contributions are made. Nothing in division (A)(10) of this section shall be construed as imposing any liability on this state for any loan received by a transportation improvement district from a third party unless this state has entered into an agreement to accept such liability.

(11) Acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;

(12) Establish and collect tolls or user charges for its projects;

(13) Subject to section 5540.18 of the Revised Code, enter into an agreement with a contiguous board of county commissioners other than the board of county commissioners that created the transportation improvement district, for the district to exercise all or any portion of its powers with respect to a project that is located wholly or partially within the county that is party to the agreement;

(14) Do all acts necessary and proper to carry out the powers expressly granted in this chapter.

(B) Chapters 123., 124., 125., 153., and 4115., and sections 9.331 to 9.335 and 307.86 of the Revised Code do not apply to contracts or projects of a transportation improvement district.

Sec. 5540.18. A board of county commissioners may enter into an agreement with a contiguous transportation improvement district that the board of county commissioners did not create for the district to undertake a project that is located wholly or partially within that county provided that, the board of county commissioners of the county that created the transportation improvement district also must enter into the agreement.

No transportation improvement district shall undertake a project that is located wholly or partially within a county that did not create the transportation improvement district except pursuant to an agreement entered into in accordance with this section, a project being undertaken by two or more transportation improvement districts, or as otherwise provided by law.

Sec. 5701.13. (A) As used in this section:

(1) "Nursing home" means a nursing home or a home for the aging, as those terms are defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(2) "Residential care facility" means a residential care facility, as defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(3) "Residential facility" means a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) As used in Title LVII of the Revised Code, and for the purpose of other sections of the Revised Code that refer specifically to Chapter 5701. or section 5701.13 of the Revised Code, a "home for the aged" means either of the following:

(1) A place of residence for aged and infirm persons that satisfies divisions (B)(1)(a) to (e) of this section:

(a) It is a nursing home, residential care facility, or residential facility.

(b) It is owned by a corporation, unincorporated nonprofit association, or trust of a charitable, religious, or fraternal nature, that is organized and operated not for profit, is not formed for the pecuniary gain or profit of, and whose net earnings or any part of whose net earnings is not distributable to, its members, trustees, officers, or other private persons, and is exempt from federal income taxation under section 501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1.

(c) It is open to the public without regard to race, color, or national origin.

(d) It does not pay, directly or indirectly, compensation for services rendered, interest on debts incurred, or purchase price for land, building,

equipment, supplies, or other goods or chattels, which compensation, interest, or purchase price is unreasonably high.

(e) It provides services for the life of each resident without regard to the resident's ability to continue payment for the full cost of the services.

(2) A place of residence that satisfies divisions (B)(1)(b), (d), and (e) of this section; that satisfies the definition of "nursing home" or "residential care facility" under section 3721.01 of the Revised Code or the definition of "residential facility" under division (A)(3) of this section regardless of whether it is licensed as such a home or facility; and that is provided at no charge to individuals on account of their service without compensation to a charitable, religious, fraternal, or educational institution, which individuals are aged or infirm and are members of the corporation, association, or trust that owns the place of residence. For the purposes of division (B)(2) of this section, "compensation" does not include furnishing room and board, clothing, health care, or other necessities, or stipends or other de minimis payments to defray the cost thereof.

Exemption from taxation shall be accorded, on proper application, only to those homes or parts of homes that meet the standards and provide the services specified in this section.

Nothing in this section shall be construed as preventing a home from requiring a resident with financial need to apply for any applicable financial assistance or requiring a home to retain a resident who willfully refuses to pay for services for which the resident has contracted even though the resident has sufficient resources to do so.

(C)(1) If a corporation, unincorporated nonprofit association, or trust described in division (B)(1)(b) of this section is granted a certificate of need pursuant to section 3702.52 of the Revised Code to construct, add to, or otherwise modify a nursing home, or is given approval pursuant to section 3791.04 of the Revised Code to construct, add to, or otherwise modify a residential care facility or residential facility and if the corporation, association, or trust submits an affidavit to the tax commissioner stating that, commencing on the date of licensure and continuing thereafter, the home or facility will be operated in accordance with the requirements of divisions (B)(1)(a) to (e) of this section, the corporation, association, or trust shall be considered to be operating a "home for the aged" within the meaning of division (B)(1) of this section, beginning on the first day of January of the year in which such certificate is granted or approval is given.

(2) If a corporation, association, or trust is considered to be operating a "home for the aged" pursuant to division (C)(1) of this section, the corporation, association, or trust shall notify the tax commissioner in writing

upon the occurrence of any of the following events:

(a) The corporation, association, or trust no longer intends to complete the construction of, addition to, or modification of the home or facility, to obtain the appropriate license for the home or facility, or to commence operation of the home or facility in accordance with the requirements of divisions (B)(1)(a) to (e) of this section;

(b) The certificate of approval referred to in division (C)(1) of this section expires, is revoked, or is otherwise terminated prior to the completion of the construction of, addition to, or modification of the home or facility;

(c) The license to operate the home or facility is not granted by the director of health within one year following completion of the construction of, addition to, or modification of the home or facility;

(d) The license to operate the home or facility is not granted by the director of health within four years following the date upon which the certificate or approval referred to in division (C)(1) of this section was granted or given;

(e) The home or facility is granted a license to operate as a nursing home, residential care facility, or residential facility.

(3) Upon the occurrence of any of the events referred to in divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the corporation, association, or trust shall no longer be considered to be operating a "home for the aged" pursuant to division (C)(1) of this section, except that the tax commissioner, for good cause shown and to the extent the commissioner considers appropriate, may extend the time period specified in division (C)(2)(c) or (d) of this section, or both. Nothing in division (C)(3) of this section shall be construed to prevent a nursing home, residential care facility, or residential facility from qualifying as a "home for the aged" if, upon proper application made pursuant to division (B) of this section, it is found to meet the requirements of divisions (A) and (B) of this section.

Sec. 5703.052. (A) There is hereby created in the state treasury the tax refund fund, from which refunds shall be paid for taxes illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by Chapter 4301., 4305., 5726., 5728., 5729., 5731., 5733., 5735., 5736., 5739., 5741., 5743., 5747., 5748., 5749., 5751., or 5753. and sections 3737.71, 3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the Revised Code. Refunds for fees or wireless 9-1-1 charges illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by sections 128.42 or 3734.90 to 3734.9014 of the Revised Code also shall be paid from the fund. Refunds for amounts

illegally or erroneously assessed or collected by the tax commissioner, or for any other reason overpaid, that are due under section 1509.50 of the Revised Code shall be paid from the fund. However, refunds for taxes levied under section 5739.101 of the Revised Code shall not be paid from the tax refund fund, but shall be paid as provided in section 5739.104 of the Revised Code.

(B)(1) Upon certification by the tax commissioner to the treasurer of state of a tax refund, a fee wireless 9-1-1 charge refund, or ~~an other another~~ amount refunded, or by the superintendent of insurance of a domestic or foreign insurance tax refund, the treasurer of state shall place the amount certified to the credit of the fund. The certified amount transferred shall be derived from ~~current the~~ receipts of the same tax, fee, wireless 9-1-1 charge, or other amount from which the refund arose. ~~If current receipts from the tax, fee, or other amount from which the refund arose are inadequate to make the transfer of the amount so certified, the treasurer of state shall transfer such certified amount from current receipts of the sales tax levied by section 5739.02 of the Revised Code.~~

(2) ~~When the treasurer of state provides for the payment of a refund of a tax, fee, or other amount from the current receipts of the sales tax, and the a~~ refund is for a tax, fee, wireless 9-1-1 charge, or other amount that is not levied by the state or that was illegally or erroneously distributed to a taxing jurisdiction, the tax commissioner shall recover the amount of that refund from the next distribution of that tax, fee, wireless 9-1-1 charge, or other amount that otherwise would be made to the taxing jurisdiction. If the amount to be recovered would exceed twenty-five per cent of the next distribution of that tax, fee, wireless 9-1-1 charge, or other amount, the commissioner may spread the recovery over more than one future distribution, taking into account the amount to be recovered and the amount of the anticipated future distributions. In no event may the commissioner spread the recovery over a period to exceed twenty-four months.

Sec. 5703.053. As used in this section, "postal service" means the United States postal service.

An application to the tax commissioner for a tax refund under section 4307.05, 4307.07, 5726.30, 5727.28, 5727.91, 5728.061, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5736.08, 5739.07, 5741.10, 5743.05, 5743.53, 5745.11, 5749.08, or 5751.08 of the Revised Code or division (B) of section 5703.05 of the Revised Code, or a fee refunded under section 3734.905 of the Revised Code, that is received after the last day for filing under such section shall be considered to have been filed in a timely manner if:

(A) The application is delivered by the postal service and the earliest postal service postmark on the cover in which the application is enclosed is

not later than the last day for filing the application;

(B) The application is delivered by the postal service, the only postmark on the cover in which the application is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the application, and the application is received within seven days of such last day; or

(C) The application is delivered by the postal service, no postmark date was affixed to the cover in which the application is enclosed or the date of the postmark so affixed is not legible, and the application is received within seven days of the last day for making the application.

Sec. 5703.059. (A) The tax commissioner may adopt rules requiring returns, including any accompanying schedule or statement, for any of the following taxes to be filed electronically using the Ohio business gateway as defined in section 718.051 of the Revised Code, filed telephonically using the system known as the Ohio telefile system, or filed by any other electronic means prescribed by the commissioner:

(1) Employer income tax withholding under Chapter 5747. of the Revised Code;

(2) Motor fuel tax under Chapter 5735. of the Revised Code;

(3) Cigarette and tobacco product tax under Chapter 5743. of the Revised Code;

(4) Severance tax under Chapter 5749. of the Revised Code;

(5) Use tax under Chapter 5741. of the Revised Code;

(6) Commercial activity tax under Chapter 5751. of the Revised Code;

(7) Financial institutions tax under Chapter 5726. of the Revised Code;

(8) Motor fuel receipts tax under Chapter 5736. of the Revised Code;

(9) Horse-racing taxes under Chapter 3769. of the Revised Code.

(B) The tax commissioner may adopt rules requiring any payment of tax shown on such a return to be due to be made electronically in a manner approved by the commissioner.

(C) A rule adopted under this section does not apply to returns or reports filed or payments made before six months after the effective date of the rule. The commissioner shall publicize any new electronic filing requirement on the department's web site. The commissioner shall educate the public of the requirement through seminars, workshops, conferences, or other outreach activities.

(D) Any person required to file returns and make payments electronically under rules adopted under this section may apply to the commissioner, on a form prescribed by the commissioner, to be excused from that requirement. For good cause shown, the commissioner may

excuse the applicant from the requirement and permit the applicant to file the returns or reports or make the payments required under this section by nonelectronic means.

Sec. 5703.19. (A) To carry out the purposes of the laws that the tax commissioner is required to administer, the commissioner or any person employed by the commissioner for that purpose, upon demand, may inspect books, accounts, records, and memoranda of any person or public utility subject to those laws, and may examine under oath any officer, agent, or employee of that person or public utility. Any person other than the commissioner who makes a demand pursuant to this section shall produce the person's authority to make the inspection.

(B) If a person or public utility receives at least ten days' written notice of a demand made under division (A) of this section and refuses to comply with that demand, a penalty of five hundred dollars shall be imposed upon the person or public utility for each day the person or public utility refuses to comply with the demand. Penalties imposed under this division may be assessed and collected in the same manner as assessments made under Chapter 3769., 4305., 5727., 5728., 5733., 5735., 5736., 5739., 5743., 5745., 5747., 5749., 5751., or 5753., or sections 3734.90 to 3734.9014, of the Revised Code.

Sec. 5703.21. (A) Except as provided in divisions (B) and (C) of this section, no agent of the department of taxation, except in the agent's report to the department or when called on to testify in any court or proceeding, shall divulge any information acquired by the agent as to the transactions, property, or business of any person while acting or claiming to act under orders of the department. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the department.

(B)(1) For purposes of an audit pursuant to section 117.15 of the Revised Code, or an audit of the department pursuant to Chapter 117. of the Revised Code, or an audit, pursuant to that chapter, the objective of which is to express an opinion on a financial report or statement prepared or issued pursuant to division (A)(7) or (9) of section 126.21 of the Revised Code, the officers and employees of the auditor of state charged with conducting the audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the audit or unless the officers and employees are required to testify in a court or proceeding under

compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the auditor of state.

(2) For purposes of an internal audit pursuant to section 126.45 of the Revised Code, the officers and employees of the office of internal ~~auditing~~ audit in the office of budget and management charged with ~~conducting~~ directing the internal audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the internal audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the internal audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the office of internal ~~auditing~~ audit.

(3) As provided by section 6103(d)(2) of the Internal Revenue Code, any federal tax returns or federal tax information that the department has acquired from the internal revenue service, through federal and state statutory authority, may be disclosed to the auditor of state or the office of internal ~~auditing~~ audit solely for purposes of an audit of the department.

(4) For purposes of Chapter 3739. of the Revised Code, an agent of the department of taxation may share information with the division of state fire marshal that the agent finds during the course of an investigation.

(C) Division (A) of this section does not prohibit any of the following:

(1) Divulging information contained in applications, complaints, and related documents filed with the department under section 5715.27 of the Revised Code or in applications filed with the department under section 5715.39 of the Revised Code;

(2) Providing information to the office of child support within the department of job and family services pursuant to section 3125.43 of the Revised Code;

(3) Disclosing to the motor vehicle repair board any information in the possession of the department that is necessary for the board to verify the existence of an applicant's valid vendor's license and current state tax identification number under section 4775.07 of the Revised Code;

(4) Providing information to the administrator of workers' compensation pursuant to sections 4123.271 and 4123.591 of the Revised Code;

(5) Providing to the attorney general information the department obtains under division (J) of section 1346.01 of the Revised Code;

(6) Permitting properly authorized officers, employees, or agents of a municipal corporation from inspecting reports or information pursuant to rules adopted under section 5745.16 of the Revised Code;

(7) Providing information regarding the name, account number, or business address of a holder of a vendor's license issued pursuant to section 5739.17 of the Revised Code, a holder of a direct payment permit issued pursuant to section 5739.031 of the Revised Code, or a seller having a use tax account maintained pursuant to section 5741.17 of the Revised Code, or information regarding the active or inactive status of a vendor's license, direct payment permit, or seller's use tax account;

(8) Releasing invoices or invoice information furnished under section 4301.433 of the Revised Code pursuant to that section;

(9) Providing to a county auditor notices or documents concerning or affecting the taxable value of property in the county auditor's county. Unless authorized by law to disclose documents so provided, the county auditor shall not disclose such documents;

(10) Providing to a county auditor sales or use tax return or audit information under section 333.06 of the Revised Code;

(11) Subject to section 4301.441 of the Revised Code, disclosing to the appropriate state agency information in the possession of the department of taxation that is necessary to verify a permit holder's gallonage or noncompliance with taxes levied under Chapter 4301. or 4305. of the Revised Code;

(12) Disclosing to the department of natural resources information in the possession of the department of taxation that is necessary for the department of taxation to verify the taxpayer's compliance with ~~division (A)(1), (5), (6), (8), or (9) of section 5749.02 of the Revised Code and information received pursuant to section 1509.50 of the Revised Code concerning the amount due under that section~~ or to allow the department of natural resources to enforce Chapter 1509. of the Revised Code;

(13) Disclosing to the department of job and family services, industrial commission, and bureau of workers' compensation information in the possession of the department of taxation solely for the purpose of identifying employers that misclassify employees as independent contractors or that fail to properly report and pay employer tax liabilities. The department of taxation shall disclose only such information that is necessary to verify employer compliance with law administered by those agencies.

(14) Disclosing to the Ohio casino control commission information in the possession of the department of taxation that is necessary to verify a casino operator's compliance with section 5747.063 or 5753.02 of the

Revised Code and sections related thereto;

(15) Disclosing to the state lottery commission information in the possession of the department of taxation that is necessary to verify a lottery sales agent's compliance with section 5747.064 of the Revised Code.

Sec. 5703.37. (A)(1) Except as provided in division (B) of this section, whenever service of a notice or order is required in the manner provided in this section, a copy of the notice or order shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Revised Code that notifies the tax commissioner of the date of delivery.

(2) In lieu of serving a copy of a notice or order through one of the means provided in division (A)(1) of this section, the commissioner may serve a notice or order upon the person affected thereby through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail as provided in division (F) of this section. Delivery by such means satisfies the requirements for delivery under this section.

(B)(1)(a) If certified mail is returned because of an undeliverable address, the commissioner shall first utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code. If, after using reasonable means, the commissioner is unable to ascertain a new last known address, the assessment is final for purposes of section 131.02 of the Revised Code sixty days after the notice or order sent by certified mail is first returned to the commissioner, and the commissioner shall certify the notice or order, if applicable, to the attorney general for collection under section 131.02 of the Revised Code.

(b) Notwithstanding certification to the attorney general under division (B)(1)(a) of this section, once the commissioner or attorney general, or the designee of either, makes an initial contact with the person to whom the notice or order is directed, the person may protest an assessment by filing a petition for reassessment within sixty days after the initial contact. The certification of an assessment under division (B)(1)(a) of this section is prima-facie evidence that delivery is complete and that the notice or order is served.

(2) If mailing of a notice or order by certified mail is returned for some cause other than an undeliverable address or if a person does not access an electronic notice or order within the time provided in division (F) of this section, the commissioner shall resend the notice or order by ordinary mail. The notice or order shall show the date the commissioner sends the notice or

order and include the following statement:

"This notice or order is deemed to be served on the addressee under applicable law ten days from the date this notice or order was mailed by the commissioner as shown on the notice or order, and all periods within which an appeal may be filed apply from and after that date."

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima-facie evidence that delivery of the notice or order was completed ten days after the commissioner sent the notice or order by ordinary mail and that the notice or order was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the commissioner shall proceed under division (B)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (C) of this section.

(C)(1) A person disputing the presumption of delivery and service under division (B) of this section bears the burden of proving by a preponderance of the evidence that the address to which the notice or order was sent was not an address with which the person was associated at the time the commissioner originally mailed the notice or order by certified mail. For the purposes of this section, a person is associated with an address at the time the commissioner originally mailed the notice or order if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the notice or order was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the notice or order was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If the person elects to protest an assessment certified to the attorney general for collection, the person must do so within sixty days after the attorney general's initial contact with the person. The attorney general may enter into a compromise with the person under sections 131.02 and 5703.06 of the Revised Code if the person does not file a petition for reassessment with the commissioner.

(D) Nothing in this section prohibits the commissioner or the commissioner's designee from delivering a notice or order by personal service.

(E) Collection actions taken pursuant to section 131.02 of the Revised Code upon any assessment being challenged under division (B)(1)(b) of this section shall be stayed upon the pendency of an appeal under this section. If

a petition for reassessment is filed pursuant to this section on a claim that has been certified to the attorney general for collection, the claim shall be uncertified.

(F) The commissioner may serve a notice or order upon the person affected by the notice or order through secure electronic means only with the person's consent. The commissioner must inform the recipient, electronically or by mail, that a notice or order is available for electronic review and provide instructions to access and print the notice or order. The recipient's electronic access of the notice or order satisfies the requirements for delivery under this section. If the recipient fails to access the notice or order electronically within ten business days, then the commissioner shall inform the recipient a second time, electronically or by mail, that a notice or order is available for electronic review and provide instructions to access and print the notice or order. If the recipient fails to access the notice or order electronically within ten business days of the second notification, the notice or order shall be served upon the person through ~~one of~~ the means provided in division ~~(A)(1)~~(B)(2) of this section.

(G) As used in this section:

(1) "Last known address" means the address the department has at the time the document is originally sent by certified mail, or any address the department can ascertain using reasonable means such as the use of a change of address service offered by the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code.

(2) "Undeliverable address" means an address to which the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code is not able to deliver a notice or order, except when the reason for nondelivery is because the addressee fails to acknowledge or accept the notice or order.

Sec. 5703.50. As used in sections 5703.50 to 5703.53 of the Revised Code:

(A) "Tax" includes only those taxes imposed on tangible personal property listed in accordance with Chapter 5711. of the Revised Code and taxes imposed under Chapters 5733., 5736., 5739., 5741., 5747., and 5751. of the Revised Code.

(B) "Taxpayer" means a person subject to or potentially subject to a tax including an employer required to deduct and withhold any amount under section 5747.06 of the Revised Code.

(C) "Audit" means the examination of a taxpayer or the inspection of the books, records, memoranda, or accounts of a taxpayer for the purpose of determining liability for a tax.

(D) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to section 5711.26, 5711.32, 5733.11, 5736.09, 5739.13, 5741.11, 5741.13, 5747.13, or 5751.09 of the Revised Code.

(E) "County auditor" means the auditor of the county in which the tangible personal property subject to a tax is located.

Sec. 5703.70. (A) On the filing of an application for refund under section 3734.905, 4307.05, 4307.07, 5726.30, 5727.28, 5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5735.18, 5736.08, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 5743.53, 5749.08, 5751.08, or 5753.06 of the Revised Code, or an application for compensation under section 5739.061 of the Revised Code, if the tax commissioner determines that the amount of the refund or compensation to which the applicant is entitled is less than the amount claimed in the application, the commissioner shall give the applicant written notice by ordinary mail of the amount. The notice shall be sent to the address shown on the application unless the applicant notifies the commissioner of a different address. The applicant shall have sixty days from the date the commissioner mails the notice to provide additional information to the commissioner or request a hearing, or both.

(B) If the applicant neither requests a hearing nor provides additional information to the tax commissioner within the time prescribed by division (A) of this section, the commissioner shall take no further action, and the refund or compensation amount denied becomes final.

(C)(1) If the applicant requests a hearing within the time prescribed by division (A) of this section, the tax commissioner shall assign a time and place for the hearing and notify the applicant of such time and place, but the commissioner may continue the hearing from time to time as necessary. After the hearing, the commissioner may make such adjustments to the refund or compensation as the commissioner finds proper, and shall issue a final determination thereon.

(2) If the applicant does not request a hearing, but provides additional information, within the time prescribed by division (A) of this section, the commissioner shall review the information, make such adjustments to the refund or compensation as the commissioner finds proper, and issue a final determination thereon.

(3) The commissioner shall serve a copy of the final determination made under division (C)(1) or (2) of this section on the applicant in the manner provided in section 5703.37 of the Revised Code, and the decision is final, subject to appeal under section 5717.02 of the Revised Code.

(D) The tax commissioner shall certify to the director of budget and

management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code, the amount of the refund to be refunded under division (B) or (C) of this section. The commissioner also shall certify to the director and treasurer of state for payment from the general revenue fund the amount of compensation to be paid under division (B) or (C) of this section.

Sec. 5703.75. This section applies to any tax payable to the state and administered by the tax commissioner. If the total amount of any such tax shown to be due on a return, amended return, or notice does not exceed one dollar, the taxpayer shall not be required to remit the amount due. If the total amount of a taxpayer's overpayment of any such tax does not exceed one dollar, the tax commissioner shall not be required to refund the overpayment.

Sec. 5703.76. Any payment or distribution of money that the tax commissioner is required by law to make to a political subdivision of this state, an officer thereof, or a political party shall be made by electronic funds transfer. The commissioner shall promulgate any rules necessary to administer this section.

Sec. 5703.82. ~~(A)~~ Not later than April 1, 2009, the department of taxation shall acquire the necessary hardware, software, and services to establish and implement a tax discovery data system to increase the efficiency of tax collections in the state. The system must be fully integrated and pre-staged for the purposes of assisting in revenue analysis, discovering noncompliant taxpayers, and collecting taxes from those taxpayers. The system shall consolidate tax data from various mainframe systems and operate as a single tax discovery data system. The department shall contract, pursuant to a competitive bidding process, for the necessary hardware, software, and services to implement the tax discovery data system.

~~(B) There is hereby created in the state treasury the discovery project fund. All money to the credit of the fund shall be used to pay the costs of implementing and operating the tax discovery data system and to defray the costs incurred by the department of taxation in administering the system.~~

~~(C) Beginning July 1, 2009, on or before the first day of January, April, July, and October of each calendar year, the tax commissioner shall determine and certify to the director of budget and management the amount needed to pay the costs of operating the tax discovery data system in the previous calendar quarter and the costs incurred in the previous calendar quarter by the department of taxation in administering the system. The director shall provide for payment from the general revenue fund to the discovery project fund of the amount so certified.~~

Sec. 5703.90. If any tax administered by the tax commissioner remains unpaid after the date the tax is due, the commissioner may issue an assessment for the unpaid tax, and for any related penalties and interest, against any person liable for the amount due, including, but not limited to, a person that is jointly and severally liable for the amount under Chapter 5726. or 5751. of the Revised Code, a partner liable for the tax liability of a partnership, a director liable for the tax liability of a dissolved corporation, or any other person liable for the tax liability of another person under the Revised Code. The commissioner shall issue the assessment in accordance with any other provision of the Revised Code applicable to assessments for the tax for which the person to be assessed is liable.

Sec. 5703.91. (A) If any corporation, wherever organized, that is required by law to file any report or return or to pay any tax or fee as a corporation organized under the laws of the state for profit, or as a foreign corporation for profit doing business in this state or owning or issuing a part or all of its capital or property in this state, fails to file the required report or return or to pay the required tax or fee for ninety days after the time prescribed by law for filing or payment, the tax commissioner shall certify the failure with the secretary of state.

(B) The secretary of state, after receiving certification of a corporation's failure to file a report or return or to pay a tax or fee as described in division (A) of this section, shall do one of the following:

(1) Cancel, by appropriate entry, the articles of incorporation of the corporation upon the margin of the relevant record;

(2) If the corporation is a foreign corporation, cancel, by proper entry, the certificate of authority to do business in this state of the foreign corporation.

Subject to section 1701.88 of the Revised Code, upon cancellation, all the powers, privileges, and franchises conferred on the corporation by articles of incorporation or a certificate of authority shall cease.

(C) The secretary of state, upon canceling articles of incorporation or a certificate of authority pursuant to division (B) of this section, shall immediately notify the affected corporation of the cancellation action and shall forward for filing a certificate of the action to the county recorder of the county in which the corporation's principal place of business in this state is located. No filing fee shall be charged for the filing.

Sec. 5703.92. No person shall exercise or attempt to exercise any powers, privileges, or franchises under the articles of incorporation or certificate of authority of a corporation after the articles or certificate has been canceled as provided in section 5703.91 of the Revised Code. A

penalty of one hundred dollars shall be imposed for each day a violation of this section occurs, up to a maximum of five thousand dollars.

Sec. 5703.93. (A)(1) Any corporation whose articles of incorporation or license certificate to do or transact business in this state has been canceled by the secretary of state pursuant to section 5703.91 of the Revised Code shall be reinstated and entitled to exercise its rights, privileges, and franchises in this state, and the secretary of state shall cancel the entry of cancellation to exercise its rights, privileges, and franchises, upon compliance with all of the following:

(a) Payment to the secretary of state of any additional required fees and penalties;

(b) Filing with the secretary of state a certificate from the tax commissioner affirming that the corporation has complied with all the requirements of the tax law as to all the taxes administered by the commissioner and has paid all taxes, fees, or penalties due for every year of delinquency;

(c) Payment to the secretary of state of an additional fee of twenty-five dollars.

(2) The secretary of state shall require, as a condition prerequisite to reinstatement, an applicant to amend its articles by changing its name if both of the following apply:

(a) The reinstatement is not made within one year from the date of the cancellation of its articles of incorporation or date of cancellation of its license to do business.

(b) It appears that the applicant's name is not distinguishable upon the record as required by section 1701.05 of the Revised Code.

(3) A certificate of reinstatement may be filed in the recorder's office of any county in the state. The recorder shall charge and collect a base fee of three dollars for services and a low- and moderate-income housing trust fund fee of three dollars in accordance with section 317.36 of the Revised Code.

(4) Any officer, shareholder, creditor, or receiver of any corporation described in divisions (A)(1) and (2) of this section may at any time take all steps required by this section to effect such reinstatement.

(B) Except as otherwise provided in this section, the rights, privileges, and franchises of a corporation whose articles of incorporation have been reinstated in accordance with this section are subject to section 1701.922 of the Revised Code.

(C) Notwithstanding a violation of section 5703.92 of the Revised Code, upon reinstatement of a corporation's articles of incorporation in accordance

with this section, neither section 5703.91 nor section 5703.92 of the Revised Code shall be applied to invalidate the exercise or attempt to exercise any right, privilege, or franchise on behalf of the corporation by an officer, agent, or employee of the corporation after cancellation and prior to the reinstatement of the articles, if the conditions set forth in divisions (B)(1)(a) and (b) of section 1701.922 of the Revised Code are met.

Sec. 5705.01. As used in this chapter:

(A) "Subdivision" means any county; municipal corporation; township; township police district; joint police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention facility district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2152.41 and 2151.65 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a lake facilities authority created under Chapter 353. of the Revised Code; a union cemetery district; a county school financing district; a city, local, exempted village, cooperative education, or joint vocational school district; or a regional student education district created under section 3313.83 of the Revised Code.

(B) "Municipal corporation" means all municipal corporations, including those that have adopted a charter under Article XVIII, Ohio Constitution.

(C) "Taxing authority" or "bond issuing authority" means, in the case of any county, the board of county commissioners; in the case of a municipal corporation, the council or other legislative authority of the municipal corporation; in the case of a city, local, exempted village, cooperative education, or joint vocational school district, the board of education; in the case of a community college district, the board of trustees of the district; in the case of a technical college district, the board of trustees of the district; in the case of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the joint board of county commissioners of the district; in the case of a township, the board of township trustees; in the case of a joint police district, the joint police district board; in the case of a joint fire district, the board of fire district trustees; in the case of a joint recreation district, the joint recreation district board of trustees; in the case of a joint-county alcohol, drug addiction, and mental health service district, the district's board of alcohol, drug addiction,

and mental health services; in the case of a joint ambulance district or a fire and ambulance district, the board of trustees of the district; in the case of a union cemetery district, the legislative authority of the municipal corporation and the board of township trustees, acting jointly as described in section 759.341 of the Revised Code; in the case of a drainage improvement district, the board of county commissioners of the county in which the drainage district is located; in the case of a lake facilities authority, the board of directors; in the case of a joint emergency medical services district, the joint board of county commissioners of all counties in which all or any part of the district lies; and in the case of a township police district, a township fire district, a township road district, or a township waste disposal district, the board of township trustees of the township in which the district is located. "Taxing authority" also means the educational service center governing board that serves as the taxing authority of a county school financing district as provided in section 3311.50 of the Revised Code, and the board of directors of a regional student education district created under section 3313.83 of the Revised Code.

(D) "Fiscal officer" in the case of a county, means the county auditor; in the case of a municipal corporation, the city auditor or village clerk, or an officer who, by virtue of the charter, has the duties and functions of the city auditor or village clerk, except that in the case of a municipal university the board of directors of which have assumed, in the manner provided by law, the custody and control of the funds of the university, the chief accounting officer of the university shall perform, with respect to the funds, the duties vested in the fiscal officer of the subdivision by sections 5705.41 and 5705.44 of the Revised Code; in the case of a school district, the treasurer of the board of education; in the case of a county school financing district, the treasurer of the educational service center governing board that serves as the taxing authority; in the case of a township, the township fiscal officer; in the case of a joint police district, the treasurer of the district; in the case of a joint fire district, the clerk of the board of fire district trustees; in the case of a joint ambulance district, the clerk of the board of trustees of the district; in the case of a joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code; in the case of a fire and ambulance district, the person appointed as fiscal officer pursuant to division (B) of section 505.375 of the Revised Code; in the case of a joint recreation district, the person designated pursuant to section 755.15 of the Revised Code; in the case of a union cemetery district, the clerk of the municipal corporation designated in section 759.34 of the Revised Code; in the case of a children's home district,

educational service center, general health district, joint-county alcohol, drug addiction, and mental health service district, county library district, detention facility district, district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a metropolitan park district for which no treasurer has been appointed pursuant to section 1545.07 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district; in the case of a metropolitan park district which has appointed a treasurer pursuant to section 1545.07 of the Revised Code, that treasurer; in the case of a drainage improvement district, the auditor of the county in which the drainage improvement district is located; in the case of a lake facilities authority, the fiscal officer designated under section 353.02 of the Revised Code; in the case of a regional student education district, the fiscal officer appointed pursuant to section 3313.83 of the Revised Code; and in all other cases, the officer responsible for keeping the appropriation accounts and drawing warrants for the expenditure of the moneys of the district or taxing unit.

(E) "Permanent improvement" or "improvement" means any property, asset, or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and reconstructions, enlargements, and extensions thereof having an estimated life or usefulness of five years or more.

(F) "Current operating expenses" and "current expenses" mean the lawful expenditures of a subdivision, except those for permanent improvements, and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.

(G) "Debt charges" means interest, sinking fund, and retirement charges on bonds, notes, or certificates of indebtedness.

(H) "Taxing unit" means any subdivision or other governmental district having authority to levy taxes on the property in the district or issue bonds that constitute a charge against the property of the district, including conservancy districts, metropolitan park districts, sanitary districts, road districts, and other districts.

(I) "District authority" means any board of directors, trustees, commissioners, or other officers controlling a district institution or activity that derives its income or funds from two or more subdivisions, such as the educational service center, the trustees of district children's homes, the district board of health, a joint-county alcohol, drug addiction, and mental health service district's board of alcohol, drug addiction, and mental health

services, detention facility districts, a joint recreation district board of trustees, districts organized under section 2151.65 of the Revised Code, combined districts organized under sections 2152.41 and 2151.65 of the Revised Code, and other such boards.

(J) "Tax list" and "tax duplicate" mean the general tax lists and duplicates prescribed by sections 319.28 and 319.29 of the Revised Code.

(K) "Property" as applied to a tax levy means taxable property listed on general tax lists and duplicates.

(L) "Association library district" means a territory, the boundaries of which are defined by the state library board pursuant to division (I) of section 3375.01 of the Revised Code, in which a library association or private corporation maintains a free public library.

(M) "Library district" means a territory, the boundaries of which are defined by the state library board pursuant to section 3375.01 of the Revised Code, in which the board of trustees of a county, municipal corporation, school district, or township public library maintains a free public library.

(N) "Qualifying library levy" means either of the following:

(1) A levy for the support of a library association or private corporation that has an association library district with boundaries that are not identical to those of a subdivision;

(2) A levy proposed under section 5705.23 of the Revised Code for the support of the board of trustees of a public library that has a library district with boundaries that are not identical to those of a subdivision.

(O) "School library district" means a school district in which a free public library has been established that is under the control and management of a board of library trustees as provided in section 3375.15 of the Revised Code.

Sec. 5705.10. (A) All revenue derived from the general levy for current expense within the ten-mill limitation, from any general levy for current expense authorized by vote in excess of the ten-mill limitation, and from sources other than the general property tax, unless its use for a particular purpose is prescribed by law, shall be paid into the general fund.

(B) All revenue derived from general or special levies for debt charges, whether within or in excess of the ten-mill limitation, which is levied for the debt charges on serial bonds, notes, or certificates of indebtedness having a life less than five years, shall be paid into the bond retirement fund; and all such revenue which is levied for the debt charges on all other bonds, notes, or certificates of indebtedness shall be paid into the sinking fund.

(C) All revenue derived from a special levy shall be credited to a special fund for the purpose for which the levy was made.

(D) Except as otherwise provided by resolution adopted pursuant to section 3315.01 of the Revised Code, all revenue derived from a source other than the general property tax and which the law prescribes shall be used for a particular purpose, shall be paid into a special fund for such purpose. Except as otherwise provided by resolution adopted pursuant to section 3315.01 of the Revised Code or as otherwise provided by section 3315.40 of the Revised Code, all revenue derived from a source other than the general property tax, for which the law does not prescribe use for a particular purpose, including interest earned on the principal of any special fund, regardless of the source or purpose of the principal, shall be paid into the general fund.

(E) All proceeds from the sale of public obligations or fractionalized interests in public obligations as defined in section 133.01 of the Revised Code, except premium and accrued interest, shall be paid into a special fund for the purpose of such issue, and any interest and other income earned on money in such special fund may be used for the purposes for which the indebtedness was authorized or may be credited to the general fund or other fund or account as the taxing authority authorizes and used for the purposes of that fund or account. The premium and accrued interest received from such sale shall be paid into the sinking fund or the bond retirement fund of the subdivision.

(F) Except as provided in ~~division~~ divisions (G) and (H) of this section, if a permanent improvement of the subdivision is sold, the amount received from the sale shall be paid into the sinking fund, the bond retirement fund, or a special fund for the construction or acquisition of permanent improvements; provided that the proceeds from the sale of a public utility shall be paid into the sinking fund or bond retirement fund to the extent necessary to provide for the retirement of the outstanding indebtedness incurred in the construction or acquisition of such utility. Proceeds from the sale of property other than a permanent improvement shall be paid into the fund from which such property was acquired or is maintained or, if there is no such fund, into the general fund.

(G) A township that has a population greater than fifteen thousand according to the most recent federal decennial census and that has declared one or more improvements in the township to be a public purpose under section 5709.73 of the Revised Code may pay proceeds from the sale of a permanent improvement of the township into its general fund if both of the following conditions are satisfied:

(1) The township fiscal officer determines that all foreseeable public infrastructure improvements, as defined in section 5709.40 of the Revised

Code, to be made in the township in the ten years immediately following the date the permanent improvement is sold will have been financed through resolutions adopted under section 5709.73 of the Revised Code on or before the date of the sale. The fiscal officer shall provide written certification of this determination for the township's records.

(2) The permanent improvement being sold was financed entirely from moneys in the township's general fund.

(H) If a board of education of a school district disposes of real property under section 3313.41 of the Revised Code, the proceeds received from the sale shall be used to retire any debt that was incurred by the district with respect to that real property. Proceeds in excess of the funds necessary to retire that debt may be paid into the school district's capital and maintenance fund and used only to pay for the costs of nonoperating capital expenses related to technology infrastructure and equipment to be used for instruction and assessment.

(I) Money paid into any fund shall be used only for the purposes for which such fund is established.

Sec. 5705.19. This section does not apply to school districts ~~or~~ county school financing districts, or lake facilities authorities.

The taxing authority of any subdivision at any time and in any year, by vote of two-thirds of all the members of the taxing authority, may declare by resolution and certify the resolution to the board of elections not less than ninety days before the election upon which it will be voted that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision and that it is necessary to levy a tax in excess of that limitation for any of the following purposes:

(A) For current expenses of the subdivision, except that the total levy for current expenses of a detention facility district or district organized under section 2151.65 of the Revised Code shall not exceed two mills and that the total levy for current expenses of a combined district organized under sections 2151.65 and 2152.41 of the Revised Code shall not exceed four mills;

(B) For the payment of debt charges on certain described bonds, notes, or certificates of indebtedness of the subdivision issued subsequent to January 1, 1925;

(C) For the debt charges on all bonds, notes, and certificates of indebtedness issued and authorized to be issued prior to January 1, 1925;

(D) For a public library of, or supported by, the subdivision under whatever law organized or authorized to be supported;

(E) For a municipal university, not to exceed two mills over the limitation of one mill prescribed in section 3349.13 of the Revised Code;

(F) For the construction or acquisition of any specific permanent improvement or class of improvements that the taxing authority of the subdivision may include in a single bond issue;

(G) For the general construction, reconstruction, resurfacing, and repair of streets, roads, and bridges in municipal corporations, counties, or townships;

(H) For parks and recreational purposes;

(I) For the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph, or the payment of firefighting companies or permanent, part-time, or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, or the purchase of ambulance equipment, or the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company;

(J) For the purpose of providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, or the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.33 of the Revised Code, or the payment of the costs incurred by townships as a result of contracts made with other political subdivisions in order to obtain police protection, or the provision of ambulance or emergency medical services operated by a police department;

(K) For the maintenance and operation of a county home or detention facility;

(L) For community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code, except that the procedure for such levies shall be as provided in section 5705.222 of the Revised Code;

(M) For regional planning;

(N) For a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the

Revised Code or both of those sections;

(O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods;

(P) For maintaining and operating sewage disposal plants and facilities;

(Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;

(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;

(S) For the prevention, control, and abatement of air pollution;

(T) For maintaining and operating cemeteries;

(U) For providing ambulance service, emergency medical service, or both;

(V) For providing for the collection and disposal of garbage or refuse, including yard waste;

(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;

(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;

(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;

(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;

(AA) For the maintenance and operation of a free public museum of art, science, or history;

(BB) For the establishment and operation of a 9-1-1 system, as defined in section ~~5507.04~~ 128.01 of the Revised Code;

(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.

(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the

Revised Code;

(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such operations and expenses;

(FF) For the purpose of acquiring, establishing, constructing, improving, equipping, maintaining, or operating, or any combination of the foregoing, a township airport, landing field, or other air navigation facility pursuant to section 505.15 of the Revised Code;

(GG) For the payment of costs incurred by a township as a result of a contract made with a county pursuant to section 505.263 of the Revised Code in order to pay all or any part of the cost of constructing, maintaining, repairing, or operating a water supply improvement;

(HH) For a board of township trustees to acquire, other than by appropriation, an ownership interest in land, water, or wetlands, or to restore or maintain land, water, or wetlands in which the board has an ownership interest, not for purposes of recreation, but for the purposes of protecting and preserving the natural, scenic, open, or wooded condition of the land, water, or wetlands against modification or encroachment resulting from occupation, development, or other use, which may be styled as protecting or preserving "greenspace" in the resolution, notice of election, or ballot form. Except as otherwise provided in this division, land is not acquired for purposes of recreation, even if the land is used for recreational purposes, so long as no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. Except as otherwise provided in this division, land that previously has been acquired in a township for these greenspace purposes may subsequently be used for recreational purposes if the board of township trustees adopts a resolution approving that use and no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. The authorization to use greenspace land for recreational use does not apply to land located in a township that had a population, at the time it passed its first greenspace levy, of more than thirty-eight thousand within a county that had a population, at that time, of at least eight hundred sixty thousand.

(II) For the support by a county of a crime victim assistance program that is provided and maintained by a county agency or a private, nonprofit

corporation or association under section 307.62 of the Revised Code;

(JJ) For any or all of the purposes set forth in divisions (I) and (J) of this section. This division applies only to a township.

(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties.

(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code;

(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code;

(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold, and the operating expenses of, agricultural fairs operated by a county agricultural society or independent agricultural society under Chapter 1711. of the Revised Code. This division applies only to a county.

(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements;

(PP) For both of the purposes set forth in divisions (G) and (OO) of this section.

(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township.

(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements.

(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county.

(TT) For the maintenance and operation of a facility that is organized in whole or in part to promote the sciences and natural history under section 307.761 of the Revised Code.

(UU) For the creation and operation of a county land reutilization corporation and for any programs or activities of the corporation found by the board of directors of the corporation to be consistent with the purposes for which the corporation is organized;

(VV) For construction and maintenance of improvements and expenses of soil and water conservation district programs under Chapter 1515. of the Revised Code;

(WW) For the ~~Ohio cooperative~~ OSU extension ~~service~~ fund created under section 3335.35 of the Revised Code for the purposes prescribed

under section 3335.36 of the Revised Code for the benefit of the citizens of a county. This division applies only to a county.

(XX) For a municipal corporation that withdraws or proposes by resolution to withdraw from a regional transit authority under section 306.55 of the Revised Code to provide transportation services for the movement of persons within, from, or to the municipal corporation;

(YY) For any combination of the purposes specified in divisions (NN), (VV), and (WW) of this section. This division applies only to a county.

The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue derived therefrom shall be applied. The existence in any other division of this section of authority to levy a tax for any part or all of the same purpose or purposes does not preclude the use of such revenues for any part of the purpose or purposes of the division under which the resolution is adopted.

The resolution shall specify the amount of the increase in rate that it is necessary to levy, the purpose of that increase in rate, and the number of years during which the increase in rate shall be in effect, which may or may not include a levy upon the duplicate of the current year. The number of years may be any number not exceeding five, except as follows:

(1) When the additional rate is for the payment of debt charges, the increased rate shall be for the life of the indebtedness.

(2) When the additional rate is for any of the following, the increased rate shall be for a continuing period of time:

(a) For the current expenses for a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2151.65 and 2152.41 of the Revised Code;

(b) For providing a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or under both of those sections.

(3) When the additional rate is for either of the following, the increased rate may be for a continuing period of time:

(a) For the purposes set forth in division (I), (J), (U), or (KK) of this section;

(b) For the maintenance and operation of a joint recreation district.

(4) When the increase is for the purpose or purposes set forth in division (D), (G), (H), (CC), or (PP) of this section, the tax levy may be for any specified number of years or for a continuing period of time, as set forth in the resolution.

(5) When the additional rate is for the purpose described in division (Z)

of this section, the increased rate shall be for any number of years not exceeding ten.

A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may be reduced pursuant to section 5705.261 or 5705.31 of the Revised Code. A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may also be terminated or permanently reduced by the taxing authority if it adopts a resolution stating that the continuance of the levy is unnecessary and the levy shall be terminated or that the millage is excessive and the levy shall be decreased by a designated amount.

A resolution of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under both sections 2151.65 and 2152.41 of the Revised Code may include both current expenses and other purposes, provided that the resolution shall apportion the annual rate of levy between the current expenses and the other purpose or purposes. The apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for the current expenses and the other purpose or purposes shall be limited by the apportionment.

Whenever a board of county commissioners, acting either as the taxing authority of its county or as the taxing authority of a sewer district or subdistrict created under Chapter 6117. of the Revised Code, by resolution declares it necessary to levy a tax in excess of the ten-mill limitation for the purpose of constructing, improving, or extending sewage disposal plants or sewage systems, the tax may be in effect for any number of years not exceeding twenty, and the proceeds of the tax, notwithstanding the general provisions of this section, may be used to pay debt charges on any obligations issued and outstanding on behalf of the subdivision for the purposes enumerated in this paragraph, provided that any such obligations have been specifically described in the resolution.

A resolution adopted by the legislative authority of a municipal corporation that is for the purpose in division (XX) of this section may be combined with the purpose provided in section 306.55 of the Revised Code, by vote of two-thirds of all members of the legislative authority. The legislative authority may certify the resolution to the board of elections as a combined question. The question appearing on the ballot shall be as provided in section 5705.252 of the Revised Code.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election.

When the electors of a subdivision or, in the case of a qualifying library

levy for the support of a library association or private corporation, the electors of the association library district, have approved a tax levy under this section, the taxing authority of the subdivision may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

Sec. 5705.192. (A) For the purposes of this section only, "taxing authority" includes a township board of park commissioners appointed under section 511.18 of the Revised Code.

(B) A taxing authority may propose to replace an existing levy that the taxing authority is authorized to levy, regardless of the section of the Revised Code under which the authority is granted, except a school district emergency levy proposed pursuant to sections 5705.194 to 5705.197 of the Revised Code. The taxing authority may propose to replace the existing levy in its entirety at the rate at which it is authorized to be levied; may propose to replace a portion of the existing levy at a lesser rate; or may propose to replace the existing levy in its entirety and increase the rate at which it is levied. If the taxing authority proposes to replace an existing levy, the proposed levy shall be called a replacement levy and shall be so designated on the ballot. Except as otherwise provided in this division, a replacement levy shall be limited to the purpose of the existing levy, and shall appear separately on the ballot from, and shall not be conjoined with, the renewal of any other existing levy. In the case of an existing school district levy imposed under section 5705.21 of the Revised Code for the purpose specified in division (F) of section 5705.19 of the Revised Code, or in the case of an existing school district levy imposed under section 5705.217 of the Revised Code for the acquisition, construction, enlargement, renovation, and financing of permanent improvements, the replacement for that existing levy may be for the same purpose or for the purpose of general permanent improvements as defined in section 5705.21 of the Revised Code.

The resolution proposing a replacement levy shall specify the purpose of the levy; its proposed rate expressed in mills; whether the proposed rate is the same as the rate of the existing levy, a reduction, or an increase; the extent of any reduction or increase expressed in mills; the first calendar year in which the levy will be due; and the term of the levy, expressed in years or, if applicable, that it will be levied for a continuing period of time.

The sections of the Revised Code governing the maximum rate and term of the existing levy, the contents of the resolution that proposed the levy, the adoption of the resolution, the arrangements for the submission of the question of the levy, and notice of the election also govern the respective provisions of the proposal to replace the existing levy, except as provided in

divisions (B)(1) to (3) of this section:

(1) In the case of an existing school district levy that is imposed under section 5705.21 of the Revised Code for the purpose specified in division (F) of section 5705.19 of the Revised Code or under section 5705.217 of the Revised Code for the acquisition, construction, enlargement, renovation, and financing of permanent improvements, and that is to be replaced by a levy for general permanent improvements, the maximum term of the replacement levy is not limited to the term of the existing levy and may be for a continuing period of time.

(2) The date on which the election is held shall be as follows:

(a) For the replacement of a levy with a fixed term of years, the date of the general election held during the last year the existing levy may be extended on the real and public utility property tax list and duplicate, or the date of any election held in the ensuing year;

(b) For the replacement of a levy imposed for a continuing period of time, the date of any election held in any year after the year the levy to be replaced is first approved by the electors, except that only one election on the question of replacing the levy may be held during any calendar year.

The failure by the electors to approve a proposal to replace a levy imposed for a continuing period of time does not terminate the existing continuing levy.

(3) In the case of an existing school district levy imposed under division (B) of section 5705.21, division (C) of section 5705.212, or division (J) of section 5705.218 of the Revised Code, the rates allocated to the municipal school district and to partnering community schools each may be increased or decreased or remain the same, and the total rate may be increased, decreased, or remain the same.

(C) The form of the ballot at the election on the question of a replacement levy shall be as follows:

"A replacement of a tax for the benefit of (name of subdivision or public library) for the purpose of (the purpose stated in the resolution) at a rate not exceeding mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars in valuation, for (number of years levy is to run, or that it will be levied for a continuous period of time)

	FOR THE TAX LEVY	"
	AGAINST THE TAX LEVY	

If the replacement levy is proposed by a municipal school district to replace an existing tax levied under division (B) of section 5705.21, division (C)(1) of section 5705.212, or division (J) of section 5705.218 of the Revised Code, the form of the ballot shall be modified by adding, after the phrase "each one dollar of valuation," the following: "(of which mills is to be allocated to partnering community schools)."

If the proposal is to replace an existing levy and increase the rate of the existing levy, the form of the ballot shall be changed by adding the words "..... mills of an existing levy and an increase of mills, to constitute" after the words "a replacement of." If the proposal is to replace only a portion of an existing levy, the form of the ballot shall be changed by adding the words "a portion of an existing levy, being a reduction of mills, to constitute" after the words "a replacement of." If the existing levy is imposed under division (B) of section 5705.21, division (C)(1) of section 5705.212, or division (J) of section 5705.218 of the Revised Code, the form of the ballot also shall state the portion of the total increased rate or of the total rate as reduced that is to be allocated to partnering community schools.

If the tax is to be placed on the tax list of the current tax year, the form of the ballot shall be modified by adding at the end of the form the phrase ", commencing in (first year the replacement tax is to be levied), first due in calendar year (first calendar year in which the tax shall be due)."

The question covered by the resolution shall be submitted as a separate proposition, but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers. More than one such question may be submitted at the same election.

(D) Two existing levies, or any portion of those levies, may be combined into one replacement levy, so long as both of the existing levies are for the same purpose and either both are due to expire the same year or both are for a continuing period of time. The question of combining all or portions of the two existing levies into the replacement levy shall appear as one ballot proposition before the electors. If the electors approve the ballot proposition, all or the stated portions of the two existing levies are replaced by one replacement levy.

(E) A levy approved in excess of the ten-mill limitation under this section shall be certified to the tax commissioner. In the first year of a levy approved under this section, the levy shall be extended on the tax lists after the February settlement succeeding the election at which the levy was approved. If the levy is to be placed on the tax lists of the current year, as

specified in the resolution providing for its submission, the result of the election shall be certified immediately after the canvass by the board of elections to the taxing authority, which shall forthwith make the necessary levy and certify it to the county auditor, who shall extend it on the tax lists for collection. After the first year, the levy shall be included in the annual tax budget that is certified to the county budget commission.

If notes are authorized to be issued in anticipation of the proceeds of the existing levy, notes may be issued in anticipation of the proceeds of the replacement levy, and such issuance is subject to the terms and limitations governing the issuance of notes in anticipation of the proceeds of the existing levy.

(F) This section does not authorize a tax to be levied in any year after the year in which revenue is not needed for the purpose for which the tax is levied.

Sec. 5705.21. (A) At any time, the board of education of any city, local, exempted village, cooperative education, or joint vocational school district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the school district, that it is necessary to levy a tax in excess of such limitation for one of the purposes specified in division (A), (D), (F), (H), or (DD) of section 5705.19 of the Revised Code, for general permanent improvements, for the purpose of operating a cultural center, for the purpose of providing for school safety and security, or for the purpose of providing education technology, and that the question of such additional tax levy shall be submitted to the electors of the school district at a special election on a day to be specified in the resolution. In the case of a qualifying library levy for the support of a library association or private corporation, the question shall be submitted to the electors of the association library district. If the resolution states that the levy is for the purpose of operating a cultural center, the ballot shall state that the levy is "for the purpose of operating the (name of cultural center)."

As used in this division, "cultural center" means a freestanding building, separate from a public school building, that is open to the public for educational, musical, artistic, and cultural purposes; "education technology" means, but is not limited to, computer hardware, equipment, materials, and accessories, equipment used for two-way audio or video, and software; and "general permanent improvements" means permanent improvements without regard to the limitation of division (F) of section 5705.19 of the

Revised Code that the improvements be a specific improvement or a class of improvements that may be included in a single bond issue.

A resolution adopted under this division shall be confined to a single purpose and shall specify the amount of the increase in rate that it is necessary to levy, the purpose of the levy, and the number of years during which the increase in rate shall be in effect. The number of years may be any number not exceeding five or, if the levy is for current expenses of the district or for general permanent improvements, for a continuing period of time.

(B)(1) The board of education of a municipal school district, by resolution, may declare that it is necessary to levy a tax in excess of the ten-mill limitation for the purpose of paying the current expenses of the district and of partnering community schools and that the question of the additional tax levy shall be submitted to the electors of the school district at a special election on a day to be specified in the resolution. The resolution shall state the purpose of the levy, the rate of the tax expressed in mills per dollar of taxable value, the number of such mills to be levied for the current expenses of the partnering community schools and the number of such mills to be levied for the current expenses of the school district, the number of years the tax will be levied, and the first year the tax will be levied. The number of years the tax may be levied may be any number not exceeding ten years, or for a continuing period of time.

The levy of a tax for the current expenses of a partnering community school under this section and the distribution of proceeds from the tax by a municipal school district to partnering community schools is hereby determined to be a proper public purpose.

(2) The form of the ballot at an election held pursuant to division (B) of this section shall be as follows:

"Shall a levy be imposed by the (insert the name of the municipal school district) for the purpose of current expenses of the school district and of partnering community schools at a rate not exceeding (insert the number of mills) mills for each one dollar of valuation (of which (insert the number of mills to be allocated to partnering community schools) mills is to be allocated to partnering community schools), which amounts to (insert the rate expressed in dollars and cents) for each one hundred dollars of valuation, for (insert the number of years the levy is to be imposed, or that it will be levied for a continuing period of time), beginning (insert first year the tax is to be levied), which will first be payable in calendar year (insert the first calendar year in which the tax would be payable)?

	FOR THE TAX LEVY	"
	AGAINST THE TAX LEVY	

(3) Upon each receipt of a tax distribution by the municipal school district, the board of education shall credit the portion allocated to partnering community schools to the partnering community schools fund. All income from the investment of money in the partnering community schools fund shall be credited to that fund.

Not more than forty-five days after the municipal school district receives and deposits each tax distribution, the board of education shall distribute the partnering community schools amount among the then qualifying community schools. From each tax distribution, each such partnering community school shall receive a portion of the partnering community schools amount in the proportion that the number of its resident students bears to the aggregate number of resident students of all such partnering community schools as of the date of receipt and deposit of the tax distribution. For the purposes of this division, the number of resident students shall be the number of such students reported under section 3317.03 of the Revised Code and established by the department of education as of the date of receipt and deposit of the tax distribution.

(4) To the extent an agreement whereby the municipal school district and a community school endorse each other's programs is necessary for the community school to qualify as a partnering community school under division (B)(6)(b) of this section, the board of education of the school district shall certify to the department of education the agreement along with the determination that such agreement satisfies the requirements of that division. The board's determination is conclusive.

(5) For the purposes of Chapter 3317. of the Revised Code or other laws referring to the "taxes charged and payable" for a school district, the taxes charged and payable for a municipal school district that levies a tax under division (B) of this section includes only the taxes charged and payable under that levy for the current expenses of the school district, and does not include the taxes charged and payable for the current expenses of partnering community schools. The taxes charged and payable for the current expenses of partnering community schools shall not affect the calculation of "state education aid" as defined in section 5751.20 of the Revised Code.

(6) As used in division (B) of this section:

(a) "Municipal school district" has the same meaning as in section 3311.71 of the Revised Code.

(b) "Partnering community school" means a community school

established under Chapter 3314. of the Revised Code that is located within the territory of the municipal school district and that either is sponsored by the district or is a party to an agreement with the district whereby the district and the community school endorse each other's programs.

(c) "Partnering community schools amount" means the product obtained, as of the receipt and deposit of the tax distribution, by multiplying the amount of a tax distribution by a fraction, the numerator of which is the number of mills per dollar of taxable value of the property tax to be allocated to partnering community schools, and the denominator of which is the total number of mills per dollar of taxable value authorized by the electors in the election held under division (B) of this section, each as set forth in the resolution levying the tax.

(d) "Partnering community schools fund" means a separate fund established by the board of education of a municipal school district for the deposit of partnering community school amounts under this section.

(e) "Resident student" means a student enrolled in a partnering community school who is entitled to attend school in the municipal school district under section 3313.64 or 3313.65 of the Revised Code.

(f) "Tax distribution" means a distribution of proceeds of the tax authorized by division (B) of this section under section 321.24 of the Revised Code and distributions that are attributable to that tax under sections 323.156 and 4503.068 of the Revised Code or other applicable law.

(C) A resolution adopted under this section shall specify the date of holding the election, which shall not be earlier than ninety days after the adoption and certification of the resolution and which shall be consistent with the requirements of section 3501.01 of the Revised Code.

A resolution adopted under this section may propose to renew one or more existing levies imposed under division (A) or (B) of this section or to increase or decrease a single levy imposed under either such division.

If the board of education imposes one or more existing levies for the purpose specified in division (F) of section 5705.19 of the Revised Code, the resolution may propose to renew one or more of those existing levies, or to increase or decrease a single such existing levy, for the purpose of general permanent improvements.

If the resolution proposes to renew two or more existing levies, the levies shall be levied for the same purpose. The resolution shall identify those levies and the rates at which they are levied. The resolution also shall specify that the existing levies shall not be extended on the tax lists after the year preceding the year in which the renewal levy is first imposed, regardless of the years for which those levies originally were authorized to

be levied.

If the resolution proposes to renew an existing levy imposed under division (B) of this section, the rates allocated to the municipal school district and to partnering community schools each may be increased or decreased or remain the same, and the total rate may be increased, decreased, or remain the same. The resolution and notice of election shall specify the number of the mills to be levied for the current expenses of the partnering community schools and the number of the mills to be levied for the current expenses of the municipal school district.

A resolution adopted under this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the board of elections of the proper county in the manner provided by section 5705.25 of the Revised Code. That section shall govern the arrangements for the submission of such question and other matters concerning the election to which that section refers, including publication of notice of the election, except that the election shall be held on the date specified in the resolution. In the case of a resolution adopted under division (B) of this section, the publication of notice of that election shall state the number of the mills to be levied for the current expenses of partnering community schools and the number of the mills to be levied for the current expenses of the municipal school district. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of education may make the necessary levy within the school district or, in the case of a qualifying library levy for the support of a library association or private corporation, within the association library district, at the additional rate, or at any lesser rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. A levy for a continuing period of time may be reduced pursuant to section 5705.261 of the Revised Code. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

(D)(1) After the approval of a levy on the current tax list and duplicate for current expenses, for recreational purposes, for community centers provided for in section 755.16 of the Revised Code, or for a public library of the district under division (A) of this section, and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy.

(2) After the approval of a levy for general permanent improvements for a specified number of years or for permanent improvements having the purpose specified in division (F) of section 5705.19 of the Revised Code, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy remaining to be collected in each year over a period of five years after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(3) After approval of a levy for general permanent improvements for a continuing period of time, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each year over a specified period of years, not exceeding ten, after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed ten years, and may have a principal payment in the year of their issuance.

(4) After the approval of a levy on the current tax list and duplicate under division (B) of this section, and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy for the current expenses of the school district and issue anticipation notes in a principal amount not exceeding fifty per cent of the estimated proceeds of the levy to be collected during the first year of the levy and allocated to the school district. The portion of the levy proceeds to be allocated to partnering community schools under that division shall not be included in the estimated proceeds anticipated under this division and shall not be used to pay debt charges on any anticipation notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(E) The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

Sec. 5705.217. (A) The board of education of a city, local, or exempted

village school district, at any time by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to levy an additional tax in excess of that limitation for the purposes of providing funds for current operating expenses and for ~~the acquisition, construction, enlargement, renovation, and financing of general~~ permanent improvements as defined in section 5705.21 of the Revised Code; and that the question of the tax shall be submitted to the electors of the district at a special election. The tax may be levied for a specified number of years not exceeding five or, ~~if the tax is for current operating expenses or for general, on-going permanent improvements~~, for a continuing period of time. The resolution shall specify the proposed tax rate, the first year the tax will be levied, and the number of years it will be levied, or that it will be levied for a continuing period of time. The resolution shall apportion the annual rate of the tax between current operating expenses and permanent improvements. The apportionment may but need not be the same for each year of the tax, but the respective portions of the rate actually levied each year for current operating expenses and permanent improvements shall be limited by the apportionment.

The resolution shall specify the date of holding the special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections and shall be consistent with the requirements of section 3501.01 of the Revised Code. The resolution shall go into immediate effect upon its passage, and no publication of it is necessary other than that provided in the notice of election. The board of education shall certify a copy of the resolution to the board of elections immediately after its adoption. Section 5705.25 of the Revised Code governs the arrangements and form of the ballot for the submission of the question to the electors.

If a majority of the electors voting on the question vote in favor of the tax, the board of education may make the levy at the additional rate, or at any lesser rate in excess of the ten-mill limitation. If the tax is for a continuing period of time, it may be decreased in accordance with section 5705.261 of the Revised Code.

A board of education may adopt a resolution to renew one or more existing levies imposed under this section, or to increase or decrease the rate of a tax levied under this section, for the purpose of providing funds for either current expenses and general permanent improvements or solely for general permanent improvements.

(B)(1) After the approval of a tax for current operating expenses under this section and prior to the time the first collection and distribution from the levy can be made, the board of education may anticipate a fraction of the proceeds of such levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected during the first year of the levy.

(2) After the approval of a tax ~~under this section~~ for general permanent improvements having a specific purpose levied under this section for a specified number of years, the board of education may anticipate a fraction of the proceeds of such tax and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax remaining to be collected in each year over a specified period of five years, not exceeding the number of years for which the tax was levied, after issuance of the notes.

(3) After the approval of a tax for general, ~~on-going~~ permanent improvements levied under this section for a continuing period of time, the board of education may anticipate a fraction of the proceeds of such tax and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected in each year over a specified period of years, not exceeding ten, after issuance of the notes.

Anticipation notes under this section shall be issued as provided in section 133.24 of the Revised Code. Notes issued under division (B)(1) or (2) of this section shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance. Notes issued under division (B)(3) of this section shall have principal payments during each year after the year of their issuance over a period not to exceed ten years, and may have a principal payment in the year of their issuance.

(C) The submission of a question to the electors under this section is subject to the limitation on the number of elections that can be held in a year under section 5705.214 of the Revised Code.

Sec. 5705.218. (A) The board of education of a city, local, or exempted village school district, at any time by a vote of two-thirds of all its members, may declare by resolution that it may be necessary for the school district to issue general obligation bonds for permanent improvements. The resolution shall state all of the following:

- (1) The necessity and purpose of the bond issue;
- (2) The date of the special election at which the question shall be submitted to the electors;
- (3) The amount, approximate date, estimated rate of interest, and

maximum number of years over which the principal of the bonds may be paid;

(4) The necessity of levying a tax outside the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities.

On adoption of the resolution, the board shall certify a copy of it to the county auditor. The county auditor promptly shall estimate and certify to the board the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds, in the same manner as under division (C) of section 133.18 of the Revised Code.

(B) After receiving the county auditor's certification under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to issue general obligation bonds of the school district for permanent improvements and to levy an additional tax in excess of the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities; that it is necessary for a specified number of years or for a continuing period of time to levy additional taxes in excess of the ten-mill limitation to provide funds for the acquisition, construction, enlargement, renovation, and financing of permanent improvements or to pay for current operating expenses, or both; and that the question of the bonds and taxes shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The county auditor's estimate of the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds;

(2) The proposed rate of the tax, if any, for current operating expenses, the first year the tax will be levied, and the number of years it will be levied, or that it will be levied for a continuing period of time;

(3) The proposed rate of the tax, if any, for permanent improvements, the first year the tax will be levied, and the number of years it will be levied, or that it will be levied for a continuing period of time.

The resolution shall apportion the annual rate of the tax between current operating expenses and permanent improvements, if both taxes are proposed. The apportionment may but need not be the same for each year of the tax, but the respective portions of the rate actually levied each year for

current operating expenses and permanent improvements shall be limited by the apportionment. The resolution shall go into immediate effect upon its passage, and no publication of it is necessary other than that provided in the notice of election. The board of education shall certify a copy of the resolution, along with copies of the auditor's estimate and its resolution under division (A) of this section, to the board of elections immediately after its adoption.

(C) The board of elections shall make the arrangements for the submission to the electors of the school district of the question proposed under division (B) or (J) of this section, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers. The resolution shall be put before the electors as one ballot question, with a favorable vote indicating approval of the bond issue, the levy to pay debt charges on the bonds and any anticipatory securities, the current operating expenses levy, the permanent improvements levy, and the levy for the current expenses of a municipal school district and of partnering community schools, as those levies may be proposed. The board of elections shall publish notice of the election in a newspaper of general circulation in the school district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election. If a board of elections operates and maintains a web site, that board also shall post notice of the election on its web site for thirty days prior to the election. The notice of election shall state all of the following:

- (1) The principal amount of the proposed bond issue;
- (2) The permanent improvements for which the bonds are to be issued;
- (3) The maximum number of years over which the principal of the bonds may be paid;
- (4) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor;
- (5) The proposed rate of the additional tax, if any, for current operating expenses and, if the question is proposed under division (J) of this section, the portion of the rate to be allocated to the school district and the portion to be allocated to partnering community schools;
- (6) The number of years the current operating expenses tax will be in effect, or that it will be in effect for a continuing period of time;
- (7) The proposed rate of the additional tax, if any, for permanent improvements;
- (8) The number of years the permanent improvements tax will be in effect, or that it will be in effect for a continuing period of time;
- (9) The time and place of the special election.

(D) The form of the ballot for an election under this section is as follows:

"Shall the school district be authorized to do the following:

(1) Issue bonds for the purpose of in the principal amount of \$....., to be repaid annually over a maximum period of years, and levy a property tax outside the ten-mill limitation, estimated by the county auditor to average over the bond repayment period mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?"

If either a levy for permanent improvements or a levy for current operating expenses is proposed, or both are proposed, the ballot also shall contain the following language, as appropriate:

"(2) Levy an additional property tax to provide funds for the acquisition, construction, enlargement, renovation, and financing of permanent improvements at a rate not exceeding mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents) for each \$100 of tax valuation, for (number of years of the levy, or a continuing period of time)?

(3) Levy an additional property tax to pay current operating expenses at a rate not exceeding mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents) for each \$100 of tax valuation, for (number of years of the levy, or a continuing period of time)?

	FOR THE BOND ISSUE AND LEVY (OR LEVIES)	"
	AGAINST THE BOND ISSUE AND LEVY (OR LEVIES)	

If the question is proposed under division (J) of this section, the form of the ballot shall be modified as prescribed by division (J)(4) of this section.

(E) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote for it, the board of education may proceed with issuance of the bonds and with the levy and collection of the property tax or taxes at the additional rate or any lesser rate in excess of the ten-mill limitation. Any securities issued by the board of education under this section are Chapter

133. securities, as that term is defined in section 133.01 of the Revised Code.

(F)(1) After the approval of a tax for current operating expenses under this section and prior to the time the first collection and distribution from the levy can be made, the board of education may anticipate a fraction of the proceeds of such levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected during the first year of the levy.

(2) After the approval of a tax under this section for permanent improvements having a specific purpose, the board of education may anticipate a fraction of the proceeds of such tax and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax remaining to be collected in each year over a period of five years after issuance of the notes.

(3) After the approval of a tax under this section for general, ~~on-going~~ permanent improvements as defined under ~~this~~ section 5705.21 of the Revised Code, the board of education may anticipate a fraction of the proceeds of such tax and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected in each year over a specified period of years, not exceeding ten, after issuance of the notes.

Anticipation notes under this section shall be issued as provided in section 133.24 of the Revised Code. Notes issued under division (F)(1) or (2) of this section shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance. Notes issued under division (F)(3) of this section shall have principal payments during each year after the year of their issuance over a period not to exceed ten years, and may have a principal payment in the year of their issuance.

(G) A tax for current operating expenses or for permanent improvements levied under this section for a specified number of years may be renewed or replaced in the same manner as a tax for current operating expenses or for permanent improvements levied under section 5705.21 of the Revised Code. A tax for current operating expenses or for permanent improvements levied under this section for a continuing period of time may be decreased in accordance with section 5705.261 of the Revised Code.

(H) The submission of a question to the electors under this section is subject to the limitation on the number of elections that can be held in a year under section 5705.214 of the Revised Code.

(I) A school district board of education proposing a ballot measure

under this section to generate local resources for a project under the school building assistance expedited local partnership program under section 3318.36 of the Revised Code may combine the questions under division (D) of this section with a question for the levy of a property tax to generate moneys for maintenance of the classroom facilities acquired under that project as prescribed in section 3318.361 of the Revised Code.

(J)(1) After receiving the county auditor's certification under division (A) of this section, the board of education of a municipal school district, by a vote of two-thirds of all its members, may declare by resolution that it is necessary to levy a tax in excess of the ten-mill limitation for the purpose of paying the current expenses of the school district and of partnering community schools, as defined in section 5705.21 of the Revised Code; that it is necessary to issue general obligation bonds of the school district for permanent improvements of the district and to levy an additional tax in excess of the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities; and that the question of the bonds and taxes shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3505.01 of the Revised Code.

The levy of taxes for the current expenses of a partnering community school under division (J) of this section and the distribution of proceeds from the tax by a municipal school district to partnering community schools is hereby determined to be a proper public purpose.

(2) The tax for the current expenses of the school district and of partnering community schools is subject to the requirements of divisions (B)(3), (4), and (5) of section 5705.21 of the Revised Code.

(3) In addition to the required specifications of the resolution under division (B) of this section, the resolution shall express the rate of the tax in mills per dollar of taxable value, state the number of the mills to be levied for the current expenses of the partnering community schools and the number of the mills to be levied for the current expenses of the school district, specify the number of years (not exceeding ten) the tax will be levied or that it will be levied for a continuing period of time, and state the first year the tax will be levied.

The resolution shall go into immediate effect upon its passage, and no publication of it is necessary other than that provided in the notice of election. The board of education shall certify a copy of the resolution, along with copies of the auditor's estimate and its resolution under division (A) of this section, to the board of elections immediately after its adoption.

(4) The form of the ballot shall be modified by replacing the ballot form set forth in division (D)(3) of this section with the following:

"Levy an additional property tax for the purpose of the current expenses of the school district and of partnering community schools at a rate not exceeding (insert the number of mills) mills for each one dollar of valuation (of which (insert the number of mills to be allocated to partnering community schools) mills is to be allocated to partnering community schools), which amounts to (insert the rate expressed in dollars and cents) for each one hundred dollars of valuation, for (insert the number of years the levy is to be imposed, or that it will be levied for a continuing period of time)?

	FOR THE BOND ISSUE AND LEVY (OR LEVIES)
	AGAINST THE BOND ISSUE AND LEVY (OR LEVIES)

"

(5) After the approval of a tax for the current expenses of the school district and of partnering community schools under division (J) of this section, and prior to the time the first collection and distribution from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy for the current expenses of the school district and issue anticipation notes in a principal amount not exceeding fifty per cent of the estimated proceeds of the levy to be collected during the first year of the levy and allocated to the school district. The portion of levy proceeds to be allocated to partnering community schools shall not be included in the estimated proceeds anticipated under this division and shall not be used to pay debt charges on any anticipation notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(6) A tax for the current expenses of the school district and of partnering community schools levied under division (J) of this section for a specified number of years may be renewed or replaced in the same manner as a tax for the current expenses of a school district and of partnering community schools levied under division (B) of section 5705.21 of the Revised Code. A tax for the current expenses of the school district and of partnering community schools levied under this division for a continuing period of time may be decreased in accordance with section 5705.261 of the Revised Code.

(7) The proceeds from the issuance of the general obligation bonds under division (J) of this section shall be used solely to pay for permanent

improvements of the school district and not for permanent improvements of partnering community schools.

Sec. 5705.221. (A) At any time, the board of county commissioners of any county by a majority vote of the full membership may declare by resolution and certify to the board of elections of the county that the amount of taxes which may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide the necessary requirements of the county's alcohol, drug addiction, and mental health service district established pursuant to Chapter 340. of the Revised Code, or the county's contribution to a joint-county district of which the county is a part, and that it is necessary to levy a tax in excess of such limitation for the operation of ~~alcohol and drug~~ community addiction programs services providers and community mental health programs services providers and the acquisition, construction, renovation, financing, maintenance, and operation of alcohol and drug addiction facilities and mental health facilities.

Such resolution shall conform to section 5705.19 of the Revised Code, except that the increased rate may be in effect for any number of years not exceeding ten.

The resolution shall be certified and submitted in the manner provided in section 5705.25 of the Revised Code, except that it may be placed on the ballot in any election, and shall be certified to the board of elections not less than ninety days before the election at which it will be voted upon.

If the majority of the electors voting on a levy to supplement general fund appropriations for the support of the comprehensive ~~alcohol and drug~~ community addiction and mental health program services providers vote in favor of the levy, the board may levy a tax within the county at the additional rate outside the ten-mill limitation during the specified or continuing period, for the purpose stated in the resolution.

(B) When electors have approved a tax levy under this section, the board of county commissioners may anticipate a fraction of the proceeds of the levy and, from time to time, issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

(C) The county auditor who is the fiscal officer of the alcohol, drug addiction, and mental health service district, upon receipt of a resolution from the board of alcohol, drug addiction, and mental health services, shall establish for the district a capital improvements account or a reserve balance account, or both, as specified in the resolution. The capital improvements account shall be a contingency fund for the necessary acquisition, replacement, renovation, or construction of facilities and movable and fixed equipment. Upon the request of the board, funds not needed to pay for

current expenses may be appropriated to the capital improvements account, in amounts such that the account does not exceed twenty-five per cent of the replacement value of all capital facilities and equipment currently used by the board for programs and services. Other funds which are available for current capital expenses from federal, state, or local sources may also be appropriated to this account.

The reserve balance account shall contain those funds that are not needed to pay for current operating expenses and not deposited in the capital improvements account but that will be needed to pay for operating expenses in the future. Upon the request of a board, such funds shall be appropriated to the reserve balance account. Payments from the capital improvements account and the reserve balance account shall be made by the county treasurer who is the custodian of funds for the district upon warrants issued by the county auditor who is the fiscal officer of the district pursuant to orders of the board.

Sec. 5705.25. (A) A copy of any resolution adopted as provided in section 5705.19 or 5705.2111 of the Revised Code shall be certified by the taxing authority to the board of elections of the proper county not less than ninety days before the general election in any year, and the board shall submit the proposal to the electors of the subdivision at the succeeding November election. In the case of a qualifying library levy, the board shall submit the question to the electors of the library district or association library district. Except as otherwise provided in this division, a resolution to renew an existing levy, regardless of the section of the Revised Code under which the tax was imposed, shall not be placed on the ballot unless the question is submitted at the general election held during the last year the tax to be renewed or replaced may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year. The limitation of the foregoing sentence does not apply to a resolution to renew and increase or to renew part of an existing levy that was imposed under section 5705.191 of the Revised Code to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: for public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals. The limitation of the second preceding sentence also does not apply to a resolution that proposes to renew two or more existing levies imposed under section 5705.21 or 5705.217 of the Revised Code, in which case the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held

during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on that tax list and duplicate.

The board shall make the necessary arrangements for the submission of such questions to the electors of such subdivision, library district, or association library district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in such subdivision, library district, or association library district for the election of county officers. Notice of the election shall be published in a newspaper of general circulation in the subdivision, library district, or association library district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the purpose, the proposed increase in rate expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, the number of years during which the increase will be in effect, the first month and year in which the tax will be levied, and the time and place of the election.

(B) The form of the ballots cast at an election held pursuant to division (A) of this section shall be as follows:

"An additional tax for the benefit of (name of subdivision or public library) for the purpose of (purpose stated in the resolution) at a rate not exceeding mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, for (life of indebtedness or number of years the levy is to run).

	For the Tax Levy
	Against the Tax Levy

(C) If the levy is to be in effect for a continuing period of time, the notice of election and the form of ballot shall so state instead of setting forth a specified number of years for the levy.

If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to run, the phrase ", commencing in (first year the tax is to be levied), first due in calendar year (first calendar year in which the tax shall be due)."

If the levy submitted is a proposal to renew, increase, or decrease an

existing levy, the form of the ballot specified in division (B) of this section may be changed by substituting for the words "An additional" at the beginning of the form, the words "A renewal of a" in case of a proposal to renew an existing levy in the same amount; the words "A renewal of mills and an increase of mills to constitute a" in the case of an increase; or the words "A renewal of part of an existing levy, being a reduction of mills, to constitute a" in the case of a decrease in the proposed levy.

If the levy submitted is a proposal to renew two or more existing levies imposed under section 5705.21 or 5705.217 of the Revised Code, the form of the ballot specified in division (B) of this section shall be modified by substituting for the words "an additional tax" the words "a renewal of ...(insert the number of levies to be renewed) existing taxes."

If the levy submitted is a levy under section 5705.72 of the Revised Code or a proposal to renew, increase, or decrease an existing levy imposed under that section, the name of the subdivision shall be "the unincorporated area of (name of township)."

The question covered by such resolution shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers. More than one such question may be submitted at the same election.

(D) A levy voted in excess of the ten-mill limitation under this section shall be certified to the tax commissioner. In the first year of the levy, it shall be extended on the tax lists after the February settlement succeeding the election. If the additional tax is to be placed upon the tax list of the current year, as specified in the resolution providing for its submission, the result of the election shall be certified immediately after the canvass by the board of elections to the taxing authority, who shall make the necessary levy and certify it to the county auditor, who shall extend it on the tax lists for collection. After the first year, the tax levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 5705.55. (A) The board of directors of a lake facilities authority, by a vote of two-thirds of all its members, may at any time declare by resolution that the amount of taxes which may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the authority, that it is necessary to levy a tax in excess of such limitation for any of the purposes specified in divisions (A), (B), (F), and (H) of section 5705.19 of the Revised Code, and that the question of such additional tax levy shall be submitted by the board to the electors residing within the boundaries of the impacted lake district on the day of a primary or general election. The

resolution shall conform to section 5705.19 of the Revised Code, except that the tax levy may be in effect for no more than five years, as set forth in the resolution, unless the levy is for the payment of debt charges, and the total number of mills levied for each dollar of taxable valuation that may be levied under this section for any tax year shall not exceed one mill. If the levy is for the payment of debt charges, the levy shall be for the life of the bond indebtedness.

The resolution shall specify the date of holding the election, which shall not be earlier than ninety days after the adoption and certification of the resolution to the board of elections. The resolution shall not include a levy on the current tax list and duplicate unless the election is to be held at or prior to the first Tuesday after the first Monday in November of the current tax year.

The resolution shall be certified to the board of elections of the proper county or counties not less than ninety days before the date of the election. The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided in the notice of election. Section 5705.25 of the Revised Code shall govern the arrangements for the submission of such question and other matters concerning the election, to which that section refers, except that the election shall be held on the date specified in the resolution. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of directors may forthwith make the necessary levy within the boundaries of the impacted lake district at the additional rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. The tax levy shall be included in the next annual tax budget that is certified to the county budget commission.

(B) The form of the ballot in an election held on the question of levying a tax proposed pursuant to this section shall be as follows or in any other form acceptable to the secretary of state:

"A tax for the benefit of (name of lake facilities authority) for the purpose of at a rate not exceeding mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, for (life of indebtedness or number of years the levy is to run).

	For the Tax Levy
	Against the Tax Levy

"

(C) On approval of the levy, notes may be issued in anticipation of the

collection of the proceeds of the tax levy, other than the proceeds to be received for the payment of bond debt charges, in the amount and manner and at the times as are provided in section 5705.193 of the Revised Code, for the issuance of notes by a county in anticipation of the proceeds of a tax levy. The lake facilities authority may borrow money in anticipation of the collection of current revenues as provided in section 133.10 of the Revised Code.

(D) If a tax is levied under this section in a tax year, no other taxing authority of a subdivision or taxing unit, including a port authority, may levy a tax on property in the impacted lake district in the same tax year if the purpose of the levy is substantially the same as the purpose for which the lake facilities authority of the impacted lake district was created.

Sec. 5709.17. The following property shall be exempted from taxation:

(A) Real estate held or occupied by an association or corporation, organized or incorporated under the laws of this state relative to soldiers' memorial associations, monumental building associations, or cemetery associations or corporations, which in the opinion of the trustees, directors, or managers thereof is necessary and proper to carry out the object intended for such association or corporation;

(B) Real estate and tangible personal property held or occupied by a veterans' organization that qualifies for exemption from taxation under section 501(c)(19) or 501(c)(23) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and is incorporated under the laws of this state or the United States, except real estate held by such an organization for the production of rental ~~or other~~ income in excess of ~~the designated amount~~ thirty-six thousand dollars in a tax year, before accounting for any cost or expense incurred in the production of such income. For the purposes of this division, ~~the designated amount equals seven thousand five hundred dollars in tax year 2002, and shall be increased by two hundred fifty dollars each year thereafter until tax year 2012, when it shall equal ten thousand dollars. For tax years 2013 and thereafter, the designated amount shall equal ten thousand dollars~~ rental income includes only income arising directly from renting the real estate to others for consideration.

(C) Tangible personal property held by a corporation chartered under 112 Stat. 1335, 36 U.S.C.A. 40701, described in section 501(c)(3) of the Internal Revenue Code, and exempt from taxation under section 501(a) of the Internal Revenue Code shall be exempt from taxation if it is property obtained as described in 112 Stat. 1335-1341, 36 U.S.C.A. Chapter 407.

(D) Real estate held or occupied by a fraternal organization and used

primarily for meetings of and the administration of the fraternal organization, except real estate held by such an organization for the production of rental income in excess of thirty-six thousand dollars in a tax year, before accounting for any cost or expense incurred in the production of such income. As used in this division, "rental income" has the same meaning as in division (B) of this section, and "fraternal organization" means a domestic fraternal society, order, or association operating under the lodge, council, or grange system that qualifies for exemption from taxation under section 501(c)(5), 501(c)(8), or 501(c)(10) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended; that provides financial support for charitable purposes, as defined in division (B)(12) of section 5739.02 of the Revised Code; and that has been operating in this state with a state governing body for at least one hundred years.

Sec. 5709.40. (A) As used in this section:

(1) "Blighted area" and "impacted city" have the same meanings as in section 1728.01 of the Revised Code.

(2) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance.

(5) "Incentive district" means an area not more than three hundred acres in size enclosed by a continuous boundary in which a project is being, or will be, undertaken and having one or more of the following distress characteristics:

(a) At least fifty-one per cent of the residents of the district have incomes of less than eighty per cent of the median income of residents of the political subdivision in which the district is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(b) The average rate of unemployment in the district during the most recent twelve-month period for which data are available is equal to at least one hundred fifty per cent of the average rate of unemployment for this state for the same period.

(c) At least twenty per cent of the people residing in the district live at

or below the poverty level as defined in the federal Housing and Community Development Act of 1974, 42 U.S.C. 5301, as amended, and regulations adopted pursuant to that act.

(d) The district is a blighted area.

(e) The district is in a situational distress area as designated by the director of development under division (F) of section 122.23 of the Revised Code.

(f) As certified by the engineer for the political subdivision, the public infrastructure serving the district is inadequate to meet the development needs of the district as evidenced by a written economic development plan or urban renewal plan for the district that has been adopted by the legislative authority of the subdivision.

(g) The district is comprised entirely of unimproved land that is located in a distressed area as defined in section 122.23 of the Revised Code.

(6) "Project" means development activities undertaken on one or more parcels, including, but not limited to, construction, expansion, and alteration of buildings or structures, demolition, remediation, and site development, and any building or structure that results from those activities.

(7) "Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities; and the enhancement of public waterways through improvements that allow for greater public access.

(B) The legislative authority of a municipal corporation, by ordinance, may declare improvements to certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this division only if the parcel is located in a blighted area of an impacted city. For this purpose, "parcel that is used or to be used for residential purposes" means a parcel that, as improved, is used or to be used for purposes that would cause the tax commissioner to classify the parcel as residential property in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the

improvements are located, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation for a period of not more than ten years. The ordinance shall specify the percentage of the improvement to be exempted from taxation and the life of the exemption.

An ordinance adopted or amended under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the municipal corporation that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.42 of the Revised Code shall be used to finance the public infrastructure improvements designated in the ordinance, for the purpose described in division (D)(1) of this section or as provided in section 5709.43 of the Revised Code.

(C)(1) The legislative authority of a municipal corporation may adopt an ordinance creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no legislative authority of a municipal corporation that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt an ordinance that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the municipal corporation that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the municipal corporation for the preceding tax year. The ordinance shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. An ordinance may create more than one such district, and more than one ordinance may be adopted under division (C)(1) of this section.

(2) Not later than thirty days prior to adopting an ordinance under division (C)(1) of this section, if the municipal corporation intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the legislative authority of a municipal corporation shall conduct a public hearing on the proposed ordinance. Not later than thirty days prior to

the public hearing, the legislative authority shall give notice of the public hearing and the proposed ordinance by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed ordinance.

(3)(a) An ordinance adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The ordinance also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the ordinance. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes. Except as otherwise permitted under that division, the service payments provided for in section 5709.42 of the Revised Code shall be used to finance the designated public infrastructure improvements, for the purpose described in division (D)(1) or (E) of this section, or as provided in section 5709.43 of the Revised Code.

An ordinance adopted under division (C)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.42 of the Revised Code and received by the municipal corporation under the ordinance shall be used for police or fire equipment.

(b) An ordinance adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the ordinance also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The ordinance shall designate the parcels within the district that are eligible for housing renovation. The ordinance shall state separately the amounts or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the general purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this

section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section.

(D)(1) If the ordinance declaring improvements to a parcel to be a public purpose or creating an incentive district specifies that payments in lieu of taxes provided for in section 5709.42 of the Revised Code shall be paid to the city, local, or exempted village, and joint vocational school district in which the parcel or incentive district is located in the amount of the taxes that would have been payable to the school district if the improvements had not been exempted from taxation, the percentage of the improvement that may be exempted from taxation may exceed seventy-five per cent, and the exemption may be granted for up to thirty years, without the approval of the board of education as otherwise required under division (D)(2) of this section.

(2) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval under this paragraph of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvement exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting an ordinance under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the legislative authority shall deliver to the board of education a notice stating its intent to adopt an ordinance making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvement that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The notice regarding improvements to parcels within an incentive district under division (C) of this section shall delineate the boundaries of the district, specifically identify each parcel within the

district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvement in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation. If an agreement is negotiated between the legislative authority and the board to compensate the school district for all or part of the taxes exempted, including agreements for payments in lieu of taxes under section 5709.42 of the Revised Code, the legislative authority shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) The board of education shall certify its resolution to the legislative authority not later than fourteen days prior to the date the legislative authority intends to adopt the ordinance as indicated in the notice. If the board of education and the legislative authority negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for the number of years specified in the ordinance or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. In either case, if the board and the legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board fails to certify a resolution to the legislative authority within the time prescribed by this division, the legislative authority thereupon may adopt the ordinance and may declare the improvements a public purpose for up to thirty years, or, in the case of exemption percentages proposed in

excess of seventy-five per cent, for the exemption percentage specified in the ordinance. The legislative authority may adopt the ordinance at any time after the board of education certifies its resolution approving the exemption to the legislative authority, or, if the board approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board and the legislative authority.

(4) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of exemptions by the board is not required under division (D) of this section. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under division (D) of this section fewer than forty-five business days prior to the legislative authority's adoption of the ordinance, the legislative authority shall deliver the notice to the board not later than the number of days prior to such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(5) If the legislative authority is not required by division (D) of this section to notify the board of education of the legislative authority's intent to declare improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(E)(1) If a proposed ordinance under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the legislative authority of the municipal corporation shall deliver to the board of county commissioners of the county within which the incentive district will be located a notice that states its intent to adopt an ordinance creating an incentive district. The notice shall include a copy of the proposed ordinance, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the legislative authority intends to

adopt the ordinance.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the legislative authority. In no case shall the compensation provided to the board exceed the property taxes forgone due to the exemption. If the board of county commissioners objects, and the board and legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance adopted under division (C)(1) of this section shall provide to the board compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the legislative authority not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the legislative authority may adopt the ordinance, and no compensation shall be provided to the board of county commissioners. If the board timely certifies its resolution objecting to the ordinance, the legislative authority may adopt the ordinance at any time after a mutually acceptable compensation agreement is agreed to by the board and the legislative authority, or, if no compensation agreement is negotiated, at any time after the legislative authority agrees in the proposed ordinance to provide compensation to the board of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to an ordinance creating an incentive

district under division (C)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.42 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(G) An exemption from taxation granted under this section commences

with the tax year specified in the ordinance so long as the year specified in the ordinance commences after the effective date of the ordinance. If the ordinance specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the ordinance. ~~Except~~ In lieu of stating a specific year, the ordinance may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the ordinance. With respect to the exemption of improvements to parcels under division (B) of this section, the ordinance may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division, the exemption ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the municipal public improvement tax increment equivalent fund established under division (A) of section 5709.43 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the ordinance, if the legislative authority and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division (D)(2) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same manner as in the case of other real property exemptions. If an exemption status changes during a year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) Additional municipal financing of public infrastructure improvements and housing renovations may be provided by any methods that the municipal corporation may otherwise use for financing such improvements or renovations. If the municipal corporation issues bonds or notes to finance the public infrastructure improvements and housing renovations and pledges money from the municipal public improvement tax

increment equivalent fund to pay the interest on and principal of the bonds or notes, the bonds or notes are not subject to Chapter 133. of the Revised Code.

(I) The municipal corporation, not later than fifteen days after the adoption of an ordinance under this section, shall submit to the director of development a copy of the ordinance. On or before the thirty-first day of March of each year, the municipal corporation shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the funds created under section 5709.43 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a legislative authority from declaring to be a public purpose improvements with respect to more than one parcel.

(K) If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

Sec. 5709.73. (A) As used in this section and section 5709.74 of the Revised Code:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(2) "Further improvements" or "improvements" means the increase in the assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes. For this purpose, "property that is used or to be used for residential purposes" means property that, as improved, is used or to be used for purposes that would cause the tax commissioner to classify the property as residential property in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote, adopt a resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land that directly benefits from the public infrastructure improvements, for a period of not more than ten years. The resolution shall specify the percentage of the further improvements to be exempted and the life of the exemption.

(C)(1) A board of township trustees may adopt, by unanimous vote, a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no board of township trustees of a township that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the township that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the township for the preceding tax year. The district shall be located within the unincorporated area of the township and shall not include any territory that is included within a district created under division (B) of section 5709.78 of the Revised Code. The resolution shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. A resolution may create more than one district, and more than one resolution may be adopted under division (C)(1) of this section.

(2) Not later than thirty days prior to adopting a resolution under

division (C)(1) of this section, if the township intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution.

(3)(a) A resolution adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (C)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.74 of the Revised Code and received by the township under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.74 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the

incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section.

(D) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the board of township trustees shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The notice regarding improvements made under division (C) of this section to parcels within an incentive district shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of

township trustees and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

The board of education shall certify its resolution to the board of township trustees not later than fourteen days prior to the date the board of township trustees intends to adopt the resolution as indicated in the notice. If the board of education and the board of township trustees negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for the number of years specified in the resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of township trustees within the time prescribed by this section, the board of township trustees thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of township trustees may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of township trustees, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of township trustees. If a mutually acceptable compensation agreement is negotiated between the board of township trustees and the board of education, including agreements for payments in lieu of taxes under section 5709.74 of the Revised Code, the board of township trustees shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

If a board of education has adopted a resolution waiving its right to

approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (D) of this section. If a board of education has adopted a resolution allowing a board of township trustees to deliver the notice required under division (D) of this section fewer than forty-five business days prior to adoption of the resolution by the board of township trustees, the board of township trustees shall deliver the notice to the board of education not later than the number of days prior to the adoption as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of township trustees. If the board of education rescinds the resolution, it shall certify notice of the rescission to the board of township trustees.

If the board of township trustees is not required by division (D) of this section to notify the board of education of the board of township trustees' intent to declare improvements to be a public purpose, the board of township trustees shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive the notice.

(E)(1) If a proposed resolution under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of township trustees shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board of township trustees intends to adopt the resolution.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the

improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the board of township trustees. In no case shall the compensation provided to the board of county commissioners exceed the property taxes foregone due to the exemption. If the board of county commissioners objects, and the board of county commissioners and board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (C)(1) of this section shall provide to the board of county commissioners compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board of county commissioner's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the board of township trustees not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the board of township trustees may adopt its resolution, and no compensation shall be provided to the board of county commissioners. If the board of county commissioners timely certifies its resolution objecting to the trustees' resolution, the board of township trustees may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of township trustees agrees in the proposed resolution to provide compensation to the board of county commissioners of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district

under division (C)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.74 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or families;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(G) An exemption from taxation granted under this section commences

with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. ~~Except~~ In lieu of stating a specific year, the resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the resolution. With respect to the exemption of improvements to parcels under division (B) of this section, the resolution may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the township public improvement tax increment equivalent fund established under section 5709.75 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of township trustees and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement and the board of education has approved the term of the exemption under division (D) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. The board of township trustees may, by majority vote, adopt a resolution permitting the township to enter into such agreements as the board finds necessary or appropriate to provide for the construction or undertaking of public infrastructure improvements and housing renovations. Any exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) The board of township trustees may issue the notes of the township to finance all costs pertaining to the construction or undertaking of public

infrastructure improvements and housing renovations made pursuant to this section. The notes shall be signed by the board and attested by the signature of the township fiscal officer, shall bear interest not to exceed the rate provided in section 9.95 of the Revised Code, and are not subject to Chapter 133. of the Revised Code. The resolution authorizing the issuance of the notes shall pledge the funds of the township public improvement tax increment equivalent fund established pursuant to section 5709.75 of the Revised Code to pay the interest on and principal of the notes. The notes, which may contain a clause permitting prepayment at the option of the board, shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development a copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with the expenditures; and a quantitative summary of changes in private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

(K) A board of township trustees that adopted a resolution under this section prior to July 21, 1994, may amend that resolution to include any additional public infrastructure improvement. A board of township trustees that seeks by the amendment to utilize money from its township public improvement tax increment equivalent fund for land acquisition in aid of industry, commerce, distribution, or research, demolition on private property, or stormwater and flood remediation projects may do so provided that the board currently is a party to a hold-harmless agreement with the board of education of the city, local, or exempted village school district

within the territory of which are located the parcels that are subject to an exemption. For the purposes of this division, a "hold-harmless agreement" means an agreement under which the board of township trustees agrees to compensate the school district for one hundred per cent of the tax revenue that the school district would have received from further improvements to parcels designated in the resolution were it not for the exemption granted by the resolution.

Sec. 5709.75. (A) Any township that receives service payments in lieu of taxes under section 5709.74 of the Revised Code shall establish a township public improvement tax increment equivalent fund into which those payments shall be deposited. If the board of township trustees has adopted a resolution under division (C) of section 5709.73 of the Revised Code, the township shall establish at least one account in that fund with respect to resolutions adopted under division (B) of that section, and one account with respect to each incentive district created by a resolution adopted under division (C) of that section. If a resolution adopted under division (C) of section 5709.73 of the Revised Code also authorizes the use of service payments for housing renovations within the incentive district, the township shall establish separate accounts for the service payments designated for public infrastructure improvements and for the service payments authorized for the purpose of housing renovations.

(B) Except as otherwise provided in division (C) or (D) of this section, money deposited in an account of the township public improvement tax increment equivalent fund shall be used by the township to pay the costs of public infrastructure improvements designated in or the housing renovations authorized by the resolution with respect to which the account is established, including any interest on and principal of the notes; in the case of an account established with respect to a resolution adopted under division (C) of that section, money in the account shall be used to finance the public infrastructure improvements designated, or the housing renovations authorized, for each incentive district created in the resolution. Money in an account shall not be used to finance or support housing renovations that take place after the incentive district has expired.

(C)(1)(a) A township may distribute money in such an account to any school district in which the exempt property is located in an amount not to exceed the amount of real property taxes that such school district would have received from the improvement if it were not exempt from taxation. The resolution establishing the fund shall set forth the percentage of such maximum amount that will be distributed to any affected school district.

(b) A township also may distribute money in such an account as

follows:

(i) To a board of county commissioners, in the amount that is owed to the board pursuant to division (E) of section 5709.73 of the Revised Code;

(ii) To a county in accordance with section 5709.913 of the Revised Code.

(2) Money from an account in a township public improvement tax increment equivalent fund may be distributed under division (C)(1)(b) of this section, regardless of the date a resolution was adopted under section 5709.73 of the Revised Code that prompted the establishment of the account, even if the resolution was adopted prior to March 30, 2006.

(D) A board of township trustees that adopted a resolution under ~~division (B)~~ of section 5709.73 of the Revised Code ~~before January 1, 1995,~~ and that, with respect to property exempted under such a resolution, is party to a hold-harmless or service agreement, may appropriate and expend unencumbered money in the fund to pay current public safety expenses of the township. A township appropriating and expending money under this division shall reimburse the fund for the sum so appropriated and expended not later than the day the exemption granted under the resolution expires. For the purposes of this division, a "hold-harmless agreement" is an agreement with the board of education of a city, local, or exempted village school district under which the board of township trustees agrees to compensate the school district for one hundred per cent of the tax revenue the school district would have received from improvements to parcels designated in the resolution were it not for the exemption granted by the resolution.

(E) Any ~~incidental surplus~~ unencumbered money remaining in the township public improvement tax increment equivalent fund or an account of that fund upon dissolution of the account or fund shall be transferred to the general fund of the township.

Sec. 5709.78. (A) A board of county commissioners may, by resolution, declare improvements to certain parcels of real property located in the unincorporated territory of the county to be a public purpose. Except with the approval under division (C) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation, for a period of not more than ten years. The resolution shall specify the percentage of the improvement to be exempted and the life of the exemption.

A resolution adopted under this division shall designate the specific

public infrastructure improvements made, to be made, or in the process of being made by the county that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.79 of the Revised Code shall be used to finance the public infrastructure improvements designated in the resolution, or as provided in section 5709.80 of the Revised Code.

(B)(1) A board of county commissioners may adopt a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (E) of this section, exempt from taxation as provided in this section, but no board of county commissioners of a county that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the county that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the county for the preceding tax year. The district shall be located within the unincorporated territory of the county and shall not include any territory that is included within a district created under division (C) of section 5709.73 of the Revised Code. The resolution shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (A) of this section or that is or has been within another district created under this division. A resolution may create more than one such district, and more than one resolution may be adopted under division (B)(1) of this section.

(2) Not later than thirty days prior to adopting a resolution under division (B)(1) of this section, if the county intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board of county commissioners shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution. The board also shall provide the notice by first class mail to the clerk of each township in which the proposed incentive district will be located.

(3)(a) A resolution adopted under division (B)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (B)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (B)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.79 of the Revised Code and received by the county under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (B)(1) of this section may authorize the use of service payments provided for in section 5709.79 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (D) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (C) of this section.

(C)(1) Improvements with respect to a parcel may be exempted from

taxation under division (A) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (B) of this section, for up to ten years or, with the approval of the board of education of each city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to the approval of a board of education under this division, the board of county commissioners shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (A) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The notice regarding improvements to parcels within an incentive district under division (B) of this section shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of county commissioners and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

(2) The board of education shall certify its resolution to the board of county commissioners not later than fourteen days prior to the date the board of county commissioners intends to adopt its resolution as indicated in the notice. If the board of education and the board of county commissioners negotiate a mutually acceptable compensation agreement, the resolution of the board of county commissioners may declare the improvements a public purpose for the number of years specified in that resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of county commissioners within the time prescribed by this section, the board of county commissioners thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of county commissioners may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of county commissioners, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of county commissioners. If a mutually acceptable compensation agreement is negotiated between the board of county commissioners and the board of education, including agreements for payments in lieu of taxes under section 5709.79 of the Revised Code, the board of county commissioners shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under division (C) of this section fewer than forty-five business days prior to approval of the resolution by the board of county commissioners, the board of county commissioners shall deliver the notice

to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(D)(1) If a proposed resolution under division (B)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of county commissioners shall deliver to the board of township trustees of any township within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board intends to adopt the resolution.

(2) The board of township trustees, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of township trustees objects, the board of township trustees may negotiate a mutually acceptable compensation agreement with the board of county commissioners. In no case shall the compensation provided to the board of township trustees exceed the property taxes forgone due to the exemption. If the board of township trustees objects, and the board of township trustees and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (B)(1) of this section shall provide to the board of township trustees compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the township or, if the board of township trustee's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the township on the portion of the

improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of township trustees shall certify its resolution to the board of county commissioners not later than thirty days after receipt of the notice.

(3) If the board of township trustees does not object or fails to certify a resolution objecting to an exemption within thirty days after receipt of the notice, the board of county commissioners may adopt its resolution, and no compensation shall be provided to the board of township trustees. If the board of township trustees certifies its resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees. If the board of township trustees certifies a resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of county commissioners in the proposed resolution to provide compensation to the board of township trustees of fifty per cent of the taxes that would be payable to the township in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(E) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (B)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (D) of section 5709.79 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (B) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(F) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. Except in lieu of stating a specific year, the resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the resolution. With

respect to the exemption of improvements to parcels under division (A) of this section, the resolution may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the county can no longer require annual service payments in lieu of taxes under section 5709.79 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of commissioners and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division (C)(1) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(G) If the board of county commissioners is not required by this section to notify the board of education of the board of county commissioners' intent to declare improvements to be a public purpose, the board of county commissioners shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive such a notice.

(H) The county, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development a copy of the resolution. On or before the thirty-first day of March of each year, the county shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.80 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative

summary of changes in employment and private investment resulting from each project.

(I) Nothing in this section shall be construed to prohibit a board of county commissioners from declaring to be a public purpose improvements with respect to more than one parcel.

(J) If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

Sec. 5725.18. (A) An annual franchise tax on the privilege of being an insurance company is hereby levied on each domestic insurance company. In the month of May, annually, the treasurer of state shall charge for collection from each domestic insurance company a franchise tax in the amount computed in accordance with the following, as applicable:

(1) With respect to a domestic insurance company that is a health insuring corporation, one per cent of all premium rate payments received, exclusive of payments received under the medicare program ~~established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ and exclusive of payments received pursuant to the ~~medical assistance~~ medicaid program ~~established under Chapter 5111. of the Revised Code~~ for the period ending September 30, 2009, as reflected in its annual report for the preceding calendar year;

(2) With respect to a domestic insurance company that is not a health insuring corporation, one and four-tenths per cent of the gross amount of premiums received from policies covering risks within this state, exclusive of premiums received under the medicare program ~~established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ and exclusive of payments received pursuant to the ~~medical assistance~~ medicaid program ~~established under Chapter 5111. of the Revised Code~~ for the period ending September 30, 2009, as reflected in its annual statement for the preceding calendar year, and, if the company operates a health insuring corporation as a line of business, one per cent of all premium rate payments received from that line of business, exclusive of payments received under the medicare program ~~established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ and exclusive of payments received pursuant to the ~~medical assistance~~ medicaid program ~~established under Chapter 5111. of the Revised Code~~ for the period ending September 30, 2009, as reflected in its annual statement for the preceding calendar year.

Domestic insurance companies, including health insuring corporations, receiving payments pursuant to the ~~medical assistance~~ medicaid program ~~established under Chapter 5111. of the Revised Code~~ during the period beginning October 1, 2009, and ending December 31, 2009, shall file with the 2009 annual statement to the superintendent a schedule that reflects those payments received pursuant to the ~~medical assistance~~ medicaid program for that period. The payments reflected in the schedule, plus all other taxable premiums, are subject to the annual franchise tax due to be paid in 2010.

(B) The gross amount of premium rate payments or premiums used to compute the applicable tax in accordance with division (A) of this section is subject to the deductions prescribed by section 5729.03 of the Revised Code for foreign insurance companies. The objects of such tax are those declared in section 5725.24 of the Revised Code, to which only such tax shall be applied.

(C) In no case shall such tax be less than two hundred fifty dollars.

Sec. 5725.33. (A) Except as otherwise provided in this section, terms used in this section have the same meaning as section 45D of the Internal Revenue Code, any related proposed, temporary or final regulations promulgated under the Internal Revenue Code, any rules or guidance of the internal revenue service or the United States department of the treasury, and any related rules or guidance issued by the community development financial institutions fund of the United States department of the treasury, as such law, regulations, rules, and guidance exist on October 16, 2009.

As used in this section:

(1) "Adjusted purchase price" means the amount paid for qualified equity investments multiplied by the qualified low-income community investments made by the issuer in projects located in this state as a percentage of the total amount of qualified low-income community investments made by the issuer in projects located in all states on the credit allowance date during the applicable tax year, subject to divisions (B)(1) and (2) of this section.

(2) "Applicable percentage" means zero per cent for each of the first two credit allowance dates, seven per cent for the third credit allowance date, and eight per cent for the four following credit allowance dates.

(3) "Credit allowance date" means the date, on or after January 1, 2010, a qualified equity investment is made and each of the six anniversary dates thereafter. For qualified equity investments made after October 16, 2009, but before January 1, 2010, the initial credit allowance date is January 1, 2010, and each of the six anniversary dates thereafter is on the first day of

January of each year.

~~(4) "Qualified active low income community business" excludes any business that derives or projects to derive fifteen per cent or more of annual revenue from the rental or sale of real property, except any business that is a special purpose entity principally owned by a principal user of that property formed solely for the purpose of renting, either directly or indirectly, or selling real property back to such principal user if such principal user does not derive fifteen per cent or more of its gross annual revenue from the rental or sale of real property.~~

~~(5) "Qualified community development entity" includes only entities:~~

~~(a) That that have entered into an allocation agreement with the community development financial institutions fund of the United States department of the treasury with respect to credits authorized by section 45D of the Internal Revenue Code;~~

~~(b) Whose and whose service area includes any portion of this state; and~~

~~(c) That will designate an equity investment in such entities as a qualified equity investment for purposes of both section 45D of the Internal Revenue Code and this section.~~

~~(6)(5) "Qualified equity investment" is limited to an equity investment in a qualified community development entity that:~~

~~(a) Is acquired after October 16, 2009, at its original issuance solely in exchange for cash;~~

~~(b) Has at least eighty-five per cent of its cash purchase price used by the qualified community development entity to make qualified low-income community investments, provided that in the seventh year after a qualified equity investment is made, only seventy-five per cent of such cash purchase price must be used by the qualified community development entity to make qualified low-income community investments; and~~

~~(c) Is designated by the issuer as a qualified equity investment.~~

~~"Qualified equity investment" includes any equity investment that would, but for division (A)(6)(5)(a) of this section, be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.~~

~~(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company holding a qualified equity investment on the credit allowance date occurring in the calendar year for which the tax is due. The credit shall equal the applicable percentage of the adjusted purchase price of qualified low-income community investments, subject to divisions (B)(1) and (2) of this section:~~

(1) For the purpose of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by a qualified community development entity even if the investment has been sold or repaid, provided that, at any time before the seventh anniversary of the issuance of the qualified equity investment, the qualified community development entity reinvests an amount equal to the capital returned to or received or recovered by the qualified community development entity from the original investment, exclusive of any profits realized and costs incurred in the sale or repayment, in another qualified low-income community investment within twelve months of the receipt of such capital. If the qualified low-income community investment is sold or repaid after the sixth anniversary of the issuance of the qualified equity investment, the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(2) The qualified low-income community investment made in this state shall equal the sum of the qualified low-income community investments in each qualified active low-income community business in this state, not to exceed two million five hundred sixty-four thousand dollars, in which the qualified community development entity invests, including such investments in any such businesses in this state related to that qualified active low-income community business through majority ownership or control.

The credit shall be claimed in the order prescribed by section 5725.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years.

By claiming a tax credit under this section, an insurance company waives its rights under section 5725.222 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (E) of this section.

(C) The amount of qualified equity investments on the basis of which credits may be claimed under this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall not exceed the amount, estimated by the director of development, that would cause the total amount of credits allowed each fiscal year to exceed ten million dollars, computed without regard to the potential for taxpayers to carry tax credits forward to later years.

(D) If any amount of ~~the~~ a federal tax credit allowed for a qualified

equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development services determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business, all or a portion of the credit received on account of that investment shall be paid by the insurance company that received the credit to the superintendent of insurance. The amount to be recovered shall be determined by the director of development services pursuant to rules adopted under division (E) of this section. The director shall certify any amount due under this division to the superintendent of insurance, and the superintendent shall notify the treasurer of state of the amount due. Upon notification, the treasurer shall invoice the insurance company for the amount due. The amount due is payable not later than thirty days after the date the treasurer invoices the insurance company. The amount due shall be considered to be tax due under section 5725.18 of the Revised Code, and may be collected by assessment without regard to the time limitations imposed under section 5725.222 of the Revised Code for the assessment of taxes by the superintendent. All amounts collected under this division shall be credited as revenue from the tax levied under section 5725.18 of the Revised Code.

(E) The tax credits authorized under this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall be administered by the ~~department of development services~~ agency. The director of development services, in consultation with the tax commissioner and the superintendent of insurance, pursuant to Chapter 119. of the Revised Code, shall adopt rules for the administration of this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code. The rules shall provide for determining the recovery of credits under division (D) of this section and under sections 5726.54, 5729.16, and 5733.58 of the Revised Code, including prorating the amount of the credit to be recovered on any reasonable basis, the manner in which credits may be allocated among claimants, and the amount of any application or other fees to be charged in connection with a recovery.

(F) There is hereby created in the state treasury the new markets tax credit operating fund. The director of development services is authorized to charge reasonable application and other fees in connection with the administration of tax credits authorized by this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code. Any such fees collected shall be credited to the fund. The director of development services shall use money

in the fund to pay expenses related to the administration of tax credits authorized under sections 5725.33, 5726.54, 5729.16, and 5733.58 of the Revised Code.

Sec. 5725.34. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any company for any year shall not exceed ~~five~~ ten million dollars. The credit shall be claimed in the calendar year specified in the certificate and in the order required under section 5725.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the company but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The company may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year.

(C) An insurance company claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

Sec. 5726.20. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any person that fails to file a return or report or pay any tax as required by this chapter. The reporting person for a taxpayer shall file the annual report required under section 5726.02 of the Revised Code and remit the tax imposed by this chapter. Each person included in the annual report of the taxpayer is jointly and severally liable for the tax imposed by this chapter and any penalties and interest thereon. If the reporting person fails, for any reason, to file and remit any tax, the amount due may be collected by assessment against the reporting person and against any or all other persons required to be included in the annual report of the taxpayer ~~in the manner provided by this section~~ as provided in section 5703.90 of the Revised Code. The commissioner shall make the assessment in the manner provided in this section. The commissioner shall give the person assessed written notice of

the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on the manner in which to petition for reassessment and request a hearing with respect to the petition.

(B) No assessment shall be made or issued against a person under this section more than four years after the later of the final date the report subject to assessment was required to be filed or the date such report was filed. Such time limit may be extended if both the person and the commissioner consent in writing to the extension or if an agreement waiving or extending the time limit has been entered into pursuant to section 122.171 of the Revised Code. Any such extension shall extend the four-year time limit prescribed in division (A) of section 5726.30 of the Revised Code for the same period of time. There shall be no bar or limit to an assessment against a person that fails to file a report subject to assessment as required by this chapter, or that files a fraudulent report.

(C) Unless the person assessed, within sixty days after service of the notice of assessment, files with the tax commissioner, either in person or by certified mail, a written petition for reassessment signed by the person or the person's authorized agent having knowledge of the facts, the assessment shall become final, and the amount of the assessment is due and payable from the person assessed to the treasurer of state. A petition shall indicate the objections of the person assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If a petition for reassessment has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(D)(1) After an assessment becomes final, if any portion of the assessment, including any accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person resides or has its principal place of business in this state, or in the office of the clerk of court of common pleas of Franklin county.

(2) Immediately upon the filing of the entry, the clerk shall enter judgment for the state against the person assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled, "special judgments for the financial institution tax" and shall have the same effect as other judgments. Execution shall issue upon the judgment at the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

(3) ~~The portion of~~ If the assessment is not paid in its entirety within

sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date the tax commissioner issues the assessment until the date the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(E) If the tax commissioner believes that collection of the tax imposed by this chapter will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (D) of this section. Notice of the jeopardy assessment shall be served on the person assessed or the person's authorized agent in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed shall be immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (C) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment shall not prejudice the commissioner's consideration of the petition for reassessment.

(F) The tax commissioner shall immediately forward to the treasurer of state all amounts the commissioner receives under this section. Such amounts shall be considered as revenue arising from the tax imposed by this chapter.

(G) If the tax commissioner possesses information indicating that the amount of tax a taxpayer is required to pay under this chapter exceeds the amount the reporting person for the taxpayer paid, the tax commissioner may audit a sample of the taxpayer's gross receipts over a representative period of time to ascertain the amount of tax due, and may issue an assessment based on the audit. The tax commissioner shall make a good faith effort to reach agreement with the taxpayer in selecting a representative sample. The tax commissioner may apply a sampling method only if the

commissioner has prescribed the method by rule.

(H) If the whereabouts of a person subject to this chapter is not known to the tax commissioner, the secretary of state is hereby deemed to be that person's agent for purposes of service of process or notice of any assessment, action, or proceedings instituted in this state against the person under this chapter. Such process or notice shall be served on such person by the commissioner or by an agent of the commissioner by leaving a true and attested copy of the process or notice at the office of the secretary of state at least fifteen days before the return day of such process or notice, and by sending a copy of the process or notice to such person by ordinary mail, with an endorsement thereon of the service upon the secretary of state, addressed to such person at the person's last known address.

Sec. 5726.52. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) A taxpayer may claim a refundable credit against the tax imposed by this chapter for each person included in the annual report of a taxpayer that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on each certificate, but shall not exceed ~~five~~ ten million dollars for each certificate.

The credit shall be claimed for the calendar year specified in the certificate and in the order required under section 5726.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the taxpayer, provided that, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The taxpayer may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year. A taxpayer may claim against the tax imposed by this chapter any unused portion of the credit authorized under section 5725.151 of the Revised Code, but only to the extent of the five-year carry forward period authorized by that section.

(C) A taxpayer claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year to which the credit was applied, and shall make the certificate available for inspection by the tax commissioner upon the request of the commissioner during that period.

Sec. 5726.54. (A) Any term used in this section has the same meaning as in section 5725.33 of the Revised Code.

(B) A taxpayer may claim a nonrefundable credit against the tax imposed by this chapter for each person included in the annual report of the taxpayer that holds a qualified equity investment on a credit allowance date occurring in the calendar year immediately preceding the tax year for which the tax is due. The credit shall be computed in the same manner prescribed for the computation of credits allowed under section 5725.33 of the Revised Code.

By claiming a tax credit under this section, a taxpayer waives its rights under section 5726.20 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed under this section that later become subject to recapture under division (D) of this section.

A taxpayer may claim against the tax imposed by this chapter any unused portion of the credits authorized under sections 5725.33 and 5733.58 of the Revised Code, but only to the extent of the remaining carry forward period authorized by those sections.

The credit shall be claimed in the order prescribed by section 5726.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits preceding the credit in the order prescribed in section 5726.98 of the Revised Code, the excess may be carried forward for not more than four ensuing tax years.

(C) The total amount of qualified equity investments on the basis of which credits may be claimed under this section and sections 5725.33, 5729.16, and 5733.58 of the Revised Code is subject to the limitation of division (C) of section 5725.33 of the Revised Code.

(D) If any amount of ~~the~~ a federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development services determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business, all or a portion of the credit received on account of that investment shall be paid by the taxpayer that received the credit to the tax commissioner. The amount to be recovered shall be determined by the director pursuant to rules adopted under section 5725.33 of the Revised Code. The director shall certify any amount due under this division to the tax commissioner, and the commissioner shall notify the taxpayer of the amount due. The amount due is payable not later than thirty days after the day the commissioner issues the

notice. The amount due shall be considered to be tax due under section 5726.02 of the Revised Code, and may be collected by assessment without regard to the limitations imposed under section 5726.20 of the Revised Code for the assessment of taxes by the commissioner. All amounts collected under this division shall be credited as revenue from the tax levied under section 5726.02 of the Revised Code.

Sec. 5727.26. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any natural gas company or combined company that fails to file a return or pay any tax, interest, or additional charge as required by sections 5727.24 to 5727.29 of the Revised Code. The commissioner shall give the company assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition. A penalty of up to fifteen per cent may be added to all amounts assessed under this section. The tax commissioner may adopt rules providing for the imposition and remission of the penalty.

(B) Unless the company assessed, within sixty days after service of the notice of assessment, files with the tax commissioner, either personally or by certified mail, a written petition signed by the company's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the company assessed to the treasurer of state. The petition shall indicate the objections of the company assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination.

If a petition for reassessment has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the natural gas company's or combined company's principal place of business is located, or in the office of the clerk of court of common pleas of Franklin county.

Immediately on the filing of the entry, the clerk shall enter judgment for the state against the company assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled, "special judgments for the public utility excise tax on natural gas and combined companies," and shall have the same effect as other judgments.

Execution shall issue upon the judgment at the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) If the tax commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the company liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the company assessed or the company's authorized agent in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the company assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(E) The tax commissioner shall immediately forward to the treasurer of state all amounts that the tax commissioner receives under this section, and such amounts shall be considered revenue arising from the tax imposed by section 5727.24 of the Revised Code.

(F) No assessment shall be made or issued against a natural gas company or combined company for the tax imposed by section 5727.24 of the Revised Code more than four years after the return date for the period in which the tax was reported, or more than four years after the return for the period was filed, whichever is later.

Sec. 5727.75. (A) For purposes of this section:

(1) "Qualified energy project" means an energy project certified by the director of development services pursuant to this section.

(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.

(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E)(1)(b) or (c) of this section.

(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours.

(5) "Solar energy project" means an energy project composed of an energy facility using solar panels to generate electricity.

(B)(1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011; ~~2012, 2013, and 2014~~ through 2016 if all of the following conditions are satisfied:

(a) On or before December 31, ~~2013~~ 2015, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.

(b) Construction or installation of the energy facility begins on or after January 1, 2009, and before January 1, ~~2014~~ 2016. For the purposes of this division, construction begins on the earlier of the date of application for a certificate or other approval or permit described in division (B)(1)(a) of this section, or the date the contract for the construction or installation of the energy facility is entered into.

(c) For a qualified energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of a county in which property of the project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting an application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(2) If tangible personal property of a qualified energy project using renewable energy resources was exempt from taxation under this section beginning in any of tax years 2011, 2012, 2013, ~~or 2014~~, 2015, or 2016, and the certification under division (E)(2) of this section has not been revoked, the tangible personal property of the qualified energy project is exempt from taxation for tax year ~~2015~~ 2017 and all ensuing tax years if the property was placed into service before January 1, ~~2015~~ 2017, as certified in the construction progress report required under division (F)(2) of this section. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation. An energy project for which certification has been revoked is ineligible for further exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear technology, or cogeneration technology is exempt from taxation for the first tax year that the property would be listed for taxation and all subsequent years if all of the following circumstances are met:

(1) The property was placed into service before January 1, ~~2019~~ 2021. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation.

(2) For such a qualified energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of a county in which property of the qualified energy project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting the application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(3) The certification for the qualified energy project issued under division (E)(2) of this section has not been revoked. An energy project for which certification has been revoked is ineligible for exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(D) Except as otherwise provided in this section, real property of a qualified energy project is exempt from taxation for any tax year for which the tangible personal property of the qualified energy project is exempted

under this section.

(E)(1)(a) A person may apply to the director of development services for certification of an energy project as a qualified energy project on or before the following dates:

(i) December 31, ~~2013~~ 2015, for an energy project using renewable energy resources;

(ii) December 31, ~~2015~~ 2017, for an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology.

(b) The director shall forward a copy of each application for certification of an energy project with a nameplate capacity of five megawatts or greater to the board of county commissioners of each county in which the project is located and to each taxing unit with territory located in each of the affected counties. Any board that receives from the director a copy of an application submitted under this division shall adopt a resolution approving or rejecting the application unless it has adopted a resolution under division (E)(1)(c) of this section. A resolution adopted under division (E)(1)(b) or (c) of this section may require an annual service payment to be made in addition to the service payment required under division (G) of this section. The sum of the service payment required in the resolution and the service payment required under division (G) of this section shall not exceed nine thousand dollars per megawatt of nameplate capacity located in the county. The resolution shall specify the time and manner in which the payments required by the resolution shall be paid to the county treasurer. The county treasurer shall deposit the payment to the credit of the county's general fund to be used for any purpose for which money credited to that fund may be used.

The board shall send copies of the resolution by certified mail to the owner of the facility and the director within thirty days after receipt of the application, or a longer period of time if authorized by the director.

(c) A board of county commissioners may adopt a resolution declaring the county to be an alternative energy zone and declaring all applications submitted to the director of development services under this division after the adoption of the resolution, and prior to its repeal, to be approved by the board.

All tangible personal property and real property of an energy project with a nameplate capacity of five megawatts or greater is taxable if it is located in a county in which the board of county commissioners adopted a resolution rejecting the application submitted under this division or failed to adopt a resolution approving the application under division (E)(1)(b) or (c) of this section.

(2) The director shall certify an energy project if all of the following circumstances exist:

(a) The application was timely submitted.

(b) For an energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of at least one county in which the project is located has adopted a resolution approving the application under division (E)(1)(b) or (c) of this section.

(c) No portion of the project's facility was used to supply electricity before December 31, 2009.

(3) The director shall deny a certification application if the director determines the person has failed to comply with any requirement under this section. The director may revoke a certification if the director determines the person, or subsequent owner or lessee pursuant to a sale and leaseback transaction of the qualified energy project, has failed to comply with any requirement under this section. Upon certification or revocation, the director shall notify the person, owner, or lessee, the tax commissioner, and the county auditor of a county in which the project is located of the certification or revocation. Notice shall be provided in a manner convenient to the director.

(F) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall do each of the following:

(1) Comply with all applicable regulations;

(2) File with the director of development services a certified construction progress report before the first day of March of each year during the energy facility's construction or installation indicating the percentage of the project completed, and the project's nameplate capacity, as of the preceding thirty-first day of December. Unless otherwise instructed by the director of development services, the owner or lessee of an energy project shall file a report with the director on or before the first day of March each year after completion of the energy facility's construction or installation indicating the project's nameplate capacity as of the preceding thirty-first day of December. Not later than sixty days after June 17, 2010, the owner or lessee of an energy project, the construction of which was completed before June 17, 2010, shall file a certificate indicating the project's nameplate capacity.

(3) File with the director of development services, in a manner prescribed by the director, a report of the total number of full-time equivalent employees, and the total number of full-time equivalent employees domiciled in Ohio, who are employed in the construction or installation of the energy facility;

(4) For energy projects with a nameplate capacity of five megawatts or greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts. In the event that the county engineer deems any road, bridge, or culvert to be inadequate to support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure funding for repairs to roads, bridges, and culverts resulting from decommissioning of the facility. The energy facility owner or lessee and the county engineer may enter into an agreement regarding specific transportation plans, reinforcements, modifications, use and repair of roads, financial security to be provided, and any other relevant issue.

(5) Provide or facilitate training for fire and emergency responders for response to emergency situations related to the energy project and, for energy projects with a nameplate capacity of five megawatts or greater, at the person's expense, equip the fire and emergency responders with proper equipment as reasonably required to enable them to respond to such emergency situations;

(6) Maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than eighty per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project. In the case of an energy project for which certification from the power siting board is required under section 4906.20 of the Revised Code, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed in the certificate application, if such projection is required under regulations adopted

pursuant to section 4906.03 of the Revised Code, whichever is greater. For all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed by the director of development services, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust an estimate produced by a model to account for variables not accounted for by the model.

(7) For energy projects with a nameplate capacity in excess of two megawatts, establish a relationship with a member of the university system of Ohio as defined in section 3345.011 of the Revised Code or with a person offering an apprenticeship program registered with the employment and training administration within the United States department of labor or with the apprenticeship council created by section 4139.02 of the Revised Code, to educate and train individuals for careers in the wind or solar energy industry. The relationship may include endowments, cooperative programs, internships, apprenticeships, research and development projects, and curriculum development.

(8) Offer to sell power or renewable energy credits from the energy project to electric distribution utilities or electric service companies subject to renewable energy resource requirements under section 4928.64 of the Revised Code that have issued requests for proposal for such power or renewable energy credits. If no electric distribution utility or electric service company issues a request for proposal on or before December 31, 2010, or accepts an offer for power or renewable energy credits within forty-five days after the offer is submitted, power or renewable energy credits from the energy project may be sold to other persons. Division (F)(8) of this section does not apply if:

(a) The owner or lessee is a rural electric company or a municipal power agency as defined in section 3734.058 of the Revised Code.

(b) The owner or lessee is a person that, before completion of the energy project, contracted for the sale of power or renewable energy credits with a rural electric company or a municipal power agency.

(c) The owner or lessee contracts for the sale of power or renewable energy credits from the energy project before June 17, 2010.

(9) Make annual service payments as required by division (G) of this section and as may be required in a resolution adopted by a board of county

commissioners under division (E) of this section.

(G) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payments of taxes on public utility personal property on the real and public utility personal property tax list for each tax year for which property of the energy project is exempt from taxation under this section. The county treasurer shall allocate the payment on the basis of the project's physical location. Upon receipt of a payment, or if timely payment has not been received, the county treasurer shall certify such receipt or non-receipt to the director of development services and tax commissioner in a form determined by the director and commissioner, respectively. Each payment shall be in the following amount:

(1) In the case of a solar energy project, seven thousand dollars per megawatt of nameplate capacity located in the county as of December 31, 2010, for tax year 2011, as of December 31, 2011, for tax year 2012, as of December 31, 2012, for tax year 2013, as of December 31, 2013, for tax year 2014, ~~and~~ as of December 31, 2014, for tax year 2015, as of December 31, 2015, for tax year 2016, and as of December 31, 2016, for tax year 2017 and each tax year thereafter;

(2) In the case of any other energy project using renewable energy resources, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(3) In the case of an energy project using clean coal technology,

advanced nuclear technology, or cogeneration technology, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(H) The director of development services in consultation with the tax commissioner shall adopt rules pursuant to Chapter 119. of the Revised Code to implement and enforce this section.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid," for a school district, means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under former sections 3317.029, 3317.052, and 3317.053 of the Revised Code and the following provisions, as they existed for the applicable fiscal year: divisions (A), (C)(1), (C)(4),

(D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (G), (L), and (N) of section 3317.024; and sections ~~3317.029~~, 3317.0216, 3317.0217, 3317.04, and 3317.05, ~~3317.052, and 3317.053~~ of the Revised Code; and the adjustments required by: division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of former section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code. However, when calculating state education aid for a school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly, as subsequently amended, instead of division (D) of section 3317.022 of the Revised Code; and include amounts calculated under Section 269.30.80 of H.B. 119 of the 127th general assembly, as subsequently amended.

(b) For fiscal years 2010 and 2011, the sum of the amounts computed for the district under former sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, ~~and 3306.192, 3317.052, and 3317.053~~ of the Revised Code and the following provisions, as they existed for the applicable fiscal year: division (G) of section 3317.024; ~~sections section 3317.05, 3317.052, and 3317.053~~ of the Revised Code; and the adjustments required by division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of former section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979, 3313.981, and 3326.33 of the Revised Code.

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS" and the adjustments required by division (C) of section 3310.08; division (C)(2) of section 3310.41; section 3310.55; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of former section 3314.13; divisions (B), (H), (I), (J), and (K) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code;

(d) For fiscal year 2014 and each fiscal year thereafter, the sum of amounts computed for and paid to the district under section 3317.022 of the Revised Code; and the adjustments required by division (C) of section 3310.08, division (C)(2) of section 3310.41, section 3310.55, division (C) of section 3314.08, division (D)(2) of section 3314.091, divisions (B), (H), (J), and (K) of section 3317.023, and sections 3313.978, 3313.981, 3317.0212,

3317.0213, 3317.0214, and 3326.33 of the Revised Code. However, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS" also shall be included.

(5) "State education aid," for a joint vocational school district, means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid amounts computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code. However, when calculating state education aid for a joint vocational school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.30.90 of H.B. 119 of the 127th general assembly, as subsequently amended.

(b) For fiscal years 2010 and 2011, the amount computed for the district in accordance with the section of H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS".

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

(d) For fiscal year 2014 and each fiscal year thereafter, the amount computed for the district under section 3317.16 of the Revised Code; except that, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS" shall be included.

(6) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(7) "Recognized valuation" ~~has the same meaning as in~~ means the amount computed for a school district pursuant to section 3317.02 3317.015 of the Revised Code.

(8) "Electric company tax value loss" means the amount determined under division (D) of this section.

(9) "Natural gas company tax value loss" means the amount determined under division (E) of this section.

(10) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss.

(11) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy.

(12) "Fixed-rate levy loss" means the amount determined under division

(G) of this section.

(13) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies charged and payable pursuant to section 5705.194 of the Revised Code.

(14) "Fixed-sum levy loss" means the amount determined under division (H) of this section.

(15) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor.

(16) "Total resources" and "total library resources" have the same meanings as in section 5751.20 of the Revised Code.

(17) "2011 current expense S.B. 3 allocation" means the sum of payments received by a school district or joint vocational school district in fiscal year 2011 for current expense levy losses pursuant to division (C)(2) of section 5727.85 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not charged and payable in any year after tax year 2010, "2011 current expense S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy.

(18) "2010 current expense S.B. 3 allocation" means the sum of payments received by a municipal corporation in calendar year 2010 for current expense levy losses pursuant to division (A)(1) of section 5727.86 of the Revised Code, excluding any such payments received for current expense levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not charged and payable in any year after tax year 2010, "2010 current expense S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy.

(19) "2010 S.B. 3 allocation" means the sum of payments received by a local taxing unit during calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code, excluding any such payments received for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not charged and payable in any year after tax year 2010, "2010 S.B. 3

allocation" used to compute payments to be made under division (A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy.

(20) "Total S.B. 3 allocation" means, in the case of a school district or joint vocational school district, the sum of the payments received in fiscal year 2011 pursuant to divisions (C)(2) and (D) of section 5727.85 of the Revised Code. In the case of a local taxing unit, "total S.B. 3 allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1) and (4) of section 5727.86 of the Revised Code, excluding any such payments received for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not charged and payable in any year after tax year 2010, "total S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 or division (A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (C)(2) of section 5727.85 or division (A)(1)(b) of section 5727.86 of the Revised Code.

(21) "2011 non-current expense S.B. 3 allocation" means the difference of a school district's or joint vocational school district's total S.B. 3 allocation minus the sum of the school district's 2011 current expense S.B. 3 allocation and the portion of the school district's total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (D) of section 5727.85 of the Revised Code.

(22) "2010 non-current expense S.B. 3 allocation" means the difference of a municipal corporation's total S.B. 3 allocation minus the sum of its 2010 current expense S.B. 3 allocation and the portion of its total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (A)(4) of section 5727.86 of the Revised Code.

(23) "S.B. 3 allocation for library purposes" means, in the case of a county, municipal corporation, school district, or township public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, the sum of the payments received by the public library in calendar year 2010 pursuant to section 5727.86 of the Revised Code for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy authorized under section 5705.23 of the Revised Code that is eligible for reimbursement is not charged and payable in any year after tax year 2010, "S.B. 3 allocation for library

purposes" used to compute payments to be made under division (A)(1)(f) of section 5727.86 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1)(b) of section 5727.86 of the Revised Code.

(24) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and thereafter. In the case of a local taxing unit or public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, "threshold per cent" means two per cent for calendar year 2011, four per cent for calendar year 2012, and six per cent for calendar years 2013 and thereafter.

(B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:

Fiscal Year	General Revenue Fund	School District Property Tax Replacement Fund	Local Government Property Tax Replacement Fund
2001-2011	63.0%	25.4%	11.6%
2012 and thereafter	88.0%	9.0%	3.0%

(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as follows:

(1) For fiscal years before fiscal year 2012:

(a) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

(b) Thirty-one and three-tenths per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

(2) For fiscal years 2012 and thereafter, one hundred per cent to the general revenue fund.

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (4) of

this section:

(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section.

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference obtained by subtracting the amount described in division (D)(2)(b) from the amount described in division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel materials and assemblies assessed under division (D)(2)(a) of this section for tax years 1996, 1997, and 1998, as reflected in the preliminary assessments, using an assessment rate of twenty-five per cent.

(3) In the case of a taxing district having a nuclear power plant within its territory, any amount, resulting in an electric company tax value loss, obtained by subtracting the amount described in division (D)(1) of this section from the difference obtained by subtracting the amount described in division (D)(3)(b) of this section from the amount described in division (D)(3)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2000 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned to the taxing district for tax year 2000;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001.

(4) In the case of a taxing district having a nuclear power plant within

its territory, the difference obtained by subtracting the amount described in division (D)(4)(b) of this section from the amount described in division (D)(4)(a) of this section, provided that such difference is greater than ten per cent of the amount described in division (D)(4)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2005 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2006, and as apportioned to the taxing district for tax year 2005;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2006 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2007, and as apportioned to the taxing district for tax year 2006.

(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section.

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (E)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies,

electric companies, and rural electric companies file a report to help determine the tax value loss under divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-rate levy loss, which is the sum of its electric company tax value loss multiplied by the tax rate in effect in tax year 1998 for fixed-rate levies and its natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999 for fixed-rate levies.

(H) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss, which is the amount obtained by subtracting the amount described in division (H)(2) of this section from the amount described in division (H)(1) of this section:

(1) The sum of the electric company tax value loss multiplied by the tax rate in effect in tax year 1998, and the natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999, for fixed-sum levies for all taxing districts within each school district, joint vocational school district, and local taxing unit. For the years 2002 through 2006, this computation shall include school district emergency levies that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, and all other fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss and continue to be charged in the tax year preceding the distribution year. For the years 2007 through 2016 in the case of school district emergency levies, and for all years after 2006 in the case of all other fixed-sum levies, this computation shall exclude all fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss, but are no longer in effect in the tax year preceding the distribution year. For the purposes of this section, an emergency levy that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division (F) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(K) Not later than September 1, 2001, the tax commissioner shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

Sec. 5727.89. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any natural gas distribution company, electric distribution company, self-assessing purchaser, or qualified end user that fails to file a return or pay any tax, interest, or additional charge as required by sections 5727.80 to 5727.95 of the Revised Code.

When information in the possession of the tax commissioner indicates that a person liable for the tax imposed by section 5727.81 or 5727.811 of the Revised Code has not paid the full amount of tax due, the commissioner may audit a representative sample of the person's business and may issue an

assessment based on the audit. The commissioner shall give the person assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

The tax commissioner may issue an assessment for which the tax imposed by section 5727.81 or 5727.811 of the Revised Code was due and unpaid on the date the person was informed by an agent of the tax commissioner of an investigation or audit of the person. Any payment of the tax for the period covered by the assessment, after the person is so informed, shall be credited against the assessment.

A penalty of up to fifteen per cent may be added to all amounts assessed under this section. The commissioner may adopt rules providing for the imposition and remission of penalties.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the party assessed resides or in which the party's business is conducted. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the person assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for the distribution excise taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment at the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of~~ If the assessment is not paid in its entirety within sixty

days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until the day the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) If the tax commissioner believes that collection of the tax imposed by section 5727.81 or 5727.811 of the Revised Code will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the party assessed or the party's legal representative within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the party assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(E) All money collected by the tax commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the taxes imposed by sections 5727.81 and 5727.811 of the Revised Code.

Sec. 5728.10. (A) If any person required to file a fuel use tax return by sections 5728.01 to 5728.14 of the Revised Code, fails to file the return within the time prescribed by those sections, files an incomplete return, files an incorrect return, or fails to remit the full amount of the tax due for the period covered by the return, the tax commissioner may make an assessment against the person, based upon any information in the commissioner's possession, for the period for which the tax was due.

No assessment shall be made against any person for any tax imposed by this chapter more than four years after the return date for the period for

which the tax was due or more than four years after the return for the period was filed, whichever is later. This section does not bar an assessment against any person who fails to file a fuel use tax return as required by this chapter, or who files a fraudulent fuel use tax return.

A penalty of up to fifteen per cent may be added to the amount of every assessment made pursuant to this section. The commissioner may adopt rules providing for the imposition and remission of penalties added to assessments made under this section.

The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the party assessed, or by the party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the party's place of business is located or the county in which the party assessed resides. If the party maintains no office in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state of Ohio against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state fuel use tax," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of~~ If the assessment is not paid within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section

5703.47 of the Revised Code from the day the commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the tax commissioner under this section shall be paid into the state treasury in the same manner as the revenues deriving from the taxes imposed by section 5728.06 of the Revised Code.

Sec. 5729.03. (A) If the superintendent of insurance finds the annual statement required by section 5729.02 of the Revised Code to be correct, the superintendent shall compute the following amount, as applicable, of the balance of such gross amount, after deducting such return premiums and considerations received for reinsurance, and charge such amount to such company as a tax upon the business done by it in this state for the period covered by such annual statement:

(1) If the company is a health insuring corporation, one per cent of the balance of premium rate payments received, exclusive of payments received under the medicare program ~~established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ and exclusive of payments received pursuant to the medical assistance medicaid program ~~established under Chapter 5111. of the Revised Code~~ for the period ending September 30, 2009, as reflected in its annual report;

(2) If the company is not a health insuring corporation, one and four-tenths per cent of the balance of premiums received, exclusive of premiums received under the medicare program ~~established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ and exclusive of payments received pursuant to the medical assistance medicaid program ~~established under Chapter 5111. of the Revised Code~~ for the period ending September 30, 2009, as reflected in its annual statement, and, if the company operates a health insuring corporation as a line of business, one per cent of the balance of premium rate payments received from that line of business, exclusive of payments received under the medicare program ~~established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ and exclusive of payments received pursuant to the medical assistance medicaid program ~~established under Chapter 5111. of the Revised Code~~ for the period ending

September 30, 2009, as reflected in its annual statement.

Each foreign insurance company, including health insuring corporations, receiving payments pursuant to the ~~medical assistance~~ medicaid program ~~established under Chapter 5111. of the Revised Code~~ during the period beginning October 1, 2009, and ending December 31, 2009, shall file with the 2009 annual statement to the superintendent a schedule that reflects those payments received pursuant to the ~~medical assistance~~ medicaid program for that period. The payments reflected in the schedule, plus all other taxable premiums, are subject to the annual franchise tax due to be paid in 2010.

(B) Any insurance policies that were not issued in violation of Title XXXIX of the Revised Code and that were issued prior to April 15, 1967, by a life insurance company organized and operated without profit to any private shareholder or individual, exclusively for the purpose of aiding educational or scientific institutions organized and operated without profit to any private shareholder or individual, are not subject to the tax imposed by this section. All taxes collected pursuant to this section shall be credited to the general revenue fund.

(C) In no case shall the tax imposed under this section be less than two hundred fifty dollars.

Sec. 5729.04. To compute franchise taxes on gross premiums to be paid under any law of this state by any mutual insurance company authorized to do business under the laws of this state, or by any stock insurance company so authorized, doing business on the plan of distributing back to its policyholders at the end of the policy year refunds of a portion of the premium collected, the amount of premium deposits received by the company upon any risk written pursuant to section 3925.34 or division (A)(1), (2), ~~or (7)~~, or (14) of section 3929.01 of the Revised Code, within this state in excess of the net cost of insurance to the insured shall not be included where the excess deposit is returned ratably by the company to its policyholders; but the amount of gross or aggregate premiums received by the company is deemed the balance remaining after deducting from the gross amount of premium deposits received or collected by it on risks in this state during the preceding calendar year that portion of gross premium deposits returned by it to policyholders during the preceding calendar year, upon the cancellation or expiration of risks upon property situated within this state. In addition to the matters of return required to be made by insurance companies for the purpose of computing taxes, any company shall also return for such purpose in its annual statement:

(A) The gross amount of premium deposits received or collected by it

on risks in this state during the preceding calendar year;

(B) The total amount of gross premium deposits returned to policyholders during such preceding calendar year upon cancellation and upon expiration of risks upon property situated within this state.

Where insurance against fire is included with insurance against other perils at an undivided premium, a reasonable allocation from the entire premium shall be made for the fire portion of the coverage in such manner as the superintendent of insurance may direct.

Sec. 5729.16. (A) Terms used in this section have the same meaning as in section 5725.33 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5729.03 of the Revised Code for a foreign insurance company holding a qualified equity investment on the credit allowance date occurring in the calendar year for which the tax is due. The credit shall be computed in the same manner prescribed for the computation of credits allowed under section 5725.33 of the Revised Code.

The credit shall be claimed in the order prescribed by section 5729.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years.

By claiming a tax credit under this section, an insurance company waives its rights under section 5729.102 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (D) of this section.

(C) The total amount of qualified equity investments on the basis of which credits may be claimed under this section, section 5725.33, and section 5733.58 of the Revised Code is subject to the limitation of division (C) of section 5725.33 of the Revised Code.

(D) If any amount of ~~the~~ a federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development services determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business, all or a portion of the credit received on account of that investment shall be paid by the insurance company that received the credit to the superintendent of insurance. The amount to be recovered shall be determined by the director

of development services pursuant to rules adopted under section 5725.33 of the Revised Code. The director shall certify any amount due under this division to the superintendent of insurance, and the superintendent shall notify the treasurer of state of the amount due. Upon notification, the treasurer shall invoice the insurance company for the amount due. The amount due is payable not later than thirty days after the date the treasurer invoices the insurance company. The amount due shall be considered to be tax due under section 5729.03 of the Revised Code, and may be collected by assessment without regard to the time limitations imposed under section 5729.102 of the Revised Code for the assessment of taxes by the superintendent. All amounts collected under this division shall be credited as revenue from the tax levied under section 5729.03 of the Revised Code.

Sec. 5729.17. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5729.03 of the Revised Code for an insurance company subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any company for any year shall not exceed ~~five~~ ten million dollars. The credit shall be claimed in the calendar year specified in the certificate and in the order required under section 5729.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the company but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The company may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year.

(C) An insurance company claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

Sec. 5731.39. This section does not apply to, and the written permission of the tax commissioner is not required for asset transfers with respect to, decedents dying on or after January 1, 2013.

(A) No corporation organized or existing under the laws of this state shall transfer on its books or issue a new certificate for any share of its

capital stock registered in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, without the written consent of the tax commissioner.

(B) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person, having in possession, control, or custody a deposit standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, shall deliver or transfer an amount in excess of three-fourths of the total value of such deposit, including accrued interest and dividends, as of the date of decedent's death, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of amounts having a value of three-fourths or less of said total value.

(C) No life insurance company shall pay the proceeds of an annuity or matured endowment contract, or of a life insurance contract payable to the estate of a decedent, or of any other insurance contract taxable under Chapter 5731. of the Revised Code, without the written consent of the tax commissioner. Any life insurance company may pay the proceeds of any insurance contract not specified in this division (C) without the written consent of the tax commissioner.

(D) No trust company or other corporation or person shall pay the proceeds of any death benefit, retirement, pension, or profit-sharing plan in excess of two thousand dollars, without the written consent of the tax commissioner. Such trust company or other corporation or person, however, may pay the proceeds of any death benefit, retirement, pension, or profit-sharing plan which consists of insurance on the life of the decedent payable to a beneficiary other than the estate of the insured without the written consent of the tax commissioner.

(E) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person, having in possession, control, or custody securities, assets, or other property (including the shares of the capital stock of, or other interest in, such safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation), standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, and the transfer of which is taxable under Chapter 5731. of the Revised Code, shall deliver or transfer any such securities, assets, or other property which have a value as of the date of decedent's death in excess of three-fourths of the total value thereof, without the written consent of the tax commissioner. The written

consent of the tax commissioner need not be obtained prior to the delivery or transfer of any such securities, assets, or other property having a value of three-fourths or less of said total value.

(F) No safe deposit company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person having possession or control of a safe deposit box or similar receptacle standing in the name of a decedent or in the name of the decedent and another person or persons, or to which the decedent had a right of access, except when such safe deposit box or other receptacle stands in the name of a corporation or partnership, or in the name of the decedent as guardian or executor, shall deliver any of the contents thereof unless the safe deposit box or similar receptacle has been opened and inventoried in the presence of the tax commissioner or the commissioner's agent, and a written consent to transfer issued; provided, however, that a safe deposit company, financial institution, or other corporation or person having possession or control of a safe deposit box may deliver wills, deeds to burial lots, and insurance policies to a representative of the decedent, but that a representative of the safe deposit company, financial institution, or other corporation or person must supervise the opening of the box and make a written record of the wills, deeds, and policies removed. Such written record shall be included in the tax commissioner's inventory records.

(G) Notwithstanding any provision of this section:

(1) The tax commissioner may authorize any delivery or transfer or waive any of the foregoing requirements under such terms and conditions as the commissioner may prescribe;

(2) A home, as defined in section 3721.10 of the Revised Code, or a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, may transfer or use the money in a personal needs allowance account in accordance with section ~~5111.113~~ 5162.22 of the Revised Code without the written consent of the tax commissioner, and without the account having been opened and inventoried in the presence of the commissioner or the commissioner's agent.

Failure to comply with this section shall render such safe deposit company, trust company, life insurance company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person liable for the amount of the taxes and interest due under the provisions of Chapter 5731. of the Revised Code on the transfer of such stock, deposit, proceeds of an annuity or matured endowment contract or of a life insurance contract payable to the estate of a decedent, or other

insurance contract taxable under Chapter 5731. of the Revised Code, proceeds of any death benefit, retirement, pension, or profit-sharing plan in excess of two thousand dollars, or securities, assets, or other property of any resident decedent, and in addition thereto, to a penalty of not less than five hundred or more than five thousand dollars.

Sec. 5733.01. (A) The tax provided by this chapter for domestic corporations shall be the amount charged against each corporation organized for profit under the laws of this state and each nonprofit corporation organized pursuant to Chapter 1729. of the Revised Code, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of exercising its franchise during the calendar year in which that amount is payable, and the tax provided by this chapter for foreign corporations shall be the amount charged against each corporation organized for profit and each nonprofit corporation organized or operating in the same or similar manner as nonprofit corporations organized under Chapter 1729. of the Revised Code, under the laws of any state or country other than this state, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of doing business in this state, owning or using a part or all of its capital or property in this state, holding a certificate of compliance with the laws of this state authorizing it to do business in this state, or otherwise having nexus in or with this state under the Constitution of the United States, during the calendar year in which that amount is payable.

(B) A corporation is subject to the tax imposed by section 5733.06 of the Revised Code for each calendar year prior to 2014 that it is so organized, doing business, owning or using a part or all of its capital or property, holding a certificate of compliance, or otherwise having nexus in or with this state under the Constitution of the United States, on the first day of January of that calendar year. No credit authorized by this chapter may be claimed for tax year 2014 or any tax year thereafter.

(C) Any corporation subject to this chapter that is not subject to the federal income tax shall file its returns and compute its tax liability as required by this chapter in the same manner as if that corporation were subject to the federal income tax.

(D) For purposes of this chapter, a federally chartered financial institution shall be deemed to be organized under the laws of the state within which its principal office is located.

(E) For purposes of this chapter, any person, as defined in section 5701.01 of the Revised Code, shall be treated as a corporation if the person is classified for federal income tax purposes as an association taxable as a

corporation, and an equity interest in the person shall be treated as capital stock of the person.

(F) For the purposes of this chapter, "disregarded entity" has the same meaning as in division (D) of section 5745.01 of the Revised Code.

(1) A person's interest in a disregarded entity, whether held directly or indirectly, shall be treated as the person's ownership of the assets and liabilities of the disregarded entity, and the income, including gain or loss, shall be included in the person's net income under this chapter.

(2) Any sale, exchange, or other disposition of the person's interest in the disregarded entity, whether held directly or indirectly, shall be treated as a sale, exchange, or other disposition of the person's share of the disregarded entity's underlying assets or liabilities, and the gain or loss from such sale, exchange, or disposition shall be included in the person's net income under this chapter.

(3) The disregarded entity's payroll, property, and sales factors shall be included in the person's factors.

(G) The tax a corporation is required to pay under this chapter shall be as follows:

(1)(a) For financial institutions, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the financial institution under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax.

(b) A corporation satisfying the description in division (E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised Code, as that section existed before its amendment by H.B. 510 of the 129th general assembly, that is not a financial institution, insurance company, or dealer in intangibles is subject to the taxes imposed under this chapter as a corporation and not subject to tax as a financial institution, and shall pay the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all the taxes charged under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax.

(2) For all corporations other than those persons described in division (G)(1)(a) or (b) of this section, the amount under division (G)(2)(a) of this section applicable to the tax year specified less the amount under division (G)(2)(b) of this section:

(a)(i) For tax year 2005, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the corporation under this chapter and any credits

allowable against such tax;

(ii) For tax year 2006, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or four-fifths of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax, except the qualifying pass-through entity tax credit described in division (A)(30) and the refundable credits described in divisions (A)(31) to (35) of section 5733.98 of the Revised Code;

(iii) For tax year 2007, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or three-fifths of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax, except the qualifying pass-through entity tax credit described in division (A)(30) and the refundable credits described in divisions (A)(31) to (35) of section 5733.98 of the Revised Code;

(iv) For tax year 2008, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or two-fifths of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax, except the qualifying pass-through entity tax credit described in division (A)(30) and the refundable credits described in divisions (A)(31) to (35) of section 5733.98 of the Revised Code;

(v) For tax year 2009, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or one-fifth of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax, except the qualifying pass-through entity tax credit described in division (A)(30) and the refundable credits described in divisions (A)(31), (32), (33), and (34) of section 5733.98 of the Revised Code;

(vi) For tax year 2010 and each tax year thereafter, no tax.

(b) A corporation shall subtract from the amount calculated under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section any qualifying pass-through entity tax credit described in division (A)(30) and any refundable credits described in divisions (A)(31) to (35) of section 5733.98 of the Revised Code to which the corporation is entitled. Any unused qualifying pass-through entity tax credit is not refundable.

(c) For the purposes of computing the amount of a credit that may be carried forward to a subsequent tax year under division (G)(2) of this section, a credit is utilized against the tax for a tax year to the extent the credit applies against the tax for that tax year, even if the difference is then

multiplied by the applicable fraction under division (G)(2)(a) of this section.

(d) References in division (G)(2) of this section to section 5733.98 of the Revised Code is to that section before its amendment by H.B. 59 of the 130th general assembly.

(3) Nothing in division (G) of this section eliminates or reduces the tax imposed by section 5733.41 of the Revised Code on a qualifying pass-through entity.

Sec. 5733.06. For tax years prior to tax year 2014, the tax hereby charged each corporation subject to this chapter shall be the greater of the sum of divisions (A) and (B) of this section, after the reduction, if any, provided by division (J) of this section, or division (C) of this section, after the reduction, if any, provided by division (J) of this section, except that the tax hereby charged each financial institution subject to this chapter shall be the amount computed under division (D) of this section:

(A) Except as set forth in division (F) of this section, five and one-tenth per cent upon the first fifty thousand dollars of the value of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code;

(B) Except as set forth in division (F) of this section, eight and one-half per cent upon the value so determined in excess of fifty thousand dollars; or

(C)(1) Except as otherwise provided under division (G) of this section, four mills times that portion of the value of the issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code. For the purposes of division (C) of this section, division (C)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code, the value of the issued and outstanding shares of stock of an eligible corporation for tax year 2003 through tax year 2007, or of a qualifying holding company, is zero.

(2) As used in division (C) of this section, "eligible corporation" means a person treated as a corporation for federal income tax purposes that meets all of the following criteria:

(a) The corporation conducts business for an entire taxable year as a qualified trade or business as defined by division (C) of section 122.15 of the Revised Code, as that section existed before its repeal by H.B. 59 of the 130th general assembly.

(b) The corporation uses more than fifty per cent of the corporation's assets, based on net book value, that are located in Ohio solely to conduct activities that constitute a qualified trade or business as defined by section 122.15 of the Revised Code, as that section existed before its repeal by H.B. 59 of the 130th general assembly.

(c) The corporation has been formed or organized not more than three years before the report required to be filed by section 5733.02 of the Revised Code is due, without regard to any extensions.

(d) The corporation is not a related member, as defined in section 5733.042 of the Revised Code, at any time during the taxable year with respect to another person treated as a corporation for federal income tax purposes. A corporation is not a related member if during the entire taxable year at least seventy-five per cent of the corporation's stock is owned directly or through a pass-through entity by individuals, estates, and grantor trusts, and the individuals, estates, and grantor trusts do not directly or indirectly own more than twenty per cent of the value of another person treated as a corporation for federal income tax purposes that is conducting a qualified trade or business.

(D) The tax charged each financial institution subject to this chapter shall be that portion of the value of the issued and outstanding shares of stock as determined under division (A) of section 5733.05 of the Revised Code, multiplied by the following amounts:

- (1) For tax years prior to the 1999 tax year, fifteen mills;
- (2) For the 1999 tax year, fourteen mills;
- (3) For tax year 2000 and thereafter, thirteen mills.

(E) No tax shall be charged from any corporation that has been adjudicated bankrupt, or for which a receiver has been appointed, or that has made a general assignment for the benefit of creditors, except for the portion of the then current tax year during which the tax commissioner finds such corporation had the power to exercise its corporate franchise unimpaired by such proceedings or act. The minimum payment for each corporation shall be as follows:

(1) One thousand dollars in the case of a corporation having gross receipts for the taxable year equal to at least five million dollars from activities within or outside this state or in the case of a corporation employing at least three hundred employees at some time during the taxable year within or outside this state;

- (2) Fifty dollars in the case of any other corporation.

The tax charged to corporations under this chapter for the privilege of engaging in business in this state, which is an excise tax levied on the value of the issued and outstanding shares of stock, shall in no manner be construed as prohibiting or otherwise limiting the powers of municipal corporations, joint economic development zones created under section 715.691 of the Revised Code, and joint economic development districts created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the

Revised Code in this state to impose an income tax on the income of such corporations.

(F) If two or more taxpayers satisfy the ownership or control requirements of division (A) of section 5733.052 of the Revised Code, each such taxpayer shall substitute "the taxpayer's pro-rata amount" for "fifty thousand dollars" in divisions (A) and (B) of this section. For purposes of this division, "the taxpayer's pro-rata amount" is an amount that, when added to the other such taxpayers' pro-rata amounts, does not exceed fifty thousand dollars. For the purpose of making that computation, the taxpayer's pro-rata amount shall not be less than zero. Nothing in this division derogates from or eliminates the requirement to make the alternative computation of tax under division (C) of this section.

(G) The tax liability of any corporation under division (C) of this section shall not exceed one hundred fifty thousand dollars.

(H)(1) For the purposes of division (H) of this section, "exiting corporation" means a corporation that satisfies all of the following conditions:

(a) The corporation had nexus with or in this state under the Constitution of the United States during any portion of a calendar year;

(b) The corporation was not a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following that calendar year;

(c) The corporation was not a financial institution on the first day of January immediately following that calendar year;

(d) If the corporation was a transferor as defined in section 5733.053 of the Revised Code, the corporation's transferee was not required to add to the transferee's net income the income of the transferor pursuant to division (B) of that section;

(e) During any portion of that calendar year, or any portion of the immediately preceding calendar year, the corporation had net income that was not included in a report filed by the corporation or its transferee pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code;

(f) The corporation would have been subject to the tax computed under divisions (A), (B), (C), (F), and (G) of this section if the corporation is assumed to be a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following the calendar year to which division (H)(1)(a) of this section refers.

(2) For the purposes of division (H) of this section, "unreported net income" means net income that was not previously included in a report filed

pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code and that was realized or recognized during the calendar year to which division (H)(1) of this section refers or the immediately preceding calendar year.

(3) Each exiting corporation shall pay a tax computed by first allocating and apportioning the unreported net income pursuant to division (B) of section 5733.05 and section 5733.051 and, if applicable, section 5733.052 of the Revised Code. The exiting corporation then shall compute the tax due on its unreported net income allocated and apportioned to this state by applying divisions (A), (B), and (F) of this section to that income.

(4) Divisions (C) and (G) of this section, division (D)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code do not apply to an exiting corporation, but exiting corporations are subject to every other provision of this chapter.

(5) Notwithstanding division (B) of section 5733.01 or sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the contrary, each exiting corporation shall report and pay the tax due under division (H) of this section on or before the thirty-first day of May immediately following the calendar year to which division (H)(1)(a) of this section refers. The exiting corporation shall file that report on the form most recently prescribed by the tax commissioner for the purposes of complying with sections 5733.02 and 5733.03 of the Revised Code. Upon request by the corporation, the tax commissioner may extend the date for filing the report.

(6) If, on account of the application of section 5733.053 of the Revised Code, net income is subject to the tax imposed by divisions (A) and (B) of this section, such income shall not be subject to the tax imposed by division (H)(3) of this section.

(7) The amendments made to division (H) of this section by Am. Sub. S.B. 287 of the 123rd general assembly do not apply to any transfer, as defined in section 5733.053 of the Revised Code, for which negotiations began prior to January 1, 2001, and that was commenced in and completed during calendar year 2001, unless the taxpayer makes an election prior to December 31, 2001, to apply those amendments.

(8) The tax commissioner may adopt rules governing division (H) of this section.

(I) Any reference in the Revised Code to "the tax imposed by section 5733.06 of the Revised Code" or "the tax due under section 5733.06 of the Revised Code" includes the taxes imposed under sections 5733.065 and 5733.066 of the Revised Code.

(J)(1) Division (J) of this section applies solely to a combined company.

Section 5733.057 of the Revised Code shall apply when calculating the adjustments required by division (J) of this section.

(2) Subject to division (J)(4) of this section, the total tax calculated in divisions (A) and (B) of this section shall be reduced by an amount calculated by multiplying such tax by a fraction, the numerator of which is the total taxable gross receipts attributed to providing public utility activity other than as an electric company under section 5727.03 of the Revised Code for the year upon which the taxable gross receipts are measured immediately preceding the tax year, and the denominator of which is the total gross receipts from all sources for the year upon which the taxable gross receipts are measured immediately preceding the tax year. Nothing herein shall be construed to exclude from the denominator any item of income described in section 5733.051 of the Revised Code.

(3) Subject to division (J)(4) of this section, the total tax calculated in division (C) of this section shall be reduced by an amount calculated by multiplying such tax by the fraction described in division (J)(2) of this section.

(4) In no event shall the reduction provided by division (J)(2) or (J)(3) of this section exceed the amount of the excise tax paid in accordance with section 5727.38 of the Revised Code, for the year upon which the taxable gross receipts are measured immediately preceding the tax year.

Sec. 5733.11. (A) If any corporation required to file a report under this chapter fails to file the report within the time prescribed, files an incorrect report, or fails to remit the full amount of the tax due for the period covered by the report, the tax commissioner may make an assessment against the corporation for any deficiency for the period for which the report or tax is due, based upon any information in the commissioner's possession.

No assessment shall be made or issued against a corporation more than three years after the later of the final date the report subject to assessment was required to be filed or the date the report was filed. Such time limit may be extended if both the corporation and the commissioner consent in writing to the extension or if an agreement waiving or extending the time limit has been entered into pursuant to section 122.171 of the Revised Code. Any such extension shall extend the three-year time limit in division (B) of section 5733.12 of the Revised Code for the same period of time. There shall be no bar or limit to an assessment against a corporation that fails to file a report subject to assessment as required by this chapter, or that files a fraudulent report.

The commissioner shall give the corporation assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised

Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the corporation assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the ~~corporations~~ corporation's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the corporation assessed to the treasurer of state. The petition shall indicate the corporation's objections, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the corporation has an office or place of business in this state, the county in which the corporation's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the corporation assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state corporate franchise and litter taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of an~~ If the assessment is not paid within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected under this section shall be considered as revenue arising from the taxes imposed by this chapter.

(E) The portion of an assessment that must be paid upon the filing of a

petition for reassessment shall be as follows:

(1) If the sole item objected to is the assessed penalty or interest, payment of the assessment, including interest but not penalty, is required;

(2) If the corporation assessed failed to file, prior to the date of issuance of the assessment, the annual report required by section 5733.02 of the Revised Code, any amended report required by division (C) of section 5733.031 of the Revised Code for the tax year at issue, or any amended report required by division (D) of section 5733.067 of the Revised Code to indicate a reduction in the amount of the credit provided under that section, payment of the assessment, including interest but not penalty, is required;

(3) If the corporation assessed filed, prior to the date of issuance of the assessment, the annual report required by section 5733.02 of the Revised Code, all amended reports required by division (C) of section 5733.031 of the Revised Code for the tax year at issue, and all amended reports required by division (D) of section 5733.067 of the Revised Code to indicate a reduction in the amount of the credit provided under that section, and a balance of the taxes shown due on the reports as computed on the reports remains unpaid, payment of only that portion of the assessment representing the unpaid balance of tax and interest is required;

(4) If the corporation assessed does not dispute that it is a taxpayer but claims the protections of section 101 of Public Law 86-272, 73 Stat. 555, 15 U.S.C.A. 381, as amended, payment of only that portion of the assessment representing any balance of taxes shown due on the corporation's annual report required by section 5733.02 of the Revised Code, as computed on the report, that remains unpaid, and that represents taxes imposed by division (C) of section 5733.06, division (C)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code, together with all related interest, is required;

(5) If none of the conditions specified in divisions (E)(1) to (4) of this section apply, or if the corporation assessed disputes that it is a taxpayer, no payment is required.

(F) Notwithstanding the fact that a petition for reassessment is pending, the corporation may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the corporation under the corrected assessment is less than the portion paid, there shall be

issued to the corporation, its assigns, or legal representative a refund in the amount of the overpayment as provided by section 5733.12 of the Revised Code, with interest on that amount as provided by section 5733.26 of the Revised Code, subject to section 5733.121 of the Revised Code.

Sec. 5733.55. (A) As used in this section:

(1) "9-1-1 system" has the same meaning as in section ~~5507.04~~ 128.01 of the Revised Code.

(2) "Nonrecurring 9-1-1 charges" means nonrecurring charges approved by the public utilities commission for the telephone network portion of a 9-1-1 system pursuant to section ~~5507.18~~ 128.18 of the Revised Code.

(3) "Eligible nonrecurring 9-1-1 charges" means all nonrecurring 9-1-1 charges for a 9-1-1 system except both of the following:

(a) Charges for a system that was not established pursuant to a plan adopted under section ~~5507.08~~ 128.08 of the Revised Code or an agreement under section ~~5507.09~~ 128.09 of the Revised Code;

(b) Charges for that part of a system established pursuant to such a plan or agreement that are excluded from the credit by division (C)(2) of section ~~5507.18~~ 128.18 of the Revised Code.

(4) "Telephone company" has the same meaning as in section 5727.01 of the Revised Code.

(B) Beginning in tax year 2005, a telephone company shall be allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code equal to the amount of its eligible nonrecurring 9-1-1 charges. The credit shall be claimed for the company's taxable year that covers the period in which the 9-1-1 service for which the credit is claimed becomes available for use. The credit shall be claimed in the order required by section 5733.98 of the Revised Code. If the credit exceeds the total taxes due under section 5733.06 of the Revised Code for the tax year, the tax commissioner shall credit the excess against taxes due under that section for succeeding tax years until the full amount of the credit is granted.

(C) After the last day a return, with any extensions, may be filed by any telephone company that is eligible to claim a credit under this section, the commissioner shall determine whether the sum of the credits allowed for prior tax years commencing with tax year 2005 plus the sum of the credits claimed for the current tax year exceeds fifteen million dollars. If it does, the credits allowed under this section for the current tax year shall be reduced by a uniform percentage such that the sum of the credits allowed for the current tax year do not exceed fifteen million dollars claimed by all telephone companies for all tax years. Thereafter, no credit shall be granted under this section, except for the remaining portions of any credits allowed

under division (B) of this section.

(D) A telephone company that is entitled to carry forward a credit against its public utility excise tax liability under section 5727.39 of the Revised Code is entitled to carry forward any amount of that credit remaining after its last public utility excise tax payment for the period of July 1, 2003, through June 30, 2004, and claim that amount as a credit against its corporation franchise tax liability under this section. Nothing in this section authorizes a telephone company to claim a credit under this section for any eligible nonrecurring 9-1-1 charges for which it has already claimed a credit under this section or section 5727.39 of the Revised Code.

Sec. 5733.58. (A) Terms used in this section have the same meaning as in section 5725.33 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for a financial institution holding a qualified equity investment on the credit allowance date occurring in the calendar year immediately preceding the tax year for which the tax is due. The credit shall be computed in the same manner prescribed for the computation of credits allowed under section 5725.33 of the Revised Code.

By claiming a tax credit under this section, a financial institution waives its rights under section 5733.11 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (D) of this section.

The credit shall be claimed in the order prescribed by section 5733.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing tax years.

(C) The total amount of qualified equity investments on the basis of which credits may be claimed under this section and sections 5725.33 and 5729.16 of the Revised Code is subject to the limitation of division (C) of section 5725.33 of the Revised Code.

(D) If any amount of ~~the~~ a federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development services determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business, all or a portion of the credit received on account of that investment shall be paid by

the financial institution that received the credit to the tax commissioner. The amount to be recovered shall be determined by the director of development services pursuant to rules adopted under section 5725.33 of the Revised Code. The director shall certify any amount due under this division to the tax commissioner, and the commissioner shall notify the financial institution of the amount due. The amount due is payable not later than thirty days after the day the commissioner issues the notice. The amount due shall be considered to be tax due under section 5733.06 of the Revised Code, and may be collected by assessment without regard to the limitations imposed under section 5733.11 of the Revised Code for the assessment of taxes by the commissioner. All amounts collected under this division shall be credited as revenue from the tax levied under section 5733.06 of the Revised Code.

Sec. 5733.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code:

(1) For tax year 2005, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;

(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;

(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;

(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;

(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;

(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;

(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;

(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;

(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;

(11) The nonrefundable job retention credit under division (B) of section 5733.0610 of the Revised Code;

(12) The credit for tax years 2008 and 2009 for selling alternative fuel under section 5733.48 of the Revised Code;

(13) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;

(14) The job training credit under section 5733.42 of the Revised Code;

(15) The credit for qualified research expenses under section 5733.351 of the Revised Code;

(16) The enterprise zone credit under section 5709.66 of the Revised Code;

(17) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;

(18) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;

(19) The ethanol plant investment credit under section 5733.46 of the Revised Code;

(20) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;

(21) The export sales credit under section 5733.069 of the Revised Code;

~~(22) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;~~

~~(23)~~ The enterprise zone credits under section 5709.65 of the Revised Code;

~~(24)~~(23) The credit for using Ohio coal under section 5733.39 of the Revised Code;

~~(25)~~(24) The credit for purchases of qualified low-income community investments under section 5733.58 of the Revised Code;

~~(26)~~(25) The credit for small telephone companies under section 5733.57 of the Revised Code;

~~(27)~~(26) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;

~~(28)~~(27) For tax year 2005, the credit for providing programs to aid the communicatively impaired under division (A) of section 5733.56 of the Revised Code;

~~(29)~~(28) The research and development credit under section 5733.352 of the Revised Code;

~~(30)~~(29) For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

~~(31)~~(30) The refundable credit for rehabilitating a historic building

under section 5733.47 of the Revised Code;

~~(32)~~(31) The refundable jobs creation credit or job retention credit under division (A) of section 5733.0610 of the Revised Code;

~~(33)~~(32) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;

~~(34)~~(33) The refundable credit under section 5733.49 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;

~~(35)~~(34) For tax years 2006, 2007, and 2008, the refundable credit allowable under division (B) of section 5733.56 of the Revised Code;

~~(36)~~(35) The refundable motion picture production credit under section 5733.59 of the Revised Code.

(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit.

Sec. 5735.012. ~~Amounts~~ With respect to liquid motor fuel other than liquid natural gas, amounts of motor fuel reported under this chapter shall be measured in gross gallons, except that amounts reported for terminal to terminal transactions shall be measured in net gallons and amounts reported for terminal to Ohio licensed dealer transactions shall be measured in both net gallons and gross gallons. Amounts of liquid natural gas shall be measured in gallon equivalents as described in section 5735.013 of the Revised Code.

Sec. 5735.013. For the purposes of this chapter, if the national conference on weights and measures has adopted a diesel gallon equivalent standard for liquid natural gas, that standard shall be the equivalent of one gallon of motor fuel. If the national conference on weights and measures has not adopted such a standard, six and six one-hundredths pounds of liquid natural gas shall be the equivalent of one gallon of motor fuel.

Sec. 5735.12. (A) Any motor fuel dealer required by this chapter to file reports and pay the tax levied by this chapter who fails to file the report within the time prescribed, may be liable for an additional charge not exceeding the greater of ten per cent of the motor fuel dealer's tax liability for that month or fifty dollars. The tax commissioner may remit all or a portion of the additional charge and may adopt rules relating to the remission of all or a portion of the charge.

If any person required by this chapter to file reports and pay the taxes, interest, or additional charge levied by this chapter fails to file the report,

files an incomplete or incorrect report, or fails to remit the full amount of the tax, interest, or additional charge due for the period covered by the report, the commissioner may make an assessment against the person based upon any information in the commissioner's possession.

No assessment shall be made against any motor fuel dealer for taxes imposed by this chapter more than four years after the date on which the report on which the assessment was based was due or was filed, whichever is later. This section does not bar an assessment against any motor fuel dealer who fails to file a report required by section 5735.06 of the Revised Code, or who files a fraudulent motor fuel tax report.

A penalty of up to fifteen per cent may be added to the amount of every assessment made under this section. The commissioner may adopt rules providing for the imposition and remission of penalties added to assessments made under this section.

The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment in writing, signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the party assessed resides or in which the business of the party assessed is conducted. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state motor fuel tax," and shall have the same effect

as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the tax commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the tax imposed by this chapter.

(E) If the tax commissioner determines that the commissioner has erroneously refunded motor fuel tax to any person, the commissioner may make an assessment against the person for recovery of the erroneously refunded tax.

Sec. 5735.27. (A) There is hereby created in the state treasury the gasoline excise tax fund, which shall be distributed in the following manner:

(1) The amount credited pursuant to divisions (B)(2)(a) and (C)(2)(a) of section 5735.23 of the Revised Code shall be distributed among municipal corporations. The amount paid to each municipal corporation shall be that proportion of the amount to be so distributed that the number of motor vehicles registered within the municipal corporation bears to the total number of motor vehicles registered within all the municipal corporations of this state during the preceding motor vehicle registration year. When a new village is incorporated, the registrar of motor vehicles shall determine from the applications on file in the bureau of motor vehicles the number of motor vehicles located within the territory comprising the village during the entire registration year in which the municipal corporation was incorporated. The registrar shall forthwith certify the number of motor vehicles so determined to the tax commissioner for use in distributing motor vehicle fuel tax funds to the village until the village is qualified to participate in the distribution of the funds pursuant to this division. The number of motor vehicle registrations shall be determined by the official records of the bureau of

motor vehicles. The amount received by each municipal corporation shall be used to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to pay the costs apportioned to the municipal corporation under section 4907.47 of the Revised Code; to purchase, erect, and maintain traffic lights and signals; to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the municipal corporation may issue bonds; and to supplement revenue already available for these purposes.

(2) The amount credited pursuant to division (B) of section 5735.26 of the Revised Code shall be distributed among the municipal corporations within the state, in the proportion which the number of motor vehicles registered within each municipal corporation bears to the total number of motor vehicles registered within all the municipal corporations of the state during the preceding calendar year, as shown by the official records of the bureau of motor vehicles, and shall be expended by each municipal corporation to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay costs apportioned to the municipal corporation under section 4907.47 of the Revised Code; to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the municipal corporation may issue bonds; and to supplement revenue already available for these purposes.

(3) The amount credited pursuant to divisions (B)(2)(b) and (C)(2)(c) of section 5735.23 of the Revised Code shall be paid in equal proportions to the county treasurer of each county within the state and shall be used only for the purposes of planning, maintaining, and repairing the county system of public roads and highways within the county; the planning, construction, and repair of walks or paths along county roads in congested areas; the planning, construction, purchase, lease, and maintenance of suitable buildings for the housing and repair of county road machinery, housing of

supplies, and housing of personnel associated with the machinery and supplies; the payment of costs apportioned to the county under section 4907.47 of the Revised Code; the payment of principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the board of county commissioners may issue bonds under that chapter; and the purchase, installation, and maintenance of traffic signal lights.

(4) The amount credited pursuant to division (C) of section 5735.26 of the Revised Code shall be paid in equal proportions to the county treasurer of each county for the purposes of planning, maintaining, constructing, widening, and reconstructing the county system of public roads and highways; paying principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the board of county commissioners may issue bonds under that chapter; and paying costs apportioned to the county under section 4907.47 of the Revised Code.

(5)(a) The amount credited pursuant to division (D) of section 5735.26 and division (C)(2)(b) of section 5735.23 of the Revised Code shall be divided in equal proportions among the townships within the state.

(b) As used in division (A)(5)(b) of this section, the "formula amount" for any township is the amount that would be allocated to that township if fifty per cent of the amount credited to townships pursuant to section 5735.291 of the Revised Code were allocated among townships in the state proportionate to the number of centerline miles within the boundaries of the respective townships, as determined annually by the department of transportation, and the other fifty per cent of the amount credited pursuant to section 5735.291 of the Revised Code were allocated among townships in the state proportionate to the number of motor vehicles registered within the respective townships, as determined annually by the records of the bureau of motor vehicles. The number of centerline miles within the boundaries of a township shall not include any centerline miles of township roads that have been placed on nonmaintained status by a board of township trustees pursuant to section 5571.20 of the Revised Code.

Beginning on August 15, 2003, the tax levied by section 5735.29 of the Revised Code shall be partially allocated to provide funding for townships. Each township shall receive the greater of the following two calculations:

(i) The total statewide amount credited to townships under division (A) of section 5735.291 of the Revised Code divided by the number of townships in the state at the time of the calculation;

(ii) Seventy per cent of the formula amount for that township.

(c) The total difference between the amount of money credited to townships under division (A) of section 5735.291 of the Revised Code and the total amount of money required to make all the payments specified in division (A)(5)(b) of this section shall be deducted, in accordance with division (B) of section 5735.291 of the Revised Code, from the revenues resulting from the tax levied pursuant to section 5735.29 of the Revised Code prior to crediting portions of such revenues to counties, municipal corporations, and the highway operating fund.

(d) All amounts credited pursuant to divisions (A)(5)(a) and (b) of this section shall be paid to the county treasurer of each county for the total amount payable to the townships within each of the counties. The county treasurer shall pay to each township within the county its proportional share of the funds, which shall be expended by each township only for the purposes of planning, constructing, maintaining, widening, and reconstructing the public roads and highways within the township, paying principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133, or 505, of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the board of township trustees may issue bonds under those chapters, and paying costs apportioned to the township under section 4907.47 of the Revised Code.

No part of the funds designated for road and highway purposes shall be used for any purpose except to pay in whole or part the contract price of any such work done by contract, or to pay the cost of labor in planning, constructing, widening, and reconstructing such roads and highways, and the cost of materials forming a part of the improvement; provided that the funds may be used for the purchase of road machinery and equipment ~~and for~~ the planning, construction, and maintenance of suitable buildings for housing road machinery and equipment, and the payment of principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133, or 505, of the Revised Code for the purpose of purchasing road machinery and equipment or planning, constructing, and maintaining suitable buildings for housing road machinery and equipment; and provided that all such improvement of roads shall be under supervision and direction of the county engineer as provided in section 5575.07 of the Revised Code.

No obligation against the funds shall be incurred unless plans and specifications for the improvement, approved by the county engineer, are on file in the office of the township fiscal officer, and all contracts for material and for work done by contract shall be approved by the county engineer before being signed by the board of township trustees. The board of township trustees of any township may pass a resolution permitting the board of county commissioners to expend the township's share of the funds, or any portion of it, for the improvement of the roads within the township as may be designated in the resolution.

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

(B) Amounts credited to the highway operating fund pursuant to divisions (B)(2)(c) and (C)(2)(d) of section 5735.23 and division (A) of section 5735.26 of the Revised Code shall be expended in the following manner:

(1) The amount credited pursuant to divisions (B)(2)(c) and (C)(2)(d) of section 5735.23 of the Revised Code shall be apportioned to and expended by the department of transportation for the purposes of planning, maintaining, repairing, and keeping in passable condition for travel the roads and highways of the state required by law to be maintained by the department; paying the costs apportioned to the state under section 4907.47 of the Revised Code; paying that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; and paying the costs of the department of public safety in administering and enforcing the state law relating to the registration and operation of motor vehicles.

(2) The amount credited pursuant to division (A) of section 5735.26 of the Revised Code shall be used for paying the state's share of the cost of planning, constructing, widening, maintaining, and reconstructing the state highways; paying that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; and also for supplying the state's share of the cost of eliminating railway grade crossings upon such highways and costs apportioned to the state under section 4907.47 of the Revised Code. The director of transportation may expend portions of such amount upon extensions of state highways within municipal corporations or upon portions of state highways within municipal corporations, as is

provided by law.

Sec. 5735.34. (A) If any motor fuel dealer sells that motor fuel dealer's entire business or discontinues operating that business, the taxes and any interest and penalties imposed under this chapter that arose prior to the date of sale or discontinuation become due and payable immediately. ~~The~~ Within fifteen days after the date of the sale or discontinuation of the business, the motor fuel dealer shall make a final return within fifteen days after the date of the sale or discontinuation of the business and provide written notification to the tax commissioner of the sale or discontinuation and the name and contact information of the purchaser, if applicable. The purchaser of the business shall withhold a sufficient amount of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until the seller produces a receipt from the tax commissioner showing that the taxes, interest, and penalties have been paid, or until the seller produces a certificate indicating that no taxes, interest, and penalties are due.

(B) If the purchaser of the business fails to withhold the purchase money required to be withheld under this section, the purchaser of the business is personally liable for the payment of the taxes, interest, and penalties accrued and unpaid during the operation of the business by the seller, but only to the extent of the consideration offered for the entire business.

(C) For purposes of this section, "entire business" means substantially all of the seller's assets determined without regard to any then existing mortgages, liens, security interests or other encumbrances attaching to those assets. A person is considered to have sold the entire business only if the person ceases to qualify as a motor fuel dealer and has relinquished or the tax commissioner has canceled the person's motor fuel dealer's license.

Sec. 5736.01. As used in this division:

(A) "Calendar quarter" and "person" have the same meanings as in section 5751.01 of the Revised Code.

(B) "Distribution system" means a bulk transfer or terminal system for the distribution of motor fuel consisting of refineries, pipelines, marine vessels, and terminals. For the purposes of this section, motor fuel that is in a refinery, pipeline, terminal, or marine vessel that is transporting motor fuel to a refinery or terminal is in a "distribution system." Motor fuel is "outside of a distribution system" if the fuel is in a fuel storage facility, including, but not limited to, a bulk plant that is not part of a refinery or terminal, the fuel supply tank of an engine or motor vehicle, a marine vessel transporting motor fuel to a fuel storage facility that is not in a distribution system, or a tank car, rail car, trailer, truck, or other equipment suitable for ground

transportation.

(C) "Dyed diesel fuel," "import," "motor fuel," "public highways," and "terminal" have the same meanings as in section 5735.01 of the Revised Code.

(D) "First sale of motor fuel within this state" means the initial sale of motor fuel when sold for delivery to a location in this state.

(E) "Gross receipts" means the total amount received by a person, without deduction for the cost of goods sold or other expenses incurred, from the first sale of motor fuel within this state. For the purposes of division (E) of this section, "amount received" includes amounts accrued under the accrual method of accounting. "Gross receipts" shall not include any of the following amounts:

(1) Receipts derived from the sale of motor fuel when sold for export to another state;

(2) An amount equal to the federal and state excise taxes paid by the supplier on the motor fuel;

(3) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" has the same meaning as in section 5751.01 of the Revised Code.

(4) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer.

(F) "Motor fuel used to propel vehicles on public highways and waterways" includes motor fuel used for the operation of licensed motor vehicles employed in the maintenance, construction, or repair of public highways. "Motor fuel used to propel vehicles on public highways and waterways" does not include dyed diesel fuel.

(G) "Rack" means a mechanism capable of delivering motor fuel from a refinery, terminal, or marine vessel into a railroad tank car, transport truck, tank wagon, fuel supply tank, marine vessel, or other means of transport outside of a distribution system.

(H) "Refinery" means a facility used to produce motor fuel and from which motor fuel may be removed by pipeline, by vessel, or at a rack.

(I) "Supplier" means either of the following:

(1) A person that sells, exchanges, transfers, or otherwise distributes motor fuel from a terminal or refinery rack to a point outside of a distribution system, if the person distributes such motor fuel at a location in this state;

(2) A person that imports or causes the importation of motor fuel for

sale, exchange, transfer, or other distribution by the person to a point outside of a distribution system in this state.

(J) "Tax period" means the calendar quarter on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

(K) "Taxpayer" means a person subject to the tax imposed by this chapter.

(L) "Waterways" means all streams, lakes, ponds, marshes, water courses, and all other bodies of surface water, natural or artificial, which are situated wholly or partially within this state or within its jurisdiction, except private impounded bodies of water.

Sec. 5736.02. (A) Beginning with the tax period that commences July 1, 2014, and continuing for every tax period thereafter, there is hereby levied an excise tax on each supplier measured by the supplier's gross receipts derived from the first sale of motor fuel within this state. The tax shall be levied at a rate of six and five-tenths mills for each dollar of the supplier's gross receipts.

All revenue from the tax shall be distributed as follows:

(1) All revenue from the tax as measured by gross receipts derived from the sale of motor fuel used for propelling vehicles on public highways and waterways shall be used for the purposes of maintaining the state highway system, funding the enforcement of traffic laws, and covering the costs of hospitalization of indigent persons injured in motor vehicle accidents on the public highways.

(2) All revenue not distributed as required by division (A)(1) of this section shall be used for the purpose of funding the needs of this state and its local governments.

(B) The tax imposed by this section is in addition to any other taxes or fees imposed under the Revised Code.

Sec. 5736.03. (A) No person shall avoid the tax imposed by this chapter by receiving motor fuel outside of this state and transferring the motor fuel into this state within one year. Any such person shall be considered to have received the fuel in this state and shall include as gross receipts the value of motor fuel the person transfers into this state within one year after the person receives the property outside of this state.

(B) The tax commissioner may adopt rules necessary to administer this section.

Sec. 5736.04. (A) Not later than the tenth day of the second month after the end of each calendar quarter, every taxpayer shall file with the tax commissioner a tax return in such form as the commissioner prescribes. The return shall include, but is not limited to, the amount of the taxpayer's gross

receipts for the calendar quarter and shall indicate the amount of tax due under section 5736.02 of the Revised Code for the calendar quarter. The taxpayer shall indicate on each return the portion of the taxpayer's gross receipts attributable to motor fuel used for propelling vehicles on public highways and waterways and the portion of such receipts attributable to motor fuel used for other purposes.

(B)(1) The taxpayer shall remit the tax shown to be due on the return, and, if required by the tax commissioner, file the return, electronically. The commissioner may require taxpayers to use the Ohio business gateway as defined in section 718.051 of the Revised Code to file return returns and remit the tax, or may provide another means for taxpayers to file and remit the tax electronically.

(2) A person required by this section to remit taxes or file returns electronically may apply to the commissioner, on the form prescribed by the commissioner, to be excused from that requirement. The commissioner may excuse a person from such requirement for good cause.

(C) The tax rate with respect to gross receipts for a calendar quarter is not fixed until the end of the measurement period for each calendar quarter. The total amount of gross receipts reported for a given calendar quarter shall be subject to the tax rate in effect in that quarter.

Sec. 5736.05. (A) Any taxpayer that fails to file a return or pay the full amount of the tax due within the period prescribed therefor under this chapter shall pay a penalty in an amount not exceeding the greater of fifty dollars or ten per cent of the tax required to be paid for the tax period.

(B)(1) If any additional tax is found to be due, the tax commissioner may impose an additional penalty of up to fifteen per cent on the additional tax found to be due.

(2) Any delinquent payments of the tax made after a taxpayer is notified of an audit or a tax discrepancy by the commissioner is subject to the penalty imposed by division (B) of this section. If an assessment is issued under section 5736.09 of the Revised Code in connection with such delinquent payments, the payments shall be credited to the assessment.

(C) If a person required to remit taxes or file a return electronically under section 5736.04 of the Revised Code fails to do so, the commissioner may impose a penalty not to exceed the following:

(1) For either of the first two calendar quarters the person so fails, five per cent of the amount of the payment that was required to be remitted;

(2) For the third and any subsequent calendar quarters the person so fails, ten per cent of the amount of the payment that was required to be remitted.

(D) The tax commissioner may collect any penalty or interest imposed by this section in the same manner as the tax imposed under this chapter. Penalties and interest so collected shall be considered as revenue arising from the tax imposed under this chapter.

(E) The tax commissioner may abate all or a portion of any penalties imposed under this section and may adopt rules governing such abatements.

(F) If any tax due is not timely paid in accordance with this chapter, the taxpayer shall pay interest, calculated at the rate per annum prescribed by section 5703.47 of the Revised Code, from the date the tax payment was due to the date of payment or to the date an assessment was issued, whichever occurs first.

Sec. 5736.06. (A) No person subject to the tax imposed by section 5736.02 of the Revised Code shall distribute, import, or cause the importation of motor fuel for consumption in this state without holding a supplier's license issued by the tax commissioner to engage in such activities.

(B)(1) A person subject to the tax imposed by section 5736.02 of the Revised Code shall, on or before March 1, 2014, or within thirty days of first becoming subject to the tax imposed by this chapter, whichever is earlier, apply to the tax commissioner for a supplier's license on the form prescribed by the commissioner.

(2) Each person issued a supplier's license under division (B)(1) of this section shall apply to renew the license on or before the first day of March of each year.

(3) With each license application submitted under division (B)(1) or (2) of this section, the applicant shall pay an application fee equal to one of the following amounts:

(a) If the applicant solely imports or causes the importation of motor fuel for sale, exchange, or transfer by the person in this state, three hundred dollars;

(b) If the applicant engages in activities in addition to those described in division (B)(3)(a) of this section, one thousand dollars.

If an applicant timely submits an application under division (B)(1) of this section on or after the first day of September of any year, the fee that would apply to the applicant under division (B)(3)(a) or (b) of this section shall be reduced by one-half.

(4) The failure to apply to the commissioner for a supplier's license does not relieve a person from the requirement to file returns and pay the tax imposed by this chapter.

(C) The tax commissioner may refuse to issue a license to any applicant

under this section in the following circumstances:

(1) The applicant has previously had any license canceled for cause by the commissioner.

(2) The commissioner believes that the application is not filed in good faith or is filed as a subterfuge in an attempt to procure a license for another person.

(3) The applicant has violated any provision of this chapter.

(D) If the tax commissioner refuses to issue a license to an applicant under this section, the applicant is entitled to a refund of the application fee in accordance with section 5736.08 of the Revised Code. All application fees collected under this section shall be deposited into the motor fuel receipts tax administration fund created in section 5736.13 of the Revised Code.

(E) No person shall make a false or fraudulent statement on an application required by this section.

Sec. 5736.07. (A) If a taxpayer files a false return, fails to file a return as required by section 5736.04 of the Revised Code, or fails to pay the full amount of tax due with a return, the tax commissioner may revoke the supplier's license issued to the taxpayer under section 5736.06 of the Revised Code by notifying the taxpayer in writing of such revocation by certified mail sent to the last known address of the taxpayer appearing on the files of the commissioner.

(B) Upon the request of a person that is no longer subject to the tax imposed by this chapter, the tax commissioner may cancel the supplier's license issued to the person under section 5736.06 of the Revised Code. The cancellation shall become effective at the time determined by the commissioner. No license shall be canceled upon the request of any person unless, prior to the date of cancellation, the person has paid to the state all taxes payable by such person under the laws of the state, together with any interest and penalties.

Sec. 5736.08. (A) An application for refund to the taxpayer of the amount of taxes imposed under this chapter that are overpaid, paid illegally or erroneously, or paid on any illegal or erroneous assessment shall be filed by the taxpayer with the tax commissioner, on the form prescribed by the commissioner, within four years after the date of the illegal or erroneous payment of the tax, or within any additional period allowed under division (F) of section 5736.09 of the Revised Code. The applicant shall provide the amount of the requested refund along with the claimed reasons for, and documentation to support, the issuance of a refund.

(B) On the filing of the refund application, the commissioner shall

determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(C) Interest on a refund applied for under this section, computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the tax was paid or when the tax payment was due.

(D) Except as provided in section 5736.081 of the Revised Code, the commissioner may provide for the crediting against tax due for a tax period the amount of any refund due the taxpayer under this chapter for a preceding tax period.

Sec. 5736.081. As used in this section, "debt to this state" means unpaid taxes due the state, unpaid workers' compensation premiums due under section 4123.35 of the Revised Code, unpaid unemployment compensation contributions due under section 4141.25 of the Revised Code, unpaid unemployment compensation payment in lieu of contribution under section 4141.241 of the Revised Code, unpaid fees payable to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, incorrect payments for medicaid services under the medicaid program, or any unpaid charge, penalty, or interest arising from any of the foregoing.

If a taxpayer entitled to a refund under section 5736.08 of the Revised Code owes any debt to this state, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. This section applies only to debts that have become final. For the purposes of this section, a debt becomes final when, under the applicable law, any time provided for petition for reassessment, request for reconsideration, or other appeal of the legality or validity of the amount giving rise to the debt expires without an appeal having been filed in the manner provided by law.

Sec. 5736.09. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any person that fails to file a return or pay any tax as required by this chapter. The commissioner shall give the person assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on the manner in which to petition for reassessment and request a hearing with respect to the

petition.

(B) Unless the person assessed, within sixty days after service of the notice of assessment, files with the commissioner, either personally or by certified mail, a written petition signed by the person or the person's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the person assessed to the treasurer of state. The petition shall indicate the objections of the person assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination.

If a petition for reassessment has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C)(1) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person resides or has its principal place of business in this state, or in the office of the clerk of court of common pleas of Franklin county.

(2) Immediately upon the filing of the entry, the clerk shall enter judgment for the state against the person assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled, "special judgments for the motor fuel receipts tax" and shall have the same effect as other judgments. Execution shall issue upon the judgment at the request of the commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

(3) If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) If the commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment

against the person liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the person assessed or the person's authorized agent in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(E) The commissioner shall immediately forward to the treasurer of state all amounts the commissioner receives under this section, and such amounts shall be considered as revenue arising from the tax imposed under this chapter.

(F) Except as otherwise provided in this division, no assessment shall be made or issued against a taxpayer for the tax imposed under this chapter more than four years after the due date for the filing of the return for the tax period for which the tax was reported, or more than four years after the return for the tax period was filed, whichever is later. The time limit may be extended if both the taxpayer and the commissioner consent in writing to the extension or enter into an agreement waiving or extending the time limit. Any such extension shall extend the four-year time limit in division (A) of section 5736.08 of the Revised Code for the same period of time. Nothing in this division bars an assessment against a taxpayer that fails to file a return required by this chapter or that files a fraudulent return.

(G) If the commissioner possesses information that indicates that the amount of tax a taxpayer is required to pay under this chapter exceeds the amount the taxpayer paid, the commissioner may audit a sample of the taxpayer's gross receipts over a representative period of time to ascertain the amount of tax due, and may issue an assessment based on the audit. The commissioner shall make a good faith effort to reach agreement with the taxpayer in selecting a representative sample. The commissioner may apply a sampling method only if the commissioner has prescribed the method by rule.

(H) If the whereabouts of a person subject to this chapter is not known to the commissioner, the commissioner shall follow the procedures under section 5703.37 of the Revised Code.

Sec. 5736.10. If any person liable for the tax imposed under this chapter

sells the trade or business, disposes in any manner other than in the regular course of business at least seventy-five per cent of assets of the trade or business, or quits the trade or business, any tax owed by such person shall become due and payable immediately, and the person shall pay the tax under this section, including any applicable penalties and interest, within forty-five days after the date of selling or quitting the trade or business. The person's successor shall withhold a sufficient amount of the purchase money to cover the amount due and unpaid until the former owner produces a receipt from the tax commissioner showing that the amounts are paid or a certificate indicating that no taxes are due. If a purchaser fails to withhold purchase money, that person is personally liable up to the purchase money amount, for such amounts that are unpaid during the operation of the business by the former owner.

The commissioner may adopt rules regarding the issuance of certificates under this section, including the waiver of the need for a certificate if certain criteria are met.

Sec. 5736.11. If any person subject to this chapter fails to report or pay the tax as required under this chapter, or fails to pay any penalty imposed under this chapter within ninety days after the time prescribed for payment of the penalty, the attorney general, on the request of the tax commissioner, shall commence an action in quo warranto in the court of appeals of the county in which the person has its principal place of business to forfeit and annul its privileges or franchise within this state. If the court finds that the person is in default for the amount claimed, it shall render judgment revoking the person's privileges or franchise within this state and shall otherwise proceed as provided in Chapter 2733. of the Revised Code.

Sec. 5736.12. The tax commissioner may prescribe requirements for the keeping of records and other pertinent documents, the filing of copies of federal income tax returns and determinations, and computations reconciling federal income tax returns with the returns and reports required by section 5736.04 of the Revised Code. The commissioner may require any person, by rule or notice served on that person, to keep those records that the commissioner considers necessary to show whether, and the extent to which, a person is subject to this chapter. Those records and other documents shall be open during business hours to the inspection of the commissioner, and shall be preserved for a period of four years unless the commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. If such records are normally kept by the person electronically, the person shall provide such records to the commissioner electronically at the commissioner's request.

Sec. 5736.13. (A) For the purpose of receiving, accounting for, and distributing revenue received from the tax imposed by section 5736.02 of the Revised Code, the following funds are hereby created in the state treasury:

(1) The motor fuel receipts tax fund;

(2) The motor fuel receipts tax administration fund. All amounts credited to the motor fuel receipts tax administration fund shall be used solely for the purpose of paying the expenses of the department of taxation incident to the administration of the tax imposed by section 5736.02 of the Revised Code.

(3) The motor fuel receipts tax public highways fund.

(B) All money collected from the tax imposed by section 5736.02 of the Revised Code shall be deposited into the motor fuel receipts tax fund.

(C) From the motor fuel receipts tax fund, the director of budget and management shall place to the credit of the tax refund fund established by section 5703.052 of the Revised Code amounts equal to the refunds certified by the tax commissioner pursuant to section 5736.08 of the Revised Code.

(D) Not later than the last day of March, June, September, and December of each year, the director of budget and management shall provide for the transfer of the balance of the motor fuel receipts tax fund as of the last day of the preceding month, excluding any amounts required to be transferred as provided in division (C) of this section, as follows:

(1) To the motor fuel receipts tax administration fund, one per cent;

(2) To the motor fuel receipts tax public highways fund, an amount that bears the same ratio to the balance in the motor fuel receipts tax fund, after subtracting the amount transferred under division (D)(1) of this section, that (a) the gross receipts attributed to motor fuel used for propelling vehicles on public highways and waterways as indicated by returns filed by the last day of the preceding month, bears to (b) all gross receipts as indicated by those returns;

(3) To the general revenue fund, the amount remaining after the transfers required by divisions (D)(1) and (2) of this section.

Sec. 5736.14. (A)(1) If any person, regardless of organizational form, required to file reports and to remit taxes imposed under this chapter fails for any reason to file such reports or pay such taxes, any employees of the person having control or supervision of, or charged with the responsibility of, filing reports and making payments, or any officers or trustees of the person responsible for the execution of the person's fiscal responsibilities, are personally liable for the failure.

(2) The dissolution, termination, or bankruptcy of a person shall not

discharge a responsible officer's, shareholder's, member's, manager's, employee's, or trustee's liability for failure of the person to file reports or remit taxes. The sum due for the liability may be collected by assessment in the manner provided in section 5736.09 of the Revised Code.

(B) If more than one individual is personally liable under this section for the unpaid tax of a person, then the liability of all such individuals shall be joint and several.

Sec. 5736.99. (A) Any person that files a fraudulent refund claim under section 5736.08 of the Revised Code shall be fined the greater of not more than one thousand dollars or the amount of the fraudulent refund requested or imprisoned not more than sixty days, or both.

(B) Except as provided in this section, whoever violates any section of this chapter, or any rule adopted by the tax commissioner under this chapter, shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(C) Any person that is subject to the tax imposed by this chapter and that is found to be engaged in distributing, importing, or causing the importation of motor fuel for consumption in this state without a license as required by section 5736.06 of the Revised Code shall be fined not more than one thousand dollars or imprisoned not more than one hundred eighty days, or both.

(D) The penalties provided in this section are in addition to any penalties imposed by the tax commissioner under section 5736.05 of the Revised Code.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except

property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;

(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;

(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;

(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.

(f) Telecommunications service, including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided, but not including coin-operated telephone service;

(g) Landscaping and lawn care service is or is to be provided;

(h) Private investigation and security service is or is to be provided;

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be provided;

(o) Recreation and sports club service is or is to be provided;

(p) On and after August 1, 2003, satellite broadcasting service is or is to

be provided;

(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.

(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;

(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(u) Electronic publishing service is or is to be provided to a consumer for use in business, except that such transactions occurring between members of an affiliated group, as defined in division (B)(3)(e) of this section, are not sales.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or

improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, or an ownership interest in a pass-through entity, as defined in section 5733.04 of the Revised Code, is transferred, if the corporation or pass-through entity is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders or owners;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale;

(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business;

(10) All transactions in which "guaranteed auto protection" is provided whereby a person promises to pay to the consumer the difference between the amount the consumer receives from motor vehicle insurance and the amount the consumer owes to a person holding title to or a lien on the

consumer's motor vehicle in the event the consumer's motor vehicle suffers a total loss under the terms of the motor vehicle insurance policy or is stolen and not recovered, if the protection and its price are included in the purchase or lease agreement;

(11)(a) Except as provided in division (B)(11)(b) of this section, on and after October 1, 2009, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid health insuring corporation pursuant to the corporation's contract with the state.

(b) If the centers for medicare and medicaid services of the United States department of health and human services determines that the taxation of transactions described in division (B)(11)(a) of this section constitutes an impermissible health care-related tax under ~~section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935)~~ section 1903(w), 42 U.S.C. 1396b(w), as amended, and regulations adopted thereunder, the medicaid director ~~of job and family services~~ shall notify the tax commissioner of that determination. Beginning with the first day of the month following that notification, the transactions described in division (B)(11)(a) of this section are not sales for the purposes of this chapter or Chapter 5741. of the Revised Code. The tax commissioner shall order that the collection of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code shall cease for transactions occurring on or after that date.

(12) All transactions by which a specified digital product is provided for permanent use or less than permanent use, regardless of whether continued payment is required.

Except as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in

selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exemption under division (B)(42)(f) of section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(7) In the case of a transaction for health care services under division (B)(11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid health insuring corporation is not subject to the exception for resale under division (E)(1) of this section or to the exemptions provided under divisions (B)(12), (18), (19), and (22) of section 5739.02 of the Revised Code.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(i) The vendor's cost of the property sold;

(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;

(iii) Charges by the vendor for any services necessary to complete the sale;

(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor at the time of the sale of the item to the consumer; and one of the following criteria is met:

(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;

(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

(c) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under

Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.

(v) The dollar value of a gift card that is not sold by a vendor or purchased by a consumer and that is redeemed by the consumer in purchasing tangible personal property or services if the vendor is not reimbursed and does not receive compensation from a third party to cover all or part of the gift card value. For the purposes of this division, a gift card is not sold by a vendor or purchased by a consumer if it is distributed pursuant to an awards, loyalty, or promotional program. Past and present purchases of tangible personal property or services by the consumer shall not be treated as consideration exchanged for a gift card.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.

(4) In the case of transactions for health care services under division (B)(11) of this section, "price" means the amount of managed care premiums received each month by a medicaid health insuring corporation.

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that the dollar value of gift cards distributed pursuant to an awards, loyalty, or promotional program, and cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in division (G) of section 5739.09 of the Revised Code.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed.

(P) "Used directly in the rendition of a public utility service" means that property that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation,

or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in the rendition of a public utility service. In this definition, "public utility" includes a citizen of the United States holding, and required to hold, a certificate of public convenience and necessity issued under 49 U.S.C. 41102.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most

recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be

meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including directory advertising;

(e) Billing and collection services provided to third parties;

(f) Internet access service;

(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

(h) Ancillary service;

(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.

(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:

(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(c) "Directory assistance" means an ancillary service of providing telephone number or address information.

(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.

(e) "Voice mail service" means an ancillary service that enables the

customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service_ and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer.

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(7) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(8) "Customer" has the same meaning as in section 5739.034 of the Revised Code.

(BB) "Laundry and dry cleaning services" means removing soil or dirt from towels, linens, articles of clothing, or other fabric items that belong to others and supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items.

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five

per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them.

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and also means conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means

capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so provided or supplied receive their wages, salary, or other compensation from the provider or supplier of the employment service or from a third party that provided or supplied the personnel to the provider or supplier. "Employment service" does not include:

(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.

(2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.

(5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food, food production, or other agricultural purposes, including, but not limited to, cattle, sheep, goats, swine, poultry, and captive deer. "Livestock" does not include invertebrates, amphibians, reptiles, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name

that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

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

(UU)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator

must do more than maintain, inspect, or ~~set up~~ set up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(AAA) "Computer" means an electronic device that accepts information

in digital or similar form and manipulates it for a result based on a sequence of instructions.

(BBB) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media.

(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(EEE)(1) "Food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" does not include alcoholic beverages, dietary supplements, soft drinks, or tobacco.

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

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.

(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary

supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

- (i) A vitamin;
- (ii) A mineral;
- (iii) An herb or other botanical;
- (iv) An amino acid;
- (v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;
- (vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(2)(b)(i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.

(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally

provided by a motor vehicle manufacturer. "Mobility enhancing equipment" does not include durable medical equipment.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis.

(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

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

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the

fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

(LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit materials; editorials, columns, reader commentary, or features; photos or images; archival or research material; legal notices, identity verification, or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other similar information which has been gathered and made available by the provider to the consumer in an electronic format. Providing electronic publishing includes the functions necessary for the acquisition, formatting, editing, storage, and dissemination of data or information that is the subject of a sale.

(MMM) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and is under contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.

(NNN) "Managed care premium" means any premium, capitation, or other payment a medicaid health insuring corporation receives for providing or arranging for the provision of health care services to its members or enrollees residing in this state.

(OOO) "Captive deer" means deer and other cervidae that have been legally acquired, or their offspring, that are privately owned for agricultural or farming purposes.

(PPP) "Gift card" means a document, card, certificate, or other record, whether tangible or intangible, that may be redeemed by a consumer for a dollar value when making a purchase of tangible personal property or services.

(QQQ) "Specified digital product" means an electronically transferred digital audiovisual work, digital audio work, or digital book.

As used in division (QQQ) of this section:

(1) "Digital audiovisual work" means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(2) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(3) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(4) "Electronically transferred" means obtained by the purchaser by means other than tangible storage media.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state.

(A)(1) The tax shall be collected as provided in section 5739.025 of the Revised Code. The rate of the tax shall be five and ~~one-half~~ three-fourths per cent. The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the

lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(3) Except as provided in division (A)(2) of this section, in the case of a sale, the price of which consists in whole or in part of the lease or rental of tangible personal property, the tax shall be measured by the installments of that lease or rental.

(4) In the case of a sale of a physical fitness facility service or recreation and sports club service, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers ~~and of magazine subscriptions~~ and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of

this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution or laws of the United States or the Constitution of this state;

(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security

service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political

subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state; and, until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B)(42)(a), (g), or (h) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment,

and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, but does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles. "Packaging" means placing in a package. Division (B)(15) of this section does not apply to persons engaged in highway transportation for hire.

(16) Sales of food to persons using supplemental nutrition assistance program benefits to purchase the food. As used in this division, "food" has the same meaning as in 7 U.S.C. 2012 and federal regulations adopted pursuant to the Food and Nutrition Act of 2008.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption primarily in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption primarily in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use;

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:

(a) To prepare food for human consumption for sale;

(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;

(c) To clean tangible personal property used to prepare or serve food for

human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services or county humane societies;

(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;

(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;

(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;

(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;

(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.

(35)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing

advertising material; and of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(35)(a) of this section;

(c) Sales of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

(d) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

For purposes of division (B)(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

(38) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property

that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

(42) Sales where the purpose of the purchaser is to do any of the following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, or directly in the rendition of a public utility service, except that the sales tax levied by this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. Persons engaged in rendering services in the exploration for, and production of, crude oil and natural gas for others are deemed engaged directly in the exploration for, and production of, crude oil and natural gas. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;

(d) To use or consume the thing directly in commercial fishing;

(e) To incorporate the thing transferred as a material or a part into, or to

use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;

(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;

(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;

(i) To use the thing transferred as qualified research and development equipment;

(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(35) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred primarily in producing

tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing.

As used in division (B)(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services, as defined in division (FF) of section 5739.01 of the Revised Code.

(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.

(48)(a) Sales of machinery, equipment, and software to a qualified direct selling entity for use in a warehouse or distribution center primarily for storing, transporting, or otherwise handling inventory that is held for sale

to independent salespersons who operate as direct sellers and that is held primarily for distribution outside this state;

(b) As used in division (B)(48)(a) of this section:

(i) "Direct seller" means a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such product at in-home product demonstrations, parties, and other one-on-one selling.

(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B)(48) of this section after execution of the tax credit agreement by the tax credit authority.

(c) Division (B)(48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.

(49)(a) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B)(49)(a) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.

(b) Sales of tangible personal property, including materials, parts, equipment, software, supplies, tools, fuel, catalysts, oil, acids, and other consumables, or services used or consumed in performing research and development activities with respect to aerospace vehicles, the parts, avionics systems, control systems, engines, software, component materials, or component parts of such aerospace vehicles, and human performance equipment and technology associated with operating and testing aerospace vehicles. As used in division (B)(49)(b) of this section, "aerospace vehicles" means any manned or unmanned aviation device including, but not limited to, aircraft, airplanes, helicopters, missiles, rockets, and space vehicles.

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of

aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent aircraft operations in ground and flight conditions, a visual system providing an out-of-the-cockpit view, and a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and has the full range of capabilities of the systems installed in the device as described in appendices A and B of part 60 of chapter 1 of title 14 of the Code of Federal Regulations.

(51) Any transfer or lease of tangible personal property between the state and a successful proposer in accordance with sections 126.60 to 126.605 of the Revised Code, provided the property is part of a project as defined in section 126.60 of the Revised Code and the state retains ownership of the project or part thereof that is being transferred or leased, between the state and JobsOhio in accordance with section 4313.02 of the Revised Code.

(52)(a) Sales to a qualifying corporation.

(b) As used in division (B)(52) of this section:

(i) "Qualifying corporation" means a nonprofit corporation organized in this state that leases from an eligible county land, buildings, structures, fixtures, and improvements to the land that are part of or used in a public recreational facility used by a major league professional athletic team or a class A to class AAA minor league affiliate of a major league professional athletic team for a significant portion of the team's home schedule, provided the following apply:

(I) The facility is leased from the eligible county pursuant to a lease that requires substantially all of the revenue from the operation of the business or activity conducted by the nonprofit corporation at the facility in excess of operating costs, capital expenditures, and reserves to be paid to the eligible county at least once per calendar year.

(II) Upon dissolution and liquidation of the nonprofit corporation, all of its net assets are distributable to the board of commissioners of the eligible county from which the corporation leases the facility.

(ii) "Eligible county" has the same meaning as in section 307.695 of the Revised Code.

(53) Sales to or by a cable service provider, video service provider, or radio or television broadcast station regulated by the federal government of cable service or programming, video service or programming, audio service or programming, or electronically transferred digital audiovisual or audio work. As used in division (B)(53) of this section, "cable service" and "cable service provider" have the same meanings as in section 1332.01 of the

Revised Code, and "video service," "video service provider," and "video programming" have the same meanings as in section 1332.21 of the Revised Code.

(54) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any elementary precious metal that has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, and palladium, and which is in such state or condition that its value depends upon its content and not upon its form. "Investment metal bullion" does not include fabricated precious metal that has been processed or manufactured for one or more specific and customary industrial, professional, or artistic uses. "Investment coins" means numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium, or other metal under the laws of the United States or any foreign nation with a fair market value greater than any statutory or nominal value of such coins.

(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.

(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5739.026. (A) A board of county commissioners may levy a tax of one-fourth or one-half of one per cent on every retail sale in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, and may increase an existing rate of one-fourth of one per cent to one-half of one per cent, to pay the expenses of administering the tax and, except as provided in division (A)(6) of this section, for any one or more of the following

purposes provided that the aggregate levy for all such purposes does not exceed one-half of one per cent:

(1) To provide additional revenues for the payment of bonds or notes issued in anticipation of bonds issued by a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code and to provide additional operating revenues for the convention facilities authority;

(2) To provide additional revenues for a transit authority operating in the county;

(3) To provide additional revenue for the county's general fund;

(4) To provide additional revenue for permanent improvements within the county to be distributed by the community improvements board in accordance with section 307.283 and to pay principal, interest, and premium on bonds issued under section 307.284 of the Revised Code;

(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements;

(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition.

If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also shall levy the tax or increase the rate of the tax for one or more of the purposes described in divisions (A)(1) to (5) of this section and shall prescribe the method for allocating the revenues from the tax each year in the manner required by division (C) of this section.

(7) To provide additional revenue for the operation or maintenance of a

detention facility, as that term is defined under division (F) of section 2921.01 of the Revised Code;

(8) To provide revenue to finance the construction or renovation of a sports facility, but only if the tax is levied for that purpose in the manner prescribed by section 5739.028 of the Revised Code.

As used in division (A)(8) of this section:

(a) "Sports facility" means a facility intended to house major league professional athletic teams.

(b) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

(9) To provide additional revenue for the acquisition of agricultural easements, as defined in section 5301.67 of the Revised Code; to pay principal, interest, and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural easements held by the county;

(10) To provide revenue for the provision of ambulance, paramedic, or other emergency medical services;

(11) To provide revenue for the operation of a lake facilities authority and the remediation of an impacted watershed by a lake facilities authority, as provided in Chapter 353. of the Revised Code.

Pursuant to section 755.171 of the Revised Code, a board of county commissioners may pledge and contribute revenue from a tax levied for the purpose of division (A)(5) of this section to the payment of debt charges on bonds issued under section 755.17 of the Revised Code.

The rate of tax shall be a multiple of one-fourth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of a calendar quarter.

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor more than ten days after the first. Notice of the date, time, and place of the

hearings shall be given by publication in a newspaper of general circulation in the county, or as provided in section 7.16 of the Revised Code, once a week on the same day of the week for two consecutive weeks. The second publication shall be no fewer than ten nor more than thirty days prior to the first hearing. Except as provided in division (E) of this section, the resolution shall be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for the necessity.

If the tax is for more than one of the purposes set forth in divisions (A)(1) to (7), (9), and (10) of this section, or is exclusively for one of the purposes set forth in division (A)(1), (2), (4), (5), (6), (7), (9), or (10) of this section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax.

(B) The board of county commissioners shall adopt a resolution under section 351.02 of the Revised Code creating the convention facilities authority, or under section 307.283 of the Revised Code creating the community improvements board, before adopting a resolution levying a tax for the purpose of a convention facilities authority under division (A)(1) of this section or for the purpose of a community improvements board under division (A)(4) of this section.

(C)(1) If the tax is to be used for more than one of the purposes set forth in divisions (A)(1) to (7), (9), and (10) of this section, the board of county commissioners shall establish the method that will be used to determine the amount or proportion of the tax revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (C)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax.

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for any year, if the amendment is approved by the governing board of each entity whose

allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding, no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(b) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes described in division (A)(4) or (5) of this section, for as long as such bonds or notes are outstanding, no reduction of the county's or the community improvements board's allocation of the tax shall be made for any year, except to the extent that the reduced county or community improvements board allocation is sufficient to meet the debt service requirements for that year on such bonds or notes.

(c) If the additional revenues provided to the transit authority are pledged by the authority for the payment of revenue bonds issued under section 306.37 of the Revised Code, for as long as such bonds are outstanding, no reduction of the authority's allocation of tax shall be made for any year, except to the extent that the authority's reduced allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(d) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes issued under section 133.60 of the Revised Code, for so long as the bonds or notes are outstanding, no reduction of the county's allocation of the tax shall be made for any year, except to the extent that the reduced county allocation is sufficient to meet the debt service requirements for that year on the bonds or notes.

(D)(1) The resolution levying the tax or increasing the rate of tax shall state the rate of the tax or the rate of the increase; the purpose or purposes for which it is to be levied; the number of years for which it is to be levied or that it is for a continuing period of time; the allocation method required by division (C) of this section; and if required to be submitted to the electors of the county under division (A) of this section, the date of the election at which the proposal shall be submitted to the electors of the county, which shall be not less than ninety days after the certification of a copy of the

resolution to the board of elections and, if the tax is to be levied exclusively for the purpose set forth in division (A)(3) of this section, shall not occur in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. If approved by a majority of the electors, the tax shall become effective on the first day of a calendar quarter next following the sixty-fifth day following the date the board of county commissioners and tax commissioner receive from the board of elections the certification of the results of the election, except as provided in division (E) of this section.

(2)(a) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of the tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than ninety days after the resolution is certified to the board of elections and the election is not held in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under division (D)(2)(a) of this section shall go into effect unless approved by a majority of those voting upon it and, except as provided in division (E) of this section, not until the first day of a calendar quarter following the expiration of sixty-five days from the date the tax commissioner receives notice from the board of elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is adopted as an emergency measure shall become effective as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than ninety days after the resolution is certified to the board of elections. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question

of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date the board and tax commissioner received notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(c) A board of county commissioners, by resolution, may reduce the rate of a tax levied exclusively for the purpose set forth in division (A)(3) of this section to a lower rate authorized by this section. Any such reduction shall be made effective on the first day of the calendar quarter next following the sixty-fifth day after the tax commissioner receives a certified copy of the resolution from the board.

(E) If a vendor makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (G) of this section.

(F) The tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021 or 5739.023 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.023 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(G) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) of this section, or from the board of elections a notice of the results of an election required by division (D)(1), (2)(a), (b), or (c) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

Sec. 5739.09. (A)(1) A board of county commissioners may, by

resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. Except as provided in divisions (A)(2), (3), (4), (5), (6), and (7) of this section, the regulations shall provide, after deducting the real and actual costs of administering the tax, for the return to each municipal corporation or township that does not levy an excise tax on the transactions, a uniform percentage of the tax collected in the municipal corporation or in the unincorporated portion of the township from each transaction, not to exceed thirty-three and one-third per cent. The remainder of the revenue arising from the tax shall be deposited in a separate fund and shall be spent solely to make contributions to the convention and visitors' bureau operating within the county, including a pledge and contribution of any portion of the remainder pursuant to an agreement authorized by section 307.695 of the Revised Code, provided that if the board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code adopts a resolution amending a resolution levying a tax under this division to provide that the revenue from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code, the remainder of the revenue shall be used as described in the resolution making that amendment. Except as provided in division (A)(2), (3), (4), (5), (6), or (7) or (H) of this section, on and after May 10, 1994, a board of county commissioners may not levy an excise tax pursuant to this division in any municipal corporation or township located wholly or partly within the county that has in effect an ordinance or resolution levying an excise tax pursuant to division (B) of this section. The board of a county that has levied a tax under division (C) of this section may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, amend the resolution levying a tax under this division to provide for a portion of that tax to be pledged and contributed in accordance with an agreement entered into under section 307.695 of the Revised Code. A tax, any revenue from which is pledged pursuant to such an agreement, shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been so pledged.

The board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code may, by resolution adopted by a majority of the members of the board, amend a resolution levying a tax under this division to provide that the revenue from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code, in which case the tax shall remain in effect at the rate at which it was imposed for the duration of any agreement entered into by the board under section 307.695 of the Revised Code, the duration during which any securities issued by the board under that section are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest.

(2) A board of county commissioners that levies an excise tax under division (A)(1) of this section on June 30, 1997, at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code or, in the case of the board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code, has amended a resolution levying a tax under division (C) of this section to provide that proceeds from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code, may, at any time by a resolution adopted by a majority of the members of the board, amend the resolution levying a tax under division (A)(1) of this section to provide for an increase in the rate of that tax up to seven per cent on each transaction; to provide that revenue from the increase in the rate shall be used as described in division (H) of section 307.695 of the Revised Code or be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; and to provide that the rate in excess of the three per cent levied under division (A)(1) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A)(1) of this section, the duration of the period during which any securities issued by the board under division (I) of section 307.695 of the Revised Code are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest. The amendment also shall provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(3) A board of county commissioners that levies a tax under division

(A)(1) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction;

(b) That all of the revenue from the increase in the rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before November 15, 1998, and used to pay costs of constructing, maintaining, operating, and promoting a facility in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

Division (A)(3) of this section does not apply to the board of county commissioners of any county in which a convention center or facility exists or is being constructed on November 15, 1998, or of any county in which a convention facilities authority levies a tax pursuant to section 351.021 of the Revised Code on that date.

As used in division (A)(3) of this section, "cost" and "facility" have the same meanings as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(4)(a) A board of county commissioners that levies a tax under division (A)(1) of this section on June 30, 2002, at a rate of three per cent may, by resolution adopted not later than September 30, 2002, amend the resolution levying the tax to provide for all of the following:

(i) That the rate of the tax shall be increased by not more than an additional three and one-half per cent on each transaction;

(ii) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding,

maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(iii) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(iv) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

(b) Any board of county commissioners that, pursuant to division (A)(4)(a) of this section, has amended a resolution levying the tax authorized by division (A)(1) of this section may further amend the resolution to provide that the revenue referred to in division (A)(4)(a)(ii) of this section shall be pledged and contributed both to a convention facilities authority to pay the costs of constructing, expanding, maintaining, or operating one or more convention centers in the county, including paying bonds, or notes issued in anticipation of bonds, as provided in Chapter 351. of the Revised Code, and to a convention and visitors' bureau to pay the costs of promoting one or more convention centers in the county.

As used in division (A)(4) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(5)(a) As used in division (A)(5) of this section:

(i) "Port authority" means a port authority created under Chapter 4582. of the Revised Code.

(ii) "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an installation of the armed forces of the United States, a reserve component thereof, or the national guard and at least part of which is made available for use, for consideration, by the armed forces of the United States, a reserve component thereof, or the national guard.

(b) For the purpose of contributing revenue to pay operating expenses of a port authority that operates a port authority military-use facility, the board of county commissioners of a county that created, participated in the creation of, or has joined such a port authority may do one or both of the following:

(i) Amend a resolution previously adopted under division (A)(1) of this section to designate some or all of the revenue from the tax levied under the resolution to be used for that purpose, notwithstanding that division;

(ii) Amend a resolution previously adopted under division (A)(1) of this section to increase the rate of the tax by not more than an additional two per cent and use the revenue from the increase exclusively for that purpose.

(c) If a board of county commissioners amends a resolution to increase the rate of a tax as authorized in division (A)(5)(b)(ii) of this section, the board also may amend the resolution to specify that the increase in rate of the tax does not apply to "hotels," as otherwise defined in section 5739.01 of the Revised Code, having fewer rooms used for the accommodation of guests than a number of rooms specified by the board.

(6) A board of county commissioners of a county organized under a county charter adopted pursuant to Article X, Section 3, Ohio Constitution, and that levies an excise tax under division (A)(1) of this section at a rate of three per cent and levies an additional excise tax under division (E) of this section at a rate of one and one-half per cent may, by resolution adopted not later than January 1, 2008, by a majority of the members of the board, amend the resolution levying a tax under division (A)(1) of this section to provide for an increase in the rate of that tax by not more than an additional one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding divisions (A)(1) and (E) of this section, the resolution shall provide that all of the revenue from the increase in rate, after deducting the real and actual costs of administering the tax, shall be used to pay the costs of improving, expanding, equipping, financing, or operating a convention center by a convention and visitors' bureau in the county. The increase in rate shall remain in effect for the period specified in the resolution, not to exceed ten years. The increase in rate shall be subject to the regulations adopted under division (A)(1) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under that division.

(7) Division (A)(7) of this section applies only to a county with a population greater than sixty-five thousand and less than seventy thousand according to the most recent federal decennial census and in which, on December 31, 2006, an excise tax is levied under division (A)(1) of this section at a rate not less than and not greater than three per cent, and in which the most recent increase in the rate of that tax was enacted or took effect in November 1984.

The board of county commissioners of a county to which this division

applies, by resolution adopted by a majority of the members of the board, may increase the rate of the tax by not more than one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The increase in rate shall be for the purpose of paying expenses deemed necessary by the convention and visitors' bureau operating in the county to promote travel and tourism. The increase in rate shall remain in effect for the period specified in the resolution, not to exceed twenty years, provided that the increase in rate may not continue beyond the time when the purpose for which the increase is levied ceases to exist. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding, unless provision is made by law or by the board of county commissioners for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges. The increase in rate shall be subject to the regulations adopted under division (A)(1) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section. A resolution adopted under division (A)(7) of this section is subject to referendum under sections 305.31 to 305.99 of the Revised Code.

(B)(1) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A)(1) of this section may, by ordinance or resolution, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The legislative authority of the municipal corporation or the board of trustees of the township shall deposit at least fifty per cent of the revenue from the tax levied pursuant to this division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within the county in which the municipal corporation or township is wholly or partly located, and the balance of that revenue shall be deposited in the general fund. The municipal corporation or township shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. The levy of a tax under

this division is in addition to any tax imposed on the same transaction by a municipal corporation or a township as authorized by division (A) of section 5739.08 of the Revised Code.

(2)(a) The legislative authority of the most populous municipal corporation located wholly or partly in a county in which the board of county commissioners has levied a tax under division (A)(4) of this section may amend, on or before September 30, 2002, that municipal corporation's ordinance or resolution that levies an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests, to provide for all of the following:

(i) That the rate of the tax shall be increased by not more than an additional one per cent on each transaction;

(ii) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(iii) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law, by the board of county commissioners, or by the legislative authority, for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

(b) The legislative authority of a municipal corporation that, pursuant to division (B)(2)(a) of this section, has amended its ordinance or resolution to increase the rate of the tax authorized by division (B)(1) of this section may further amend the ordinance or resolution to provide that the revenue referred to in division (B)(2)(a)(ii) of this section shall be pledged and contributed both to a convention facilities authority to pay the costs of constructing, expanding, maintaining, or operating one or more convention centers in the county, including paying bonds, or notes issued in anticipation of bonds, as provided in Chapter 351. of the Revised Code, and to a convention and visitors' bureau to pay the costs of promoting one or more convention centers in the county.

As used in division (B)(2) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the

same meaning as in section 307.695 of the Revised Code.

(C) For the purposes described in section 307.695 of the Revised Code and to cover the costs of administering the tax, a board of county commissioners of a county where a tax imposed under division (A)(1) of this section is in effect may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, levy an additional excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The tax authorized by this division shall be in addition to any tax that is levied pursuant to division (A) of this section, but it shall not apply to transactions subject to a tax levied by a municipal corporation or township pursuant to the authorization granted by division (A) of section 5739.08 of the Revised Code. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.695 of the Revised Code. The board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code may, by resolution adopted by a majority of the members of the board, amend the resolution levying a tax under this division to provide that the revenue from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code. A tax imposed under this division shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement entered into by the board under section 307.695 of the Revised Code is in effect, the duration of the period during which any securities issued by the board under division (I) of section 307.695 of the Revised Code are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest.

(D) For the purpose of providing contributions under division (B)(1) of section 307.671 of the Revised Code to enable the acquisition, construction, and equipping of a port authority educational and cultural facility in the county and, to the extent provided for in the cooperative agreement authorized by that section, for the purpose of paying debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section, a board of county commissioners, by resolution adopted within ninety days after December 22, 1992, by a majority of the members of the

board, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), and (C) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The board of county commissioners shall establish all regulations necessary to provide for the administration and allocation of the tax that are not inconsistent with this section or section 307.671 of the Revised Code. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this division may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to that section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for any additional purposes determined by the county in the resolution levying the tax or amendments to the resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the legislative authority of a county, by resolution adopted within ninety days after June 30, 1993, by a majority of the members of the legislative authority, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a

hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), (C), and (D) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The legislative authority of the county shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.672 of the Revised Code and this division. The levy of a tax imposed under this division shall not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.672 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time determined by the legislative authority of the county. That period of time shall not exceed fifteen years, except that the legislative authority of a county with a population of less than two hundred fifty thousand according to the most recent federal decennial census, by resolution adopted by a majority of its members before the original tax expires, may extend the duration of the tax for an additional period of time. The additional period of time by which a legislative authority extends a tax levied under this division shall not exceed fifteen years.

(F) The legislative authority of a county that has levied a tax under division (E) of this section may, by resolution adopted within one hundred eighty days after January 4, 2001, by a majority of the members of the legislative authority, amend the resolution levying a tax under that division to provide for the use of the proceeds of that tax, to the extent that it is no longer needed for its original purpose as determined by the parties to a cooperative agreement amendment pursuant to division (D) of section 307.672 of the Revised Code, to pay costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, and to pay all obligations under any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of section 307.674 of the Revised Code. The

resolution may also provide for the extension of the tax at the same rate for the longer of the period of time determined by the legislative authority of the county, but not to exceed an additional twenty-five years, or the period of time required to pay all debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code and on port authority revenue bonds provided for in division (B) of section 307.674 of the Revised Code. All revenues arising from the amendment and extension of the tax shall be expended in accordance with section 307.674 of the Revised Code, this division, and division (E) of this section.

(G) For purposes of a tax levied by a county, township, or municipal corporation under this section or section 5739.08 of the Revised Code, a board of county commissioners, board of township trustees, or the legislative authority of a municipal corporation may adopt a resolution or ordinance at any time specifying that "hotel," as otherwise defined in section 5739.01 of the Revised Code, includes the following:

(1) Establishments in which fewer than five rooms are used for the accommodation of guests.

(2) Establishments at which rooms are used for the accommodation of guests regardless of whether each room is accessible through its own keyed entry or several rooms are accessible through the same keyed entry; and, in determining the number of rooms, all rooms are included regardless of the number of structures in which the rooms are situated or the number of parcels of land on which the structures are located if the structures are under the same ownership and the structures are not identified in advertisements of the accommodations as distinct establishments. For the purposes of division (G)(2) of this section, two or more structures are under the same ownership if they are owned by the same person, or if they are owned by two or more persons the majority of the ownership interests of which are owned by the same person.

The resolution or ordinance may apply to a tax imposed pursuant to this section prior to the adoption of the resolution or ordinance if the resolution or ordinance so states, but the tax shall not apply to transactions by which lodging by such an establishment is provided to transient guests prior to the adoption of the resolution or ordinance.

(H)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (D) of this

section, the legislative authority of a county with a population of one million or more according to the most recent federal decennial census that has levied a tax under division (D) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that they are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code, shall be deposited into the county general revenue fund. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (D) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A)(1) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A)(1) of this section, the resolution may provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual costs of administering the tax, shall be deposited in the county general fund.

(4) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted on or before August 30, 2004, by a majority of the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A)(1) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A)(1) of this section, shall be deposited in the county general fund, provided that such proceeds shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the Revised Code.

(5) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section shall be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2003, for the principal purpose of constructing, improving, expanding, equipping, financing, or operating a convention center unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority,

corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity. Notwithstanding any contrary provision of section 351.04 of the Revised Code, if a tax is levied by a county under division (H) of this section, the board of county commissioners of that county may determine the manner of selection, the qualifications, the number, and terms of office of the members of the board of directors of any convention facilities authority, corporation, or other entity described in division (H)(5) of this section.

(6)(a) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section may be used for any purpose other than paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center and for the real and actual costs of administering the tax, unless, prior to the adoption of the resolution of the legislative authority of the county authorizing the levy, extension, increase, or deposit, the county and the mayor of the most populous municipal corporation in that county have entered into an agreement as to the use of such amounts, provided that such agreement has been approved by a majority of the mayors of the other municipal corporations in that county. The agreement shall provide that the amounts to be used for purposes other than paying the convention center or administrative costs described in division (H)(6)(a) of this section be used only for the direct and indirect costs of capital improvements, including the financing of capital improvements.

(b) If the county in which the tax is levied has an association of mayors and city managers, the approval of that association of an agreement described in division (H)(6)(a) of this section shall be considered to be the approval of the majority of the mayors of the other municipal corporations for purposes of that division.

(7) Each year, the auditor of state shall conduct an audit of the uses of any amounts collected from taxes levied, extended, or deposited under division (H) of this section and shall prepare a report of the auditor of state's findings. The auditor of state shall submit the report to the legislative authority of the county that has levied, extended, or deposited the tax, the speaker of the house of representatives, the president of the senate, and the leaders of the minority parties of the house of representatives and the senate.

(I)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (D) of this section, the legislative authority of a county with a population of one million two hundred thousand or more according to the most recent federal decennial census or the most recent annual population estimate published or released by the United States census bureau at the time the resolution is adopted placing the levy on the ballot, that has levied a tax under division (D) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that the proceeds are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code and after deducting the real and actual costs of administering the tax, shall be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (D) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million two hundred thousand or more that has levied a tax under division (A)(1) of this section may, by resolution adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A)(1) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A)(1) of this section, the resolution shall provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual costs of administering the tax, shall be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center.

(4) The legislative authority of a county with a population of one million two hundred thousand or more that has levied a tax under division (A)(1) of this section may, by resolution adopted on or before July 1, 2008, by a majority of the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A)(1) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A)(1) of this section, shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the

Revised Code or shall otherwise be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center.

(5) Any amount collected from a tax levied or extended under division (I) of this section may be contributed to a convention facilities authority created before July 1, 2005, but no amount collected from a tax levied or extended under division (I) of this section may be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2005, unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity.

(J) All money collected by a county and distributed under this section to a convention and visitors' bureau in existence as of the effective date of H.B. 59 of the 130th general assembly, except for any such money pledged, as of that effective date, to the payment of debt service charges on bonds, notes, securities, or lease agreements, shall be used solely for tourism sales, marketing and promotion, and their associated costs, including, but not limited to, operational and administrative costs of the bureau, sales and marketing, and maintenance of the physical bureau structure.

Sec. 5739.10. (A) In addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure the same objectives specified in those sections, there is hereby levied upon the privilege of engaging in the business of making retail sales, an excise tax equal to the tax levied by section 5739.02 of the Revised Code, or, in the case of retail sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code of the receipts derived from all retail sales, except those to which the excise tax imposed by section 5739.02 of the Revised Code is made inapplicable by division (B) of that section.

(B) For the purpose of this section, no vendor shall be required to maintain records of sales of food for human consumption off the premises where sold, and no assessment shall be made against any vendor for sales of food for human consumption off the premises where sold, solely because the vendor has no records of, or has inadequate records of, such sales; provided that where a vendor does not have adequate records of receipts from the vendor's sales of food for human consumption on the premises where sold, the tax commissioner may refuse to accept the vendor's return and, upon the

basis of test checks of the vendor's business for a representative period, and other information relating to the sales made by such vendor, determine the proportion that taxable retail sales bear to all of the vendor's retail sales. The tax imposed by this section shall be determined by deducting from the sum representing five and ~~one-half or six~~ three-fourths per cent, as applicable under division (A) of this section, or, in the case of retail sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code of the receipts from such retail sales, the amount of tax paid to the state or to a clerk of a court of common pleas. The section does not affect any duty of the vendor under sections 5739.01 to 5739.19 and 5739.26 to 5739.31 of the Revised Code, nor the liability of any consumer to pay any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5739.13. (A) If any vendor collects the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code, and fails to remit the tax to the state as prescribed, or on the sale of a motor vehicle, watercraft, or outboard motor required to be titled, fails to remit payment to a clerk of a court of common pleas as provided in section 1548.06 or 4505.06 of the Revised Code, the vendor shall be personally liable for any tax collected and not remitted. The tax commissioner may make an assessment against such vendor based upon any information in the commissioner's possession.

If any vendor fails to collect the tax or any consumer fails to pay the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code, on any transaction subject to the tax, the vendor or consumer shall be personally liable for the amount of the tax applicable to the transaction. The commissioner may make an assessment against either the vendor or consumer, as the facts may require, based upon any information in the commissioner's possession.

An assessment against a vendor when the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code has not been collected or paid, shall not discharge the purchaser's or consumer's liability to reimburse the vendor for the tax applicable to such transaction.

An assessment issued against either, pursuant to this section, shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any person for the tax due on a particular transaction if the tax on that transaction actually has been paid by another.

The commissioner may make an assessment against any vendor who

fails to file a return or remit the proper amount of tax required by this chapter, or against any consumer who fails to pay the proper amount of tax required by this chapter. When information in the possession of the commissioner indicates that the amount required to be collected or paid under this chapter is greater than the amount remitted by the vendor or paid by the consumer, the commissioner may audit a sample of the vendor's sales or the consumer's purchases for a representative period, to ascertain the per cent of exempt or taxable transactions or the effective tax rate and may issue an assessment based on the audit. The commissioner shall make a good faith effort to reach agreement with the vendor or consumer in selecting a representative sample.

The commissioner may make an assessment, based on any information in ~~his~~ the commissioner's possession, against any person who fails to file a return or remit the proper amount of tax required by section 5739.102 of the Revised Code.

The commissioner may issue an assessment on any transaction for which any tax imposed under this chapter or Chapter 5741. of the Revised Code was due and unpaid on the date the vendor or consumer was informed by an agent of the tax commissioner of an investigation or audit. If the vendor or consumer remits any payment of the tax for the period covered by the assessment after the vendor or consumer was informed of the investigation or audit, the payment shall be credited against the amount of the assessment.

The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due from the party assessed and payable to the treasurer of state and remitted to the tax commissioner. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the

commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the place of business of the party assessed is located or the county in which the party assessed resides. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state, county, and transit authority retail sales tax" or, if appropriate, "special judgments for resort area excise tax," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment except as otherwise provided in this chapter.

~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the date the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected by the tax commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the taxes imposed by or pursuant to sections 5739.01 to 5739.31 of the Revised Code.

Sec. 5739.212. (A) As used in this section, "cash register" means a cash register used by the vendor or seller to compute the correct tax on the date the new tax or tax increase took effect and that could not have been used to compute the correct tax on that date had adjustments or modifications not been made to it.

(B) Within six months of the date that a tax imposed under section 5739.021, 5739.023, 5739.026, 5741.021, ~~5747.022~~ 5741.022, or 5741.023 of the Revised Code takes effect for the first time or the effective date of an

increase in the rate of such a tax, a vendor or seller required to collect the tax may apply to the county auditor for a refund of a portion of the amount of tax required to be remitted. The refund shall be in consideration of the costs incurred by or charges to the vendor or the seller for modifications or adjustments that were required to be made to enable the correct tax to be computed at the vendor or seller's cash registers. The total refund paid to a vendor or a seller under this section with respect to modifications or adjustments for a new tax or an increase in the rate of an existing tax shall be determined as follows:

(1) If the vendor or seller has one place of business and one cash register at that place of business, the refund shall equal the lesser of one hundred dollars or the actual cost incurred by the vendor or seller in making the modifications or adjustments.

(2) If the vendor or seller has one place of business and more than one cash register at that place of business, the refund shall equal the lesser of fifty dollars times the number of cash registers or the actual cost incurred by the vendor or seller in making the modifications or adjustments.

If the vendor or seller has more than one place of business, each place of business shall be considered separately for purposes of determining the refund to which the vendor or seller is entitled under this section.

(C) The refund application shall be in the form and include the information the tax commissioner prescribes by rule. Within nine months of the filing of the application, the auditor shall determine the cost incurred by the vendor or seller that will be allowed as a refund and shall certify the amount of the refund to the applicant. The refund shall be treated as an erroneous payment, and shall be refunded from the county general fund or the appropriate fund of the authority imposing the tax, except that in the case of a refund required to be remitted from a transit authority tax, the auditor shall certify the amount of the refund to the transit authority for payment of the refund by the transit authority to the applicant.

Sec. 5741.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, business trusts, governments, and combinations of individuals of any form.

(B) "Storage" means and includes any keeping or retention in this state for use or other consumption in this state.

(C) "Use" means and includes the exercise of any right or power incidental to the ownership of the thing used. A thing is also "used" in this state if its consumer gives or otherwise distributes it, without charge, to

recipients in this state.

(D) "Purchase" means acquired or received for a consideration, whether such acquisition or receipt was effected by a transfer of title, or of possession, or of both, or a license to use or consume; whether such transfer was absolute or conditional, and by whatever means the transfer was effected; and whether the consideration was money, credit, barter, or exchange. Purchase includes production, even though the article produced was used, stored, or consumed by the producer. The transfer of copyrighted motion picture films for exhibition purposes is not a purchase, except such films as are used solely for advertising purposes.

(E) "Seller" means the person from whom a purchase is made, and includes every person engaged in this state or elsewhere in the business of selling tangible personal property or providing a service for storage, use, or other consumption or benefit in this state; and when, in the opinion of the tax commissioner, it is necessary for the efficient administration of this chapter, to regard any ~~salesman~~ salesperson, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates, or from whom the person obtains tangible personal property, sold by the person for storage, use, or other consumption in this state, irrespective of whether or not the person is making such sales on the person's own behalf, or on behalf of such dealer, distributor, supervisor, or employer, the commissioner may regard the person as such agent, and may regard such dealer, distributor, supervisor, or employer as the seller. "Seller" does not include any person to the extent the person provides a communications medium, such as, but not limited to, newspapers, magazines, radio, television, or cable television, by means of which sellers solicit purchases of their goods or services.

(F) "Consumer" means any person who has purchased tangible personal property or has been provided a service for storage, use, or other consumption or benefit in this state. "Consumer" does not include a person who receives, without charge, tangible personal property or a service.

A person who performs a facility management or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E) of section 5739.01 of the Revised Code.

(G)(1) "Price," except as provided in divisions (G)(2) to (6) of this section, has the same meaning as in division (H)(1) of section 5739.01 of the

Revised Code.

(2) In the case of watercraft, outboard motors, or new motor vehicles, "price" has the same meaning as in divisions (H)(2) and (3) of section 5739.01 of the Revised Code.

(3) In the case of a nonresident business consumer that purchases and uses tangible personal property outside this state and subsequently temporarily stores, uses, or otherwise consumes such tangible personal property in the conduct of business in this state, the consumer or the tax commissioner may determine the price based on the value of the temporary storage, use, or other consumption, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(4) In the case of tangible personal property held in this state as inventory for sale or lease, and that is temporarily stored, used, or otherwise consumed in a taxable manner, the price is the value of the temporary use. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(5) In the case of tangible personal property originally purchased and used by the consumer outside this state, and that becomes permanently stored, used, or otherwise consumed in this state more than six months after its acquisition by the consumer, the consumer or the commissioner may determine the price based on the current value of such tangible personal property, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(6) If a consumer produces tangible personal property for sale and removes that property from inventory for the consumer's own use, the price is the produced cost of that tangible personal property.

(H) "Nexus with this state" means that the seller engages in continuous and widespread solicitation of purchases from residents of this state or otherwise purposefully directs its business activities at residents of this state.

(I)(1) "Substantial nexus with this state" means that the seller has sufficient contact with this state, in accordance with Section 8 of Article I of the Constitution of the United States, to allow the state to require the seller to collect and remit use tax on sales of tangible personal property or services made to consumers in this state. ~~Substantial~~

(2) "Substantial nexus with this state" exists is presumed to exist when the seller does any of the following:

~~(1) Maintains a~~ (a) Uses an office, distribution facility, warehouse, storage facility, or similar place of business within this state, whether

~~operated by employees or agents of the seller, by a member of an affiliated group, as defined in division (B)(3)(e) of section 5739.01 of the Revised Code, of which the seller is a member, or by a franchisee using a trade name of the seller; or any other person, other than a common carrier acting in its capacity as a common carrier.~~

~~(2)(b) Regularly ~~has~~ uses employees, agents, representatives, solicitors, installers, ~~repairmen~~ repairers, ~~salesmen~~ salespersons, or other ~~individuals~~ persons in this state (i) for the purpose of conducting the business of the seller; or that (ii) engage in a business with the same or a similar industry classification as the seller selling a similar product or line of products as the seller, or (iii) use trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the seller.~~

~~(3)(c) Uses a any person, other than a common carrier acting in its capacity as a common carrier, in this state for any of the purpose of receiving following purposes:~~

~~(i) Receiving or processing orders of the seller's goods or services;~~

~~(ii) Using that person's employees or facilities in this state to advertise, promote, or facilitate sales by the seller to customers;~~

~~(iii) Delivering, installing, assembling, or performing maintenance services for the seller's customers;~~

~~(iv) Facilitating the seller's delivery of tangible personal property to customers in this state by allowing the seller's customers to pick up property sold by the seller at an office, distribution facility, warehouse, storage facility, or similar place of business.~~

~~(4)(d) Makes regular deliveries of tangible personal property into this state by means other than common carrier;.~~

~~(5)(e) Has ~~membership in an affiliated group, as described in division (B)(3)(e) of section 5739.01 of the Revised Code, at least one other member of which person that~~ has substantial nexus with this state;~~

~~(6)(f) Owns tangible personal property that is rented or leased to a consumer in this state, or offers tangible personal property, on approval, to consumers in this state;~~

~~(7) ~~Except as provided in section 5703.65 of the Revised Code, is registered with the secretary of state to do business in this state or is registered or licensed by any state agency, board, or commission to transact business in this state or to make sales to persons in this state;~~~~

~~(8) ~~Has any other contact with this state that would allow this state to require the seller to collect and remit use tax under Section 8 of Article I of the Constitution of the United States~~ (g) Enters into an agreement with one or more residents of this state under which the resident, for a commission or~~

other consideration, directly or indirectly refers potential customers to the seller, whether by a link on a web site, an in-person oral presentation, telemarketing, or otherwise, provided the cumulative gross receipts from sales to consumers referred to the seller by all such residents exceeded ten thousand dollars during the preceding twelve months.

(3) A seller presumed to have substantial nexus with this state under divisions (I)(2)(a) to (f) of this section may rebut that presumption by demonstrating that activities described in any of those divisions that are conducted by a person in this state on the seller's behalf are not significantly associated with the seller's ability to establish or maintain a market in this state for the seller's sales.

(4) A seller presumed to have substantial nexus with this state under division (I)(2)(g) of this section may rebut that presumption by submitting proof that each resident engaged by the seller as described in that division did not engage in any activity within this state during the preceding twelve months that was significantly associated with the seller's ability to establish or maintain the seller's market in this state during the preceding twelve months. Such proof may consist of sworn written statements from all the residents with whom the seller has an agreement stating that the resident did not engage in any solicitation in this state on behalf of the seller during the preceding twelve months if such statements are provided and obtained in good faith.

(5) A seller that does not have substantial nexus with this state, and any affiliated person of the seller, before selling or leasing tangible personal property or services to a state agency, shall register with the tax commissioner in the same manner as a seller described in division (A)(1) of section 5741.17 of the Revised Code.

(6) As used in division (I) of this section:

(a) "Affiliated person" means any person that is a member of the same controlled group of corporations as the seller or any other person that, notwithstanding the form of organization, bears the same ownership relationship to the seller as a corporation that is a member of the same controlled group of corporations.

(b) "Controlled group of corporations" has the same meaning as in section 1563(a) of the Internal Revenue Code.

(c) "State agency" has the same meaning as in section 1.60 of the Revised Code.

(J) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county which is a transit authority, the fiscal officer of the county transit board appointed

pursuant to section 306.03 of the Revised Code or, if the board of county commissioners operates the county transit system, the county auditor.

(K) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(L) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority which includes territory in more than one county must include all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(M) "Providing a service" has the same meaning as in ~~division (X)~~ of section 5739.01 of the Revised Code.

(N) "Other consumption" includes receiving the benefits of a service.

(O) "Lease" or "rental" has the same meaning as in ~~division (UU)~~ of section 5739.01 of the Revised Code.

(P) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(Q) "Remote sale" means a sale for which the seller could not be legally required to pay, collect, or remit a tax imposed under this chapter or Chapter 5739. of the Revised Code, unless otherwise provided by the laws of the United States.

(R) "Remote seller" means a seller that makes remote sales to one or more consumers.

(S) "Remote small seller" means a remote seller that has gross annual receipts from remote sales in the United States not exceeding one million dollars for the preceding calendar year. For the purposes of determining whether a person is a small remote seller, the sales of all persons related within the meaning of subsection (b) or (c) of section 267 or section 707(b)(1) of the Internal Revenue Code shall be aggregated, and persons with one or more ownership relationships shall be aggregated if those relationships were designed with the principal purpose to qualify as a remote small seller.

Sec. 5741.02. (A)(1) For the use of the general revenue fund of the state,

an excise tax is hereby levied on the storage, use, or other consumption in this state of tangible personal property or the benefit realized in this state of any service provided. The tax shall be collected as provided in section 5739.025 of the Revised Code, ~~provided that on and after July 1, 2003, and on or before June 30, 2005, the rate of the tax shall be six per cent. On and after July 1, 2005, the~~ The rate of the tax shall be five and ~~one-half~~ three-fourths per cent.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the seller at the time the lease or rental is consummated and shall be calculated by the seller on the basis of the total amount to be paid by the lessee or renter under the lease or rental agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the seller at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the seller on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

(3) Except as provided in division (A)(2) of this section, in the case of a transaction, the price of which consists in whole or part of the lease or rental of tangible personal property, the tax shall be measured by the installments of those leases or rentals.

(B) Each consumer, storing, using, or otherwise consuming in this state tangible personal property or realizing in this state the benefit of any service provided, shall be liable for the tax, and such liability shall not be extinguished until the tax has been paid to this state; provided, that the consumer shall be relieved from further liability for the tax if the tax has been paid to a seller in accordance with section 5741.04 of the Revised Code or prepaid by the seller in accordance with section 5741.06 of the Revised Code.

(C) The tax does not apply to the storage, use, or consumption in this state of the following described tangible personal property or services, nor

to the storage, use, or consumption or benefit in this state of tangible personal property or services purchased under the following described circumstances:

(1) When the sale of property or service in this state is subject to the excise tax imposed by sections 5739.01 to 5739.31 of the Revised Code, provided said tax has been paid;

(2) Except as provided in division (D) of this section, tangible personal property or services, the acquisition of which, if made in Ohio, would be a sale not subject to the tax imposed by sections 5739.01 to 5739.31 of the Revised Code;

(3) Property or services, the storage, use, or other consumption of or benefit from which this state is prohibited from taxing by the Constitution of the United States, laws of the United States, or the Constitution of this state. This exemption shall not exempt from the application of the tax imposed by this section the storage, use, or consumption of tangible personal property that was purchased in interstate commerce, but that has come to rest in this state, provided that fuel to be used or transported in carrying on interstate commerce that is stopped within this state pending transfer from one conveyance to another is exempt from the excise tax imposed by this section and section 5739.02 of the Revised Code;

(4) Transient use of tangible personal property in this state by a nonresident tourist or vacationer, or a nonbusiness use within this state by a nonresident of this state, if the property so used was purchased outside this state for use outside this state and is not required to be registered or licensed under the laws of this state;

(5) Tangible personal property or services rendered, upon which taxes have been paid to another jurisdiction to the extent of the amount of the tax paid to such other jurisdiction. Where the amount of the tax imposed by this section and imposed pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code exceeds the amount paid to another jurisdiction, the difference shall be allocated between the tax imposed by this section and any tax imposed by a county or a transit authority pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion to the respective rates of such taxes.

As used in this subdivision, "taxes paid to another jurisdiction" means the total amount of retail sales or use tax or similar tax based upon the sale, purchase, or use of tangible personal property or services rendered legally, levied by and paid to another state or political subdivision thereof, or to the District of Columbia, where the payment of such tax does not entitle the taxpayer to any refund or credit for such payment.

(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner.

(8) Computer equipment and related software leased from a lessor located outside this state and initially received in this state on behalf of the consumer by a third party that will retain possession of such property for not more than ninety days and that will, within that ninety-day period, deliver such property to the consumer at a location outside this state. Division (C)(8) of this section does not provide exemption from taxation for any otherwise taxable charges associated with such property while it is in this state or for any subsequent storage, use, or consumption of such property in this state by or on behalf of the consumer.

(9) Tangible personal property held for sale by a person but not for that person's own use and donated by that person, without charge or other compensation, to either of the following:

(a) A nonprofit organization operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; or

(b) This state or any political subdivision of this state, but only if donated for exclusively public purposes.

For the purposes of division (C)(10) of this section, "charitable purposes" has the same meaning as in division (B)(12) of section 5739.02 of the Revised Code.

(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or otherwise consumed in a taxable manner.

(E)(1)(a) If any transaction is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer shall provide to the seller, and the seller shall obtain from the consumer, a certificate specifying

the reason that the transaction is not subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as the tax commissioner prescribes.

(b) A seller that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under this chapter. Relief under this division from liability does not apply to any of the following:

(i) A seller that fraudulently fails to collect tax;

(ii) A seller that solicits consumers to participate in the unlawful claim of an exemption;

(iii) A seller that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the seller in this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state;

(iv) A seller that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division (D) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software.

(2) The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(3) If no certificate is provided or obtained within ninety days after the date on which the transaction is consummated, it shall be presumed that the tax applies. Failure to have so provided or obtained a certificate shall not preclude a seller, within one hundred twenty days after the tax commissioner gives written notice of intent to levy an assessment, from either establishing that the transaction is not subject to the tax, or obtaining, in good faith, a fully completed exemption certificate.

(4) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the seller. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not

properly claimed. The certification shall be in such form as the tax commissioner prescribes.

(F) A seller who files a petition for reassessment contesting the assessment of tax on transactions for which the seller obtained no valid exemption certificates, and for which the seller failed to establish that the transactions were not subject to the tax during the one-hundred-twenty-day period allowed under division (E) of this section, may present to the tax commissioner additional evidence to prove that the transactions were exempt. The seller shall file such evidence within ninety days of the receipt by the seller of the notice of assessment, except that, upon application and for reasonable cause, the tax commissioner may extend the period for submitting such evidence thirty days.

(G) For the purpose of the proper administration of sections 5741.01 to 5741.22 of the Revised Code, and to prevent the evasion of the tax hereby levied, it shall be presumed that any use, storage, or other consumption of tangible personal property in this state is subject to the tax until the contrary is established.

(H) The tax collected by the seller from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional use tax pursuant to section 5741.021 or 5741.023 of the Revised Code and of transit authorities levying an additional use tax pursuant to section 5741.022 of the Revised Code. Except for the discount authorized under section 5741.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection of such tax.

Sec. 5741.03. (A) One hundred per cent of all money deposited into the state treasury under sections 5741.01 to 5741.22 of the Revised Code that is not required to be distributed as provided in division (B) of this section shall be credited to the general revenue fund.

(B) In any case where any county or transit authority has levied a tax or taxes pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code, the tax commissioner shall, within forty-five days after the end of each month, determine and certify to the director of budget and management the amount of the proceeds of such tax or taxes from billings and assessments received during that month, or shown on tax returns or reports filed during that month, to be returned to the county or transit authority levying the tax or taxes, which amounts shall be determined in the manner provided in section 5739.21 of the Revised Code. The director of budget and management shall transfer, from the general revenue fund, to the permissive

tax distribution fund created by division (B)(1) of section 4301.423 of the Revised Code and to the local sales tax administrative fund created by division (C) of section 5739.21 of the Revised Code, the amounts certified by the tax commissioner. The tax commissioner shall then, on or before the twentieth day of the month in which such certification is made, provide for payment of such respective amounts to the county treasurer or to the fiscal officer of the transit authority levying the tax or taxes. The amount transferred to the local sales tax administrative fund is for use by the tax commissioner in defraying costs the commissioner incurs in administering such taxes levied by a county or transit authority.

(C) Not later than the first day of January and of July each calendar year, the tax commissioner and the director of budget and management shall jointly determine the amount of tax imposed by section 5741.02 of the Revised Code and remitted under this chapter by remote sellers during the six-month period ending on the preceding last day of November and of May, respectively, reduced by any such tax remitted by sellers pursuant to an agreement entered into under section 5740.03 of the Revised Code during the six-month period and by any refunds issued during the six-month period to remote sellers from the tax refund fund on account of that tax. Not later than that first day of January and of July of the calendar year, the director of budget and management shall transfer from the general revenue fund to the income tax reduction fund the amount so determined, less one-half of the amount of that tax remitted during fiscal year 2013 by remote sellers that voluntarily registered under section 5741.17 of the Revised Code. Amounts transferred to the income tax reduction fund under this section shall be included in the determination of the percentage under division (B)(2) of section 131.44 of the Revised Code required to be made by the thirty-first day of July of the calendar year in which the commissioner makes the certifications under this division.

Sec. 5741.032. There is hereby created in the state treasury the remote seller administration fund for the purpose of paying the expenses incurred by the department of taxation in the administration of this chapter with respect to remote sellers. Annually, before the thirty-first day of July, the treasurer of state shall transfer to the remote seller administration fund one-half of one per cent of the taxes collected from remote sellers under this chapter during the preceding fiscal year.

Sec. 5741.17. (A)(1) Except as otherwise provided in divisions (A)(2), (3), and (4) of this section, every seller of tangible personal property or services who has substantial nexus with this state shall register with the tax commissioner and supply any information concerning ~~his~~ the seller's

contacts with this state that may be required by the commissioner.

(2) A seller who is licensed as a vendor pursuant to section 5739.17 of the Revised Code shall not be required to register with the commissioner pursuant to this section if all sales to consumers in this state are made under the authority of ~~his~~ the seller's vendor's license.

(3) ~~A~~ Unless the seller has substantial nexus with this state pursuant to division (I)(2)(g) of section 5741.01 of the Revised Code, a seller is not required to register under this section if the seller has no contact with this state other than an agency relationship with a person engaged in the business of telemarketing in this state and engaged by the seller exclusively for the purpose of solicitation of customers in other states.

(4) A seller is not required to register under this section if the seller has no contact with this state other than the ownership of property that is located at the facility of a printer with which the seller has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the final printed product is produced.

(B) A seller who does not have substantial nexus with this state may voluntarily register with the commissioner. A seller who voluntarily registers with the commissioner under this section is entitled to the same benefits and is subject to the same duties and requirements as a seller required to be registered with the commissioner under this chapter.

The commissioner shall maintain an alphabetical index of all sellers registered under this chapter and records of the use tax reported and paid. Upon request, this information shall be made available to the treasurer of state.

(C) A remote small seller is not required to register under this section.

Sec. 5743.01. As used in this chapter:

(A) "Person" includes individuals, firms, partnerships, associations, joint-stock companies, corporations, combinations of individuals of any form, and the state and any of its political subdivisions.

(B) "Wholesale dealer" includes only those persons:

(1) Who bring in or cause to be brought into this state unstamped cigarettes purchased directly from the manufacturer, producer, or importer of cigarettes for sale in this state but does not include persons who bring in or cause to be brought into this state cigarettes with respect to which no evidence of tax payment is required thereon as provided in section 5743.04 of the Revised Code; or

(2) Who are engaged in the business of selling cigarettes or tobacco products to others for the purpose of resale.

"Wholesale dealer" does not include any cigarette manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C. 5713 if that person sells cigarettes in this state only to wholesale dealers holding valid and current licenses under section 5743.15 of the Revised Code or to an export warehouse proprietor or another manufacturer.

(C) "Retail dealer" includes:

(1) In reference to dealers in cigarettes, every person other than a wholesale dealer engaged in the business of selling cigarettes in this state, regardless of whether the person is located in this state or elsewhere, and regardless of quantity, amount, or number of sales;

(2) In reference to dealers in tobacco products, any person in this state engaged in the business of selling tobacco products to ultimate consumers in this state, regardless of quantity, amount, or number of sales.

(D) "Sale" includes exchange, barter, gift, offer for sale, and distribution, and includes transactions in interstate or foreign commerce.

(E) "Cigarettes" includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper, reconstituted cigarette tobacco, homogenized cigarette tobacco, cigarette tobacco sheet, or any similar materials other than cigar tobacco.

(F) "Package" means the individual package, box, or other container in or from which retail sales of cigarettes are normally made or intended to be made.

(G) "Stamp" includes an impression made by a metering device as provided for in section 5743.04 of the Revised Code.

(H) "Storage" includes any keeping or retention of cigarettes or tobacco products for use or consumption in this state.

(I) "Use" includes the exercise of any right or power incidental to the ownership of cigarettes or tobacco products.

(J) "Tobacco product" or "other tobacco product" means any product made from tobacco, other than cigarettes, that is made for smoking or chewing, or both, and snuff.

(K) "Wholesale price" means the invoice price, including all federal excise taxes, at which the manufacturer of the tobacco product sells the tobacco product to unaffiliated distributors, excluding any discounts based on the method of payment of the invoice or on time of payment of the invoice. If the taxpayer buys from other than a manufacturer, "wholesale price" means the invoice price, including all federal excise taxes and excluding any discounts based on the method of payment of the invoice or

on time of payment of the invoice.

(L) "Distributor" means:

(1) Any manufacturer who sells, barter, exchanges, or distributes tobacco products to a retail dealer in the state, except when selling to a retail dealer that has filed with the manufacturer a signed statement agreeing to pay and be liable for the tax imposed by section 5743.51 of the Revised Code;

(2) Any wholesale dealer located in the state who receives tobacco products from a manufacturer, or who receives tobacco products on which the tax imposed by this chapter has not been paid;

(3) Any wholesale dealer located outside the state who sells, barter, exchanges, or distributes tobacco products to a wholesale or retail dealer in the state; or

(4) Any retail dealer who receives tobacco products on which the tax has not or will not be paid by another distributor, including a retail dealer that has filed a signed statement with a manufacturer in which the retail dealer agrees to pay and be liable for the tax that would otherwise be imposed on the manufacturer by section 5743.51 of the Revised Code.

(M) "Taxpayer" means any person liable for the tax imposed by section 5743.51, 5743.62, or 5743.63 of the Revised Code.

(N) "Seller" means any person located outside this state engaged in the business of selling tobacco products to consumers for storage, use, or other consumption in this state.

(O) "Manufacturer" means any person who manufactures and sells cigarettes or tobacco products.

(P) "Importer" means any person that is authorized, under a valid permit issued under Section 5713 of the Internal Revenue Code, to import finished cigarettes into the United States, either directly or indirectly.

(Q) "Little cigar" means any roll for smoking, other than cigarettes, made wholly or in part of tobacco that uses an integrated cellulose acetate filter or other filter and is wrapped in any substance containing tobacco, other than natural leaf tobacco.

Sec. 5743.024. (A) For the purposes of section 307.696 of the Revised Code, to pay the expenses of administering the tax, and to pay any or all of the charge the board of elections makes against the county to hold the election on the question of levying the tax, or for such purposes and to provide revenues to the county for permanent improvements, the board of county commissioners may levy a tax on sales of cigarettes sold for resale at retail in the county. The tax shall not exceed two and twenty-five hundredths of a mill per cigarette, and shall be computed on each cigarette sold. The tax

may be levied for any number of years not exceeding twenty. Only one sale of the same article shall be used in computing the amount of tax due.

The tax shall be levied pursuant to a resolution of the county commissioners approved by a majority of the electors in the county voting on the question of levying the tax. The resolution shall specify the rate of the tax, the number of years the tax will be levied, and the purposes for which the tax is levied. Such election may be held on the date of a general or special election held not sooner than ninety days after the date the board certifies its resolution to the board of elections. If approved by the electors, the tax shall take effect on the first day of the month specified in the resolution but not sooner than the first day of the month that is at least sixty days after the certification of the election results by the board of elections. A copy of the resolution levying the tax shall be certified to the tax commissioner at least sixty days prior to the date on which the tax is to become effective.

A resolution under this section may be joined on the ballot as a single question with a resolution adopted under section 307.697 or 4301.421 of the Revised Code to levy a tax for the same purposes and for the purpose of paying the expenses of administering the tax. The form of the ballot in an election held pursuant to this section shall be as prescribed in section 307.697 of the Revised Code.

(B) The treasurer of state shall credit all moneys arising from each county's taxes levied under this section and section 5743.323 of the Revised Code as follows:

(1) To the tax refund fund created by section 5703.052 of the Revised Code, amounts equal to the refunds from each tax levied under this section certified by the tax commissioner pursuant to section 5743.05 of the Revised Code;

(2) Following the crediting of amounts pursuant to division (B)(1) of this section:

(a) To the permissive tax distribution fund created by division (B)(1) of section 4301.423 of the Revised Code, an amount equal to ninety-eight per cent of the remainder collected;

(b) To the local excise tax administrative fund, which is hereby created in the state treasury, an amount equal to two per cent of such remainder, for use by the tax commissioner in defraying costs incurred in administering the tax.

On or before the second working day of each month, the treasurer of state shall certify to the tax commissioner the amount of each county's taxes levied under sections 5743.024 and 5743.323 of the Revised Code and paid

to the treasurer of state during the preceding month.

On or before the tenth day of each month, the tax commissioner shall distribute the amount credited to the permissive tax distribution fund during the preceding month by providing for payment of the appropriate amount to the county treasurer of each county levying the tax.

(C) The board of county commissioners of a county in which a tax is imposed under this section on ~~July 19, 1995~~ the effective date of the amendment of this section by H.B. 59 of the 130th general assembly, may levy a tax for the purpose of section 307.673 of the Revised Code regardless of whether or not the cooperative agreement authorized under that section has been entered into prior to the day the resolution adopted under division (C)(1) or (2) of this section is adopted, ~~and~~ for the purpose of reimbursing a county for costs incurred in the construction of a sports facility pursuant to an agreement entered into by the county under section 307.696 of the Revised Code, or for the purpose of paying the costs of capital repairs of and improvements to a sports facility. The tax shall be levied and approved in one of the manners prescribed by division (C)(1) or (2) of this section.

(1) The tax may be levied pursuant to a resolution adopted by a majority of the members of the board of county commissioners not later than forty-five days after July 19, 1995. A board of county commissioners approving a tax under division (C)(1) of this section may approve a tax under division (D)(1) of section 307.697 or division (B)(1) of section 4301.421 of the Revised Code at the same time. Subject to the resolution being submitted to a referendum under sections 305.31 to 305.41 of the Revised Code, the resolution shall take effect immediately, but the tax levied pursuant to the resolution shall not be levied prior to the day following the last day ~~taxes that any tax previously~~ levied pursuant to this division ~~(A) of this section~~ may be levied.

(2) The tax may be levied pursuant to a resolution adopted by a majority of the members of the board of county commissioners not later than ~~forty-five days after July 19, 1995~~ September 1, 2015, and approved by a majority of the electors of the county voting on the question of levying the tax ~~at the next succeeding general election following July 19, 1995~~. The board of county commissioners shall certify a copy of the resolution to the board of elections immediately upon adopting a resolution under division (C)(2) of this section, ~~and the board of elections shall place the question of levying the tax on the ballot at that election~~. The election may be held on the date of a general or special election held not sooner than ninety days after the date the board certifies its resolution to the board of elections. The form of the ballot shall be as prescribed by division (C) of section 307.697 of the

Revised Code, except that the phrase "paying not more than one-half of the costs of providing a sports facility together with related redevelopment and economic development projects" shall be replaced by the phrase "paying the costs of constructing ~~or~~, renovating, improving, or repairing a sports facility and reimbursing a county for costs incurred by the county in the construction of a sports facility," and the phrase ", beginning" (here insert the earliest date the tax would take effect)" shall be appended after "years." A board of county commissioners submitting the question of a tax under division (C)(2) of this section may submit the question of a tax under division (D)(2) of section 307.697 or division (B)(2) of section 4301.421 of the Revised Code as a single question, and the form of the ballot shall include each of the proposed taxes.

If approved by a majority of electors voting on the question, the tax shall take effect on the day specified on the ballot, which shall not be earlier than the day following the last day ~~the~~ that any tax previously levied pursuant to ~~this division (A) of this section~~ may be levied.

The rate of a tax levied pursuant to division (C)(1) or (2) of this section shall not exceed the rate specified in division (A) of this section. A tax levied pursuant to division (C)(1) or (2) of this section may be levied for any number of years not exceeding twenty.

A board of county commissioners adopting a resolution under this division shall certify a copy of the resolution to the tax commissioner immediately upon adoption of the resolution.

~~(E)(D)~~ No tax shall be levied under division (A) of this section on or after September 23, 2008. This division does not apply to a tax levied under division (C) of this section, and does not prevent the collection of any tax levied under this section before ~~that date~~ September 23, 2008, so long as that tax remains effective.

Sec. 5743.081. (A) If any wholesale dealer or retail dealer fails to pay the tax levied under section 5743.02, 5743.021, 5743.024, or 5743.026 of the Revised Code as required by sections 5743.01 to 5743.20 of the Revised Code, and by the rules of the tax commissioner, or fails to collect the tax from the purchaser or consumer, the commissioner may make an assessment against the wholesale or retail dealer based upon any information in the commissioner's possession.

The commissioner may make an assessment against any wholesale or retail dealer who fails to file a return required by section 5743.03 or 5743.025 of the Revised Code.

No assessment shall be made against any wholesale or retail dealer for any taxes imposed under section 5743.02, 5743.021, 5743.024, or 5743.026

of the Revised Code more than three years after the last day of the calendar month that immediately follows the semiannual period prescribed in section 5743.03 of the Revised Code in which the sale was made, or more than three years after the semiannual return for such period is filed, whichever is later. This section does not bar an assessment against any wholesale or retail dealer who fails to file a return as required by section 5743.025 or 5743.03 of the Revised Code, or who files a fraudulent return.

A penalty of up to thirty per cent may be added to the amount of every assessment made under this section. The commissioner may adopt rules providing for the imposition and remission of penalties added to assessments made under this section.

The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. The notice shall specify separately any portion of the assessment that represents a county tax. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the wholesale or retail dealer's place of business is located or the county in which the party assessed resides. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the commissioner's entry, the clerk shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state cigarette sales tax," and shall have

the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment, except as otherwise provided in sections 5743.01 to 5743.20 of the Revised Code.

~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the tax commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the taxes imposed by sections 5743.01 to 5743.20 of the Revised Code.

Sec. 5743.15. (A) Except as otherwise provided in this division, no person shall engage in this state in the wholesale or retail business of trafficking in cigarettes or in the business of a manufacturer or importer of cigarettes without having a license to conduct each such activity issued by a county auditor under division (B) of this section or the tax commissioner under divisions (C) and (F) of this section. On dissolution of a partnership by death, the surviving partner may operate under the license of the partnership until expiration of the license, and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person succeeded in possession by such heir, representative, receiver, or trustee in bankruptcy if the partner or successor notifies the issuer of the license of the dissolution or succession within thirty days after the dissolution or succession.

(B)(1) Each applicant for a license to engage in the retail business of trafficking in cigarettes under this section, annually, on or before the fourth Monday of May, shall make and deliver to the county auditor of the county in which the applicant desires to engage in the retail business of trafficking in cigarettes, upon a blank form furnished by such auditor for that purpose, a statement showing the name of the applicant, each physical place in the

county where the applicant's business is conducted, the nature of the business, and any other information the tax commissioner requires in the form of statement prescribed by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the application shall state the name and address of each of its members. If the applicant is a corporation, the application shall state the name and address of each of its officers. At the time of making the application required by this section, every person desiring to engage in the retail business of trafficking in cigarettes shall pay an application fee in the sum of one hundred twenty-five dollars for each physical place where the person proposes to carry on such business. Each place of business shall be deemed such space, under lease or license to, or under the control of, or under the supervision of the applicant, as is contained in one or more contiguous, adjacent, or adjoining buildings constituting an industrial plant or a place of business operated by, or under the control of, one person, or under one roof and connected by doors, halls, stairways, or elevators, which space may contain any number of points at which cigarettes are offered for sale, provided that each additional point at which cigarettes are offered for sale shall be listed in the application.

(2) Upon receipt of the application and exhibition of the county treasurer's receipt showing the payment of the application fee, the county auditor shall issue to the applicant a license for each place of business designated in the application, authorizing the applicant to engage in such business at such place for one year commencing on the fourth Monday of May. The form of the license shall be prescribed by the commissioner. A duplicate license may be obtained from the county auditor upon payment of a five-dollar fee if the original license is lost, destroyed, or defaced. When an application is filed after the fourth Monday of May, the application fee required to be paid shall be proportioned in amount to the remainder of the license year, except that it shall not be less than twenty-five dollars in any one year.

(3) The holder of a retail dealer's cigarette license may transfer the license to a place of business within the same county other than that designated on the license on condition that the licensee's ownership interest and business structure remain unchanged, and that the licensee applies to the county auditor therefor, upon forms approved by the commissioner and the payment of a fee of five dollars into the county treasury.

(C)(1) Each applicant for a license to engage in the wholesale business of trafficking in cigarettes under this section, annually, on or before the fourth Monday in May, shall make and deliver to the tax commissioner, upon a blank form furnished by the commissioner for that purpose, a

statement showing the name of the applicant, physical street address where the applicant's business is conducted, the nature of the business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers. At the time of making the application required by this section, every person desiring to engage in the wholesale business of trafficking in cigarettes shall pay an application fee of one thousand dollars for each physical place where the person proposes to carry on such business. Each place of business shall be deemed such space, under lease or license to, or under the control of, or under the supervision of the applicant, as is contained in one or more contiguous, adjacent, or adjoining buildings constituting an industrial plant or a place of business operated by, or under the control of, one person, or under one roof and connected by doors, halls, stairways, or elevators. A duplicate license may be obtained from the commissioner upon payment of a twenty-five-dollar fee if the original license is lost, destroyed, or defaced.

(2) Upon receipt of the application and payment of any application fee required by this section, the commissioner shall verify that the applicant is ~~in good standing under~~ not in violation of any provision of Chapter 1346, and or Title LVII of the Revised Code. The commissioner shall also verify that the applicant has filed any returns, submitted any information, and paid any outstanding taxes or fees as required by the commissioner, to the extent that the commissioner is aware of the returns, information, taxes, or fees at the time of the application. Upon approval, the commissioner shall issue to the applicant a license for each physical place of business designated in the application authorizing the applicant to engage in business at that location for one year commencing on the fourth Monday in May. For licenses issued after the fourth Monday in May, the application fee shall be reduced proportionately by the remainder of the twelve-month period for which the license is issued, except that the application fee required to be paid under this section shall be not less than two hundred dollars in any one year.

(3) The holder of a wholesale dealer cigarette license may transfer the license to a place of business other than that designated on the license on condition that the licensee's ownership or business structure remains unchanged, and that the licensee applies to the commissioner for such a transfer upon a form promulgated by the commissioner and pays a fee of twenty-five dollars, which shall be deposited into the cigarette tax enforcement fund created in division (E) of this section.

(D)(1) The wholesale cigarette license application fees collected under this section shall be paid into the cigarette tax enforcement fund.

(2) The retail cigarette license application fees collected under this section shall be distributed as follows:

(a) Thirty per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the places of business for which the tax revenue was received are located;

(b) Ten per cent shall be credited to the general fund of the county;

(c) Sixty per cent shall be paid into the cigarette tax enforcement fund.

(3) The remainder of the revenues and fines collected under this section and the penal laws relating to cigarettes shall be distributed as follows:

(a) Three-fourths shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business, on account of which the revenues and fines were received, is located;

(b) One-fourth shall be credited to the general fund of the county.

(E) There is hereby created within the state treasury the cigarette tax enforcement fund for the purpose of providing funds to assist in paying the costs of enforcing sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code.

The portion of cigarette license application fees received by a county auditor during the annual application period that ends on the fourth Monday in May and that is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the thirtieth day of June each year accompanied by the form prescribed by the tax commissioner. The portion of cigarette license application fees received by each county auditor after the fourth Monday in May and that is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the last day of the month following the month in which such fees were collected.

(F)(1) Every person who desires to engage in the business of a manufacturer or importer of cigarettes shall, annually, on or before the fourth Monday of May, make and deliver to the tax commissioner, upon a blank form furnished by the commissioner for that purpose, a statement showing the name of the applicant, the nature of the applicant's business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers.

(2) Upon receipt of the application required under this section, the commissioner shall verify that the applicant is ~~in good standing under~~ not in violation of any provision of Chapter 1346. and or Title LVII of the Revised Code. The commissioner shall also verify that the applicant has filed any returns, submitted any information, and paid any outstanding taxes or fees as required by the commissioner, to the extent that the commissioner is aware of the returns, information, taxes, or fees at the time of the application. Upon approval, the commissioner shall issue to the applicant a license authorizing the applicant to engage in the business of manufacturer or importer, whichever the case may be, for one year commencing on the fourth Monday of May.

(3) The issuing of a license under division (F)(1) of this section to a manufacturer does not excuse a manufacturer from the certification process required under section 1346.05 of the Revised Code. A manufacturer who is issued a license under division (F)(1) of this section and who is not listed on the directory required under section 1346.05 of the Revised Code shall not be permitted to sell cigarettes in this state other than to a licensed cigarette wholesaler for sale outside this state. Such a manufacturer shall provide documentation to the commissioner evidencing that the cigarettes are legal for sale in another state.

(G) The tax commissioner may adopt rules necessary to administer this section.

Sec. 5743.323. (A) For the purposes of section 307.696 of the Revised Code and to pay the expenses of levying the tax or for such purposes and to provide revenues to the county for permanent improvements, the board of county commissioners of a county that levies a tax under division (A) ~~or (C)~~ of section 5743.024 of the Revised Code shall by resolution adopted by a majority of the board levy a tax at the same rate on the use, consumption, or storage for consumption of cigarettes by consumers in the county, provided that the tax shall not apply if the tax levied by division (A) ~~or (C)~~ of section 5743.024 of the Revised Code has been paid. The tax shall take effect on the date that a tax levied under division (A) ~~or (C)~~ of section 5743.024 of the Revised Code takes effect, and shall remain in effect as long as the tax levied under such division remains effective.

No tax shall be levied under division (A) of this section on or after ~~the effective date of the amendment of this section by H.B. 562 of the 127th general assembly~~ September 23, 2008. This paragraph does not prevent the collection of any tax levied under this section before that date so long as that tax remains effective.

(B) For the purposes of section 307.696 of the Revised Code and to pay

the expenses of levying the tax or for such purposes and to provide revenues to the county for permanent improvements, the board of county commissioners of a county that levies a tax under division (C) of section 5743.024 of the Revised Code shall by resolution adopted by a majority of the board levy a tax at the same rate on the use, consumption, or storage for consumption of cigarettes by consumers in the county, provided that the tax shall not apply if the tax levied by division (C) of section 5743.024 of the Revised Code has been paid. The tax shall take effect on the date that a tax levied under division (C) of section 5743.024 of the Revised Code takes effect, and shall remain in effect as long as the tax levied under such division remains effective.

Sec. 5743.51. (A) To provide revenue for the general revenue fund of the state, an excise tax on tobacco products is hereby levied at one of the rate of following rates:

(1) For tobacco products other than little cigars, seventeen per cent of the wholesale price of the tobacco product received by a distributor or sold by a manufacturer to a retail dealer located in this state. ~~Each~~

(2) For invoices dated October 1, 2013, or later, thirty-seven per cent of the wholesale price of little cigars received by a distributor or sold by a manufacturer to a retail dealer located in this state.

Each distributor who brings tobacco products, or causes tobacco products to be brought, into this state for distribution within this state, or any out-of-state distributor who sells tobacco products to wholesale or retail dealers located in this state for resale by those wholesale or retail dealers is liable for the tax imposed by this section. Only one sale of the same article shall be used in computing the amount of the tax due.

(B) The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of the receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to section 5743.53 of the Revised Code. The balance of the taxes collected under this section shall be paid into the general revenue fund.

(C) The commissioner may adopt rules as are necessary to assist in the enforcement and administration of sections 5743.51 to 5743.66 of the Revised Code, including rules providing for the remission of penalties imposed.

(D) A manufacturer is not liable for payment of the tax imposed by this section for sales of tobacco products to a retail dealer that has filed a signed statement with the manufacturer in which the retail dealer agrees to pay and be liable for the tax, as long as the manufacturer has provided a copy of the

statement to the tax commissioner.

Sec. 5743.56. (A) Any person required to pay the tax imposed by section 5743.51, 5743.62, or 5743.63 of the Revised Code is personally liable for the tax. The tax commissioner may make an assessment, based upon any information in the commissioner's possession, against any person who fails to file a return or pay any tax, interest, or additional charge as required by this chapter. The commissioner shall give the person assessed written notice of such assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) When the information in the possession of the tax commissioner indicates that a person liable for the tax imposed by section 5743.51, 5743.62, or 5743.63 of the Revised Code has not paid the full amount of tax due, the commissioner may audit a representative sample of the person's business and may issue an assessment based on such audit.

(C) A penalty of up to fifteen per cent may be added to all amounts assessed under this section. The tax commissioner may adopt rules providing for the imposition and remission of such penalties.

(D) Unless the person assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the person assessed or that person's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the person assessed to the treasurer of state. A petition shall indicate the objections of the person assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(E) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person assessed resides or in which the person assessed conducts business. If the person assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the person assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book

entitled "special judgments for state tobacco products tax," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the day the assessment is issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(F) If the tax commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (E) of this section. Notice of the jeopardy assessment shall be served on the person assessed or the legal representative of the person assessed, as provided in section 5703.37 of the Revised Code, within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (D) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(G) All money collected by the tax commissioner under this section shall be paid to the treasurer of state as revenue arising from the tax imposed by sections 5743.51, 5743.62, and 5743.63 of the Revised Code.

Sec. 5743.62. (A) To provide revenue for the general revenue fund of the state, an excise tax is hereby levied on the seller of tobacco products in this state at one of the rate of following rates:

(1) For tobacco products other than little cigars, seventeen per cent of the wholesale price of the tobacco product whenever the tobacco product is

delivered to a consumer in this state for the storage, use, or other consumption of such tobacco products. ~~The~~

(2) For little cigars, thirty-seven per cent of the wholesale price of the little cigars whenever the little cigars are delivered to a consumer in this state for the storage, use, or other consumption of the little cigars.

The tax imposed by this section applies only to sellers having nexus in this state, as defined in section 5741.01 of the Revised Code.

(B) A seller of tobacco products who has nexus in this state as defined in section 5741.01 of the Revised Code shall register with the tax commissioner and supply any information concerning the seller's contacts with this state as may be required by the tax commissioner. A seller who does not have nexus in this state may voluntarily register with the tax commissioner. A seller who voluntarily registers with the tax commissioner is entitled to the same benefits and is subject to the same duties and requirements as a seller required to be registered with the tax commissioner under this division.

(C) Each seller of tobacco products subject to the tax levied by this section, on or before the last day of each month, shall file with the tax commissioner a return for the preceding month showing any information the tax commissioner finds necessary for the proper administration of sections 5743.51 to 5743.66 of the Revised Code, together with remittance of the tax due, payable to the treasurer of state. The return and payment of the tax required by this section shall be filed in such a manner that it is received by the tax commissioner on or before the last day of the month following the reporting period. If the return is filed and the amount of the tax shown on the return to be due is paid on or before the date the return is required to be filed, the seller is entitled to a discount equal to two and five-tenths per cent of the amount shown on the return to be due.

(D) The tax commissioner shall immediately forward to the treasurer of state all money received from the tax levied by this section, and the treasurer shall credit the amount to the general revenue fund.

(E) Each seller of tobacco products subject to the tax levied by this section shall mark on the invoices of tobacco products sold that the tax levied by that section has been paid and shall indicate the seller's account number as assigned by the tax commissioner.

Sec. 5743.63. (A) To provide revenue for the general revenue fund of the state, an excise tax is hereby levied on the storage, use, or other consumption of tobacco products at one of the rate of following rates:

(1) For tobacco products other than little cigars, seventeen per cent of the wholesale price of the tobacco product, provided.

(2) For little cigars, thirty-seven per cent of the wholesale price of the little cigars.

The tax levied under division (A) of this section is imposed only if the tax has not been paid by the seller as provided in section 5743.62 of the Revised Code, or by the distributor as provided in section 5743.51 of the Revised Code.

(B) Each person subject to the tax levied by this section, on or before the last day of each month, shall file with the tax commissioner a return for the preceding month showing any information the tax commissioner finds necessary for the proper administration of sections 5743.51 to 5743.66 of the Revised Code, together with remittance of the tax due, payable to the treasurer of state. The return and payment of the tax required by this section shall be filed in such a manner that it is received by the tax commissioner on or before the last day of the month following the reporting period.

(C) The tax commissioner shall immediately forward to the treasurer of state all money received from the tax levied by this section, and the treasurer shall credit the amount to the general revenue fund.

Sec. 5745.12. (A) If any taxpayer required to file a report under this chapter fails to file the report within the time prescribed, files an incorrect report, or fails to remit the full amount of the tax due for the period covered by the report, the tax commissioner may make an assessment against the taxpayer for any deficiency for the period for which the report or tax is due, based upon any information in the commissioner's possession.

The tax commissioner shall not make or issue an assessment against a taxpayer more than three years after the later of the final date the report subject to assessment was required to be filed or the date the report was filed. Such time limit may be extended if both the taxpayer and the commissioner consent in writing to the extension. Any such extension shall extend the three-year time limit in section 5745.11 of the Revised Code for the same period of time. There shall be no bar or limit to an assessment against a taxpayer that fails to file a report subject to assessment as required by this chapter, or that files a fraudulent report. The commissioner shall give the taxpayer assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the taxpayer assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the authorized agent of the taxpayer assessed having knowledge of the facts, the

assessment becomes final, and the amount of the assessment is due and payable from the taxpayer to the treasurer of state. The petition shall indicate the taxpayer's objections, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the taxpayer has an office or place of business in this state, the county in which the taxpayer's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the taxpayer assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for municipal income taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of an~~ If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected under this section shall be credited and distributed to the municipal corporation to which the money is owed based on the assessment issued under this section.

(E) If the tax commissioner believes that collection of the tax imposed by this chapter will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the taxpayer liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas

in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the taxpayer assessed or the taxpayer's legal representative in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the taxpayer assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(F) Notwithstanding the fact that a petition for reassessment is pending, the taxpayer may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the taxpayer under the corrected assessment is less than the portion paid, there shall be issued to the taxpayer, its assigns, or legal representative a refund in the amount of the overpayment as provided by section 5745.11 of the Revised Code, with interest on that amount as provided by section 5745.11 of the Revised Code.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to

the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange,

or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income, any amount included in federal adjusted gross income under section 105 or not excluded under section 106 of the Internal Revenue Code solely because it relates to an accident and health plan for a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(d) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to

the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other

than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of this section, add five-sixths of the amount of qualifying section 179 depreciation expense, including the taxpayer's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(iii) Subject to division (A)(20)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, if the increase in income taxes withheld by the taxpayer is equal to or greater than ten per cent of income taxes withheld by the taxpayer during the taxpayer's immediately preceding taxable year, "two-thirds" shall be substituted for "five-sixths" for the purpose of divisions (A)(20)(a)(i) and (ii) of this section.

(iv) Subject to division (A)(20)(a)(v) of this section, for taxable years beginning in 2012 or thereafter, a taxpayer is not required to add an amount under division (A)(20) of this section if the increase in income taxes withheld by the taxpayer and by any pass-through entity in which the taxpayer has a direct or indirect ownership interest is equal to or greater than the sum of (I) the amount of qualifying section 179 depreciation expense and (II) the amount of depreciation expense allowed to the taxpayer by subsection (k) of section 168 of the Internal Revenue Code, and including the taxpayer's proportionate or distributive shares of such amounts allowed to any such pass-through entities.

(v) If a taxpayer directly or indirectly incurs a net operating loss for the taxable year for federal income tax purposes, to the extent such loss resulted from depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code and by qualifying section 179 depreciation expense, "the entire" shall be substituted for "five-sixths of the" for the purpose of divisions (A)(20)(a)(i) and (ii) of this section.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this

section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A)(20)(a)(v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(e) For the purposes of divisions (A)(20) and (21) of this section:

(i) "Income taxes withheld" means the total amount withheld and remitted under sections 5747.06 and 5747.07 of the Revised Code by an employer during the employer's taxable year.

(ii) "Increase in income taxes withheld" means the amount by which the amount of income taxes withheld by an employer during the employer's current taxable year exceeds the amount of income taxes withheld by that employer during the employer's immediately preceding taxable year.

(iii) "Qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to a taxpayer under section 179 of the Internal Revised Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one of the following:

(i) One-fifth of the amount so added for each of the five succeeding taxable years if the amount so added was five-sixths of qualifying section 179 depreciation expense or depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code;

(ii) One-half of the amount so added for each of the two succeeding taxable years if the amount so added was two-thirds of such depreciation expense;

(iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added.

(b) If the amount deducted under division (A)(21)(a) of this section is

attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A)(21)(a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A)(20)(a) of this section has been deducted.

(d) No refund shall be allowed as a result of adjustments made by division (A)(21) of this section.

(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33 of the Revised Code.

(24) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the taxpayer during the taxable year for active duty service in the United States army, air force, navy, marine corps, or coast guard or reserve components thereof or the national guard. The deduction may not be claimed for military pay and allowances received by the taxpayer while the taxpayer is stationed in this state.

(25) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year and not otherwise compensated for by any other source, the amount of qualified organ donation expenses incurred by the taxpayer during the taxable year, not to exceed ten thousand dollars. A taxpayer may

deduct qualified organ donation expenses only once for all taxable years beginning with taxable years beginning in 2007.

For the purposes of division (A)(25) of this section:

(a) "Human organ" means all or any portion of a human liver, pancreas, kidney, intestine, or lung, and any portion of human bone marrow.

(b) "Qualified organ donation expenses" means travel expenses, lodging expenses, and wages and salary forgone by a taxpayer in connection with the taxpayer's donation, while living, of one or more of the taxpayer's human organs to another human being.

(26) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as retired ~~military~~ personnel pay for service in the ~~United States army, navy, air force, coast guard, or marine corps~~ uniformed services or reserve components thereof, or the national guard, or received by the surviving spouse or former spouse of such a taxpayer under the survivor benefit plan on account of such a taxpayer's death. If the taxpayer receives income on account of retirement paid under the federal civil service retirement system or federal employees retirement system, or under any successor retirement program enacted by the congress of the United States that is established and maintained for retired employees of the United States government, and such retirement income is based, in whole or in part, on credit for the taxpayer's ~~military~~ uniformed service, the deduction allowed under this division shall include only that portion of such retirement income that is attributable to the taxpayer's ~~military~~ uniformed service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(26) of this section is not included in a taxpayer's adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A)(26) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year from the military injury relief fund created in section 5101.98 of the Revised Code.

(28) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received as a veterans bonus during the taxable year from the Ohio department of veterans services as authorized by Section 2r of Article VIII, Ohio Constitution.

~~(29) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any loss from wagering transactions that is allowed as an itemized deduction under section 165 of the Internal Revenue Code and that the taxpayer deducted in computing federal taxable income.~~

~~(30)~~ Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

~~(31)~~(30) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, Ohio college opportunity or federal Pell grant amounts received by the taxpayer or the taxpayer's spouse or dependent pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 1070a, et seq., and used to pay room or board furnished by the educational institution for which the grant was awarded at the institution's facilities, including meal plans administered by the institution. For the purposes of this division, receipt of a grant includes the distribution of a grant directly to an educational institution and the crediting of the grant to the enrollee's account with the institution.

(31) Deduct one-half of the taxpayer's Ohio small business investor income, the deduction not to exceed sixty-two thousand five hundred dollars for each spouse if spouses file separate returns under section 5747.08 of the Revised Code or one hundred twenty-five thousand dollars for all other taxpayers. No pass-through entity may claim a deduction under this division.

For the purposes of this division, "Ohio small business investor income" means the portion of a taxpayer's adjusted gross income that is business income reduced by deductions from business income and apportioned or allocated to this state under sections 5747.21 and 5747.22 of the Revised Code, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year.

(32) To the extent included in federal adjusted gross income, deduct the fair market value of services provided free of charge by dentists and dental hygienists under the hope for a smile program established in section 3701.139 of the Revised Code.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a

trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying

beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section.

(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time

transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of the sources enumerated in division (I)(3)(a) of this section shall be ascertained without regard to the domicile of the trust's beneficiaries.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for

purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio

Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that the amount satisfies either of

the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002 or thereafter.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this

state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (BB)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5)(a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the

pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(EE)(1) For the purposes of division (EE) of this section:

(a) "Qualifying person" means any person other than a qualifying corporation.

(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:

(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;

(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.

(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.

(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:

(1) "Trust" does not include a qualified pre-income tax trust.

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.

(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.

(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements:

(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972;

(b) The trust became irrevocable upon the creation of the trust; and

(c) The grantor was domiciled in this state at the time the trust was created.

(GG) "Uniformed services" has the same meaning as in 10 U.S.C. 101.

Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, on every individual, trust, and estate earning or receiving winnings on casino gaming, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured in the case of individuals by Ohio adjusted gross income less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code; measured in the case of trusts by modified Ohio taxable income under division (D) of this section; and measured in the case of estates by Ohio taxable income. The tax imposed by this section on the balance thus obtained is hereby levied as follows:

(1) For taxable years beginning in 2004:

OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS) OR MODIFIED OHIO TAXABLE INCOME (TRUSTS) OR OHIO TAXABLE INCOME (ESTATES)	TAX
\$5,000 or less	.743%
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$260.05 plus 3.715% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000
More than \$40,000 but not more	\$1,337.20 plus 5.201% of the

than \$80,000	amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000

(2) For taxable years beginning in 2005:

OHIO ADJUSTED GROSS
 INCOME LESS EXEMPTIONS
 (INDIVIDUALS)
 OR
 MODIFIED OHIO
 TAXABLE INCOME (TRUSTS)
 OR
 OHIO TAXABLE INCOME
 (ESTATES)

TAX

\$5,000 or less	.712%
More than \$5,000 but not more than \$10,000	\$35.60 plus 1.424% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$106.80 plus 2.847% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$249.15 plus 3.559% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$427.10 plus 4.27% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,281.10 plus 4.983% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$3,274.30 plus 5.693% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,412.90 plus 6.61% of the amount in excess of \$100,000
More than \$200,000	\$11,022.90 plus 7.185% of the amount in excess of \$200,000

(3) For taxable years beginning in 2006:

OHIO ADJUSTED GROSS
 INCOME LESS EXEMPTIONS
 (INDIVIDUALS)
 OR
 MODIFIED OHIO

TAXABLE INCOME (TRUSTS) OR OHIO TAXABLE INCOME (ESTATES)	TAX
\$5,000 or less	.681%
More than \$5,000 but not more than \$10,000	\$34.05 plus 1.361% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$102.10 plus 2.722% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$238.20 plus 3.403% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$408.35 plus 4.083% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,224.95 plus 4.764% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$3,130.55 plus 5.444% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,219.35 plus 6.32% of the amount in excess of \$100,000
More than \$200,000	\$10,539.35 plus 6.87% of the amount in excess of \$200,000

(4) For taxable years beginning in 2007:

OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS) OR MODIFIED OHIO TAXABLE INCOME (TRUSTS) OR OHIO TAXABLE INCOME (ESTATES)	TAX
\$5,000 or less	.649%
More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$97.40 plus 2.598% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000

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More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$2,987.05 plus 5.194% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000

(5) For taxable years beginning in 2008, 2009, or 2010:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)

OR

MODIFIED OHIO
TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME
(ESTATES)

TAX

\$5,000 or less	.618%
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000

(6) For taxable years beginning in 2011 or ~~thereafter~~ 2012:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)

OR

MODIFIED OHIO
TAXABLE INCOME (TRUSTS)
OR
OHIO TAXABLE INCOME
(ESTATES)

	TAX
\$5,000 or less	.587%
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$2,700.00 plus 4.695% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000

(7) For taxable years beginning in 2013:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)

OR
MODIFIED OHIO
TAXABLE INCOME (TRUSTS)

<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>
<u>\$5,000 or less</u>	<u>.537%</u>
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$26.86 plus 1.074% of the amount in excess of \$5,000</u>
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$80.57 plus 2.148% of the amount in excess of \$10,000</u>
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$187.99 plus 2.686% of the amount in excess of \$15,000</u>
<u>More than \$20,000 but not more</u>	<u>\$322.26 plus 3.222% of the</u>

<u>than \$40,000</u>	<u>amount in excess of \$20,000</u>
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$966.61 plus 3.760% of the amount in excess of \$40,000</u>
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,470.50 plus 4.296% of the amount in excess of \$80,000</u>
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,329.68 plus 4.988% of the amount in excess of \$100,000</u>
<u>More than \$200,000</u>	<u>\$8,317.35 plus 5.421% of the amount in excess of \$200,000</u>

(8) For taxable years beginning in 2014:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)

OR

MODIFIED OHIO
TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME
(ESTATES)

TAX

<u>\$5,000 or less</u>	<u>.534%</u>
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$26.71 plus 1.068% of the amount in excess of \$5,000</u>
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$80.13 plus 2.137% of the amount in excess of \$10,000</u>
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$186.96 plus 2.671% of the amount in excess of \$15,000</u>
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$320.50 plus 3.204% of the amount in excess of \$20,000</u>
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$961.32 plus 3.739% of the amount in excess of \$40,000</u>
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,457.00 plus 4.272% of the amount in excess of \$80,000</u>
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,311.49 plus 4.960% of the amount in excess of \$100,000</u>
<u>More than \$200,000</u>	<u>\$8,271.90 plus 5.392% of the amount in excess of \$200,000</u>

(9) For taxable years beginning in 2015 or thereafter:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)

OR
MODIFIED OHIO
TAXABLE INCOME (TRUSTS)

<u>OR</u> <u>OHIO TAXABLE INCOME</u> <u>(ESTATES)</u>	<u>TAX</u>
<u>\$5,000 or less</u>	<u>.528%</u>
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$26.41 plus 1.057% of the amount in excess of \$5,000</u>
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$79.24 plus 2.113% of the amount in excess of \$10,000</u>
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$184.90 plus 2.642% of the amount in excess of \$15,000</u>
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$316.98 plus 3.169% of the amount in excess of \$20,000</u>
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$950.76 plus 3.698% of the amount in excess of \$40,000</u>
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,430.00 plus 4.226% of the amount in excess of \$80,000</u>
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,275.10 plus 4.906% of the amount in excess of \$100,000</u>
<u>More than \$200,000</u>	<u>\$8,181.00 plus 5.333% of the amount in excess of \$200,000</u>

In ~~July~~ August of each year, ~~beginning in 2010~~, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made. The tax commissioner shall not make such adjustments in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year. The commissioner shall not make such adjustments for taxable years beginning in 2013, 2014, or 2015.

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created under section 715.691, or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.

(D) This division applies only to taxable years of a trust beginning in 2002 or thereafter.

(1) The tax imposed by this section on a trust shall be computed by multiplying the Ohio modified taxable income of the trust by the rates prescribed by division (A) of this section.

(2) A resident trust may claim a credit against the tax computed under division (D) of this section equal to the lesser of (1) the tax paid to another state or the District of Columbia on the resident trust's modified nonbusiness income, other than the portion of the resident trust's nonbusiness income that is qualifying investment income as defined in section 5747.012 of the Revised Code, or (2) the effective tax rate, based on modified Ohio taxable income, multiplied by the resident trust's modified nonbusiness income other than the portion of the resident trust's nonbusiness income that is qualifying investment income. The credit applies before any other applicable credits.

(3) The credits enumerated in divisions (A)(1) to (13) of section 5747.98 of the Revised Code do not apply to a trust subject to division (D) of this section. Any credits enumerated in other divisions of section 5747.98 of the Revised Code apply to a trust subject to division (D) of this section. To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding trusts that are not irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts and preneed funeral contract trusts established pursuant to sections 4717.31 to 4717.38 of

the Revised Code that are not qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement trusts and funds, and trusts exempted from taxation under section 501(a) of the Internal Revenue Code.

Sec. 5747.022. An individual subject to the tax imposed by section 5747.02 of the Revised Code whose Ohio adjusted gross income, less applicable exemptions under section 5747.025 of the Revised Code, for the taxable year as shown on an individual or joint annual return is less than thirty thousand dollars may claim a credit equal to twenty dollars times the number of exemptions allowed for the taxpayer, ~~his~~ the taxpayer's spouse, and each dependent under section 5747.02 of the Revised Code. The credit shall be claimed in the order required under section 5747.98 of the Revised Code. The credit shall not be considered in determining the taxes required to be withheld under section 5747.06 of the Revised Code or the estimated taxes required to be paid under section 5747.09 of the Revised Code. In the case of an individual with respect to whom an exemption under section 5747.02 of the Revised Code is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the "number of exemptions allowed" for purposes of calculating the credit allowed under this section to such individual for the individual's taxable year shall not include an exemption for the individual.

Sec. 5747.025. (A) ~~The~~ Except as otherwise provided in this division, the personal exemption for the taxpayer and the taxpayer's spouse shall be seven hundred fifty dollars each for the taxable year beginning in 1996, eight hundred fifty dollars each for the taxable year beginning in 1997, nine hundred fifty dollars each for the taxable year beginning in 1998, and one thousand fifty dollars each for the taxable year beginning in 1999 and taxable years beginning after 1999. The personal exemption amount prescribed in this division for taxable years beginning after 1999 shall be adjusted each year in the manner prescribed in division (C) of this section. In the case of an individual with respect to whom an exemption under section 5747.02 of the Revised Code is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to such individual for such individual's taxable year shall be zero.

(B) The personal exemption for each dependent shall be eight hundred fifty dollars for the taxable year beginning in 1996, and one thousand fifty dollars for the taxable year beginning in 1997 and taxable years beginning after 1997. The personal exemption amount prescribed in this division for taxable years beginning after 1999 shall be adjusted each year in the manner

prescribed in division (C) of this section.

(C) In ~~September~~ August of each year, ~~beginning in 2000~~, the tax commissioner shall determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce from the first day of January of the preceding calendar year to the last day of December of the preceding year, and adjust the personal exemption amount for taxable years beginning in the current calendar year by multiplying that amount by the percentage increase in the gross domestic product deflator for that period; adding the resulting product to the personal exemption amount for taxable years beginning in the preceding calendar year; and rounding the resulting sum upward to the nearest multiple of fifty dollars. The commissioner shall not make such an adjustment in any calendar year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding calendar year. The commissioner shall not make such an adjustment for taxable years beginning in 2013, 2014, or 2015.

Sec. 5747.05. As used in this section, "income tax" includes both a tax on net income and a tax measured by net income.

The following credits shall be allowed against the income tax imposed by section 5747.02 of the Revised Code on individuals and estates:

(A)(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the adjusted gross income of any nonresident taxpayer that is not allocable or apportionable to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code;

(2) The credit provided under this division shall not exceed the portion of the total tax due under section 5747.02 of the Revised Code that the amount of the nonresident taxpayer's adjusted gross income not allocated to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code bears to the total adjusted gross income of the nonresident taxpayer derived from all sources everywhere.

(3) The tax commissioner may enter into an agreement with the taxing authorities of any state or of the District of Columbia that imposes an income tax to provide that compensation paid in this state to a nonresident taxpayer shall not be subject to the tax levied in section 5747.02 of the Revised Code so long as compensation paid in such other state or in the District of Columbia to a resident taxpayer shall likewise not be subject to the income tax of such other state or of the District of Columbia.

(B) The lesser of division (B)(1) or (2) of this section:

(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the adjusted gross income of a resident

taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(1) of this section shall not exceed the portion of the total tax due under section 5747.02 of the Revised Code that the amount of the resident taxpayer's adjusted gross income subjected to an income tax in the other state or in the District of Columbia bears to the total adjusted gross income of the resident taxpayer derived from all sources everywhere.

(2) The amount of income tax liability to another state or the District of Columbia on the portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(2) of this section shall not exceed the amount of tax otherwise due under section 5747.02 of the Revised Code.

(3) If the credit provided under division (B) of this section is affected by a change in either the portion of adjusted gross income of a resident taxpayer subjected to an income tax in another state or the District of Columbia or the amount of income tax liability that has been paid to another state or the District of Columbia, the taxpayer shall report the change to the tax commissioner within sixty days of the change in such form as the commissioner requires.

(a) In the case of an underpayment, the report shall be accompanied by payment of any additional tax due as a result of the reduction in credit together with interest on the additional tax and is a return subject to assessment under section 5747.13 of the Revised Code solely for the purpose of assessing any additional tax due under this division, together with any applicable penalty and interest. It shall not reopen the computation of the taxpayer's tax liability under this chapter from a previously filed return no longer subject to assessment except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(b) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the report even if it is beyond the period prescribed in section 5747.11 of the Revised Code if it otherwise conforms to the requirements of such section. An application filed under this division shall only claim refund of overpayments resulting from an adjustment to the credit allowed by division (B) of this section unless it is also filed within the time prescribed in section 5747.11 of the Revised Code. It shall not reopen the computation of the taxpayer's tax liability except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(4) No credit shall be allowed under division (B) of this section for income tax paid or accrued to another state or to the District of Columbia if the taxpayer, when computing federal adjusted gross income, has directly or indirectly deducted, or was required to directly or indirectly deduct, the amount of that income tax.

(C) For a taxpayer sixty-five years of age or older during the taxable year, a credit for such year equal to fifty dollars for each return required to be filed under section 5747.08 of the Revised Code.

(D) A taxpayer sixty-five years of age or older during the taxable year who has received a lump-sum distribution from a pension, retirement, or profit-sharing plan in the taxable year may elect to receive a credit under this division in lieu of the credit to which the taxpayer is entitled under division (C) of this section. A taxpayer making such election shall receive a credit for the taxable year equal to fifty dollars times the taxpayer's expected remaining life as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year which includes the last day of the taxable year. A taxpayer making an election under this division is not entitled to the credit authorized under division (C) of this section in subsequent taxable years except that if such election was made prior to July 1, 1983, the taxpayer is entitled to one-half the credit authorized under such division in subsequent taxable years but may not make another election under this division.

(E) A taxpayer who is not sixty-five years of age or older during the taxable year who has received a lump-sum distribution from a pension, retirement, or profit-sharing plan in a taxable year ending on or before July 31, 1991, may elect to take a credit against the tax otherwise due under this chapter for such year equal to fifty dollars times the expected remaining life of a taxpayer sixty-five years of age as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year which includes the last day of the taxable year. A taxpayer making an election under this division is not entitled to a credit under division (C) or (D) of this section in any subsequent year except that if such election was made prior to July 1, 1983, the taxpayer is entitled to one-half the credit authorized under division (C) of this section in subsequent years but may not make another election under this division. No taxpayer may make an election under this division for a taxable year ending on or after August 1, 1991.

(F) A taxpayer making an election under either division (D) or (E) of this section may make only one such election in the taxpayer's lifetime.

(G)(1) On a joint return filed by a husband and wife, each of whom had

adjusted gross income of at least five hundred dollars, exclusive of interest, dividends and distributions, royalties, rent, and capital gains, a credit equal to the percentage shown in the table contained in this division of the amount of tax due after allowing for any other credit that precedes the credit under this division in the order required under section 5747.98 of the Revised Code.

(2) The credit to which a taxpayer is entitled under this division in any taxable year is the percentage shown in column B that corresponds with the taxpayer's adjusted gross income, less exemptions for the taxable year:

A.	B.
IF THE ADJUSTED GROSS INCOME, LESS EXEMPTIONS, FOR THE TAX YEAR IS:	THE CREDIT FOR THE TAXABLE YEAR IS:
\$25,000 or less	20%
More than \$25,000 but not more than \$50,000	15%
More than \$50,000 but not more than \$75,000	10%
More than \$75,000	5%

(3) The credit allowed under this division shall not exceed six hundred fifty dollars in any taxable year.

(H) No claim for credit under this section shall be allowed unless the claimant furnishes such supporting information as the tax commissioner prescribes by rules. Each credit under this section shall be claimed in the order required under section 5747.98 of the Revised Code.

(I) An individual who is a resident for part of a taxable year and a nonresident for the remainder of the taxable year is allowed the credits under divisions (A) and (B) of this section in accordance with rules prescribed by the tax commissioner. In no event shall the same income be subject to both credits.

(J) The credit allowed under division (A) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code. The credit allowed under division (B) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code.

(K) No credit shall be allowed under division (B) of this section unless

the taxpayer furnishes such proof as the tax commissioner shall require that the income tax liability has been paid to another state or the District of Columbia.

(L) No credit shall be allowed under division (B) of this section for compensation that is not subject to the income tax of another state or the District of Columbia as the result of an agreement entered into by the tax commissioner under division (A)(3) of this section.

Sec. 5747.08. An annual return with respect to the tax imposed by section 5747.02 of the Revised Code and each tax imposed under Chapter 5748. of the Revised Code shall be made by every taxpayer for any taxable year for which the taxpayer is liable for the tax imposed by that section or under that chapter, unless the total credits allowed under divisions (E), (F), and (G) of section 5747.05 of the Revised Code for the year are equal to or exceed the tax imposed by section 5747.02 of the Revised Code, in which case no return shall be required unless the taxpayer is liable for a tax imposed pursuant to Chapter 5748. of the Revised Code.

(A) If an individual is deceased, any return or notice required of that individual under this chapter shall be made and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(B) If an individual is unable to make a return or notice required by this chapter, the return or notice required of that individual shall be made and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(C) Returns or notices required of an estate or a trust shall be made and filed by the fiduciary of the estate or trust.

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) of this section, any pass-through entity may file a single return on behalf of one or more of the entity's investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code. The single return shall set forth the name, address, and social security number or other identifying number of each of those pass-through entity investors and shall indicate the distributive share of each of those pass-through entity investor's income taxable in this state in accordance with sections 5747.20 to 5747.231 of the Revised Code. Such pass-through entity investors for whom the pass-through entity elects to file a single return are not entitled to the exemption or credit provided for by sections 5747.02 and 5747.022 of the Revised Code; shall calculate the tax before business credits at the highest rate of tax set forth in section 5747.02 of the Revised Code for the taxable

year for which the return is filed; and are entitled to only their distributive share of the business credits as defined in division (D)(2) of this section. A single check drawn by the pass-through entity shall accompany the return in full payment of the tax due, as shown on the single return, for such investors, other than investors who are persons subject to the tax imposed under section 5733.06 of the Revised Code.

(b)(i) A pass-through entity shall not include in such a single return any investor that is a trust to the extent that any direct or indirect current, future, or contingent beneficiary of the trust is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(ii) A pass-through entity shall not include in such a single return any investor that is itself a pass-through entity to the extent that any direct or indirect investor in the second pass-through entity is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(c) Nothing in division (D) of this section precludes the tax commissioner from requiring such investors to file the return and make the payment of taxes and related interest, penalty, and interest penalty required by this section or section 5747.02, 5747.09, or 5747.15 of the Revised Code. Nothing in division (D) of this section precludes such an investor from filing the annual return under this section, utilizing the refundable credit equal to the investor's proportionate share of the tax paid by the pass-through entity on behalf of the investor under division (J) of this section, and making the payment of taxes imposed under section 5747.02 of the Revised Code. Nothing in division (D) of this section shall be construed to provide to such an investor or pass-through entity any additional deduction or credit, other than the credit provided by division (J) of this section, solely on account of the entity's filing a return in accordance with this section. Such a pass-through entity also shall make the filing and payment of estimated taxes on behalf of the pass-through entity investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(2) For the purposes of this section, "business credits" means the credits listed in section 5747.98 of the Revised Code excluding the following credits:

(a) The retirement credit under division (B) of section 5747.055 of the Revised Code;

(b) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;

(c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;

(d) The dependent care credit under section 5747.054 of the Revised Code;

(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;

(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;

(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;

(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;

(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

(m) The low-income credit under section 5747.056 of the Revised Code;

(n) The earned income tax credit under section 5747.71 of the Revised Code.

(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.

(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity shall be liable for any additional taxes, interest, interest penalty, or penalties imposed by this chapter if the tax commissioner finds that the single return does not reflect the correct tax due by the pass-through entity investors covered by that return. Nothing in this division shall be construed to limit or alter the liability, if any, imposed on pass-through entity investors for unpaid or underpaid taxes, interest, interest penalty, or penalties as a result of the pass-through entity's making the election provided for under division (D) of this section. For the purposes of division (D) of this section, "correct tax due" means the tax that would have been paid by the pass-through entity had the single return been filed in a manner reflecting the commissioner's

findings. Nothing in division (D) of this section shall be construed to make or hold a pass-through entity liable for tax attributable to a pass-through entity investor's income from a source other than the pass-through entity electing to file the single return.

(E) If a husband and wife file a joint federal income tax return for a taxable year, they shall file a joint return under this section for that taxable year, and their liabilities are joint and several, but, if the federal income tax liability of either spouse is determined on a separate federal income tax return, they shall file separate returns under this section.

If either spouse is not required to file a federal income tax return and either or both are required to file a return pursuant to this chapter, they may elect to file separate or joint returns, and, pursuant to that election, their liabilities are separate or joint and several. If a husband and wife file separate returns pursuant to this chapter, each must claim the taxpayer's own exemption, but not both, as authorized under section 5747.02 of the Revised Code on the taxpayer's own return.

(F) Each return or notice required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number. Each return shall be verified by a declaration under the penalties of perjury. The tax commissioner shall prescribe the form that the signature and declaration shall take.

(G) Each return or notice required to be filed under this section shall be made and filed as required by section 5747.04 of the Revised Code, on or before the fifteenth day of April of each year, on forms that the tax commissioner shall prescribe, together with remittance made payable to the treasurer of state in the combined amount of the state and all school district income taxes shown to be due on the form, ~~unless the combined amount shown to be due is one dollar or less, in which case that amount need not be remitted.~~

Upon good cause shown, the commissioner may extend the period for filing any notice or return required to be filed under this section and may adopt rules relating to extensions. If the extension results in an extension of time for the payment of any state or school district income tax liability with respect to which the return is filed, the taxpayer shall pay at the time the tax liability is paid an amount of interest computed at the rate per annum prescribed by section 5703.47 of the Revised Code on that liability from the time that payment is due without extension to the time of actual payment. Except as provided in section 5747.132 of the Revised Code, in addition to all other interest charges and penalties, all taxes imposed under this chapter

or Chapter 5748. of the Revised Code and remaining unpaid after they become due, except combined amounts due of one dollar or less, bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code until paid or until the day an assessment is issued under section 5747.13 of the Revised Code, whichever occurs first.

If the commissioner considers it necessary in order to ensure the payment of the tax imposed by section 5747.02 of the Revised Code or any tax imposed under Chapter 5748. of the Revised Code, the commissioner may require returns and payments to be made otherwise than as provided in this section.

To the extent that any provision in this division conflicts with any provision in section 5747.026 of the Revised Code, the provision in that section prevails.

(H) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that date by United States mail to the agency, officer, or office with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment.

If a payment is required to be made by electronic funds transfer pursuant to section 5747.072 of the Revised Code, the payment is considered to be made when the payment is received by the treasurer of state or credited to an account designated by the treasurer of state for the receipt of tax payments.

"The date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the United States postal service.

(I) The amounts withheld by an employer pursuant to section 5747.06 of the Revised Code, a casino operator pursuant to section 5747.063 of the Revised Code, or a lottery sales agent pursuant to section 5747.064 of the Revised Code shall be allowed to the recipient of the compensation casino winnings, or lottery prize award as credits against payment of the appropriate taxes imposed on the recipient by section 5747.02 and under Chapter 5748. of the Revised Code.

(J) If, ~~in accordance with division (D) of this section,~~ a pass-through entity elects to file a single return under division (D) of this section and if any investor is required to file the annual return and make the payment of

taxes required by this chapter on account of the investor's other income that is not included in a single return filed by a pass-through entity or any other investor elects to file the annual return, the investor is entitled to a refundable credit equal to the investor's proportionate share of the tax paid by the pass-through entity on behalf of the investor. The investor shall claim the credit for the investor's taxable year in which or with which ends the taxable year of the pass-through entity. Nothing in this chapter shall be construed to allow any credit provided in this chapter to be claimed more than once. For the ~~purposes~~ purpose of computing any interest, penalty, or interest penalty, the investor shall be deemed to have paid the refundable credit provided by this division on the day that the pass-through entity paid the estimated tax or the tax giving rise to the credit.

(K) The tax commissioner shall ensure that each return required to be filed under this section includes a box that the taxpayer may check to authorize a paid tax preparer who prepared the return to communicate with the department of taxation about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the department of taxation to contact the preparer concerning questions that arise during the processing of the return and authorizes the preparer only to provide the department with information that is missing from the return, to contact the department for information about the processing of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the department and has shown to the preparer.

(L) The tax commissioner shall permit individual taxpayers to instruct the department of taxation to cause any refund of overpaid taxes to be deposited directly into a checking account, savings account, or an individual retirement account or individual retirement annuity, or preexisting college savings plan or program account offered by the Ohio tuition trust authority under Chapter 3334. of the Revised Code, as designated by the taxpayer, when the taxpayer files the annual return required by this section electronically.

(M) The tax commissioner may adopt rules to administer this section.

Sec. 5747.10. If any of the facts, figures, computations, or attachments required in a taxpayer's annual return to determine the tax charged by this chapter or Chapter 5748. of the Revised Code must be altered as the result of an adjustment to the taxpayer's federal income tax return, whether initiated by the taxpayer or the internal revenue service, and such alteration affects the taxpayer's tax liability under this chapter or Chapter 5748. of the

Revised Code, the taxpayer shall file an amended return with the tax commissioner in such form as the commissioner requires. The amended return shall be filed not later than sixty days after the adjustment has been agreed to or finally determined for federal income tax purposes or any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first.

(A) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with interest thereon. ~~If the combined tax shown to be due is one dollar or less, such amount need not accompany the amended return.~~ An amended return required by this section is a return subject to assessment under section 5747.13 of the Revised Code for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return.

(B) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the amended return even if it is filed beyond the period prescribed in section 5747.11 of the Revised Code if it otherwise conforms to the requirements of such section. An application filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return unless it is also filed within the time prescribed in section 5747.11 of the Revised Code. It shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return.

Sec. 5747.11. (A) The tax commissioner shall refund to employers, qualifying entities, or taxpayers, ~~with respect to any~~ subject to a tax imposed under section 5733.41, 5747.02, or 5747.41, or Chapter 5748. of the Revised Code:

- ~~(1) Overpayments of more than one dollar;~~
- ~~(2) Amounts in excess of one dollar paid illegally or erroneously;~~
- ~~(3) Amounts in excess of one dollar paid on an illegal, erroneous, or excessive assessment~~ the amount of any overpayment of such tax.

(B) Except as otherwise provided under divisions (D) and (E) of this section, applications for refund shall be filed with the tax commissioner, on the form prescribed by the commissioner, within four years from the date of

the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (B)(3)(b) of section 5747.05, division (B) of section 5747.10, division (A) of section 5747.13, or division (C) of section 5747.45 of the Revised Code.

On filing of the refund application, the commissioner shall determine the amount of refund due and, if that amount exceeds one dollar, certify such amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. Payment shall be made as provided in division (C) of section 126.35 of the Revised Code.

~~(C)(1) Interest shall be allowed and paid upon any illegal or erroneous assessment in excess of one dollar in respect of the tax imposed under section 5747.02 or Chapter 5748. of the Revised Code at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of the payment of the illegal or erroneous assessment until the date the refund of such amount is paid. If such refund results from the filing of a return or report, or the payment accompanying such return or report, by an employer or taxpayer, rather than from an assessment by the commissioner, such interest shall run from a period ninety days after the final filing date of the annual return until the date the refund is paid.~~

~~(2)~~ Interest shall be allowed and paid at the rate per annum prescribed by section 5703.47 of the Revised Code upon any overpayment in excess of one dollar in respect of on amounts refunded with respect to the tax imposed under section 5747.02 or Chapter 5748. of the Revised Code from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the return is filed, whichever is later, no interest shall be allowed on such overpayment. If the overpayment results from the carryback of a net operating loss or net capital loss to a previous taxable year, the overpayment is deemed not to have been made prior to the filing date, including any extension thereof, for the taxable year in which the net operating loss or net capital loss arises. For purposes of the payment of interest on overpayments, no amount of tax, for any taxable year, shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing such return.

~~(3)~~(2) Interest shall be allowed at the rate per annum prescribed by section 5703.47 of the Revised Code on amounts refunded with respect to the taxes imposed under sections 5733.41 and 5747.41 of the Revised Code. The interest shall run from whichever of the following days is the latest until

the day the refund is paid; the day the illegal, erroneous, or excessive payment was made; the ninetieth day after the final day the annual report was required to be filed under section 5747.42 of the Revised Code; or the ninetieth day after the day that report was filed.

(D) "Ninety days" shall be substituted for "four years" in division (B) of this section if the taxpayer satisfies both of the following conditions:

(1) The taxpayer has applied for a refund based in whole or in part upon section 5747.059 of the Revised Code;

(2) The taxpayer asserts that either the imposition or collection of the tax imposed or charged by this chapter or any portion of such tax violates the Constitution of the United States or the Constitution of Ohio.

(E)(1) Division (E)(2) of this section applies only if all of the following conditions are satisfied:

(a) A qualifying entity pays an amount of the tax imposed by section 5733.41 or 5747.41 of the Revised Code;

(b) The taxpayer is a qualifying investor as to that qualifying entity;

(c) The taxpayer did not claim the credit provided for in section 5747.059 of the Revised Code as to the tax described in division (E)(1)(a) of this section;

(d) The four-year period described in division (B) of this section has ended as to the taxable year for which the taxpayer otherwise would have claimed that credit.

(2) A taxpayer shall file an application for refund pursuant to division (E) of this section within one year after the date the payment described in division (E)(1)(a) of this section is made. An application filed under division (E)(2) of this section shall claim refund only of overpayments resulting from the taxpayer's failure to claim the credit described in division (E)(1)(c) of this section. Nothing in division (E) of this section shall be construed to relieve a taxpayer from complying with division (A)(16) of section 5747.01 of the Revised Code.

Sec. 5747.113. (A) Any taxpayer claiming a refund under section 5747.11 of the Revised Code who wishes to contribute any part of the taxpayer's refund to the natural areas and preserves fund created in section 1517.11 of the Revised Code, the nongame and endangered wildlife fund created in section 1531.26 of the Revised Code, the military injury relief fund created in section 5101.98 of the Revised Code, the Ohio historical society income tax contribution fund created in section 149.308 of the Revised Code, or all of those funds may designate on the taxpayer's income tax return the amount that the taxpayer wishes to contribute to the fund or funds. A designated contribution is irrevocable upon the filing of the return

and shall be made in the full amount designated if the refund found due the taxpayer upon the initial processing of the taxpayer's return, after any deductions including those required by section 5747.12 of the Revised Code, is greater than or equal to the designated contribution. If the refund due as initially determined is less than the designated contribution, the contribution shall be made in the full amount of the refund. The tax commissioner shall subtract the amount of the contribution from the amount of the refund initially found due the taxpayer and shall certify the difference to the director of budget and management and treasurer of state for payment to the taxpayer in accordance with section 5747.11 of the Revised Code. For the purpose of any subsequent determination of the taxpayer's net tax payment, the contribution shall be considered a part of the refund paid to the taxpayer.

(B) The tax commissioner shall provide a space on the income tax return form in which a taxpayer may indicate that the taxpayer wishes to make a donation in accordance with this section. The tax commissioner shall also print in the instructions accompanying the income tax return form a description of the purposes for which the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, and the Ohio historical society income tax contribution fund were created and the use of moneys from the income tax refund contribution system established in this section. No person shall designate on the person's income tax return any part of a refund claimed under section 5747.11 of the Revised Code as a contribution to any fund other than the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, or the Ohio historical society income tax contribution fund.

(C) The money collected under the income tax refund contribution system established in this section shall be deposited by the tax commissioner into the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, and the Ohio historical society income tax contribution fund in the amounts designated on the tax returns.

(D) No later than the thirtieth day of September each year, the tax commissioner shall determine the total amount contributed to each fund under this section during the preceding eight months, any adjustments to prior months, and the cost to the department of taxation of administering the income tax refund contribution system during that eight-month period. The commissioner shall make an additional determination no later than the thirty-first day of January of each year of the total amount contributed to each fund under this section during the preceding four calendar months, any adjustments to prior years made during that four-month period, and the cost

to the department of taxation of administering the income tax contribution system during that period. The cost of administering the income tax contribution system shall be certified by the tax commissioner to the director of budget and management, who shall transfer an amount equal to one-fourth of such administrative costs from the natural areas and preserves fund, one-fourth of such costs from the nongame and endangered wildlife fund, one-fourth of such costs from the military injury relief fund, and one-fourth of such costs from the Ohio historical society income tax contribution fund to the ~~litter control and natural resourcee~~ income tax administration contribution fund, which is hereby created, provided that the moneys that the department receives to pay the cost of administering the income tax refund contribution system in any year shall not exceed two and one-half per cent of the total amount contributed under that system during that year.

(E)(1) The director of natural resources, in January of every odd-numbered year, shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the natural areas and preserves fund and the nongame and endangered wildlife fund. The report shall include the amount of money contributed to each fund in each of the previous five years, the amount of money contributed directly to each fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

(2) The director of job and family services and the director of the Ohio historical society, in January of every odd-numbered year, each shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the military injury relief fund and the Ohio historical society income tax contribution fund, respectively. The report shall include the amount of money contributed to the fund in each of the previous five years, the amount of money contributed directly to the fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

Sec. 5747.122. (A) The tax commissioner, in accordance with section 5101.184 of the Revised Code, shall cooperate with the director of job and family services to collect overpayments of assistance under Chapter 5107., ~~5111.~~, or 5115., former Chapter 5113., or section 5101.54 of the Revised Code from refunds of state income taxes for taxable year 1992 and thereafter that are payable to the recipients of such overpayments.

(B) At the request of the department of job and family services in

connection with the collection of an overpayment of assistance from a refund of state income taxes pursuant to this section and section 5101.184 of the Revised Code, the tax commissioner shall release to the department the home address and social security number of any recipient of assistance whose overpayment may be collected from a refund of state income taxes under those sections.

(C) In the case of a joint income tax return for two people who were not married to each other at the time one of them received an overpayment of assistance, only the portion of a refund that is due to the recipient of the overpayment shall be available for collection of the overpayment under this section and section 5101.184 of the Revised Code. The tax commissioner shall determine such portion. A recipient's spouse who objects to the portion as determined by the commissioner may file a complaint with the commissioner within twenty-one days after receiving notice of the collection, and the commissioner shall afford the spouse an opportunity to be heard on the complaint. The commissioner shall waive or extend the twenty-one-day period if the recipient's spouse establishes that such action is necessary to avoid unjust, unfair, or unreasonable results. After the hearing, the commissioner shall make a final determination of the portion of the refund available for collection of the overpayment.

(D) The welfare overpayment intercept fund is hereby created in the state treasury. The tax commissioner shall deposit amounts collected from income tax refunds under this section to the credit of the welfare overpayment intercept fund. The director of job and family services shall distribute money in the fund in accordance with appropriate federal or state laws and procedures regarding collection of welfare overpayments.

Sec. 5747.13. (A) If any employer collects the tax imposed by section 5747.02 or under Chapter 5748. of the Revised Code and fails to remit the tax as required by law, or fails to collect the tax, the employer is personally liable for any amount collected that the employer fails to remit, or any amount that the employer fails to collect. If any taxpayer fails to file a return or fails to pay the tax imposed by section 5747.02 or under Chapter 5748. of the Revised Code, the taxpayer is personally liable for the amount of the tax.

If any employer, taxpayer, or qualifying entity required to file a return under this chapter fails to file the return within the time prescribed, files an incorrect return, fails to remit the full amount of the taxes due for the period covered by the return, or fails to remit any additional tax due as a result of a reduction in the amount of the credit allowed under division (B) of section 5747.05 of the Revised Code together with interest on the additional tax within the time prescribed by that division, the tax commissioner may make

an assessment against any person liable for any deficiency for the period for which the return is or taxes are due, based upon any information in the commissioner's possession.

An assessment issued against either the employer or the taxpayer pursuant to this section shall not be considered an election of remedies or a bar to an assessment against the other for failure to report or pay the same tax. No assessment shall be issued against any person if the tax actually has been paid by another.

No assessment shall be made or issued against an employer, taxpayer, or qualifying entity more than four years after the final date the return subject to assessment was required to be filed or the date the return was filed, whichever is later. However, the commissioner may assess any balance due as the result of a reduction in the credit allowed under division (B) of section 5747.05 of the Revised Code, including applicable penalty and interest, within four years of the date on which the taxpayer reports a change in either the portion of the taxpayer's adjusted gross income subjected to an income tax or tax measured by income in another state or the District of Columbia, or the amount of liability for an income tax or tax measured by income to another state or the District of Columbia, as required by division (B)(3) of section 5747.05 of the Revised Code. Such time limits may be extended if both the employer, taxpayer, or qualifying entity and the commissioner consent in writing to the extension or if an agreement waiving or extending the time limits has been entered into pursuant to section 122.171 of the Revised Code. Any such extension shall extend the four-year time limit in division (B) of section 5747.11 of the Revised Code for the same period of time. There shall be no bar or limit to an assessment against an employer for taxes withheld from employees and not remitted to the state, against an employer, taxpayer, or qualifying entity that fails to file a return subject to assessment as required by this chapter, or against an employer, taxpayer, or qualifying entity that files a fraudulent return.

The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the party assessed to the commissioner with remittance made

payable to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the employer's, taxpayer's, or qualifying entity's place of business is located or the county in which the party assessed resides. If the party assessed is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the party assessed in the amount shown on the entry. The judgment shall be filed by the clerk in one of two loose-leaf books, one entitled "special judgments for state and school district income taxes," and the other entitled "special judgments for qualifying entity taxes." The judgment shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected under this section shall be considered as revenue arising from the taxes imposed by this chapter or Chapter 5733. or 5748. of the Revised Code, as appropriate.

(E) If the party assessed files a petition for reassessment under division (B) of this section, the person, on or before the last day the petition may be filed, shall pay the assessed amount, including assessed interest and assessed

penalties, if any of the following conditions exists:

(1) The person files a tax return reporting Ohio adjusted gross income, less the exemptions allowed by section 5747.025 of the Revised Code, in an amount less than one cent, and the reported amount is not based on the computations required under division (A) of section 5747.01 or section 5747.025 of the Revised Code.

(2) The person files a tax return that the tax commissioner determines to be incomplete, false, fraudulent, or frivolous.

(3) The person fails to file a tax return, and the basis for this failure is not either of the following:

(a) An assertion that the person has no nexus with this state;

(b) The computations required under division (A) of section 5747.01 of the Revised Code or the application of credits allowed under this chapter has the result that the person's tax liability is less than one dollar and one cent.

(F) Notwithstanding the fact that a petition for reassessment is pending, the petitioner may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the portion paid, there shall be issued to the petitioner or to the petitioner's assigns or legal representative a refund in the amount of the overpayment as provided by section 5747.11 of the Revised Code, with interest on that amount as provided by such section, subject to section 5747.12 of the Revised Code.

Sec. 5747.21. (A) This section applies solely for the purposes of computing the credit allowed under division (A) of section 5747.05 of the Revised Code, computing income taxable in this state under division (D) of section 5747.08 of the Revised Code, computing the deduction under division (A)(31) of section 5747.01 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code.

(B) Except as otherwise provided under ~~sections 5747.211 and section 5747.212~~ of the Revised Code, all items of business income and business deduction shall be apportioned to this state by multiplying the adjusted gross income by the fraction calculated under division (B)(2) of section 5733.05 and section 5733.057 of the Revised Code as if the taxpayer's business were a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) If the allocation and apportionment provisions of sections 5747.20 to 5747.23 of the Revised Code or of any rule adopted by the tax commissioner, do not fairly represent the extent of business activity in this state of a taxpayer or pass-through entity, the taxpayer or pass-through entity may request, which request must be in writing accompanying ~~the~~ a timely filed return or timely filed amended return, or the tax commissioner may require, in respect of all or any part of the business activity, if reasonable, any one or more of the following:

- (1) Separate accounting;
- (2) The exclusion of one or more factors;
- (3) The inclusion of one or more additional factors which will fairly represent the business activity in this state;
- (4) The employment of any other method to effectuate an equitable allocation and apportionment of such business in this state. An alternative method will be effective only with approval of the tax commissioner.

The tax commissioner may adopt rules in the manner provided by sections 5703.14 and 5747.18 of the Revised Code providing for alternative methods of calculating business income and nonbusiness income applicable to all taxpayers and pass-through entities, to classes of taxpayers and pass-through entities, or only to taxpayers and pass-through entities within a certain industry.

Sec. 5747.22. (A) This section applies solely for the purposes of computing the credit allowed under division (A) of section 5747.05 ~~of the Revised Code and~~, computing income taxable in this state under division (D) of section 5747.08, and computing the deduction under division (A)(31) of section 5747.01 of the Revised Code.

(B) With respect to a pass-through entity, one or more of the pass-through entity investors of which are liable for the tax imposed by section 5747.02 of the Revised Code, the business income and deductions included in the adjusted gross income of the pass-through entity shall be apportioned to this state in the hands of the pass-through entity investors pursuant to section 5747.21 of the Revised Code. The business income and deductions as thus apportioned to this state then shall be allocated to the pass-through entity investors in proportion to their right to share in that business income.

(C) With respect to a pass-through entity described in division (B) of this section, the nonbusiness income and deductions included in the adjusted gross income of the pass-through entity shall be allocated to the pass-through entity investors in proportion to their right to share in the nonbusiness income, and then the pass-through entity shares shall be

allocated to this state in the hands of each pass-through entity investor pursuant to section 5747.20 of the Revised Code.

Sec. 5747.47. (A)(1) By the ~~twentieth~~ twenty-fifth day of July of each year, the tax commissioner shall estimate and certify the following for each county to its county auditor:

- (a) Its guaranteed share of the ensuing year's fund balance;
- (b) Its share of the excess of the ensuing year's fund balance;
- (c) Its total entitlement.

(2) In December and in June following such estimations and certifications, the commissioner shall revise such estimates and certify such revised estimates to the respective county auditors.

(B) By the tenth day of each month the commissioner shall distribute the amount credited to the public library fund in the current month under section 131.51 of the Revised Code. The distributions shall be made as follows:

(1) During the first six months of each year, each county shall be paid a percentage of the balance that is the same per cent that the revised estimate of the county's total entitlement certified in December under division (A)(2) of this section is of the sum of such revised estimates of the total entitlements for all counties.

(2) During the last six months, each county shall be paid a percentage of the balance that is the same per cent that the revised estimate of the county's total entitlement certified in June under division (A)(2) of this section is of the sum of such revised estimates of the total entitlements for all counties.

(3) During each of the first six months of each year, the payments made to each county shall be adjusted as follows:

(a) If the county received an overpayment during the preceding distribution year, reduce the sum of the payments by the amount of such overpayment. The reduction shall be apportioned over the six months.

(b) If the county received an underpayment during the preceding distribution year, increase the sum of the payments by the amount of such underpayment. The increase shall be apportioned over the six months.

(C) By the twentieth day of December of each year, the tax commissioner shall determine and certify to the auditor of each county each of the following with respect to the current distribution year:

- (1) The year's fund balance;
- (2) Each county's guaranteed share;
- (3) Each county's share of the excess;
- (4) Each county's total entitlement;
- (5) Each county's net distribution;

(6) The amount by which each county's net distribution exceeded or was less than its total entitlement, which amount shall constitute the county's overpayment or underpayment for purposes of division (B)(3) of this section in the ensuing distribution year.

Sec. 5747.501. (A) On or before the twenty-fifth day of July of each year, the tax commissioner shall estimate and certify to each county auditor the amount to be distributed from the local government fund to each undivided local government fund during the following calendar year under section 5747.50 of the Revised Code. The estimate shall equal the sum of the separate amounts computed under divisions (B)(1) and (2) of this section.

(B)(1) The product obtained by multiplying the percentage described in division (B)(1)(a) of this section by the amount described in division (B)(1)(b) of this section.

(a) Each county's proportionate share of the total amount distributed to the counties from the local government fund and the local government revenue assistance fund during calendar year 2007. In fiscal year 2014 and thereafter, the amount distributed to any county undivided local government fund shall be an amount not less than seven hundred fifty thousand dollars or the amount distributed to such fund in fiscal year 2013, whichever amount is smaller. To the extent necessary to implement this minimum distribution requirement, the proportionate shares computed under this division shall be adjusted accordingly.

(b) The total amount distributed to counties from the local government fund and the local government revenue assistance fund during calendar year 2007 adjusted downward if, and to the extent that, total local government fund distributions to counties for the following year are projected to be less than what was distributed to counties from the local government fund and local government revenue assistance fund during calendar year 2007.

(2) The product obtained by multiplying the percentage described in division (B)(2)(a) of this section by the amount described in division (B)(2)(b) of this section.

(a) Each county's proportionate share of the state's population as reflected in the most recent federal decennial census or the federal government's most recent census estimates, whichever represents the most recent year.

(b) The amount by which total estimated distributions from the local government fund during the immediately succeeding calendar year, less the total estimated amount to be distributed from the fund to municipal corporations under division (C) of section 5747.50 of the Revised Code

during the immediately succeeding calendar year, exceed the total amount distributed to counties from the local government fund and local government revenue assistance fund during calendar year 2007.

Sec. 5747.71. For taxable years beginning on or after January 1, 2013, there is hereby allowed a nonrefundable credit against the tax imposed by section 5747.02 of the Revised Code for a taxpayer who is an "eligible individual" as defined in section 32 of the Internal Revenue Code. The credit shall equal five per cent of the credit allowed on the taxpayer's federal income tax return pursuant to section 32 of the Internal Revenue Code for the taxable year. If the Ohio adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse if the taxpayer and the taxpayer's spouse file a joint return under section 5747.08 of the Revised Code, less applicable exemptions under section 5747.025 of the Revised Code, exceeds twenty thousand dollars, the credit authorized by this section shall not exceed fifty per cent of the amount of tax otherwise due under section 5747.02 of the Revised Code after deducting any other nonrefundable credits that precede the credit allowed under this section in the order prescribed by section 5747.98 of the Revised Code except for the joint filing credit authorized under division (G) of section 5747.05 of the Revised Code. In all other cases, the credit authorized by this section shall not exceed the amount of tax otherwise due under section 5747.02 of the Revised Code after deducting any other nonrefundable credits that precede the credit allowed under this section in the order prescribed by section 5747.98 of the Revised Code.

The credit shall be claimed in the order prescribed by section 5747.98 of the Revised Code.

Sec. 5747.76. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed under section 5747.02 of the Revised Code for a taxpayer that is the certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of credit allowed for any taxpayer shall not exceed ~~five~~ ten million dollars. The credit shall be claimed for the taxable year specified in the certificate and in the order required under section 5747.98 of the Revised Code.

(C) Nothing in this section limits or disallows pass-through treatment of the credit if the certificate owner is a pass-through entity. If the certificate owner is a pass-through entity, the amount of the credit allowed for the pass-through entity shall not exceed five million dollars. If the certificate

owner is a pass-through entity, the credit may be allocated among the entity's equity owners in proportion to their ownership interests or in such proportions or amounts as the equity owners mutually agree.

(D) If the credit allowed for any taxable year exceeds the tax otherwise due under section 5747.02 of the Revised Code, after allowing for any other credits preceding the credit in the order prescribed by section 5747.98 of the Revised Code, the excess shall be refunded to the taxpayer but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due for that year shall not exceed three million dollars or, if the certificate owner is a pass-through entity, shall not exceed the taxpayer's distributive or proportionate share, as allocated under division (C) of this section, of three million dollars. The taxpayer may carry forward any balance of the credit in excess of the amount claimed for that year for not more than five ensuing taxable years, and shall deduct any amount claimed for any such year from the amount claimed in an ensuing year.

(E) A taxpayer claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the taxable year to which the credit was applied, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

Sec. 5747.98. (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:

(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;

(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;

(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;

(4) The dependent care credit under section 5747.054 of the Revised Code;

(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;

(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;

(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;

(8) The low-income credit under section 5747.056 of the Revised Code;

(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

(10) The campaign contribution credit under section 5747.29 of the Revised Code;

(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;

(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

(15) ~~The credit for employers that enter into agreements with child day-care centers under section 5747.34~~ earned income credit under section 5747.71 of the Revised Code;

(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;

(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;

(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;

(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;

(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;

(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;

(22) The job training credit under section 5747.39 of the Revised Code;

(23) The enterprise zone credit under section 5709.66 of the Revised Code;

(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;

(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;

(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;

(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

(28) The small business investment credit under section 5747.81 of the

Revised Code;

~~(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;~~

~~(30) The enterprise zone credits under section 5709.65 of the Revised Code;~~

~~(31)~~(30) The research and development credit under section 5747.331 of the Revised Code;

~~(32)~~(31) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

~~(33)~~(32) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

~~(34)~~(33) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;

~~(35)~~(34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

~~(36)~~(35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;

~~(37)~~(36) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;

~~(38)~~(37) The refundable motion picture production credit under section 5747.66 of the Revised Code.

~~(39)~~(38) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.

(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5748.01. As used in this chapter:

(A) "School district income tax" means an income tax adopted under one of the following:

(1) Former section 5748.03 of the Revised Code as it existed prior to its repeal by Amended Substitute House Bill No. 291 of the 115th general assembly;

(2) Section 5748.03 of the Revised Code as enacted in Substitute Senate

Bill No. 28 of the 118th general assembly;

(3) Section 5748.08 of the Revised Code as enacted in Amended Substitute Senate Bill No. 17 of the 122nd general assembly;

(4) Section 5748.021 of the Revised Code;

(5) Section 5748.081 of the Revised Code;

(6) Section 5748.09 of the Revised Code.

(B) "Individual" means an individual subject to the tax levied by section 5747.02 of the Revised Code.

(C) "Estate" means an estate subject to the tax levied by section 5747.02 of the Revised Code.

(D) "Taxable year" means a taxable year as defined in division (M) of section 5747.01 of the Revised Code.

(E) "Taxable income" means:

(1) In the case of an individual, one of the following, as specified in the resolution imposing the tax:

(a) Ohio adjusted gross income for the taxable year as defined in division (A) of section 5747.01 of the Revised Code, less the exemptions provided by section 5747.02 of the Revised Code, plus any amount deducted under division (A)(31) of section 5747.01 of the Revised Code for the taxable year;

(b) Wages, salaries, tips, and other employee compensation to the extent included in Ohio adjusted gross income as defined in section 5747.01 of the Revised Code, and net earnings from self-employment, as defined in section 1402(a) of the Internal Revenue Code, to the extent included in Ohio adjusted gross income.

(2) In the case of an estate, taxable income for the taxable year as defined in division (S) of section 5747.01 of the Revised Code.

(F) "Resident" of the school district means:

(1) An individual who is a resident of this state as defined in division (I) of section 5747.01 of the Revised Code during all or a portion of the taxable year and who, during all or a portion of such period of state residency, is domiciled in the school district or lives in and maintains a permanent place of abode in the school district;

(2) An estate of a decedent who, at the time of death, was domiciled in the school district.

(G) "School district income" means:

(1) With respect to an individual, the portion of the taxable income of an individual that is received by the individual during the portion of the taxable year that the individual is a resident of the school district and the school district income tax is in effect in that school district. An individual may have

school district income with respect to more than one school district.

(2) With respect to an estate, the taxable income of the estate for the portion of the taxable year that the school district income tax is in effect in that school district.

(H) "Taxpayer" means an individual or estate having school district income upon which a school district income tax is imposed.

(I) "School district purposes" means any of the purposes for which a tax may be levied pursuant to division (A) of section 5705.21 of the Revised Code, including the combined purposes authorized by section 5705.217 of the Revised Code.

Sec. 5749.02. (A) For the purpose of providing revenue to administer the state's coal mining and reclamation regulatory program, to meet the environmental and resource management needs of this state, and to reclaim land affected by mining, an excise tax is hereby levied on the privilege of engaging in the severance of natural resources from the soil or water of this state. The tax shall be imposed upon the severer ~~and shall be~~ at the rates prescribed by divisions (A)(1) to (9) of this section:

- (1) Ten cents per ton of coal;
- (2) Four cents per ton of salt;
- (3) Two cents per ton of limestone or dolomite;
- (4) Two cents per ton of sand and gravel;
- (5) Ten cents per barrel of oil;
- (6) Two and one-half cents per thousand cubic feet of natural gas;
- (7) One cent per ton of clay, sandstone or conglomerate, shale, gypsum, or quartzite;

(8) Except as otherwise provided in this division or in rules adopted by the reclamation forfeiture fund advisory board under section 1513.182 of the Revised Code, an additional fourteen cents per ton of coal produced from an area under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code for which the performance security is provided under division (C)(2) of section 1513.08 of the Revised Code. Beginning July 1, 2007, if at the end of a fiscal biennium the balance of the reclamation forfeiture fund created in section 1513.18 of the Revised Code is equal to or greater than ten million dollars, the rate levied shall be twelve cents per ton. Beginning July 1, 2007, if at the end of a fiscal biennium the balance of the fund is at least five million dollars, but less than ten million dollars, the rate levied shall be fourteen cents per ton. Beginning July 1, 2007, if at the end of a fiscal biennium the balance of the fund is less than five million dollars, the rate levied shall be sixteen cents per ton. Beginning July 1, 2009, not later than thirty days after the close of a fiscal biennium, the chief of the

division of mineral resources management shall certify to the tax commissioner the amount of the balance of the reclamation forfeiture fund as of the close of the fiscal biennium. Any necessary adjustment of the rate levied shall take effect on the first day of the following January and shall remain in effect during the calendar biennium that begins on that date.

(9) An additional one and two-tenths cents per ton of coal mined by surface mining methods.

(B) ~~Of~~ After the director of budget and management transfers money from the severance tax receipts fund as required in division (H) of section 5749.06 of the Revised Code, money remaining in the severance tax receipts fund, except for money in the fund from the amounts due under section 1509.50 of the Revised Code, shall be credited as follows:

(1) ~~Of the moneys received by the treasurer of state in the fund~~ from the tax levied in division (A)(1) of this section, four and seventy-six-hundredths per cent shall be credited to the geological mapping fund created in section 1505.09 of the Revised Code, eighty and ninety-five-hundredths per cent shall be credited to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code, and fourteen and twenty-nine-hundredths per cent shall be credited to the unreclaimed lands fund created in section 1513.30 of the Revised Code.

(2) ~~The money received by the treasurer of state in the fund~~ from the tax levied in division (A)(2) of this section shall be credited to the geological mapping fund.

(3) ~~Of the moneys received by the treasurer of state in the fund~~ from the tax levied in divisions (A)(3) and (4) of this section, seven and five-tenths per cent shall be credited to the geological mapping fund, forty-two and five-tenths per cent shall be credited to the unreclaimed lands fund, and the remainder shall be credited to the surface mining fund created in section 1514.06 of the Revised Code.

(4) ~~Of the moneys received by the treasurer of state in the fund~~ from the tax levied in divisions (A)(5) and (6) of this section, ninety per cent shall be credited to the oil and gas well fund created in section 1509.02 of the Revised Code and ten per cent shall be credited to the geological mapping fund. All of the moneys ~~received by the treasurer of state in the fund~~ from the tax levied in division (A)(7) of this section shall be credited to the surface mining fund.

(5) All of the moneys ~~received by the treasurer of state in the fund~~ from the tax levied in division (A)(8) of this section shall be credited to the reclamation forfeiture fund.

(6) All of the moneys ~~received by the treasurer of state in the fund~~ from

the tax levied in division (A)(9) of this section shall be credited to the unreclaimed lands fund.

(C) When, at the close of any fiscal year, the chief finds that the balance of the reclamation forfeiture fund, plus estimated transfers to it from the coal mining administration and reclamation reserve fund under section 1513.181 of the Revised Code, plus the estimated revenues from the tax levied by division (A)(8) of this section for the remainder of the calendar year that includes the close of the fiscal year, are sufficient to complete the reclamation of all lands for which the performance security has been provided under division (C)(2) of section 1513.08 of the Revised Code, the purposes for which the tax under division (A)(8) of this section is levied shall be deemed accomplished at the end of that calendar year. The chief, within thirty days after the close of the fiscal year, shall certify those findings to the tax commissioner, and the tax levied under division (A)(8) of this section shall cease to be imposed for the subsequent calendar year after the last day of that calendar year on coal produced under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code if the permittee has made tax payments under division (A)(8) of this section during each of the preceding five full calendar years. Not later than thirty days after the close of a fiscal year, the chief shall certify to the tax commissioner the identity of any permittees who accordingly no longer are required to pay the tax levied under division (A)(8) of this section for the subsequent calendar year.

Sec. 5749.06. (A)(1) Each severer liable for the tax imposed by section 5749.02 of the Revised Code and each severer or owner liable for the amounts due under section 1509.50 of the Revised Code shall make and file returns with the tax commissioner in the prescribed form and as of the prescribed times, computing and reflecting therein the tax as required by this chapter and amounts due under section 1509.50 of the Revised Code.

(2) The returns shall be filed for every quarterly period, which periods shall end on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December of each year, as required by this section, unless a different return period is prescribed for a taxpayer by the commissioner.

(B)(1) A separate return shall be filed for each calendar quarterly period, or other period, or any part thereof, during which the severer holds a license as provided by section 5749.04 of the Revised Code, or is required to hold the license, or during which an owner is required to file a return, ~~and the~~ The return shall be filed within forty-five days after the last day of each such calendar month, or other period, or any part thereof, for which the

return is required ~~and shall include remittance payable to the treasurer of state of the amount of.~~ The tax due is payable along with the return. All such returns shall contain such information as the commissioner may require to fairly administer the tax.

(2) All returns shall be signed by the severer or owner, as applicable, shall contain the full and complete information requested, and shall be made under penalty of perjury.

(C) If the commissioner believes that quarterly payments of tax would result in a delay that might jeopardize the collection of such tax payments, the commissioner may order that such payments be made weekly, or more frequently if necessary, such payments to be made not later than seven days following the close of the period for which the jeopardy payment is required. Such an order shall be delivered to the taxpayer personally or by certified mail and shall remain in effect until the commissioner notifies the taxpayer to the contrary.

(D) Upon good cause the commissioner may extend for thirty days the period for filing any notice or return required to be filed under this section, and may remit all or a part of penalties that may become due under this chapter.

(E) Any tax and any amount due under section 1509.50 of the Revised Code not paid by the day the tax or amount is due shall bear interest computed at the rate per annum prescribed by section 5703.47 of the Revised Code on that amount due from the day that the amount was originally required to be paid to the day of actual payment or to the day an assessment was issued under section 5749.07 or 5749.10 of the Revised Code, whichever occurs first.

~~(F) The severer shall make all payments payable to the treasurer of state. Except for the amounts due under section 1509.50 of the Revised Code, all~~ A severer or owner, as applicable, that fails to file a complete return or pay the full amount due under this chapter within the time prescribed, including any extensions of time granted by the commissioner, shall be subject to a penalty not to exceed the greater of fifty dollars or ten per cent of the amount due for the period.

(G)(1) A severer or owner, as applicable, shall remit payments electronically and, if required by the commissioner, file each return electronically. The commissioner may require that the severer or owner use the Ohio business gateway, as defined in section 718.051 of the Revised Code, or another electronic means to file returns and remit payments electronically.

(2) A severer or owner that is required to remit payments electronically

under this section may apply to the commissioner, in the manner prescribed by the commissioner, to be excused from that requirement. The commissioner may excuse a severer or owner from the requirements of division (G) of this section for good cause.

(3) If a severer or owner that is required to remit payments or file returns electronically under this section fails to do so, the commissioner may impose a penalty on the severer or owner not to exceed the following:

(a) For the first or second payment or return the severer or owner fails to remit or file electronically, the greater of five per cent of the amount of the payment that was required to be remitted or twenty-five dollars;

(b) For every payment or return after the second that the severer or owner fails to remit or file electronically, the greater of ten per cent of the amount of the payment that was required to be remitted or fifty dollars.

(H)(1) All amounts that the ~~tax~~ commissioner receives under this section shall be deemed to be revenue from taxes imposed under this chapter. ~~The commissioner shall immediately forward to the treasurer of state all amounts received under this section or from the amount due under section 1509.50 of the Revised Code, as applicable, and shall be deposited in the severance tax receipts fund, which is hereby created in the state treasury.~~

(2) The director of budget and management shall transfer from the severance tax receipts fund to the tax refund fund amounts equal to the refunds certified by the commissioner under section 5749.08 of the Revised Code. Any amount transferred under division (H)(2) of this section shall be derived from receipts of the same tax or other amount from which the refund arose.

(3) After the director of budget and management makes any transfer required by division (H)(2) of this section, but not later than the fifteenth day of the month following the end of each calendar quarter, the commissioner shall certify to the director the total amount remaining in the severance tax receipts fund organized according to the amount attributable to each natural resource and according to the amount attributable to a tax imposed by this chapter and the amounts due under section 1509.50 of the Revised Code.

(I) Penalties imposed under this section are in addition to any other penalty imposed under this chapter and shall be considered as revenue arising from the tax levied under this chapter or the amount due under section 1509.50 of the Revised Code, as applicable. The commissioner may collect any penalty or interest imposed under this section in the same manner as provided for the making of an assessment in section 5749.07 of

the Revised Code. The commissioner may abate all or a portion of such interest or penalties and may adopt rules governing such abatements.

Sec. 5749.07. (A) If any severer required by this chapter to make and file returns and pay the tax levied by section 5749.02 of the Revised Code, or any severer or owner liable for the amounts due under section 1509.50 of the Revised Code, fails to make such return or pay such tax or amounts, the tax commissioner may make an assessment against the severer or owner based upon any information in the commissioner's possession.

No assessment shall be made or issued against any severer for any tax imposed by section 5749.02 of the Revised Code or against any severer or owner for any amount due under section 1509.50 of the Revised Code more than four years after the return was due or was filed, whichever is later. This section does not bar an assessment against a severer or owner who fails to file a return as required by this chapter, or who files a fraudulent return.

The commissioner shall give the party assessed written notice of such assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the party assessed resides or in which the party's business is conducted. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of such entry, the clerk shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state severance tax," and shall have the same effect

as other judgments. Execution shall issue upon the judgment upon the request of the commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the day the assessment is issued, the portion of the assessment consisting of tax due or amounts due under section 1509.50 of the Revised Code shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the tax imposed by section 5749.02 of the Revised Code and the amount due under section 1509.50 of the Revised Code, as applicable.

Sec. 5749.17. ~~Any~~ Except for purposes of enforcing Chapter 1509. of the Revised Code, any information provided to the department of natural resources by the department of taxation in accordance with division (C)(12) of section 5703.21 of the Revised Code shall not be disclosed publicly by the department of natural resources, ~~but~~. ~~However~~ the department of natural resources may provide such information to the attorney general for purposes of enforcement of ~~the law~~ Chapter 1509. of the Revised Code.

Sec. 5751.01. As used in this chapter:

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities.

(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code.

(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of

the Revised Code.

(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.

(E) "Excluded person" means any of the following:

(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;

(4) A person directly or indirectly owned by one or more financial institutions, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more

taxable years that include the entire tax period under this chapter.

For the purposes of division (E)(4) of this section, a person owns another person under the following circumstances:

(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company;

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization.

(5) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code, or an unauthorized insurance company whose gross premiums are subject to tax under section 3905.36 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(6) A person that solely facilitates or services one or more securitizations of phase-in-recovery property pursuant to a final financing order as those terms are defined in section 4928.23 of the Revised Code. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

(7) Except as otherwise provided in this division, a pre-income tax trust as defined in division (FF)(4) of section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (FF)(3) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed

under section 5751.02 of the Revised Code.

(8) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.

(F) Except as otherwise provided in divisions (F)(2), (3), and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

(a) Interest income except interest on credit sales;

(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of

deposit, or marketable instrument;

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;

(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;

(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;

(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;

(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;

(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;

(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;

(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;

- (n) Pension reversions;
- (o) Contributions to capital;
- (p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;
- (q) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;
- (r) ~~In the case of receipts from the sale of motor fuel by a licensed motor fuel dealer, licensed retail dealer, or licensed permissive motor fuel dealer, all as defined in section 5735.01 of the Revised Code, an amount equal to federal and state excise taxes paid by any person on such motor fuel under section 4081 of the Internal Revenue Code or Chapter 5735. Receipts from the sale, transfer, exchange, or other disposition of motor fuel as "motor fuel" is defined in section 5736.01 of the Revised Code;~~
- (s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;
- (t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;
- (u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;
- (v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs

in a physician's office to patients with cancer;

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;

(z) Qualifying distribution center receipts.

(i) For purposes of division (F)(2)(z) of this section:

(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage. If the qualified distribution center is a refining facility, "supplier" includes all dealers, brokers, processors, sellers, vendors, cosigners, and distributors of qualified property.

(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere or, in the case of gold, silver, platinum, or palladium delivered to a refining facility solely for refining to a grade and fineness acceptable for delivery to a registered commodities exchange. "Further shipping" includes storing and repackaging property into smaller or larger bundles, so long as the property is not subject to further manufacturing or processing. "Refining" is limited to extracting impurities from gold, silver, platinum, or palladium through smelting or some other process at a refining facility.

(III) "Qualified distribution center" means a warehouse, a facility

similar to a warehouse, or a refining facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. All warehouses or facilities similar to warehouses that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution center. All refining facilities that are operated by persons in the same taxpayer group and that are located in the same or adjacent counties may be treated as one qualified distribution center.

(IV) "Qualifying year" means the calendar year to which the qualifying certificate applies.

(V) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the thirtieth day of June of the year preceding the qualifying year.

(VI) "Qualifying certificate" means the certificate issued by the tax commissioner after the operator of a distribution center files an annual application with the commissioner. The application and annual fee shall be filed and paid for each qualified distribution center on or before the first day of September before the qualifying year or within forty-five days after the distribution center opens, whichever is later.

The applicant must substantiate to the commissioner's satisfaction that, for the qualifying period, all persons operating the distribution center have more than fifty per cent of the cost of the qualified property shipped to a location such that it would be situated outside this state under the provisions of division (E) of section 5751.033 of the Revised Code. The applicant must also substantiate that the distribution center cumulatively had costs from its suppliers equal to or exceeding five hundred million dollars during the qualifying period. (For purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.) The commissioner may require the applicant to have an independent certified public accountant certify that the calculation of the minimum thresholds required for a qualified distribution center by the operator of a distribution center has been made in accordance with generally accepted accounting principles. The commissioner shall issue or deny the issuance of a certificate within sixty days after the receipt of the application. A denial is subject to appeal under section 5717.02 of the Revised Code. If the operator files a timely appeal under section 5717.02 of the Revised Code, the operator shall be granted a qualifying certificate, provided that effective for the remainder of the qualifying year or until the appeal is finalized,

~~whichever is earlier. If the operator is liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under division (C)(1) of section 5751.011 of the Revised Code, that would have otherwise not been owed by its suppliers if the qualifying certificate was valid does not prevail in the appeal, the operator shall pay the ineligible operator's supplier tax liability.~~

(VII) "Ohio delivery percentage" means the proportion of the total property delivered to a destination inside Ohio from the qualified distribution center during the qualifying period compared with total deliveries from such distribution center everywhere during the qualifying period.

(VIII) "Refining facility" means one or more buildings located in a county in the Appalachian region of this state as defined by section 107.21 of the Revised Code and utilized for refining or smelting gold, silver, platinum, or palladium to a grade and fineness acceptable for delivery to a registered commodities exchange.

(IX) "Registered commodities exchange" means a board of trade, such as New York mercantile exchange, inc. or commodity exchange, inc., designated as a contract market by the commodity futures trading commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended.

(X) "Ineligible operator's supplier tax liability" means an amount equal to the tax liability of all suppliers of a distribution center had the distribution center not been issued a qualifying certificate for the qualifying year. Ineligible operator's supplier tax liability shall not include interest or penalties. The tax commissioner shall determine an ineligible operator's supplier tax liability based on information that the commissioner may request from the operator of the distribution center. An operator shall provide a list of all suppliers of the distribution center and the corresponding costs of qualified property for the qualifying year at issue within sixty days of a request by the commissioner under this division.

(ii)(I) If the distribution center is new and was not open for the entire qualifying period, the operator of the distribution center may request that the commissioner grant a qualifying certificate. If the certificate is granted and it is later determined that more than fifty per cent of the qualified property during that year was not shipped to a location such that it would be situated outside of this state under the provisions of division (E) of section 5751.033 of the Revised Code or if it is later determined that the person that operates the distribution center had average monthly costs from its suppliers of less than forty million dollars during that year, then the operator of the

distribution center shall pay ~~a penalty for that year equal to five hundred thousand dollars~~ the ineligible operator's supplier tax liability. (For purposes of division (F)(2)(z)(ii) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.)

(II) The commissioner may grant a qualifying certificate to a distribution center that does not qualify as a qualified distribution center for an entire qualifying period if the operator of the distribution center demonstrates that the business operations of the distribution center have changed or will change such that the distribution center will qualify as a qualified distribution center within thirty-six months after the date the operator first applies for a certificate. If, at the end of that thirty-six-month period, the business operations of the distribution center have not changed such that the distribution center qualifies as a qualified distribution center, the operator of the distribution center shall pay ~~a penalty equal to five hundred thousand dollars~~ the ineligible operator's supplier tax liability for each year that the distribution center received a certificate but did not qualify as a qualified distribution center. For each year the distribution center receives a certificate under division (F)(2)(z)(ii)(II) of this section, the distribution center shall pay all applicable fees required under division (F)(2)(z) of this section and shall submit an updated business plan showing the progress the distribution center made toward qualifying as a qualified distribution center during the preceding year.

(III) An operator may appeal ~~the imposition of a penalty imposed~~ determination under division (F)(2)(z)(ii)(I) or (II) of this section that the ineligible operator is liable for the operator's supplier tax liability as a result of not qualifying as a qualified distribution center, as provided in section 5717.02 of the Revised Code.

(iii) When filing an application for a qualifying certificate under division (F)(2)(z)(i)(VI) of this section, the operator of a qualified distribution center also shall provide documentation, as the commissioner requires, for the commissioner to ascertain the Ohio delivery percentage. The commissioner, upon issuing the qualifying certificate, also shall certify the Ohio delivery percentage. The operator of the qualified distribution center may appeal the commissioner's certification of the Ohio delivery percentage in the same manner as an appeal is taken from the denial of a qualifying certificate under division (F)(2)(z)(i)(VI) of this section.

~~Within thirty days after all appeals have been exhausted, the operator of the qualified distribution center shall provide the commissioner with a list of all affected suppliers of qualified property. The commissioner shall notify~~

~~all such suppliers that the suppliers are required to file, within sixty days after receiving the notice, amended reports for the affected calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed. The supplier of tangible personal property delivered to the qualified distribution center shall include in its report of taxable gross receipts the receipts from the total sales of property delivered to the qualified distribution center for the calendar quarter or calendar year, whichever the case may be, multiplied by the Ohio delivery percentage for the qualifying year. Nothing in division (F)(2)(z)(iii) of this section shall be construed as imposing liability on the operator of a qualified distribution center for the tax imposed by this chapter arising from any change to the Ohio delivery percentage.~~

(iv)(I) In the case where the distribution center is new and not open for the entire qualifying period, the operator shall make a good faith estimate of an Ohio delivery percentage for use by suppliers in their reports of taxable gross receipts for the remainder of the qualifying period. The operator of the facility shall disclose to the suppliers that such Ohio delivery percentage is an estimate and is subject to recalculation. By the due date of the next application for a qualifying certificate, the operator shall determine the actual Ohio delivery percentage for the estimated qualifying period and proceed as provided in division (F)(2)(z)(iii) of this section with respect to the calculation and recalculation of the Ohio delivery percentage. The supplier is required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.

(II) The operator of a distribution center that receives a qualifying certificate under division (F)(2)(z)(ii)(II) of this section shall make a good faith estimate of the Ohio delivery percentage that the operator estimates will apply to the distribution center at the end of the thirty-six-month period after the operator first applied for a qualifying certificate under that division. The result of the estimate shall be multiplied by a factor of one and seventy-five one-hundredths. The product of that calculation shall be the Ohio delivery percentage used by suppliers in their reports of taxable gross receipts for each qualifying year that the distribution center receives a qualifying certificate under division (F)(2)(z)(ii)(II) of this section, except

that, if the product is less than five per cent, the Ohio delivery percentage used shall be five per cent and that, if the product exceeds forty-nine per cent, the Ohio delivery percentage used shall be forty-nine per cent.

(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F)(2)(z) of this section. ~~A person~~ An operator receiving a qualifying certificate is liable for ~~a penalty equal to five hundred thousand dollars~~ the ineligible operator's supplier tax liability for each year the ~~person~~ operator received a certificate ~~that should not have been issued because the statutory requirements were in fact not met~~ but did not qualify as a qualified distribution center.

(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F)(2)(z)(i)(VI) of this section. ~~The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter.~~ The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the revenue enhancement fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.

(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center as set forth in ~~divisions (F)(2)(z)(i)(VI) and~~ division (F)(2)(z)(ii) of this section.

(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;

(bb) Cash discounts allowed and taken;

(cc) Returns and allowances;

(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be

claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;

(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;

(ff) Any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(gg)(i) As used in this division:

(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F)(2)(gg)(ii) of this section. "Qualified uranium receipts" does not include any receipts with a situs in this state outside a uranium enrichment zone certified by the tax commissioner under division (F)(2)(gg)(ii) of this section.

(II) "Uranium enrichment zone" means all real property that is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor.

(ii) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have the uranium enrichment zone certified for the purpose of excluding qualified uranium receipts under division (F)(2)(gg) of this section. The application shall include such information that the tax commissioner prescribes. Within sixty days after receiving the application, the tax commissioner shall certify the zone for that purpose if the commissioner determines that the property qualifies as a uranium enrichment zone as defined in division (F)(2)(gg) of this section, or, if the tax commissioner determines that the property does not qualify, the commissioner shall deny the application or request additional information from the applicant. If the tax commissioner denies an application, the commissioner shall state the reasons for the denial. The applicant may appeal the denial of an application to the board of tax appeals pursuant to section 5717.02 of the Revised Code. If the applicant files a timely appeal, the tax commissioner shall conditionally certify the applicant's property. The conditional certification shall expire when all of the applicant's appeals are

exhausted. Until final resolution of the appeal, the applicant shall retain the applicant's records in accordance with section 5751.12 of the Revised Code, notwithstanding any time limit on the preservation of records under that section.

~~(hh) Amounts realized by licensed motor fuel dealers or licensed permissive motor fuel dealers from the exchange of petroleum products, including motor fuel, between such dealers, provided that delivery of the petroleum products occurs at a refinery, terminal, pipeline, or marine vessel and that the exchanging dealers agree neither dealer shall require monetary compensation from the other for the value of the exchanged petroleum products other than such compensation for differences in product location or grade. Division (F)(2)(hh) of this section does not apply to amounts realized as a result of differences in location or grade of exchanged petroleum products or from handling, lubricity, dye, or other additive injections fees, pipeline security fees, or similar fees. As used in this division, "motor fuel," "licensed motor fuel dealer," "licensed permissive motor fuel dealer," and "terminal" have the same meanings as in section 5735.01 of the Revised Code.~~

(ii) In the case of amounts collected by a licensed casino operator from casino gaming, amounts in excess of the casino operator's gross casino revenue. In this division, "casino operator" and "casino gaming" have the meanings defined in section 3772.01 of the Revised Code, and "gross casino revenue" has the meaning defined in section 5753.01 of the Revised Code.

(jj)(ii) Receipts realized from the sale of agricultural commodities by an agricultural commodity handler, both as defined in section 926.01 of the Revised Code, that is licensed by the director of agriculture to handle agricultural commodities in this state.

(jj) Any receipts for which the tax imposed by this chapter is prohibited by the constitution or laws of the United States or the constitution of this state.

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code.

(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax

period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly.

(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.

(H) A person has "substantial nexus with this state" if any of the following applies. The person:

- (1) Owns or uses a part or all of its capital in this state;
- (2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;
- (3) Has bright-line presence in this state;
- (4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.

(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:

(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.

(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:

(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;

(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and

(c) Any amount the person pays for services performed in this state on its behalf by another.

(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.

(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.

(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.

(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.

(K) "Internal Revenue Code" means the Internal Revenue Code of 1986,

100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.

(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.

(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.

(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:

- (1) A person receiving a fee to sell financial instruments;
- (2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;
- (3) A person issuing licenses and permits under section 1533.13 of the Revised Code;
- (4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;
- (5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.

(Q) "Received" includes amounts accrued under the accrual method of accounting.

(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group.

Sec. 5751.014. All members of a consolidated elected taxpayer or combined taxpayer group during the tax period or periods for which additional tax, penalty, or interest is owed are jointly and severally liable for such amounts. Although the reporting person will be assessed for the

liability, such amounts due may be collected by assessment against any member of the group as provided in section 5703.90 of the Revised Code or pursued against any member of the group when a liability is certified to the attorney general under section 131.02 of the Revised Code.

Sec. 5751.02. (A) For the purpose of funding the needs of this state and its local governments ~~and providing revenue to the commercial activity tax motor fuel receipts fund~~, there is hereby levied a commercial activity tax on each person with taxable gross receipts for the privilege of doing business in this state. For the purposes of this chapter, "doing business" means engaging in any activity, whether legal or illegal, that is conducted for, or results in, gain, profit, or income, at any time during a calendar year. Persons on which the commercial activity tax is levied include, but are not limited to, persons with substantial nexus with this state. The tax imposed under this section is not a transactional tax and is not subject to Public Law No. 86-272, 73 Stat. 555. The tax imposed under this section is in addition to any other taxes or fees imposed under the Revised Code. The tax levied under this section is imposed on the person receiving the gross receipts and is not a tax imposed directly on a purchaser. The tax imposed by this section is an annual privilege tax for the calendar year that, in the case of calendar year taxpayers, is the annual tax period and, in the case of calendar quarter taxpayers, contains all quarterly tax periods in the calendar year. A taxpayer is subject to the annual privilege tax for doing business during any portion of such calendar year.

(B) The tax imposed by this section is a tax on the taxpayer and shall not be billed or invoiced to another person. Even if the tax or any portion thereof is billed or invoiced and separately stated, such amounts remain part of the price for purposes of the sales and use taxes levied under Chapters 5739. and 5741. of the Revised Code. Nothing in division (B) of this section prohibits:

(1) A person from including in the price charged for a good or service an amount sufficient to recover the tax imposed by this section; or

(2) A lessor from including an amount sufficient to recover the tax imposed by this section in a lease payment charged, or from including such an amount on a billing or invoice pursuant to the terms of a written lease agreement providing for the recovery of the lessor's tax costs. The recovery of such costs shall be based on an estimate of the total tax cost of the lessor during the tax period, as the tax liability of the lessor cannot be calculated until the end of that period.

Sec. 5751.03. (A) Except as provided in division (B) of this section ~~and in section 5751.031 of the Revised Code~~, the tax levied under this section

for each tax period shall be the product of two and six-tenths mills per dollar times the remainder of the taxpayer's taxable gross receipts for the tax period after subtracting the exclusion amount provided for in division (C) of this section.

(B) Notwithstanding division (C) of this section, the tax on the first one million dollars in taxable gross receipts each calendar year shall be calculated as follows:

(1) For taxpayers with annual taxable gross receipts of one million dollars or less for the calendar year, one hundred fifty dollars;

(2) For taxpayers with annual taxable gross receipts greater than one million dollars, but less than or equal to two million dollars for the calendar year, eight hundred dollars;

(3) For taxpayers with annual taxable gross receipts greater than two million dollars, but less than or equal to four million dollars for the calendar year, two thousand one hundred dollars;

(4) For taxpayers with annual taxable gross receipts greater than four million dollars for the calendar year, two thousand six hundred dollars. The

The tax imposed under this division (B)(1) of this section shall be paid not later than the tenth day of May of each year along with the first quarter or annual tax return, as applicable. The tax imposed under divisions (B)(2), (3), and (4) of this section shall be paid not later than the tenth day of May of each year along with the first quarter tax return.

(C)(1) Each taxpayer may exclude the first one million dollars of taxable gross receipts for a calendar year. Calendar quarter taxpayers shall apply the full exclusion amount to the first calendar quarter return the taxpayer files that calendar year and may carry forward and apply any unused exclusion amount to subsequent calendar quarters within that same calendar year.

(2) A taxpayer switching from a calendar year tax period to a calendar quarter tax period may, for the first quarter of the change, apply the full one-million-dollar exclusion amount to the first calendar quarter return the taxpayer files that calendar year. Such taxpayers may carry forward and apply any unused exclusion amount to subsequent calendar quarters within that same calendar year. The tax rate shall be based on the rate imposed that calendar quarter when the taxpayer switches from a calendar year to a calendar quarter tax period.

(3) A taxpayer shall not exclude more than one million dollars pursuant to division (C) of this section in a calendar year.

Sec. 5751.051. (A)(1) Not later than the tenth day of the second month after the end of each calendar quarter, every taxpayer other than a calendar

year taxpayer shall file with the tax commissioner a tax return in such form as the commissioner prescribes. The return shall include, but is not limited to, the amount of the taxpayer's taxable gross receipts for the calendar quarter and shall indicate the amount of tax due under section 5751.03 of the Revised Code for the calendar quarter. ~~The taxpayer shall indicate on the return the portion of the taxpayer's receipts attributable to motor fuel used for propelling vehicles on public highways.~~

(2)(a) Subject to division (C) of section 5751.05 of the Revised Code, a calendar quarter taxpayer shall report the taxable gross receipts for that calendar quarter.

(b) With respect to taxable gross receipts incorrectly reported in a calendar quarter that has a lower tax rate, the tax shall be computed at the tax rate in effect for the quarterly return in which such receipts should have been reported. Nothing in division (A)(2)(b) of this section prohibits a taxpayer from filing an application for refund under section 5751.08 of the Revised Code with regard to the incorrect reporting of taxable gross receipts discovered after filing the annual return described in division (A)(3) of this section.

A tax return shall not be deemed to be an incorrect reporting of taxable gross receipts for the purposes of division (A)(2)(b) of this section if the return reflects between ninety-five and one hundred five per cent of the actual taxable gross receipts for the calendar quarter.

(3) For the purposes of division (A)(2)(b) of this section, the tax return filed for the fourth calendar quarter of a calendar year is the annual return for the privilege tax imposed by this chapter. Such return shall report any additional taxable gross receipts not previously reported in the calendar year and shall adjust for any over-reported taxable gross receipts in the calendar year. If the taxpayer ceases to be a taxpayer before the end of the calendar year, the last return the taxpayer is required to file shall be the annual return for the taxpayer and the taxpayer shall report any additional taxable gross receipts not previously reported in the calendar year and shall adjust for any over-reported taxable gross receipts in the calendar year. ~~Taxpayers reporting taxable gross receipts attributable to motor fuel used for propelling vehicles on public highways may not utilize the statutory estimation procedure provided in divisions (A)(2) and (3) of this section.~~

(4) Because the tax imposed by this chapter is a privilege tax, the tax rate with respect to taxable gross receipts for a calendar quarter is not fixed until the end of the measurement period for each calendar quarter. Subject to division (A)(2)(b) of this section, the total amount of taxable gross receipts reported for a given calendar quarter shall be subject to the tax rate in effect

in that quarter.

(5) Not later than the tenth day of May following the end of each calendar year, every calendar year taxpayer shall file with the tax commissioner a tax return in such form as the commissioner prescribes. The return shall include, but is not limited to, the amount of the taxpayer's taxable gross receipts for the calendar year and shall indicate the amount of tax due under section 5751.03 of the Revised Code for the calendar year. ~~The taxpayer shall indicate on the return the portion of the taxpayer's receipts attributable to motor fuel used for propelling vehicles on public highways.~~

(B)(1) A person that first becomes subject to the tax imposed under this chapter shall pay the minimum tax imposed under division (B) of section 5751.03 of the Revised Code on or before the day the return is required to be filed for that quarter under division (A)(1) of this section, regardless of whether the person registers as a calendar year taxpayer under section 5751.05 of the Revised Code.

(2) The amount of the minimum tax for a person subject to division (B)(1) of this section shall be reduced ~~to seventy-five dollars~~ by one-half if the registration is timely filed after the first day of May and before the first day of January of the following calendar year.

Sec. 5751.07. (A) Any person required to file returns ~~for a calendar quarter~~ under this chapter shall remit each tax payment, and, if required by the tax commissioner, file the tax return or the annual report, electronically. The commissioner may require taxpayers to use the Ohio business gateway as defined in section 718.051 of the Revised Code to file returns and remit the tax, or may provide another means for taxpayers to file and remit the tax electronically.

(B) A person required by this section to remit taxes or file returns electronically may apply to the tax commissioner, on the form prescribed by the commissioner, to be excused from that requirement. The commissioner may excuse a person from the requirements of this division for good cause.

(C)(1) If a person required to remit taxes or file a return electronically under this section fails to do so, the commissioner may impose a penalty not to exceed the following:

(a) For either of the first two ~~calendar quarters~~ tax periods the person so fails, the greater of twenty-five dollars or five per cent of the amount of the payment that was required to be remitted;

(b) For the third and any subsequent ~~calendar quarters~~ tax periods the person so fails, the greater of fifty dollars or ten per cent of the amount of the payment that was required to be remitted.

(2) The penalty imposed under division (C)(1) of this section is in addition to any other penalty imposed under this chapter and shall be considered as revenue arising from the tax imposed under this chapter. A penalty may be collected by assessment in the manner prescribed by section 5751.09 of the Revised Code. The tax commissioner may abate all or a portion of such a penalty.

(D) The tax commissioner may adopt rules necessary to administer this section.

Sec. 5751.081. As used in this section, "debt to this state" means unpaid taxes due the state, unpaid workers' compensation premiums due under section 4123.35 of the Revised Code, unpaid unemployment compensation contributions due under section 4141.25 of the Revised Code, unpaid unemployment compensation payment in lieu of contribution under section 4141.241 of the Revised Code, unpaid ~~fee fees~~ payable to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, ~~incorrect medical assistance payments for medicaid services under section 5111.02 of the Revised Code~~ the medicaid program, or any unpaid charge, penalty, or interest arising from any of the foregoing.

If a taxpayer entitled to a refund under section 5751.08 of the Revised Code owes any debt to this state, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. This section applies only to debts that have become final. For the purposes of this section, a debt becomes final when, under the applicable law, any time provided for petition for reassessment, request for reconsideration, or other appeal of the legality or validity of the amount giving rise to the debt expires without an appeal having been filed in the manner provided by law.

Sec. 5751.09. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any person that fails to file a return or pay any tax as required by this chapter. The commissioner shall give the person assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on the manner in which to petition for reassessment and request a hearing with respect to the petition. The commissioner shall send any assessments against consolidated elected taxpayer and combined taxpayer groups under section 5751.011 or 5751.012 of the Revised Code to the taxpayer's "reporting person" as defined under division (R) of section 5751.01 of the Revised Code. The

reporting person shall notify all members of the group of the assessment and all outstanding taxes, interest, and penalties for which the assessment is issued.

(B) Unless the person assessed, within sixty days after service of the notice of assessment, files with the tax commissioner, either personally or by certified mail, a written petition signed by the person or the person's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the person assessed to the treasurer of state. The petition shall indicate the objections of the person assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination.

If a petition for reassessment has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C)(1) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person resides or has its principal place of business in this state, or in the office of the clerk of court of common pleas of Franklin county.

(2) Immediately upon the filing of the entry, the clerk shall enter judgment for the state against the person assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled, "special judgments for the commercial activity tax" and shall have the same effect as other judgments. Execution shall issue upon the judgment at the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

(3) ~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) If the tax commissioner believes that collection of the tax will be

jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the person assessed or the person's authorized agent in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(E) The tax commissioner shall immediately forward to the treasurer of state all amounts the commissioner receives under this section, and such amounts shall be considered as revenue arising from the tax imposed under this chapter.

(F) Except as otherwise provided in this division, no assessment shall be made or issued against a taxpayer for the tax imposed under this chapter more than four years after the due date for the filing of the return for the tax period for which the tax was reported, or more than four years after the return for the tax period was filed, whichever is later. The time limit may be extended if both the taxpayer and the commissioner consent in writing to the extension or enter into an agreement waiving or extending the time limit. Any such extension shall extend the four-year time limit in division (B) of section 5751.08 of the Revised Code for the same period of time. Nothing in this division bars an assessment against a taxpayer that fails to file a return required by this chapter or that files a fraudulent return.

(G) If the tax commissioner possesses information that indicates that the amount of tax a taxpayer is required to pay under this chapter exceeds the amount the taxpayer paid, the tax commissioner may audit a sample of the taxpayer's gross receipts over a representative period of time to ascertain the amount of tax due, and may issue an assessment based on the audit. The tax commissioner shall make a good faith effort to reach agreement with the taxpayer in selecting a representative sample. The tax commissioner may apply a sampling method only if the commissioner has prescribed the method by rule.

(H) If the whereabouts of a person subject to this chapter is not known to the tax commissioner, the commissioner shall follow the procedures

under section 5703.37 of the Revised Code.

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of the Revised Code:

(1) "School district," "joint vocational school district," "local taxing unit," "recognized valuation," "fixed-rate levy," and "fixed-sum levy" have the same meanings as used in section 5727.84 of the Revised Code.

(2) "State education aid" for a school district means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under the following provisions, as they existed for the applicable fiscal year: division (A) of section 3317.022 of the Revised Code, including the amounts calculated under ~~sections former section~~ section 3317.029 and section 3317.0217 of the Revised Code; divisions (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (L) and (N) of section 3317.024; section 3317.0216; and any unit payments for gifted student services paid under ~~sections section~~ section 3317.05; ~~and former sections~~ 3317.052; and 3317.053 of the Revised Code; except that, for fiscal years 2008 and 2009, the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be substituted for the amount computed under division (D) of section 3317.022 of the Revised Code, and the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.

(b) For fiscal years 2010 and 2011, the sum of the amounts computed under former sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 3306.192 of the Revised Code;

(c) For fiscal years 2012 and 2013, the sum of the amounts paid under Sections 267.30.50, 267.30.53, and 267.30.56 of H.B. 153 of the 129th general assembly;

(d) For fiscal year 2014 and each fiscal year thereafter, the sum of state amounts computed for the district under section 3317.022 of the Revised Code; except that, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS" shall be included.

(3) "State education aid" for a joint vocational school district means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid computed for the district under division (N) of section 3317.024 and ~~former~~ section 3317.16 of the Revised Code, except that, for fiscal years 2008 and

2009, the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.

(b) For fiscal years 2010 and 2011, the amount paid in accordance with Section 265.30.50 of H.B. 1 of the 128th general assembly.

(c) For fiscal years 2012 and 2013, the amount paid in accordance with Section 267.30.60 of H.B. 153 of the 129th general assembly.

(d) For fiscal year 2014 and each fiscal year thereafter, the amount computed for the district under section 3317.16 of the Revised Code; except that, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS" shall be included.

(4) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code.

(5) "Machinery and equipment property tax value loss" means the amount determined under division (C)(1) of this section.

(6) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section.

(7) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section.

(8) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section.

(9) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section.

(10) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section.

(11) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, the furniture and fixtures fixed-rate levy loss, and the telephone company fixed-rate levy loss.

(12) "Fixed-sum levy loss" means the amount determined under division (E) of this section.

(13) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code.

(14) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code.

(15) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised

Code.

(16) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005. For the purpose of determining the rate of a qualifying levy authorized by section 5705.212 or 5705.213 of the Revised Code, the rate shall be the rate that would be in effect for tax year 2010.

(17) "Telephone property" means tangible personal property of a telephone, telegraph, or interexchange telecommunications company subject to an assessment rate specified in section 5727.111 of the Revised Code in tax year 2004.

(18) "Telephone property tax value loss" means the amount determined under division (C)(4) of this section.

(19) "Telephone property fixed-rate levy loss" means the amount determined under division (D)(4) of this section.

(20) "Taxes charged and payable" means taxes charged and payable after the reduction required by section 319.301 of the Revised Code but before the reductions required by sections 319.302 and 323.152 of the Revised Code.

(21) "Median estate tax collections" means, in the case of a municipal corporation to which revenue from the taxes levied in Chapter 5731. of the Revised Code was distributed in each of calendar years 2006, 2007, 2008, and 2009, the median of those distributions. In the case of a municipal corporation to which no distributions were made in one or more of those years, "median estate tax collections" means zero.

(22) "Total resources," in the case of a school district, means the sum of the amounts in divisions (A)(22)(a) to (h) of this section less any reduction required under division (A)(32) or (33) of this section.

(a) The state education aid for fiscal year 2010;

(b) The sum of the payments received by the school district in fiscal year 2010 for current expense levy losses pursuant to division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of section 5751.21 of the Revised Code, excluding the portion of such payments attributable to levies for joint vocational school district purposes;

(c) The sum of fixed-sum levy loss payments received by the school district in fiscal year 2010 pursuant to division (E)(1) of section 5727.85 and division (E)(1) of section 5751.21 of the Revised Code for fixed-sum levies charged and payable for a purpose other than paying debt charges;

(d) Fifty per cent of the school district's taxes charged and payable against all property on the tax list of real and public utility property for current expense purposes for tax year 2008, including taxes charged and

payable from emergency levies charged and payable under section 5709.194 of the Revised Code and excluding taxes levied for joint vocational school district purposes;

(e) Fifty per cent of the school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses for tax year 2009, including taxes charged and payable from emergency levies and excluding taxes levied for joint vocational school district purposes;

(f) The school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009, including taxes charged and payable from emergency levies;

(g) The amount certified for fiscal year 2010 under division (A)(2) of section 3317.08 of the Revised Code;

(h) Distributions received during calendar year 2009 from taxes levied under section 718.09 of the Revised Code.

(23) "Total resources," in the case of a joint vocational school district, means the sum of amounts in divisions (A)(23)(a) to (g) of this section less any reduction required under division (A)(32) of this section.

(a) The state education aid for fiscal year 2010;

(b) The sum of the payments received by the joint vocational school district in fiscal year 2010 for current expense levy losses pursuant to division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of section 5751.21 of the Revised Code;

(c) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expense purposes for tax year 2008;

(d) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses for tax year 2009;

(e) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2008;

(f) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2009;

(g) The joint vocational school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009.

(24) "Total resources," in the case of county mental health and disability related functions, means the sum of the amounts in divisions (A)(24)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for mental health and developmental disability related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for mental health and developmental disability related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(25) "Total resources," in the case of county senior services related functions, means the sum of the amounts in divisions (A)(25)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for senior services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(26) "Total resources," in the case of county children's services related functions, means the sum of the amounts in divisions (A)(26)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for children's services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for children's services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(27) "Total resources," in the case of county public health related functions, means the sum of the amounts in divisions (A)(27)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for public health related functions in calendar year 2010 under division (A)(1) of section

5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for public health related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(28) "Total resources," in the case of all county functions not included in divisions (A)(24) to (27) of this section, means the sum of the amounts in divisions (A)(28)(a) to (d) of this section less any reduction required under division (A)(32) or (33) of this section.

(a) The sum of the payments received by the county for all other purposes in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The county's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the county for all other purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009, excluding taxes charged and payable for the purpose of paying debt charges;

(d) The sum of the amounts distributed to the county in calendar year 2010 for the taxes levied pursuant to sections 5739.021 and 5741.021 of the Revised Code.

(29) "Total resources," in the case of a municipal corporation, means the sum of the amounts in divisions (A)(29)(a) to (g) of this section less any reduction required under division (A)(32) or (33) of this section.

(a) The sum of the payments received by the municipal corporation in calendar year 2010 for current expense levy losses under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The municipal corporation's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) The sum of the amounts distributed to the municipal corporation in

calendar year 2010 pursuant to section 5747.50 of the Revised Code;

(d) With respect to taxes levied by the municipal corporation, the taxes charged and payable against all property on the tax list of real and public utility property for current expenses, defined in division (A)(35) of this section, for tax year 2009;

(e) The amount of admissions tax collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;

(f) The amount of income taxes collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;

(g) The municipal corporation's median estate tax collections.

(30) "Total resources," in the case of a township, means the sum of the amounts in divisions (A)(30)(a) to (c) of this section less any reduction required under division (A)(32) or (33) of this section.

(a) The sum of the payments received by the township in calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time, excluding payments received for debt purposes;

(b) The township's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the township, the taxes charged and payable against all property on the tax list of real and public utility property for tax year 2009 excluding taxes charged and payable for the purpose of paying debt charges.

(31) "Total resources," in the case of a local taxing unit that is not a county, municipal corporation, or township, means the sum of the amounts in divisions (A)(31)(a) to (e) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the local taxing unit in calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The local taxing unit's percentage share of county undivided local

government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the local taxing unit, the taxes charged and payable against all property on the tax list of real and public utility property for tax year 2009 excluding taxes charged and payable for the purpose of paying debt charges;

(d) The amount received from the tax commissioner during calendar year 2010 for sales or use taxes authorized under sections 5739.023 and 5741.022 of the Revised Code;

(e) For institutions of higher education receiving tax revenue from a local levy, as identified in section 3358.02 of the Revised Code, the final state share of instruction allocation for fiscal year 2010 as calculated by the board of regents and reported to the state controlling board.

(32) If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "total resources" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (C)(2) of section 5727.85, division (A)(1) of section 5727.85, divisions (C)(8) and (9) of section 5751.21, or division (A)(1) of section 5751.22 of the Revised Code.

(33) In the case of a county, municipal corporation, school district, or township with fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code, "total resources" used to compute payments to be made under division (C)(3) of section 5727.85, division (A)(1)(d) of section 5727.86, division (C)(12) of section 5751.21, or division (A)(1)(c) of section 5751.22 of the Revised Code shall be reduced by the amounts described in divisions (A)(34)(a) to (c) of this section to the extent that those amounts were included in calculating the "total resources" of the school district or local taxing unit under division (A)(22), (28), (29), or (30) of this section.

(34) "Total library resources," in the case of a county, municipal corporation, school district, or township public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, means the sum of the amounts in divisions (A)(34)(a) to (c) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county, municipal corporation, school district, or township public library in calendar year 2010 pursuant to sections 5727.86 and 5751.22 of the Revised Code, as they existed at that time, for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code for the benefit of the public library;

(b) The public library's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to a tax levied pursuant to section 5705.23 of the Revised Code for the benefit of the public library, the amount of such tax that is charged and payable against all property on the tax list of real and public utility property for tax year 2009 excluding any tax that is charged and payable for the purpose of paying debt charges.

(35) "Municipal current expense property tax levies" means all property tax levies of a municipality, except those with the following levy names: airport resurfacing; bond or any levy name including the word "bond"; capital improvement or any levy name including the word "capital"; debt or any levy name including the word "debt"; equipment or any levy name including the word "equipment," unless the levy is for combined operating and equipment; employee termination fund; fire pension or any levy containing the word "pension," including police pensions; fireman's fund or any practically similar name; sinking fund; road improvements or any levy containing the word "road"; fire truck or apparatus; flood or any levy containing the word "flood"; conservancy district; county health; note retirement; sewage, or any levy containing the words "sewage" or "sewer"; park improvement; parkland acquisition; storm drain; street or any levy name containing the word "street"; lighting, or any levy name containing the word "lighting"; and water.

(36) "Current expense TPP allocation" means, in the case of a school district or joint vocational school district, the sum of the payments received by the school district in fiscal year 2011 pursuant to divisions (C)(10) and (11) of section 5751.21 of the Revised Code to the extent paid for current expense levies. In the case of a municipal corporation, "current expense TPP allocation" means the sum of the payments received by the municipal corporation in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code to the extent paid for municipal current

expense property tax levies as defined in division (A)(35) of this section, excluding any such payments received for current expense levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "current expense TPP allocation" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under divisions (C)(10) and (11) of section 5751.21 or division (A)(1) of section 5751.22 of the Revised Code.

(37) "TPP allocation" means the sum of payments received by a local taxing unit in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code, excluding any such payments received for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "TPP allocation" used to compute payments to be made under division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1) of that section.

(38) "Total TPP allocation" means, in the case of a school district or joint vocational school district, the sum of the amounts received in fiscal year 2011 pursuant to divisions (C)(10) and (11) and (D) of section 5751.21 of the Revised Code. In the case of a local taxing unit, "total TPP allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1), (2), and (3) of section 5751.22 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "total TPP allocation" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under divisions (C)(10) and (11) of section 5751.21 or division (A)(1) of section 5751.22 of the Revised Code.

(39) "Non-current expense TPP allocation" means the difference of total TPP allocation minus the sum of current expense TPP allocation and the portion of total TPP allocation constituting reimbursement for debt levies, pursuant to division (D) of section 5751.21 of the Revised Code in the case

of a school district or joint vocational school district and pursuant to division (A)(3) of section 5751.22 of the Revised Code in the case of a municipal corporation.

(40) "TPP allocation for library purposes" means the sum of payments received by a county, municipal corporation, school district, or township public library in calendar year 2010 pursuant to section 5751.22 of the Revised Code for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy authorized under section 5705.23 of the Revised Code that is a qualifying levy is not charged and payable in any year after tax year 2010, "TPP allocation for library purposes" used to compute payments to be made under division (A)(1)(d) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1) of section 5751.22 of the Revised Code.

(41) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and thereafter. In the case of a local taxing unit or public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, "threshold per cent" means two per cent for tax year 2011, four per cent for tax year 2012, and six per cent for tax years 2013 and thereafter.

(B)(1) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. Eighty-five one-hundredths of one per cent of the money credited to that fund shall be credited to the revenue enhancement fund and shall be used to defray the costs incurred by the department of taxation in administering the tax imposed by this chapter and in implementing tax reform measures. The remainder of the money in the commercial activities tax receipts fund shall first be credited to the commercial activity tax motor fuel receipts fund, pursuant to division (B)(2) of this section, and the remainder shall be credited in the following percentages each fiscal year to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.21 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.22 of the Revised Code, in the following percentages:

Fiscal year	General Revenue	School District	Local
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	Fund	Tangible Property Tax Replacement Fund	Government Tangible Property Tax Replacement Fund
2006	67.7%	22.6%	9.7%
2007	0%	70.0%	30.0%
2008	0%	70.0%	30.0%
2009	0%	70.0%	30.0%
2010	0%	70.0%	30.0%
2011	0%	70.0%	30.0%
2012	25.0%	52.5%	22.5%
2013 and thereafter	50.0%	35.0%	15.0%

(2) Not later than the twentieth day of February, May, August, and November of each year, the commissioner shall provide for payment from the commercial activities tax receipts fund to the commercial activity tax motor fuel receipts fund an amount that bears the same ratio to the balance in the commercial activities tax receipts fund that (a) the taxable gross receipts attributed to motor fuel used for propelling vehicles on public highways as indicated by returns filed by the tenth day of that month for a liability that is due and payable on or after July 1, 2013, for a tax period ending before July 1, 2014, bears to (b) all taxable gross receipts as indicated by those returns for such liabilities.

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory property, furniture and fixtures property, and telephone property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), (3), and (4) of this section, except as provided in division (C)(5) of this section:

(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, thirty-three and eight-tenths per cent;
- (b) For tax year 2007, sixty-one and three-tenths per cent;
- (c) For tax year 2008, eighty-three per cent;
- (d) For tax year 2009 and thereafter, one hundred per cent.

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, a fraction, the numerator of which is five and

three-fourths and the denominator of which is twenty-three;

(b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three;

(c) For tax year 2008, a fraction, the numerator of which is thirteen and one-fourth and the denominator of which is twenty-three;

(d) For tax year 2009 and thereafter a fraction, the numerator of which is seventeen and the denominator of which is twenty-three.

(3) Furniture and fixtures property tax value loss is the taxable value of furniture and fixture property as reported by taxpayers for tax year 2004 multiplied by:

(a) For tax year 2006, twenty-five per cent;

(b) For tax year 2007, fifty per cent;

(c) For tax year 2008, seventy-five per cent;

(d) For tax year 2009 and thereafter, one hundred per cent.

The taxable value of property reported by taxpayers used in divisions (C)(1), (2), and (3) of this section shall be such values as determined to be final by the tax commissioner as of August 31, 2005. Such determinations shall be final except for any correction of a clerical error that was made prior to August 31, 2005, by the tax commissioner.

(4) Telephone property tax value loss is the taxable value of telephone property as taxpayers would have reported that property for tax year 2004 if the assessment rate for all telephone property for that year were twenty-five per cent, multiplied by:

(a) For tax year 2006, zero per cent;

(b) For tax year 2007, zero per cent;

(c) For tax year 2008, zero per cent;

(d) For tax year 2009, sixty per cent;

(e) For tax year 2010, eighty per cent;

(f) For tax year 2011 and thereafter, one hundred per cent.

(5) Division (C)(5) of this section applies to any school district, joint vocational school district, or local taxing unit in a county in which is located a facility currently or formerly devoted to the enrichment or commercialization of uranium or uranium products, and for which the total taxable value of property listed on the general tax list of personal property for any tax year from tax year 2001 to tax year 2004 was fifty per cent or less of the taxable value of such property listed on the general tax list of personal property for the next preceding tax year.

In computing the fixed-rate levy losses under divisions (D)(1), (2), and (3) of this section for any school district, joint vocational school district, or local taxing unit to which division (C)(5) of this section applies, the taxable

value of such property as listed on the general tax list of personal property for tax year 2000 shall be substituted for the taxable value of such property as reported by taxpayers for tax year 2004, in the taxing district containing the uranium facility, if the taxable value listed for tax year 2000 is greater than the taxable value reported by taxpayers for tax year 2004. For the purpose of making the computations under divisions (D)(1), (2), and (3) of this section, the tax year 2000 valuation is to be allocated to machinery and equipment, inventory, and furniture and fixtures property in the same proportions as the tax year 2004 values. For the purpose of the calculations in division (A) of section 5751.21 of the Revised Code, the tax year 2004 taxable values shall be used.

To facilitate the calculations required under division (C) of this section, the county auditor, upon request from the tax commissioner, shall provide by August 1, 2005, the values of machinery and equipment, inventory, and furniture and fixtures for all single-county personal property taxpayers for tax year 2004.

(D) Not later than September 15, 2005, the tax commissioner shall determine for each tax year from 2006 through 2009 for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses, and for each tax year from 2006 through 2011 its telephone property fixed-rate levy loss. Except as provided in division (F) of this section, such losses are the applicable amounts described in divisions (D)(1), (2), (3), and (4) of this section:

(1) The machinery and equipment fixed-rate levy loss is the machinery and equipment property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(4) The telephone property fixed-rate levy loss is the telephone property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section:

(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss, and, for 2008 through 2010, the telephone property tax value loss of the district or unit multiplied by the sum of the fixed-sum tax rates of qualifying levies. For 2006 through 2010, this computation shall include all qualifying levies remaining in effect for the current tax year and any school district levies charged and payable under section 5705.194 or 5705.213 of the Revised Code that are qualifying levies not remaining in effect for the current year. For 2011 through 2017 in the case of school district levies charged and payable under section 5705.194 or 5705.213 of the Revised Code and for all years after 2010 in the case of other fixed-sum levies, this computation shall include only qualifying levies remaining in effect for the current year. For purposes of this computation, a qualifying school district levy charged and payable under section 5705.194 or 5705.213 of the Revised Code remains in effect in a year after 2010 only if, for that year, the board of education levies a school district levy charged and payable under section 5705.194, 5705.199, 5705.213, or 5705.219 of the Revised Code for an annual sum at least equal to the annual sum levied by the board in tax year 2004 less the amount of the payment certified under this division for 2006.

(2) The total taxable value in tax year 2004 less the sum of the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses in each school district, joint vocational school district, and local taxing unit multiplied by one-half of one mill per dollar.

(3) For the calculations in divisions (E)(1) and (2) of this section, the tax value losses are those that would be calculated for tax year 2009 under divisions (C)(1), (2), and (3) of this section and for tax year 2011 under division (C)(4) of this section.

(4) To facilitate the calculation under divisions (D) and (E) of this section, not later than September 1, 2005, any school district, joint vocational school district, or local taxing unit that has a qualifying levy that was approved at an election conducted during 2005 before September 1, 2005, shall certify to the tax commissioner a copy of the county auditor's certificate of estimated property tax millage for such levy as required under division (B) of section 5705.03 of the Revised Code, which is the rate that shall be used in the calculations under such divisions.

If the amount determined under division (E) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the reimbursement to be paid pursuant to division (E) of section 5751.21 or division (A)(3) of section 5751.22 of the

Revised Code, and the one-half of one mill that is subtracted under division (E)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion that each levy bears to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(F) If a school district levies a tax under section 5705.219 of the Revised Code, the fixed-rate levy loss for qualifying levies, to the extent repealed under that section, shall equal the sum of the following amounts in lieu of the amounts computed for such levies under division (D) of this section:

(1) The sum of the rates of qualifying levies to the extent so repealed multiplied by the sum of the machinery and equipment, inventory, and furniture and fixtures tax value losses for 2009 as determined under that division;

(2) The sum of the rates of qualifying levies to the extent so repealed multiplied by the telephone property tax value loss for 2011 as determined under that division.

The fixed-rate levy losses for qualifying levies to the extent not repealed under section 5705.219 of the Revised Code shall be as determined under division (D) of this section. The revised fixed-rate levy losses determined under this division and division (D) of this section first apply in the year following the first year the district levies the tax under section 5705.219 of the Revised Code.

(G) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses determined under division (C) of this section, the machinery and equipment, inventory, furniture and fixtures, and telephone fixed-rate levy losses determined under division (D) of this section, and the fixed-sum levy losses calculated under division (E) of this section. The calculations under divisions (D) and (E) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(H) Not later than October 1, 2005, the tax commissioner shall certify the amount of the fixed-sum levy losses to the county auditor of each county in which a school district, joint vocational school district, or local taxing unit with a fixed-sum levy loss reimbursement has territory.

(I) Not later than the twenty-eighth day of February each year beginning in 2011 and ending in 2014, the tax commissioner shall certify to the department of education for each school district first levying a tax under

section 5705.219 of the Revised Code in the preceding year the revised fixed-rate levy losses determined under divisions (D) and (F) of this section.

(J)(1) There is hereby created in the state treasury the commercial activity tax motor fuel receipts fund.

(2)(a) On or before June 15, 2014, the director of the Ohio public works commission shall certify to the director of budget and management the amount of debt service paid from the general revenue fund in fiscal years 2013 and 2014 on bonds issued to finance or assist in the financing of the cost of local subdivision public infrastructure capital improvement projects, as provided for in Sections 2k, 2m, and 2p of Article VIII, Ohio Constitution, that are attributable to costs for construction, reconstruction, maintenance, or repair of public highways and bridges and other statutory highway purposes. That certification shall allocate the total amount of debt service paid from the general revenue fund and attributable to those costs in each of fiscal years 2013 and 2014 according to the applicable section of the Ohio Constitution under which the bonds were originally issued.

(b) On or before June 30, 2014, the director of budget and management shall determine an amount up to but not exceeding the amount certified under division (J)(2)(a) of this section and shall reserve that amount from the cash balance in the commercial activity tax motor fuel receipts fund for transfer to the general revenue fund at times and in amounts to be determined by the director. The director shall transfer the cash balance in the commercial activity tax motor fuel receipts fund in excess of the amount so reserved to the highway operating fund on or before June 30, 2014.

(3)(a) On or before the fifteenth day of June of each fiscal year beginning with fiscal year 2015, the director of the Ohio public works commission shall certify to the director of budget and management the amount of debt service paid from the general revenue fund in the current fiscal year on bonds issued to finance or assist in the financing of the cost of local subdivision public infrastructure capital improvement projects, as provided for in Sections 2k, 2m, and 2p of Article VIII, Ohio Constitution, that are attributable to costs for construction, reconstruction, maintenance, or repair of public highways and bridges and other statutory highway purposes. That certification shall allocate the total amount of debt service paid from the general revenue fund and attributable to those costs in the current fiscal year according to the applicable section of the Ohio Constitution under which the bonds were originally issued.

(b) On or before the thirtieth day of June of each fiscal year beginning with fiscal year 2015, the director of budget and management shall determine an amount up to but not exceeding the amount certified under

division (J)(3)(a) of this section and shall reserve that amount from the cash balance in the motor fuel receipts tax public highways fund or the commercial activity tax motor fuel receipts fund for transfer to the general revenue fund at times and in amounts to be determined by the director. The director shall transfer the cash balance in the motor fuel receipts tax public highways fund or the commercial activity tax motor fuel receipts fund in excess of the amount so reserved to the highway operating fund on or before the thirtieth day of June of the current fiscal year.

Sec. 5751.21. (A) Not later than the thirtieth day of July of 2007 through 2010, the department of education shall consult with the director of budget and management and determine the following for each school district and each joint vocational school district eligible for payment under division (B) of this section:

(1) The state education aid offset, which, except as provided in division (A)(1)(c) of this section, is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July if the valuation used in the calculation in division (B)(1) of section 3306.13 of the Revised Code as that division existed for fiscal years 2010 and 2011 included the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses for the school district or joint vocational school district for the second preceding tax year, and if taxes charged and payable associated with the tax value losses are accounted for in any state education aid computation dependent on taxes charged and payable.

(c) The state education aid offset for fiscal year 2010 and fiscal year 2011 equals the greater of the state education aid offset calculated for that fiscal year under divisions (A)(1)(a) and (b) of this section and the state education aid offset calculated for fiscal year 2009. For fiscal year 2012 and 2013, the state education aid offset equals the state education aid offset for fiscal year 2011.

(2) For fiscal years 2008 through 2011, the greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, furniture

and fixtures fixed-rate levy loss, and telephone property fixed-rate levy loss certified under divisions (G) and (I) of section 5751.20 of the Revised Code for all taxing districts in each school district and joint vocational school district for the second preceding tax year.

By the thirtieth day of July of each such year, the department of education and the director of budget and management shall agree upon the amount to be determined under division (A)(1) of this section.

(B) On or before the thirty-first day of August of 2008, 2009, and 2010, the department of education shall recalculate the offset described under division (A) of this section for the previous fiscal year and recalculate the payments made under division (C) of this section in the preceding fiscal year using the offset calculated under this division. If the payments calculated under this division differ from the payments made under division (C) of this section in the preceding fiscal year, the difference shall either be paid to a school district or recaptured from a school district through an adjustment at the same times during the current fiscal year that the payments under division (C) of this section are made. In August and October of the current fiscal year, the amount of each adjustment shall be three-sevenths of the amount calculated under this division. In May of the current fiscal year, the adjustment shall be one-seventh of the amount calculated under this division.

(C) The department of education shall pay from the school district tangible property tax replacement fund to each school district and joint vocational school district all of the following for fixed-rate levy losses certified under divisions (G) and (I) of section 5751.20 of the Revised Code:

(1) On or before May 31, 2006, one-seventh of the total fixed-rate levy loss for tax year 2006;

(2) On or before August 31, 2006, and October 31, 2006, one-half of six-sevenths of the total fixed-rate levy loss for tax year 2006;

(3) On or before May 31, 2007, one-seventh of the total fixed-rate levy loss for tax year 2007;

(4) On or before August 31, 2007, and October 31, 2007, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss for tax year 2007 and the total fixed-rate levy loss for tax year 2006.

(5) On or before May 31, 2008, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2008 and the total fixed-rate levy loss for

tax year 2006.

(6) On or before August 31, 2008, and October 31, 2008, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2008 and the total fixed-rate levy loss in tax year 2007.

(7) On or before May 31, 2009, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2009 and the total fixed-rate levy loss for tax year 2007.

(8) On or before August 31, 2009, and October 31, 2009, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2009 and the total fixed-rate levy loss in tax year 2008.

(9) On or before May 31, 2010, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss in tax year 2010 and the total fixed-rate levy loss in tax year 2008.

(10) On or before August 31, 2010, and October 31, 2010, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2010 and the telephone property fixed-rate levy loss for tax year 2009.

(11) On or before May 31, 2011, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2009.

(12) For fiscal years 2012 and thereafter, the sum of the amounts in divisions (C)(12)(a) or (b) and (c) of this section shall be paid on or before the ~~twentieth~~ last day of November and the last day of May:

(a) If the ratio of current expense TPP allocation to total resources is equal to or less than the threshold per cent, zero;

(b) If the ratio of current expense TPP allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of current expense TPP allocation minus the product of total resources multiplied by the threshold per cent;

(c) Fifty per cent of the product of non-current expense TPP allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter.

The department of education shall report to each school district and joint vocational school district the apportionment of the payments among the school district's or joint vocational school district's funds based on the certifications under divisions (G) and (I) of section 5751.20 of the Revised Code.

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (C) of this section.

(E)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under division (E) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the commissioner made such a determination. On or before the last day of May of the current year, the department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-third of the fixed-sum levy loss so certified, plus one-third of the amount certified under division (I) of section 5751.20 of the Revised Code, and on or before the ~~twentieth~~ last day of November, two-thirds of the fixed-sum levy loss so certified, plus two-thirds of the amount certified under division (I) of section 5751.20 of the Revised Code. Payments under this division of the amounts certified under division (I) of section 5751.20 of the Revised Code shall continue until the levy adopted under section 5705.219 of the Revised Code expires.

(2) Beginning in 2006, by the first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

(F) Beginning in September 2007 and through June 2013, the director of

budget and management shall transfer from the school district tangible property tax replacement fund to the general revenue fund each of the following:

(1) On the first day of September, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(2) On the first day of December, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(3) On the first day of March, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(4) On the first day of June, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section.

If, when a transfer is required under division (F)(1), (2), (3), or (4) of this section, there is not sufficient money in the school district tangible property tax replacement fund to make the transfer in the required amount, the director shall transfer the balance in the fund to the general revenue fund and may make additional transfers on later dates as determined by the director in a total amount that does not exceed one-fourth of the amount determined for the fiscal year.

(G) If the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the total amount to be paid and the amount in the school district tangible property tax replacement fund.

(H) On the fifteenth day of June of each year, the director of budget and management may transfer any balance in the school district tangible property tax replacement fund to the general revenue fund.

(I) If all of the territory of a school district or joint vocational school district is merged with another district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or newly created district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For a merger of two or more districts, the fixed-sum levy losses, total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation of the successor district shall be the sum of such items for each of the districts involved in the merger.

(2) If property is transferred from one district to a previously existing district, the amount of total resources, current expense TPP allocation, total

TPP allocation, and non-current expense TPP allocation that shall be transferred to the recipient district shall be an amount equal to total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation of the transferor district times a fraction, the numerator of which is the number of pupils being transferred to the recipient district, measured, in the case of a school district, by average daily membership as reported under division (A) of section 3317.03 of the Revised Code or, in the case of a joint vocational school district, by formula ADM as reported in division (D) of that section, and the denominator of which is the average daily membership or formula ADM of the transferor district.

(3) After December 31, 2010, if property is transferred from one or more districts to a district that is newly created out of the transferred property, the newly created district shall be deemed not to have any total resources, current expense TPP allocation, total TPP allocation, or non-current expense TPP allocation.

(4) If the recipient district under division (I)(2) of this section or the newly created district under division (I)(3) of this section is assuming debt from one or more of the districts from which the property was transferred and any of the districts losing the property had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy loss reimbursements.

Sec. 5753.03. (A) For the purpose of receiving and distributing, and accounting for, revenue received from the tax levied by section 5753.02 of the Revised Code, the following funds are created in the state treasury:

- (1) The casino tax revenue fund;
- (2) The gross casino revenue county fund;
- (3) The gross casino revenue county student fund;
- (4) The gross casino revenue host city fund;
- (5) The Ohio state racing commission fund;
- (6) The Ohio law enforcement training fund;
- (7) The problem casino gambling and addictions fund;
- (8) The casino control commission fund;
- (9) The casino tax administration fund;
- (10) The peace officer training academy fund;
- (11) The criminal justice services casino tax revenue fund.

(B) All moneys collected from the tax levied under this chapter shall be deposited into the casino tax revenue fund.

(C) From the casino tax revenue fund the director of budget and management shall transfer as needed to the tax refund fund amounts equal to

the refunds certified by the tax commissioner under section 5753.06 of the Revised Code.

(D) After making any transfers required by division (C) of this section, but not later than the fifteenth day of the month following the end of each calendar quarter, the director of budget and management shall transfer amounts to each fund as follows:

(1) Fifty-one per cent to the gross casino revenue county fund to make payments as required by Section 6(C)(3)(a) of Article XV, Ohio Constitution;

(2) Thirty-four per cent to the gross casino revenue county student fund to make payments as required by Section 6(C)(3)(b) of Article XV, Ohio Constitution and as provided in section 5753.11 of the Revised Code;

(3) Five per cent to the gross casino revenue host city fund for the benefit of the cities in which casino facilities are located;

(4) Three per cent to the Ohio state racing commission fund to support the efforts and activities of the Ohio state racing commission to promote horse racing in this state at which the pari-mutuel system of wagering is conducted;

(5) Two per cent to the Ohio law enforcement training fund to support law enforcement functions in the state;

(6) Two per cent to the problem casino gambling and addictions fund to support efforts of the department of ~~alcohol and drug addiction services~~ mental health and addiction services to alleviate problem gambling and substance abuse and related research in the state under section ~~3793.032~~ 5119.47 of the Revised Code;

(7) Three per cent to the casino control commission fund to support the operations of the Ohio casino control commission and to defray the cost of administering the tax levied under section 5753.02 of the Revised Code.

Payments under divisions (D)(1) and (3) of this section shall be made by the end of the month following the end of the quarterly period. The tax commissioner shall make the data available to the director of budget and management for this purpose.

Money in the Ohio state racing commission fund shall be distributed at the discretion of the Ohio state racing commission for the purpose stated in division (D)(4) of this section by the end of the month following the end of the quarterly period. The commission may retain up to five per cent of the amount transferred to the fund under division (D)(4) of this section for operating expenses necessary for the administration of the fund.

Payments from the gross casino revenue county student fund as required under section 5753.11 of the Revised Code shall be made by the last day of

January and by the last day of August of each year, beginning in 2013. The tax commissioner shall make the data available to the director of budget and management for this purpose.

Of the money credited to the Ohio law enforcement training fund, the director of budget and management shall distribute eighty-five per cent of the money to the police officer training academy fund for the purpose of supporting the law enforcement training efforts of the Ohio peace officer training academy and fifteen per cent of the money to the criminal justice services casino tax revenue fund for the purpose of supporting the law enforcement training efforts of the division of criminal justice services.

(E)(1) The tax commissioner shall serve as an agent of the counties of this state only for the purposes of this division and solely to make payments directly to municipal corporations and school districts, as applicable, on the counties' behalf.

(2) On or before the last day of the month following the end of each calendar quarter, the tax commissioner shall provide for payment from the funds referenced in divisions (D)(1) and (3) of this section to each county and municipal corporation as prescribed in those divisions.

(3) On or before the last day of January and the last day of August each year, the commissioner shall provide for payments from the fund referenced in division (D)(2) of this section to each school district as prescribed in that division.

(F) The director of budget and management shall transfer one per cent of the money credited to the casino control commission fund to the casino tax administration fund. The tax commissioner shall use the casino tax administration fund to defray the costs incurred in administering the tax levied by this chapter.

(G) All investment earnings of the gross casino revenue county student fund shall be credited to the fund.

Sec. 5753.07. (A)(1) The tax commissioner may issue an assessment, based on any information in the tax commissioner's possession, against a casino operator who fails to pay the tax levied under section 5753.02 of the Revised Code or to file a return under section 5753.04 of the Revised Code. The tax commissioner shall give the casino operator written notice of the assessment under section 5703.37 of the Revised Code. With the notice, the tax commissioner shall include instructions on how to petition for reassessment and on how to request a hearing with respect to the petition.

(2) Unless the casino operator, within sixty days after service of the notice of assessment, files with the tax commissioner, either personally or by certified mail, a written petition signed by the casino operator, or by the

casino operator's authorized agent who has knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the casino operator to the treasurer of state. The petition shall indicate the casino operator's objections to the assessment. Additional objections may be raised in writing if they are received by the tax commissioner before the date shown on the final determination.

(3) If a petition for reassessment has been properly filed, the tax commissioner shall proceed under section 5703.60 of the Revised Code.

(4) After an assessment becomes final, if any portion of the assessment, including penalties and accrued interest, remains unpaid, the tax commissioner may file a certified copy of the entry making the assessment final in the office of the clerk of the court of common pleas of Franklin county or in the office of the clerk of the court of common pleas of the county in which the casino operator resides, the casino operator's casino facility is located, or the casino operator's principal place of business in this state is located. Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the taxpayer assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled, "special judgments for the gross casino revenue tax." The judgment has the same effect as other judgments. Execution shall issue upon the judgment at the request of the tax commissioner, and all laws applicable to sales on execution apply to sales made under the judgment.

(5) ~~The portion of an~~ If the assessment is not paid in its entirety within sixty days after the day the assessment was issued bears, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issued the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax levied under section 5753.02 of the Revised Code and may be collected by the issuance of an assessment under this section.

(B) If the tax commissioner believes that collection of the tax levied under section 5753.02 of the Revised Code will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the casino

operator who is liable for the tax. Immediately upon the issuance of a jeopardy assessment, the tax commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (A)(4) of this section, and the clerk shall proceed as directed in that division. Notice of the jeopardy assessment shall be served on the casino operator or the casino operator's authorized agent under section 5703.37 of the Revised Code within five days after the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the casino operator assessed files a petition for reassessment under division (A)(2) of this section and provides security in a form satisfactory to the tax commissioner that is in an amount sufficient to satisfy the unpaid balance of the assessment. If a petition for reassessment has been filed, and if satisfactory security has been provided, the tax commissioner shall proceed under division (A)(3) of this section. Full or partial payment of the assessment does not prejudice the tax commissioner's consideration of the petition for reassessment.

(C) The tax commissioner shall immediately forward to the treasurer of state all amounts the tax commissioner receives under this section, and the amounts forwarded shall be treated as if they were revenue arising from the tax levied under section 5753.02 of the Revised Code.

(D) Except as otherwise provided in this division, no assessment shall be issued against a casino operator for the tax levied under section 5753.02 of the Revised Code more than four years after the due date for filing the return for the tax period for which the tax was reported, or more than four years after the return for the tax period was filed, whichever is later. This division does not bar an assessment against a casino operator who fails to file a return as required by section 5753.04 of the Revised Code or who files a fraudulent return, or when the casino operator and the tax commissioner waive in writing the time limitation.

(E) If the tax commissioner possesses information that indicates that the amount of tax a casino operator is liable to pay under section 5753.02 of the Revised Code exceeds the amount the casino operator paid, the tax commissioner may audit a sample of the casino operator's gross casino revenue over a representative period of time to ascertain the amount of tax due, and may issue an assessment based on the audit. The tax commissioner shall make a good faith effort to reach agreement with the casino operator in selecting a representative sample. The tax commissioner may apply a sampling method only if the tax commissioner has prescribed the method by rule.

(F) If the whereabouts of a casino operator who is liable for the tax

levied under section 5753.02 of the Revised Code are unknown to the tax commissioner, the tax commissioner shall proceed under section 5703.37 of the Revised Code.

(G) If a casino operator fails to pay the tax levied under section 5753.02 of the Revised Code within a period of one year after the due date for remitting the tax, the Ohio casino control commission may suspend the casino operator's license.

Sec. 5815.28. (A) As used in this section:

(1) "Ascertainable standard" includes a standard in a trust instrument requiring the trustee to provide for the care, comfort, maintenance, welfare, education, or general well-being of the beneficiary.

(2) "Disability" means any substantial, medically determinable impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of at least twelve months, except that "disability" does not include an impairment that is the result of abuse of alcohol or drugs.

(3) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(4) "Supplemental services" means services specified by rule of the department of ~~mental health~~ mental health and addiction services under section ~~5119.01~~ 5119.10 of the Revised Code or the department of developmental disabilities under section 5123.04 of the Revised Code that are provided to an individual with a disability in addition to services the individual is eligible to receive under programs authorized by federal or state law.

(B) Any person may create a trust under this section to provide funding for supplemental services for the benefit of another individual who meets either of the following conditions:

(1) The individual has a physical or mental disability and is eligible to receive services through the department of developmental disabilities or a county board of developmental disabilities;

(2) The individual has a mental disability and is eligible to receive services through the department of ~~mental health~~ mental health and addiction services or a board of alcohol, drug addiction, and mental health services.

The trust may confer discretion upon the trustee and may contain specific instructions or conditions governing the exercise of the discretion.

(C) The general division of the court of common pleas and the probate court of the county in which the beneficiary of a trust authorized by division (B) of this section resides or is confined have concurrent original

jurisdiction to hear and determine actions pertaining to the trust. In any action pertaining to the trust in a court of common pleas or probate court and in any appeal of the action, all of the following apply to the trial or appellate court:

(1) The court shall render determinations consistent with the testator's or other settlor's intent in creating the trust, as evidenced by the terms of the trust instrument.

(2) The court may order the trustee to exercise discretion that the trust instrument confers upon the trustee only if the instrument contains specific instructions or conditions governing the exercise of that discretion and the trustee has failed to comply with the instructions or conditions. In issuing an order pursuant to this division, the court shall require the trustee to exercise the trustee's discretion only in accordance with the instructions or conditions.

(3) The court may order the trustee to maintain the trust and distribute assets in accordance with rules adopted by the director of ~~mental health~~ mental health and addiction services under section ~~5119.01~~ 5119.10 of the Revised Code or the director of developmental disabilities under section 5123.04 of the Revised Code if the trustee has failed to comply with such rules.

(D) To the extent permitted by federal law and subject to the provisions of division (C)(2) of this section pertaining to the enforcement of specific instructions or conditions governing a trustee's discretion, a trust authorized by division (B) of this section that confers discretion upon the trustee shall not be considered an asset or resource of the beneficiary, the beneficiary's estate, the settlor, or the settlor's estate and shall be exempt from the claims of creditors, political subdivisions, the state, other governmental entities, and other claimants against the beneficiary, the beneficiary's estate, the settlor, or the settlor's estate, including claims regarding the medicaid program or based on provisions of Chapters ~~5111.~~, 5121., or 5123. of the Revised Code and claims sought to be satisfied by way of a civil action, subrogation, execution, garnishment, attachment, judicial sale, or other legal process, if all of the following apply:

(1) At the time the trust is created, the trust principal does not exceed the maximum amount determined under division (E) of this section;

(2) The trust instrument contains a statement of the settlor's intent, or otherwise clearly evidences the settlor's intent, that the beneficiary does not have authority to compel the trustee under any circumstances to furnish the beneficiary with minimal or other maintenance or support, to make payments from the principal of the trust or from the income derived from the

principal, or to convert any portion of the principal into cash, whether pursuant to an ascertainable standard specified in the instrument or otherwise;

(3) The trust instrument provides that trust assets can be used only to provide supplemental services, as defined by rule of the director of ~~mental health~~ mental health and addiction services under section ~~5119.04~~ 5119.10 of the Revised Code or the director of developmental disabilities under section 5123.04 of the Revised Code, to the beneficiary;

(4) The trust is maintained and assets are distributed in accordance with rules adopted by the director of ~~mental health~~ mental health and addiction services under section ~~5119.04~~ 5119.10 of the Revised Code or the director of developmental disabilities under section 5123.04 of the Revised Code;

(5) The trust instrument provides that on the death of the beneficiary, a portion of the remaining assets of the trust, which shall be not less than fifty per cent of such assets, will be deposited to the credit of the services fund for individuals with mental illness created by section ~~5119.17~~ 5119.51 of the Revised Code or the services fund for individuals with mental retardation and developmental disabilities created by section 5123.40 of the Revised Code.

(E) In 1994, the trust principal maximum amount for a trust created under this section shall be two hundred thousand dollars. The maximum amount for a trust created under this section prior to November 11, 1994, may be increased to two hundred thousand dollars.

In 1995, the maximum amount for a trust created under this section shall be two hundred two thousand dollars. Each year thereafter, the maximum amount shall be the prior year's amount plus two thousand dollars.

(F) This section does not limit or otherwise affect the creation, validity, interpretation, or effect of any trust that is not created under this section.

(G) Once a trustee takes action on a trust created by a settlor under this section and disburses trust funds on behalf of the beneficiary of the trust, then the trust may not be terminated or otherwise revoked by a particular event or otherwise without payment into the services fund created pursuant to section ~~5119.17~~ 5119.51 or 5123.40 of the Revised Code of an amount that is equal to the disbursements made on behalf of the beneficiary for medical care by the state from the date the trust vests but that is not more than fifty per cent of the trust corpus.

Sec. 5902.02. The duties of the director of veterans services shall include the following:

(A) Furnishing the veterans service commissions of all counties of the state copies of the state laws, rules, and legislation relating to the operation

of the commissions and their offices;

(B) Upon application, assisting the general public in obtaining records of vital statistics pertaining to veterans or their dependents;

(C) Adopting rules pursuant to Chapter 119. of the Revised Code pertaining to minimum qualifications for hiring, certifying, and accrediting county veterans service officers, pertaining to their required duties, and pertaining to revocation of the certification of county veterans service officers;

(D) Adopting rules pursuant to Chapter 119. of the Revised Code for the education, training, certification, and duties of veterans service commissioners and for the revocation of the certification of a veterans service commissioner;

(E) Developing and monitoring programs and agreements enhancing employment and training for veterans in single or multiple county areas;

(F) Developing and monitoring programs and agreements to enable county veterans service commissions to address homelessness, indigency, and other veteran-related issues individually or jointly;

(G) Developing and monitoring programs and agreements to enable state agencies, individually or jointly, that provide services to veterans, including the veterans' homes operated under Chapter 5907. of the Revised Code and the director of job and family services, to address homelessness, indigency, employment, and other veteran-related issues;

(H) Establishing and providing statistical reporting formats and procedures for county veterans service commissions;

(I) Publishing electronically a listing of county veterans service offices and county veterans service commissioners. The listing shall include the expiration dates of commission members' terms of office and the organizations they represent; the names, addresses, and telephone numbers of county veterans service offices; and the addresses and telephone numbers of the Ohio offices and headquarters of state and national veterans service organizations.

(J) Establishing a veterans advisory committee to advise and assist the department of veterans services in its duties. Members shall include a member of the national guard association of the United States who is a resident of this state, a member of the military officers association of America who is a resident of this state, a state representative of congressionally chartered veterans organizations referred to in section 5901.02 of the Revised Code, a representative of any other congressionally chartered state veterans organization that has at least one veterans service commissioner in the state, three representatives of the Ohio state association

of county veterans service commissioners, who shall have a combined vote of one, three representatives of the state association of county veterans service officers, who shall have a combined vote of one, one representative of the county commissioners association of Ohio, who shall be a county commissioner not from the same county as any of the other county representatives, a representative of the advisory committee on women veterans, a representative of a labor organization, and a representative of the office of the attorney general. The department of veterans services shall submit to the advisory committee proposed rules for the committee's operation. The committee may review and revise these proposed rules prior to submitting them to the joint committee on agency rule review.

(K) Adopting, with the advice and assistance of the veterans advisory committee, policy and procedural guidelines that the veterans service commissions shall adhere to in the development and implementation of rules, policies, procedures, and guidelines for the administration of Chapter 5901. of the Revised Code. The department of veterans services shall adopt no guidelines or rules regulating the purposes, scope, duration, or amounts of financial assistance provided to applicants pursuant to sections 5901.01 to 5901.15 of the Revised Code. The director of veterans services may obtain opinions from the office of the attorney general regarding rules, policies, procedures, and guidelines of the veterans service commissions and may enforce compliance with Chapter 5901. of the Revised Code.

(L) Receiving copies of form DD214 filed in accordance with the director's guidelines adopted under division (L) of this section from members of veterans service commissions appointed under section 5901.02 and from county veterans service officers employed under section 5901.07 of the Revised Code;

(M) Developing and maintaining and improving a resource, such as a telephone answering point or a web site, by means of which veterans and their dependents, through a single portal, can access multiple sources of information and interaction with regard to the rights of, and the benefits available to, veterans and their dependents. The director of veterans services may enter into agreements with state and federal agencies, with agencies of political subdivisions, with state and local instrumentalities, and with private entities as necessary to make the resource as complete as is possible.

(N) Planning, organizing, advertising, and conducting outreach efforts, such as conferences and fairs, at which veterans and their dependents may meet, learn about the organization and operation of the department of veterans services and of veterans service commissions, and obtain information about the rights of, and the benefits and services available to,

veterans and their dependents;

(O) Advertising, in print, on radio and television, and otherwise, the rights of, and the benefits and services available to, veterans and their dependents;

(P) Developing and advocating improved benefits and services for, and improved delivery of benefits and services to, veterans and their dependents;

(Q) Searching for, identifying, and reviewing statutory and administrative policies that relate to veterans and their dependents and reporting to the general assembly statutory and administrative policies that should be consolidated in whole or in part within the organization of the department of veterans services to unify funding, delivery, and accounting of statutory and administrative policy expressions that relate particularly to veterans and their dependents;

(R) Encouraging veterans service commissions to innovate and otherwise to improve efficiency in delivering benefits and services to veterans and their dependents and to report successful innovations and efficiencies to the director of veterans services;

(S) Publishing and encouraging adoption of successful innovations and efficiencies veterans service commissions have achieved in delivering benefits and services to veterans and their dependents;

(T) Establishing advisory committees, in addition to the veterans advisory committee established under division (K) of this section, on veterans issues;

(U) Developing and maintaining a relationship with the United States department of veterans affairs, seeking optimal federal benefits and services for Ohio veterans and their dependents, and encouraging veterans service commissions to maximize the federal benefits and services to which veterans and their dependents are entitled;

(V) Developing and maintaining relationships with the several veterans organizations, encouraging the organizations in their efforts at assisting veterans and their dependents, and advocating for adequate state subsidization of the organizations;

(W) Requiring the several veterans organizations that receive funding from the state annually, not later than the thirtieth day of July, to report to the director of veterans services and prescribing the form and content of the report;

(X) Reviewing the reports submitted to the director under division (W) of this section within thirty days of receipt and informing the veterans organization of any deficiencies that exist in the organization's report and that funding will not be released until the deficiencies have been corrected

and a satisfactory report submitted:

(Y) Advising the director of budget and management when a report submitted to the director under division (W) of this section has been reviewed and determined to be satisfactory;

(Z) Furnishing copies of all reports that the director of veterans services has determined have been submitted satisfactorily under division (W) of this section to the chairperson of the finance committees of the general assembly;

(AA) Investigating complaints against county veterans services commissioners and county veterans service officers if the director reasonably believes the investigation to be appropriate and necessary;

~~(Y)~~(BB) Taking any other actions required by this chapter.

Sec. 5905.02. Whenever it appears that a person is eligible for care or treatment by the veterans' administration or other agency of the United States, and hospitalization is necessary for the proper care or treatment of such person, the probate court, upon receipt of a certificate from the veterans' administration or such other agency showing that facilities are available and such person is eligible for care or treatment therein, may order such person to said veterans' administration or other agency for care and treatment.

Upon admission, such person shall be subject to the applicable regulations of the veterans' administration or other agency of the United States. The chief officer of any hospital to which any person is admitted pursuant to hospitalization as provided in sections 5905.01 to 5905.19 of the Revised Code, or under the law in effect at the time of such admission, shall have the same powers as are exercised by heads of hospitals for mental diseases and the department of ~~mental health~~ mental health and addiction services with respect to the retention, transfer, parole, or discharge of the person hospitalized; provided no person shall be transferred to a hospital operated by the state or any political subdivision thereof without the consent of such department.

The right of such person to appear and defend shall not be denied.

The judgment or order of hospitalization by a court of competent jurisdiction of another state ordering a person to the veterans' administration or other agency of the United States, or any hospital operated by any such agency, for care or treatment shall have the same effect as to such person while in this state as in the state in which the court entering such judgment or making such order is situated, provided that no nonresident ordered to a veterans' administration facility located in Ohio shall thereby acquire a legal settlement in Ohio.

Upon receipt of a certificate that facilities are available in any such hospital operated by the United States for the care or treatment of any person ordered to any hospital for the mentally ill or other hospital in this state for the care of persons similarly afflicted, and that such person is eligible for such care or treatment, such department may transfer any such person to the veterans' administration or other agency of the United States in the state. Upon effecting any such transfer, the ordering court shall be notified thereof by the transferring agency; provided that no such person shall be transferred if ~~he~~ the person is confined pursuant to conviction of any crime or misdemeanor, or if ~~he~~ the person has been acquitted of any such charge solely on the ground of insanity, unless prior to such transfer the court originally ordering such person enters an order for such transfer after appropriate motion and hearing.

Any person transferred as provided in this section is ordered to the veterans' administration or other agency of the United States pursuant to the original order as though ~~he~~ the person had been originally so ordered.

Sec. 5910.02. There is hereby created an Ohio war orphans scholarship board as part of the department of veterans services. The board consists of eight members as follows: the chancellor of the Ohio board of regents or the chancellor's designee; the director of veterans services or the director's designee; one member of the house of representatives, appointed by the speaker; one member of the senate, appointed by the president of the senate; and four members appointed by the governor, one of whom shall be a representative of the American Legion, one of whom shall be a representative of the Veterans of Foreign Wars, one of whom shall be a representative of the Disabled American Veterans, and one of whom shall be a representative of the AMVETS. At least ninety days prior to the expiration of the term of office of the representative of a veterans organization appointed by the governor, the governor shall notify the state headquarters of the affected organization of the need for an appointment and request the organization to make at least three nominations. Within sixty days after making the request for nominations, the governor may make the appointment from the nominations received, or may reject all the nominations and request at least three new nominations, from which the governor shall make an appointment within thirty days after making the request for the new nominations. If the governor receives no nominations during this thirty-day period, the governor may appoint any veteran.

Terms of office for the four members appointed by the governor shall be for four years, commencing on the first day of January and ending on the thirty-first day of December, except that the term of the AMVETS

representative shall expire December 31, 1998, and the new term that succeeds it shall commence on January 1, 1999, and end on December 31, 2002. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. The other members shall serve during their terms of office. Any vacancy shall be filled by appointment in the same manner as by original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The members of the board shall serve without pay but shall be reimbursed for travel expenses and for other actual and necessary expenses incurred in the performance of their duties, not to exceed ten dollars per day for ten days in any one year to be appropriated out of any moneys in the state treasury to the credit of the general revenue fund.

The chancellor of the board of regents shall act as secretary to the board and shall furnish such clerical and other assistance as may be necessary to the performance of the duties of the board.

The board shall determine the number of scholarships to be made available, receive applications for scholarships, pass upon the eligibility of applicants, decide which applicants are to receive scholarships, and do all other things necessary for the proper administration of this chapter.

The board may apply for, and may receive and accept, grants, and may receive and accept gifts, bequests, and contributions, from public and private sources, including agencies and instrumentalities of the United States and this state, and shall deposit the grants, gifts, bequests, or contributions into the Ohio war orphans scholarship donation fund.

Sec. 5910.07. The Ohio war orphans scholarship donation fund is created in the state treasury. The fund shall consist of gifts, bequests, grants, and contributions made to the fund under section 5910.02 of the Revised Code. Investment earnings of the fund shall be deposited into the fund. The fund shall be used to operate the war orphans scholarship program and to provide grants under sections 5910.01 to 5910.06 of the Revised Code.

Sec. 5910.08. There is hereby created in the state treasury the war orphans scholarship reserve fund. Not later than the first day of July of each fiscal year, the chancellor of the Ohio board of regents shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding

fiscal year for purposes of the war orphans scholarship program created in Chapter 5910. of the Revised Code. Upon receipt of the certification, the director may transfer an amount not exceeding the certified amount from the general revenue fund to the war orphans scholarship reserve fund. Moneys in the war orphans scholarship reserve fund shall be used to pay scholarship obligations in excess of the general revenue fund appropriations made for that purpose.

The director may transfer any unencumbered balance from the war orphans scholarship reserve fund to the general revenue fund.

Sec. 5919.34. (A) As used in this section:

(1) "Academic term" means any one of the following:

(a) Fall term, which consists of fall semester or fall quarter, as appropriate;

(b) Winter term, which consists of winter semester, winter quarter, or spring semester, as appropriate;

(c) Spring term, which consists of spring quarter;

(d) Summer term, which consists of summer semester or summer quarter, as appropriate.

(2) "Eligible applicant" means any individual to whom all of the following apply:

(a) The individual does not possess a baccalaureate degree.

(b) The individual has enlisted, re-enlisted, or extended current enlistment in the Ohio national guard or is an individual to which division (F) of this section applies.

(c) The individual is actively enrolled as a full-time or part-time student for at least three credit hours of course work in a semester or quarter in a two-year or four-year degree-granting program at a state institution of higher education or a private institution of higher education, or in a diploma-granting program at a state or private institution of higher education that is a school of nursing.

(d) The individual has not accumulated ninety-six eligibility units under division (E) of this section.

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

(4) "Private institution of higher education" means an Ohio institution of

higher education that is nonprofit and has received a certificate of authorization pursuant to Chapter 1713. of the Revised Code, that is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, or that holds a certificate of registration and program authorization issued by the state board of career colleges and schools pursuant to section 3332.05 of the Revised Code.

(5) "Tuition" means the charges imposed to attend an institution of higher education and includes general and instructional fees. "Tuition" does not include laboratory fees, room and board, or other similar fees and charges.

(B) There is hereby created a scholarship program to be known as the Ohio national guard scholarship program.

(C) The adjutant general shall approve scholarships for all eligible applicants. The adjutant general shall process all applications for scholarships for each academic term in the order in which they are received. The scholarships shall be made without regard to financial need. At no time shall one person be placed in priority over another because of sex, race, or religion.

(D)(1) Except as provided in divisions (I) and (J) of this section, for each academic term that an eligible applicant is approved for a scholarship under this section and either remains a current member in good standing of the Ohio national guard or is eligible for a scholarship under division (F)(1) of this section, the institution of higher education in which the applicant is enrolled shall, if the applicant's enlistment obligation extends beyond the end of that academic term or if division (F)(1) of this section applies, be paid on the applicant's behalf the applicable one of the following amounts:

(a) If the institution is a state institution of higher education, an amount equal to one hundred per cent of the institution's tuition charges;

(b) If the institution is a nonprofit private institution or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, an amount equal to one hundred per cent of the average tuition charges of all state universities;

(c) If the institution is an institution that holds a certificate of registration from the state board of career colleges and schools, the lesser of the following:

(i) An amount equal to one hundred per cent of the institution's tuition;

(ii) An amount equal to one hundred per cent of the average tuition charges of all state universities, as that term is defined in section 3345.011 of the Revised Code.

(2) An eligible applicant's scholarship shall not be reduced by the amount of that applicant's benefits under "the Montgomery G.I. Bill Act of 1984," Pub. L. No. 98-525, 98 Stat. 2553 (1984).

(E) A scholarship recipient under this section shall be entitled to receive scholarships under this section for the number of quarters or semesters it takes the recipient to accumulate ninety-six eligibility units as determined under divisions (E)(1) to (3) of this section.

(1) To determine the maximum number of semesters or quarters for which a recipient is entitled to a scholarship under this section, the adjutant general shall convert a recipient's credit hours of enrollment for each academic term into eligibility units in accordance with the following table:

Number of credit hours of enrollment in an academic term	equals	The following number of eligibility units if a semester	or	The following number of eligibility units if a quarter
12 or more hours		12 units		8 units
9 but less than 12		9 units		6 units
6 but less than 9		6 units		4 units
3 but less than 6		3 units		2 units

(2) A scholarship recipient under this section may continue to apply for scholarships under this section until the recipient has accumulated ninety-six eligibility units.

(3) If a scholarship recipient withdraws from courses prior to the end of an academic term so that the recipient's enrollment for that academic term is less than three credit hours, no scholarship shall be paid on behalf of that person for that academic term. Except as provided in division (F)(3) of this section, if a scholarship has already been paid on behalf of the person for that academic term, the adjutant general shall add to that person's accumulated eligibility units the number of eligibility units for which the scholarship was paid.

(F) This division applies to any eligible applicant called into active duty on or after September 11, 2001. As used in this division, "active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(1) For a period of up to five years from when an individual's enlistment obligation in the Ohio national guard ends, an individual to whom this

division applies is eligible for scholarships under this section for those academic terms that were missed or could have been missed as a result of the individual's call into active duty. Scholarships shall not be paid for the academic term in which an eligible applicant's enlistment obligation ends unless an applicant is eligible under this division for a scholarship for such academic term due to previous active duty.

(2) When an individual to whom this division applies withdraws or otherwise fails to complete courses, for which scholarships have been awarded under this section, because the individual was called into active duty, the institution of higher education shall grant the individual a leave of absence from the individual's education program and shall not impose any academic penalty for such withdrawal or failure to complete courses. Division (F)(2) of this section applies regardless of whether or not the scholarship amount was paid to the institution of higher education.

(3) If an individual to whom this division applies withdraws or otherwise fails to complete courses because the individual was called into active duty, and if scholarships for those courses have already been paid, either:

(a) The adjutant general shall not add to that person's accumulated eligibility units calculated under division (E) of this section the number of eligibility units for the academic courses or term for which the scholarship was paid and the institution of higher education shall repay the scholarship amount to the state.

(b) The adjutant general shall add to that individual's accumulated eligibility units calculated under division (E) of this section the number of eligibility units for the academic courses or term for which the scholarship was paid if the institution of higher education agrees to permit the individual to complete the remainder of the academic courses in which the individual was enrolled at the time the individual was called into active duty.

(4) No individual who is discharged from the Ohio national guard under other than honorable conditions shall be eligible for scholarships under this division.

(G) A scholarship recipient under this section who fails to complete the term of enlistment, re-enlistment, or extension of current enlistment the recipient was serving at the time a scholarship was paid on behalf of the recipient under this section is liable to the state for repayment of a percentage of all Ohio national guard scholarships paid on behalf of the recipient under this section, plus interest at the rate of ten per cent per annum calculated from the dates the scholarships were paid. This percentage shall equal the percentage of the current term of enlistment, re-enlistment, or

extension of enlistment a recipient has not completed as of the date the recipient is discharged from the Ohio national guard.

The attorney general may commence a civil action on behalf of the chancellor of the Ohio board of regents to recover the amount of the scholarships and the interest provided for in this division and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. A scholarship recipient is not liable under this division if the recipient's failure to complete the term of enlistment being served at the time a scholarship was paid on behalf of the recipient under this section is due to the recipient's death or discharge from the national guard due to disability.

(H) On or before the first day of each academic term, the adjutant general shall provide an eligibility roster to the chancellor and to each institution of higher education at which one or more scholarship recipients have applied for enrollment. The institution shall use the roster to certify the actual full-time or part-time enrollment of each scholarship recipient listed as enrolled at the institution and return the roster to the adjutant general and the chancellor. Except as provided in division (J) of this section, the chancellor shall provide for payment of the appropriate number and amount of scholarships to each institution of higher education pursuant to division (D) of this section. If an institution of higher education fails to certify the actual enrollment of a scholarship recipient listed as enrolled at the institution within thirty days of the end of an academic term, the institution shall not be eligible to receive payment from the Ohio national guard scholarship program or from the individual enrollee. The adjutant general shall report on a semiannual basis to the director of budget and management, the speaker of the house of representatives, the president of the senate, and the chancellor the number of Ohio national guard scholarship recipients, the size of the scholarship-eligible population, and a projection of the cost of the program for the remainder of the biennium.

(I) The chancellor and the adjutant general may adopt rules pursuant to Chapter 119. of the Revised Code governing the administration and fiscal management of the Ohio national guard scholarship program and the procedure by which the chancellor and the department of the adjutant general may modify the amount of scholarships a member receives based on the amount of other state financial aid a member receives.

(J) The adjutant general, the chancellor, and the director, or their designees, shall jointly estimate the costs of the Ohio national guard scholarship program for each upcoming fiscal biennium, and shall report that estimate prior to the beginning of the fiscal biennium to the chairpersons of the finance committees in the general assembly. During each

fiscal year of the biennium, the adjutant general, the chancellor, and the director, or their designees, shall meet regularly to monitor the actual costs of the Ohio national guard scholarship program and update cost projections for the remainder of the biennium as necessary. If the amounts appropriated for the Ohio national guard scholarship program and any funds in the Ohio national guard scholarship reserve fund and the Ohio national guard scholarship donation fund are not adequate to provide scholarships in the amounts specified in division (D)(1) of this section for all eligible applicants, the chancellor shall do all of the following:

(1) Notify each private institution of higher education, where a scholarship recipient is enrolled, that, by accepting the Ohio national guard scholarship program as payment for all or part of the institution's tuition, the institution agrees that if the chancellor reduces the amount of each scholarship, the institution shall provide each scholarship recipient a grant or tuition waiver in an amount equal to the amount the recipient's scholarship was reduced by the chancellor.

(2) Reduce the amount of each scholarship under division (D)(1)(a) of this section proportionally based on the amount of remaining available funds. Each state institution of higher education shall provide each scholarship recipient under division (D)(1)(a) of this section a grant or tuition waiver in an amount equal to the amount the recipient's scholarship was reduced by the chancellor.

(K) Notwithstanding division (A) of section 127.14 of the Revised Code, the controlling board shall not transfer all or part of any appropriation for the Ohio national guard scholarship program.

(L) The chancellor and the adjutant general may apply for, and may receive and accept grants, and may receive and accept gifts, bequests, and contributions, from public and private sources, including agencies and instrumentalities of the United States and this state, and shall deposit the grants, gifts, bequests, or contributions into the national guard scholarship reserve donation fund.

Sec. 5919.342. The national guard scholarship donation fund is created in the state treasury. The fund shall consist of gifts, bequests, grants, and contributions made to the fund under division (L) of section 5919.34 of the Revised Code. Investment earnings of the fund shall be deposited into the fund. The fund shall be used to operate the Ohio national guard scholarship program created under section 5919.34 of the Revised Code.

Sec. 5924.502. (A) If the issue of an accused's competence to stand trial is raised or if an accused enters a plea of not guilty by reason of insanity, the court may order one or more evaluations of the accused's present mental

condition or, in the case of a plea of not guilty by reason of insanity, of the accused's mental condition at the time of the offense charged. An examiner shall conduct the evaluation.

(B) If the court orders more than one evaluation under division (A) of this section, the trial counsel and the defense counsel may recommend to the court an examiner whom each prefers to perform one of the evaluations. If an accused enters a plea of not guilty by reason of insanity and if the court does not designate an examiner recommended by the defense counsel, the court shall inform the accused that the accused may have independent expert evaluation and that it will be obtained for the accused at public expense.

(C) If the court orders an evaluation under division (A) of this section, the accused shall be available at the times and places established by the examiners who are to conduct the evaluation. The court may order an accused who is not being held in pretrial confinement to submit to an evaluation under this section. If an accused who is not being held in pretrial confinement refuses to submit to a complete evaluation, the court may order the sheriff to take the accused into custody and deliver the accused to a center, program, or facility operated or certified by the department of ~~mental health~~ mental health and addiction services where the accused may be held for evaluation for a reasonable period of time not to exceed twenty days.

(D) An accused who is being held in pretrial confinement may be evaluated at the accused's place of detention. Upon the request of the examiner, the court may order the sheriff to transport the accused to a program or facility operated or certified by the department of ~~mental health~~ mental health and addiction services, where the accused may be held for evaluation for a reasonable period of time not to exceed twenty days, and to return the accused to the place of detention after the evaluation.

(E) If a court orders the evaluation to determine an accused's mental condition at the time of the offense charged, the court shall inform the examiner of the offense with which the accused is charged.

(F) In conducting an evaluation of an accused's mental condition at the time of the offense charged, the examiner shall consider all relevant evidence. If the offense charged involves the use of force against another person, the relevant evidence to be considered includes, but is not limited to, any evidence that the accused suffered at the time of the commission of the offense from the "battered woman syndrome."

(G) The examiner shall file a written report with the court within thirty days after entry of a court order for evaluation, and the court shall provide copies of the report to the trial counsel and defense counsel. The report shall include all of the following:

(1) The examiner's findings;
(2) The facts in reasonable detail on which the findings are based;
(3) If the evaluation was ordered to determine the accused's competence to stand trial, all of the following findings or recommendations that are applicable:

(a) Whether the accused is capable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense;

(b) If the examiner's opinion is that the accused is incapable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense, whether the accused presently is mentally ill;

(c) If the examiner's opinion is that the accused is incapable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense, the examiner's opinion as to the likelihood of the accused becoming capable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense within one year if the accused is provided with a course of treatment;

(d) If the examiner's opinion is that the accused is incapable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense and that the accused presently is mentally ill, the examiner's recommendation as to the least restrictive placement or commitment alternative, consistent with the accused's treatment needs for restoration to competency and with the safety of the community;

(e) If the accused is charged before a special or summary court-martial with an offense that is not a violation of section 5924.120, 5924.127, or 5924.128 of the Revised Code and the examiner's opinion is that the accused is incapable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense and that the accused is presently mentally ill, the examiner's recommendation as to whether the accused is amenable to engagement in mental health treatment.

(4) If the evaluation was ordered to determine the accused's mental condition at the time of the offense charged, the examiner's findings as to whether the accused at the time of the offense charged did not know, as a result of a severe mental disease or defect, the wrongfulness of the accused's acts charged.

(H) An examiner appointed under divisions (A) and (B) of this section to evaluate an accused to determine the accused's competence to stand trial

also may be appointed to evaluate an accused who has entered a plea of not guilty by reason of insanity, but an examiner of that nature shall prepare separate reports on the issue of competence to stand trial and the defense of not guilty by reason of insanity.

(I) No statement that an accused makes in an evaluation or hearing under divisions (A) to (H) of this section relating to the accused's competence to stand trial or to the accused's mental condition at the time of the offense charged may be used against the accused on the issue of guilt in any criminal action or proceeding, but, in a criminal action or proceeding, the trial counsel or defense counsel may call as a witness any person who evaluated the accused or prepared a report pursuant to a referral under this section. Neither the appointment nor the testimony of an examiner appointed under this section precludes the trial counsel or defense counsel from calling other witnesses or presenting other evidence on competency or insanity issues.

(J) Persons appointed as examiners under divisions (A) and (B) of this section or under division (H) of this section shall be paid a reasonable amount for their services and expenses, as certified by the court.

Sec. 5924.503. (A) If the issue of an accused's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 5924.502 of the Revised Code, finds that the accused is competent to stand trial, the accused shall be proceeded against as provided by law. If the court finds the accused competent to stand trial and the accused is receiving psychotropic drugs or other medication, the court may authorize the continued administration of the drugs or medication or other appropriate treatment in order to maintain the accused's competence to stand trial unless the accused's attending physician advises the court against continuation of the drugs, other medication, or treatment.

(B)(1)(a) If, after taking into consideration all relevant reports, information, and other evidence, the court finds that the accused is incompetent to stand trial and that there is a substantial probability that the accused will become competent to stand trial within one year if the accused is provided with a course of treatment, the court shall order the accused to undergo treatment. If the accused is being tried by a general court-martial and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the accused is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the accused will become competent to stand trial within one year if the accused is provided with a course of treatment, the court shall order continuing evaluation and treatment of the accused for a

period not to exceed four months to determine whether there is a substantial probability that the accused will become competent to stand trial within one year if the accused is provided with a course of treatment.

(b) The court order for the accused to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the accused, if determined to require mental health treatment or continuing evaluation and treatment, shall be committed to the department of ~~mental health~~ mental health and addiction services for treatment or continuing evaluation and treatment at a hospital, facility, or agency determined to be clinically appropriate by the department of ~~mental health~~ mental health and addiction services. The order may restrict the accused's freedom of movement as the court considers necessary. The trial counsel in the accused's case shall send to the chief clinical officer of the hospital, facility, or ~~agency services provider~~ where the accused is placed by the department of ~~mental health~~ mental health and addiction services or to the managing officer of the institution, the director of the facility, or the person to which the accused is committed copies of relevant investigative reports and other background information that pertains to the accused and is available to the trial counsel unless the trial counsel determines that the release of any of the information in the investigative reports or any of the other background information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person.

In committing the accused to the department of ~~mental health~~ mental health and addiction services, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and, if the court finds that restrictions on the accused's freedom of movement are necessary, shall specify the least restrictive limitations on the person's freedom of movement determined to be necessary to protect public safety. In weighing these factors, the court shall give preference to protecting public safety.

(c) If the accused is found incompetent to stand trial, if the chief clinical officer of the hospital, facility, or ~~agency services provider~~ where the accused is placed, or the managing officer of the institution, the director of the facility, or the person to which the accused is committed for treatment or continuing evaluation and treatment under division (B)(1)(b) of this section determines that medication is necessary to restore the accused's competency to stand trial, and if the accused lacks the capacity to give informed consent or refuses medication, the chief clinical officer of the hospital, facility, or ~~agency services provider~~ where the accused is placed or the managing

officer of the institution, the director of the facility, or the person to which the accused is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of medication. The court shall hold a hearing on the petition within five days of the filing of the petition. Following the hearing, the court may authorize the involuntary administration of medication or may dismiss the petition.

(d) If the accused is charged before a special or summary court-martial with an offense that is not a violation of section 5924.120, 5924.127, or 5924.128 of the Revised Code, the trial counsel may hold the charges in abeyance while the accused engages in mental health treatment.

(2) If the court finds that the accused is incompetent to stand trial and that, even if the accused is provided with a course of treatment, there is not a substantial probability that the accused will become competent to stand trial within one year, the court shall order the discharge of the accused, unless upon motion of the trial counsel or on its own motion, the court either seeks to retain jurisdiction over the accused pursuant to division (A)(2) of section 5924.504 of the Revised Code or files an affidavit in the probate court for the civil commitment of the accused pursuant to Chapter 5122. of the Revised Code alleging that the accused is a mentally ill person subject to hospitalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the accused's mental condition that were prepared pursuant to section 5924.502 of the Revised Code.

The trial court may issue the temporary order of detention that a probate court may issue under section 5122.11 of the Revised Code, to remain in effect until the probable cause or initial hearing in the probate court. Further proceedings in the probate court are civil proceedings governed by Chapter 5122. of the Revised Code.

(C) No accused shall be required to undergo treatment, including any continuing evaluation and treatment, under division (B)(1) of this section for longer than whichever of the following periods is applicable:

- (1) One year, if the accused is being tried by a general court-martial;
- (2) Six months, if the accused is being tried before a special court-martial;
- (3) Sixty days, if the accused is being tried before a summary court-martial.

(D) Any accused who is committed pursuant to this section shall not voluntarily admit the accused or be voluntarily admitted to a hospital or institution pursuant to section 5122.02 or 5122.15 of the Revised Code.

(E) Except as otherwise provided in this division, an accused who is charged with an offense and is committed by the court under this section to the department of ~~mental health~~ mental health and addiction services with restrictions on the accused's freedom of movement shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. The court may grant an accused supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the person who supervises the treatment or the continuing evaluation and treatment of the accused ordered under division (B)(1)(a) of this section informs the court that the treatment or continuing evaluation and treatment cannot be provided at the hospital or facility where the accused is placed by the department of ~~mental health~~ mental health and addiction services. The chief clinical officer of the hospital or facility where the accused is placed by the department of ~~mental health~~ mental health and addiction services or the managing officer of the institution or director of the facility to which the accused is committed or a designee of any of those persons may grant an accused movement to a medical facility for an emergency medical situation with appropriate supervision to ensure the safety of the accused, staff, and community during that emergency medical situation. The chief clinical officer of the hospital or facility where the accused is placed by the department of ~~mental health~~ mental health and addiction services or the managing officer of the institution or director of the facility to which the accused is committed shall notify the court within twenty-four hours of the accused's movement to the medical facility for an emergency medical situation under this division.

(F) The person who supervises the treatment or continuing evaluation and treatment of an accused ordered to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall file a written report with the court at the following times:

(1) Whenever the person believes the accused is capable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense;

(2) Fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of an accused ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the

accused will become capable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense even if the accused is provided with a course of treatment.

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the accused's capability of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense. If, in the examiner's opinion, the accused remains incapable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense and there is a substantial probability that the accused will become capable of understanding the nature and objective of the proceedings against the accused and of assisting in the accused's defense if the accused is provided with a course of treatment, if in the examiner's opinion the accused remains mentally ill, and if the maximum time for treatment as specified in division (C) of this section has not expired, the report also shall contain the examiner's recommendation as to the least restrictive placement or commitment alternative that is consistent with the accused's treatment needs for restoration to competency and with the safety of the community. The court shall provide copies of the report to the trial counsel and defense counsel.

(H) If an accused is committed pursuant to division (B)(1) of this section, within ten days after the treating physician of the accused or the examiner of the accused who is employed or retained by the treating facility advises that there is not a substantial probability that the accused will become capable of understanding the nature and objective of the proceedings against the accused or of assisting in the accused's defense even if the accused is provided with a course of treatment, within ten days after the expiration of the maximum time for treatment as specified in division (C) of this section, within ten days after the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, within thirty days after an accused's request for a hearing that is made after six months of treatment, or within thirty days after being advised by the treating physician or examiner that the accused is competent to stand trial, whichever is the earliest, the court shall conduct another hearing to determine if the accused is competent to stand trial and shall do whichever of the following is applicable:

(1) If the court finds that the accused is competent to stand trial, the accused shall be proceeded against as provided by law.

(2) If the court finds that the accused is incompetent to stand trial, but

that there is a substantial probability that the accused will become competent to stand trial if the accused is provided with a course of treatment, and the maximum time for treatment as specified in division (C) of this section has not expired, the court, after consideration of the examiner's recommendation, shall order that treatment be continued, may change least restrictive limitations on the accused's freedom of movement.

(3) If the court finds that the accused is incompetent to stand trial, if the accused is being tried by a general court-martial, and if the court finds that there is not a substantial probability that the accused will become competent to stand trial even if the accused is provided with a course of treatment, or if the maximum time for treatment as specified in division (C) of this section has expired, further proceedings shall be as provided in sections 5924.504 to 5924.506 of the Revised Code.

(4) If the court finds that the accused is incompetent to stand trial, if the accused is being tried before a special court-martial, and if the court finds that there is not a substantial probability that the accused will become competent to stand trial even if the accused is provided with a course of treatment, or if the maximum time for treatment as specified in division (C) of this section has expired, the court shall dismiss the charge against the accused. A dismissal under this division is not a bar to further prosecution based on the same conduct. The court shall discharge the accused unless the court or trial counsel files an affidavit in probate court for civil commitment pursuant to Chapter 5122. of the Revised Code. If an affidavit for civil commitment is filed, the court may detain the accused for ten days pending civil commitment. All of the following provisions apply to persons being tried by a special court-martial who are committed by the probate court subsequent to the court's or trial counsel's filing of an affidavit for civil commitment under authority of this division:

(a) The chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, or the person to which the accused is committed or admitted shall do all of the following:

(i) Notify the trial counsel in writing of the discharge of the accused, send the notice at least ten days prior to the discharge unless the discharge is by the probate court, and state in the notice the date on which the accused will be discharged;

(ii) Notify the trial counsel in writing when the accused is absent without leave or is granted unsupervised, off-grounds movement and send this notice promptly after the discovery of the absence without leave or prior to the granting of the unsupervised, off-grounds movement, whichever is applicable;

(iii) Notify the trial counsel in writing of the change of the accused's commitment or admission to voluntary status, send the notice promptly upon learning of the change to voluntary status, and state in the notice the date on which the accused was committed or admitted on a voluntary status.

(b) The trial counsel shall promptly inform the convening authority of any notification received under division (H)(4)(a) of this section. Upon receiving notice that the accused will be granted unsupervised, off-grounds movement, the convening authority either shall refer the charges against the accused to an investigating officer again or promptly notify the court that the convening authority does not intend to refer the charges against the accused again.

(I) If an accused is convicted of a crime and sentenced to confinement, the accused's sentence shall be reduced by the total number of days the accused is confined for evaluation to determine the accused's competence to stand trial or treatment under this section and sections 5924.502 and 5924.504 of the Revised Code or by the total number of days the accused is confined for evaluation to determine the accused's mental condition at the time of the offense charged.

Sec. 5924.504. (A) If an accused being tried by a general court-martial is found incompetent to stand trial, after the expiration of the maximum time for treatment as specified in division (C) of section 5924.503 of the Revised Code or after the court finds that there is not a substantial probability that the accused will become competent to stand trial even if the accused is provided with a course of treatment, one of the following applies:

(1) The court or the trial counsel may file an affidavit in probate court for civil commitment of the accused in the manner provided in Chapter 5122. of the Revised Code. If the court or trial counsel files an affidavit for civil commitment, the court may detain the accused for ten days pending civil commitment. If the probate court commits the accused subsequent to the court's or trial counsel's filing of an affidavit for civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, or the person to which the accused is committed or admitted shall send to the trial counsel the notices described in divisions (H)(4)(a)(i) to (iii) of section 5924.503 of the Revised Code within the periods of time and under the circumstances specified in those divisions.

(2) On the motion of the trial counsel or on its own motion, the court may retain jurisdiction over the accused if at a hearing the court finds both of the following by clear and convincing evidence:

(a) The accused committed the offense with which the accused is charged.

(b) The accused is a mentally ill person subject to hospitalization by court order.

(B) In making its determination under division (A)(2) of this section as to whether to retain jurisdiction over the accused, the court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense charged, and any history of the accused that is relevant to the accused's ability to conform to the law.

(C) If the court conducts a hearing as described in division (A)(2) of this section and if the court does not make both findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall dismiss the charges against the accused. Upon the dismissal, the court shall discharge the accused unless the court or trial counsel files an affidavit in probate court for civil commitment of the accused pursuant to Chapter 5122. of the Revised Code. If the court or trial counsel files an affidavit for civil commitment, the court may order that the accused be detained for up to ten days pending the civil commitment. If the probate court commits the accused subsequent to the court's or trial counsel's filing of an affidavit for civil commitment, the chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, or the person to which the accused is committed or admitted shall send to the trial counsel the notices described in divisions (H)(4)(a)(i) to (iii) of section 5924.503 of the Revised Code within the periods of time and under the circumstances specified in those divisions. A dismissal of charges under this division is not a bar to further criminal proceedings based on the same conduct.

(D)(1) If the court conducts a hearing as described in division (A)(2) of this section and if the court makes the findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall commit the accused, if determined to require mental health treatment, to the department of ~~mental health~~ mental health and addiction services for treatment at a hospital, facility, or ~~agency services provider~~ as determined clinically appropriate by the department of ~~mental health~~ mental health and addiction services. In committing the accused to the department of ~~mental health~~ mental health and addiction services, the court shall specify the least restrictive limitations on the accused's freedom of movement determined to be necessary to protect public safety.

(2) If a court makes a commitment of an accused under division (D)(1) of this section, the trial counsel shall send to the hospital, facility, or ~~agency services provider~~ where the accused is placed by the department of ~~mental health~~ mental health and addiction services or to the accused's place of

commitment all reports of the accused's current mental condition and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A)(2) of this section, copies of relevant investigative reports, and copies of any prior arrest and conviction records that pertain to the accused and that the trial counsel possesses. The trial counsel shall send the reports of the accused's current mental condition in every case of commitment, and, unless the trial counsel determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the trial counsel also shall send the other relevant information.

(3) If a court makes a commitment under division (D)(1) of this section, all further proceedings shall be in accordance with Chapter 5122. of the Revised Code.

Sec. 5924.506. (A) If an accused person is found not guilty by reason of insanity, the verdict shall state that finding, and the trial court shall conduct a full hearing to determine whether the person is a mentally ill person subject to hospitalization by court order. Prior to the hearing, if the military judge believes that there is probable cause that the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order, the military judge may issue a temporary order of detention for that person to remain in effect for ten court days or until the hearing, whichever occurs first.

Any person detained pursuant to a temporary order of detention issued under this division shall be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

(B) The court shall hold the hearing under division (A) of this section to determine whether the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order within ten court days after the finding of not guilty by reason of insanity. Failure to conduct the hearing within the ten-day period shall cause the immediate discharge of the respondent, unless the judge grants a continuance for not longer than ten court days for good cause shown or for any period of time upon motion of the respondent.

(C) If a person is found not guilty by reason of insanity, the person has the right to attend a hearing conducted pursuant to this section. At the hearing, the court shall inform the person that the person has all of the following rights:

(1) The right to be represented by defense counsel or to retain civilian

counsel, if the person so chooses;

(2) The right to have independent expert evaluation;

(3) The right to subpoena witnesses and documents, to present evidence on the person's behalf, and to cross-examine witnesses against the person;

(4) The right to testify in the person's own behalf and to not be compelled to testify;

(5) The right to have copies of any relevant medical or mental health document in the custody of the state or of any place of commitment other than a document for which the court finds that the release to the person of information contained in the document would create a substantial risk of harm to any person.

(D) The hearing under division (A) of this section shall be open to the public, and the court shall conduct the hearing in accordance with regulations prescribed by the adjutant general. The court shall make and maintain a full transcript and record of the hearing proceedings. The court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense in relation to which the person was found not guilty by reason of insanity, and any history of the person that is relevant to the person's ability to conform to the law.

(E) Upon completion of the hearing under division (A) of this section, if the court finds there is not clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order, the court shall discharge the person, unless a detainer has been placed upon the person by the department of rehabilitation and correction, in which case the person shall be returned to that department.

(F) If, at the hearing under division (A) of this section, the court finds by clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order, it shall commit the person to the department of ~~mental health~~ mental health and addiction services for placement in a hospital, facility, or ~~agency services provider~~ as determined clinically appropriate by the department of ~~mental health~~ mental health and addiction services. Further proceedings shall be in accordance with Chapter 5122. or 5123. of the Revised Code. In committing the accused to the department of ~~mental health~~ mental health and addiction services, the court shall specify the least restrictive limitations on the accused's freedom of movement determined to be necessary to protect public safety.

(G) If a court makes a commitment of a person under division (F) of this section, the trial counsel shall send to the hospital, facility, or ~~agency services provider~~ where the defendant is placed by the department of ~~mental~~

~~health~~ mental health and addiction services or to the accused's place of commitment all reports of the person's current mental condition, and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A) of this section, copies of relevant investigative reports, and copies of any prior arrest and conviction records that pertain to the person and that the trial counsel possesses. The trial counsel shall send the reports of the person's current mental condition in every case of commitment, and, unless the trial counsel determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the trial counsel also shall send the other relevant information.

(H) A person who is committed pursuant to this section shall not voluntarily admit the person or be voluntarily admitted to a hospital or institution pursuant to sections 5122.02 and 5122.15 of the Revised Code.

Sec. 6109.21. (A) Except as provided in divisions (I) and (J) of this section, no person shall operate a public water system in this state without a license issued by the director of environmental protection.

~~(B)(4)~~ (B) A person who proposes to operate a new public water system, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall obtain an initial license from the director. The person shall submit an application for the initial license at least forty-five days prior to commencing the operation of the system.

(C) A license shall expire on the thirtieth day of January in the year following its issuance.

(D) A license shall be renewed annually. A person proposing to continue operating a public water system shall apply for a license renewal at least thirty days prior to the expiration date of the license.

(E) ~~Through June 30, 2014, each~~ Each application for a license or license renewal shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code. However, an applicant for an initial license who is proposing to operate a new public water system shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(F) Not later than thirty days after receiving a completed application and the appropriate license fee for a license or license renewal for a public water system, the director shall do one of the following:

- (1) Issue the license or license renewal for the public water system;

(2) Issue the license or license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;

(3) Deny the license or license renewal if the director finds that the public water system cannot be operated in substantial compliance with this chapter and rules adopted under it.

(G) The director may condition, suspend, or revoke a license or license renewal issued under this section at any time if the director finds that the public water system was not or will not be operated in substantial compliance with this chapter and rules adopted under it.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and requirements governing both of the following:

(1) Information to be included on applications for licenses and license renewals issued under this section;

(2) The issuance, conditioning, suspension, revocation, and denial of licenses and license renewals under this section.

(I)(1) As used in division (I) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families.

(J) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

(K) The environmental protection agency shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

Sec. 6111.037. (A) ~~There is hereby created in the state treasury the nonpoint source pollution management fund. The fund shall consist of grant moneys received under~~ For purposes of state nonpoint source pollution management and pursuant to section 319 of the "Federal Water Pollution Control Act," ~~for purposes of assisting with the development and implementation of a comprehensive nonpoint source pollution management program pursuant to that section of the act. Moneys credited to the fund may~~

~~be used for purposes of research, planning, water quality assessments, demonstration projects, enforcement, technical assistance, education, and training regarding management of nonpoint sources of water pollution. The~~ the director of environmental protection may enter into agreements to receive grant moneys for ~~the nonpoint source pollution management fund~~ and for deposit into the state treasury to the credit of the water quality protection fund created in section 6111.0381 of the Revised Code. The director may enter into agreements to make grants of moneys credited to the fund under this section, including, without limitation, passthrough grants to other state departments or agencies.

(B) The director shall periodically prepare and, by rules adopted under division (O) of section 6111.036 of the Revised Code, establish a priority system for identifying activities eligible for assistance under this section. The priority system shall ensure that financial assistance available under this section is first provided to:

(1) Control particularly difficult or serious nonpoint source pollution problems, including, without limitation, problems resulting from mining activities;

(2) Implement innovative methods or practices for controlling nonpoint sources of pollution, including, without limitation, regulatory programs that the director determines are appropriate;

(3) Control interstate nonpoint source pollution problems;

(4) Implement ground and surface water quality protection activities that the director determines are part of a comprehensive nonpoint source pollution control program, which activities include research, planning, ~~ground~~ water quality assessments, demonstration programs, enforcement, technical assistance, education, and training to protect ~~ground~~ water quality from nonpoint sources of pollution.

SECTION 101.02. That existing sections 9.03, 9.15, 9.231, 9.239, 9.24, 9.833, 9.90, 9.901, 101.39, 101.391, 102.02, 103.144, 103.63, 107.033, 107.12, 109.06, 109.36, 109.57, 109.572, 109.71, 109.746, 109.77, 109.85, 109.86, 109.90, 109.91, 111.02, 111.15, 111.28, 113.02, 113.061, 117.03, 117.10, 117.20, 119.01, 120.06, 121.02, 121.03, 121.22, 121.35, 121.37, 121.372, 122.075, 122.083, 122.17, 122.171, 122.175, 122.28, 122.30, 122.31, 122.32, 122.33, 122.34, 122.35, 122.36, 122.58, 122.657, 122.658, 122.66, 122.67, 122.68, 122.69, 122.70, 122.701, 122.76, 122.861, 123.01, 123.10, 123.11, 123.201, 123.21, 123.27, 124.11, 124.14, 124.18, 124.30, 124.341, 124.381, 124.57, 124.84, 125.05, 125.21, 125.212, 125.28, 125.602, 125.603, 125.832, 125.836, 126.07, 126.14, 126.32, 126.35,

126.45, 126.46, 126.47, 126.48, 127.14, 127.16, 131.51, 133.01, 133.06, 135.22, 135.61, 135.71, 135.80, 135.81, 135.85, 140.01, 140.03, 140.05, 145.01, 145.012, 145.037, 145.038, 145.22, 149.01, 149.12, 149.311, 149.43, 149.431, 149.54, 151.11, 152.09, 153.692, 154.01, 154.17, 154.20, 154.22, 154.23, 154.25, 156.02, 156.03, 156.04, 156.05, 166.02, 166.03, 166.04, 166.08, 166.25, 167.03, 169.02, 169.05, 169.07, 169.08, 171.05, 173.03, 173.14, 173.17, 173.19, 173.20, 173.21, 173.23, 173.25, 173.26, 173.27, 173.28, 173.39, 173.391, 173.392, 173.394, 173.40, 173.401, 173.402, 173.403, 173.404, 173.42, 173.43, 173.431, 173.432, 173.434, 173.45, 173.47, 173.48, 173.50, 173.501, 173.99, 183.16, 183.33, 187.10, 191.01, 191.02, 191.04, 191.06, 301.28, 305.23, 307.07, 307.515, 307.673, 307.674, 307.696, 307.697, 307.86, 309.09, 317.06, 317.08, 317.32, 317.321, 317.36, 319.302, 321.35, 321.44, 323.151, 323.152, 323.153, 329.04, 329.051, 329.06, 329.14, 333.01, 333.02, 333.03, 333.04, 333.05, 339.02, 339.05, 339.06, 339.07, 340.01, 340.011, 340.02, 340.021, 340.03, 340.031, 340.032, 340.04, 340.05, 340.07, 340.09, 340.091, 340.10, 340.11, 340.12, 340.13, 340.15, 340.16, 341.192, 349.01, 349.04, 351.021, 715.013, 715.691, 721.01, 721.03, 731.091, 737.41, 742.14, 755.06, 901.21, 901.22, 901.23, 903.11, 903.99, 905.06, 909.15, 924.02, 924.06, 927.54, 935.01, 935.03, 935.041, 935.07, 935.12, 955.01, 955.05, 955.06, 955.07, 955.08, 955.09, 955.12, 955.14, 955.201, 956.07, 956.18, 959.131, 959.132, 959.99, 991.03, 991.04, 991.06, 1309.521, 1332.26, 1337.11, 1347.08, 1501.011, 1501.45, 1506.21, 1506.30, 1509.01, 1509.02, 1509.062, 1509.10, 1509.11, 1509.22, 1509.226, 1509.50, 1511.02, 1511.022, 1531.06, 1531.17, 1545.071, 1547.542, 1547.99, 1548.02, 1551.33, 1551.35, 1555.15, 1701.86, 1701.922, 1703.29, 1711.07, 1721.10, 1724.02, 1724.03, 1739.061, 1751.01, 1751.11, 1751.12, 1751.14, 1751.271, 1751.31, 1751.60, 1923.14, 2101.24, 2108.05, 2113.041, 2113.06, 2117.061, 2117.25, 2133.01, 2133.25, 2151.011, 2151.3514, 2151.362, 2151.83, 2151.86, 2152.54, 2152.59, 2303.201, 2305.234, 2307.65, 2317.02, 2317.422, 2317.56, 2505.02, 2743.48, 2744.05, 2901.13, 2901.30, 2903.13, 2903.33, 2907.22, 2913.01, 2913.40, 2913.401, 2919.271, 2921.01, 2921.22, 2921.36, 2921.38, 2923.125, 2923.126, 2925.03, 2929.13, 2929.15, 2929.18, 2930.01, 2935.03, 2935.33, 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 2951.041, 2967.22, 2981.01, 2981.12, 2981.13, 3101.051, 3107.083, 3109.15, 3111.04, 3111.72, 3119.29, 3119.54, 3121.441, 3121.89, 3121.891, 3121.892, 3121.893, 3121.898, 3123.958, 3125.18, 3125.36, 3301.07, 3301.0711, 3301.0712, 3301.0714, 3301.0715, 3301.0723, 3301.0725, 3301.15, 3301.16, 3302.01, 3302.03, 3302.20, 3302.21, 3302.22, 3303.41,

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3737.841, 3737.88, 3737.882, 3737.883, 3742.30, 3742.31, 3742.32, 3742.51, 3745.11, 3745.113, 3745.72, 3748.01, 3748.04, 3769.08, 3769.087, 3769.088, 3769.089, 3769.10, 3769.26, 3769.28, 3770.02, 3770.06, 3772.062, 3772.24, 3781.112, 3793.01, 3793.031, 3793.032, 3793.051, 3793.10, 3793.11, 3793.12, 3793.13, 3793.14, 3793.15, 3793.16, 3793.18, 3793.22, 3793.31, 3793.32, 3793.33, 3793.34, 3793.35, 3793.36, 3793.37, 3793.38, 3793.39, 3795.01, 3798.01, 3798.10, 3798.13, 3798.14, 3798.15, 3798.16, 3901.3814, 3903.14, 3905.40, 3905.483, 3905.862, 3916.06, 3923.24, 3923.241, 3923.281, 3923.443, 3923.49, 3923.50, 3923.601, 3923.83, 3924.41, 3924.42, 3963.01, 3963.04, 4104.33, 4112.02, 4112.12, 4112.31, 4115.034, 4115.32, 4117.06, 4117.14, 4117.15, 4121.44, 4121.441, 4121.50, 4121.69, 4123.32, 4123.35, 4123.41, 4123.57, 4123.93, 4131.03, 4141.162, 4301.01, 4301.10, 4301.30, 4301.421, 4301.43, 4301.62, 4303.181, 4303.29, 4305.131, 4501.01, 4501.21, 4503.03, 4503.064, 4503.065, 4503.066, 4503.44, 4503.62, 4505.02, 4505.09, 4506.07, 4507.06, 4507.51, 4510.038, 4510.45, 4511.19, 4511.191, 4511.21, 4511.69, 4511.85, 4513.34, 4701.03, 4707.02, 4707.073, 4707.10, 4709.11, 4713.08, 4713.44, 4715.22, 4715.36, 4715.372, 4717.03, 4717.06, 4717.07, 4717.10, 4717.14, 4717.15, 4719.01, 4723.18, 4723.35, 4723.481, 4725.03, 4725.16, 4729.69, 4729.80, 4729.81, 4730.411, 4731.05, 4731.151, 4731.22, 4731.23, 4731.65, 4731.71, 4732.06, 4732.07, 4732.08, 4734.41, 4735.07, 4735.09, 4735.10, 4735.142, 4735.56, 4742.01, 4751.01, 4751.02, 4751.03, 4751.04, 4751.041, 4751.05, 4751.06, 4751.07, 4751.08, 4751.10, 4751.11, 4751.12, 4751.13, 4753.071, 4755.11, 4755.47, 4755.481, 4755.64, 4758.10, 4758.11, 4761.01, 4776.01, 4778.02, 4778.03, 4781.28, 4906.20, 4955.32, 4955.321, 4955.34, 4955.44, 4955.47, 4999.04, 5101.01, 5101.11, 5101.141, 5101.16, 5101.162, 5101.18, 5101.181, 5101.183, 5101.184, 5101.26, 5101.271, 5101.272, 5101.273, 5101.30, 5101.31, 5101.34, 5101.35, 5101.36, 5101.46, 5101.461, 5101.47, 5101.49, 5101.50, 5101.501, 5101.502, 5101.51, 5101.511, 5101.512, 5101.513, 5101.516, 5101.517, 5101.519, 5101.5110, 5101.52, 5101.521, 5101.522, 5101.524, 5101.527, 5101.571, 5101.572, 5101.573, 5101.574, 5101.575, 5101.58, 5101.59, 5101.591, 5101.60, 5101.61, 5101.80, 5101.801, 5101.803, 5103.02, 5103.0323, 5103.13, 5103.42, 5104.012, 5104.013, 5104.02, 5104.021, 5104.03, 5104.08, 5104.11, 5104.12, 5104.32, 5107.10, 5107.14, 5107.16, 5107.20, 5107.24, 5107.26, 5107.42, 5107.64, 5111.01, 5111.011, 5111.013, 5111.016, 5111.018, 5111.0112, 5111.0114, 5111.0116, 5111.0117, 5111.0118, 5111.0119, 5111.0124, 5111.0125, 5111.02, 5111.021, 5111.022, 5111.023, 5111.024, 5111.025, 5111.027, 5111.028, 5111.029, 5111.0210, 5111.0211,

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5924.503, 5924.504, 5924.506, 6109.21, and 6111.037 of the Revised Code are hereby repealed.

SECTION 105.01. That sections 122.076, 122.15, 122.151, 122.152, 122.153, 122.154, 122.29, 122.97, 123.23, 125.837, 125.838, 149.51, 149.55, 166.22, 166.28, 173.425, 173.433, 183.11, 183.28, 184.04, 340.022, 340.033, 340.06, 340.14, 1513.371, 1531.34, 1547.721, 1547.722, 1547.723, 1547.724, 1547.725, 1547.726, 3302.043, 3304.24, 3304.26, 3304.38, 3313.481, 3313.482, 3313.4811, 3314.088, 3314.13, 3317.012, 3317.014, 3317.018, 3317.02, 3317.022, 3317.029, 3317.0217, 3317.051, 3317.052, 3317.053, 3317.11, 3317.16, 3317.62, 3317.63, 3317.64, 3318.023, 3323.16, 3326.39, 3345.81, 3353.09, 3353.15, 3353.20, 3383.02, 3383.03, 3383.04, 3383.05, 3383.06, 3383.08, 3383.09, 3517.1010, 3701.072, 3701.263, 3701.343, 3701.90, 3701.901, 3701.902, 3701.903, 3701.904, 3701.905, 3701.906, 3701.907, 3721.026, 3793.02, 3793.03, 3793.04, 3793.041, 3793.05, 3793.06, 3793.061, 3793.08, 3793.09, 3793.19, 3793.20, 3793.21, 3793.99, 5101.503, 5101.514, 5101.515, 5101.518, 5101.523, 5101.525, 5101.526, 5101.528, 5101.529, 5111.012, 5111.014, 5111.015, 5111.0110, 5111.0111, 5111.0113, 5111.0115, 5111.0120, 5111.0121, 5111.0122, 5111.0123, 5111.176, 5111.211, 5111.236, 5111.65, 5111.8710, 5111.8811, 5111.913, 5111.942, 5111.946, 5119.011, 5119.013, 5119.03, 5119.05, 5119.47, 5119.623, 5119.64, 5119.65, 5119.66, 5119.67, 5119.68, 5507.65, 5507.66, 5707.05, 5727.41, 5733.35, 5747.211, 5747.33, 5751.031, 6101.451, and 6111.029 of the Revised Code are hereby repealed.

SECTION 110.10. That section 3313.88 of the Revised Code as it results from Section 101.01 of this act be amended and recodified as section 3313.482 of the Revised Code to read as follows:

Sec. ~~3313.88~~ 3313.482. (A)(1) Prior to the first day of August of each school year, the board of education of any school district or the governing authority of any chartered nonpublic school may submit to the department of education a plan to require students to access and complete classroom lessons posted on the district's or nonpublic school's web portal or web site in order to make up ~~days~~ hours in that school year on which it is necessary to close schools for ~~any of the reasons specified in division (B) of section 3317.01 of the Revised Code in excess of the number of days permitted under sections 3313.48, 3313.481, and 3317.01 of the Revised Code~~ disease

epidemic, hazardous weather conditions, law enforcement emergencies, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use.

Prior to the first day of August of each school year, the governing authority of any community school established under Chapter 3314. that is not an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, may submit to the department a plan to require students to access and complete classroom lessons posted on the school's web portal or web site in order to make up ~~days or~~ hours in that school year on which it is necessary to close the school for any of the reasons specified in division (H)(4) of section 3314.08 of the Revised Code so that the school is in compliance with the minimum number of hours required under Chapter 3314. of the Revised Code.

A plan submitted by a school district board ~~or~~, chartered nonpublic school governing authority ~~shall provide for making up any number of days, up to a maximum of three days. A plan submitted by a, or~~ community school governing authority shall provide for making up any number of hours, up to a maximum of the number of hours that are the equivalent of three school days. Provided the plan meets all requirements of this section, the department shall permit the board or governing authority to implement the plan for the applicable school year.

(2) Each plan submitted under this section by a school district board of education shall include the written consent of the teachers' employee representative designated under division (B) of section 4117.04 of the Revised Code.

(3) Each plan submitted under this section shall provide for the following:

(a) Not later than the first day of November of the school year, each classroom teacher shall develop a sufficient number of lessons for each course taught by the teacher that school year to cover the number of make-up ~~days or~~ hours specified in the plan. The teacher shall designate the order in which the lessons are to be posted on the district's, community school's, or nonpublic school's web portal or web site in the event of a school closure. Teachers may be granted up to one professional development day to create lesson plans for those lessons.

(b) To the extent possible and necessary, a classroom teacher shall update or replace, based on current instructional progress, one or more of the lesson plans developed under division (A)(3)(a) of this section before they are posted on the web portal or web site under division (A)(3)(c) of this

section or distributed under division (B) of this section.

(c) As soon as practicable after a school closure, a district or school employee responsible for web portal or web site operations shall make the designated lessons available to students on the district's, community school's, or nonpublic school's portal or site. A lesson shall be posted for each course that was scheduled to meet on the day or hours of the closure.

(d) Each student enrolled in a course for which a lesson is posted on the portal or site shall be granted a two-week period from the date of posting to complete the lesson. The student's classroom teacher shall grade the lesson in the same manner as other lessons. The student may receive an incomplete or failing grade if the lesson is not completed on time.

(e) If a student does not have access to a computer at the student's residence and the plan does not include blizzard bags under division (B) of this section, the student shall be permitted to work on the posted lessons at school after the student's school reopens. If the lessons were posted prior to the reopening, the student shall be granted a two-week period from the date of the reopening, rather than from the date of posting as otherwise required under division (A)(3)(d) of this section, to complete the lessons. The district board or community school or nonpublic school governing authority may provide the student access to a computer before, during, or after the regularly scheduled school day or may provide a substantially similar paper lesson in order to complete the lessons.

(B)(1) In addition to posting classroom lessons online under division (A) of this section, the board of education of any school district or governing authority of any community or chartered nonpublic school may include in the plan distribution of "blizzard bags," which are paper copies of the lessons posted online.

(2) If a school opts to use blizzard bags, teachers shall prepare paper copies in conjunction with the lessons to be posted online and update the paper copies whenever the teacher updates the online lesson plans.

(3) The board of education of any school district or governing authority of any community or chartered nonpublic school that opts to use blizzard bags shall specify in the plan the method of distribution of blizzard bag lessons, which may include, but not be limited to, requiring distribution by a specific deadline or requiring distribution prior to anticipated school closure as directed by the superintendent of a school district or the principal, director, chief administrative officer, or the equivalent, of a school.

(4) Students shall turn in completed lessons in accordance with division (A)(3)(d) of this section.

(C)(1) No school district that implements a plan in accordance with this

section shall be considered to have failed to comply with division (B) of section 3317.01 of the Revised Code with respect to the number of make-up ~~days~~ hours specified in the plan.

(2) No community school that implements a plan in accordance with this section shall be considered to have failed to comply with the minimum number of hours required under Chapter 3314. of the Revised Code with respect to the number of make-up hours specified in the plan.

SECTION 110.11. That existing section 3313.88 of the Revised Code is hereby repealed.

SECTION 110.12. Sections 110.10 and 110.11 of this act shall take effect July 1, 2014.

SECTION 110.20. That the versions of sections 109.57, 2151.011, 2923.126, 5104.012, 5104.013, 5104.03, 5104.08, and 5104.32 of the Revised Code that are scheduled to take effect January 1, 2014, be amended to read as follows:

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

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

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

- (a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section;
- (b) The style and number of the case;
- (c) The date of arrest, offense, summons, or arraignment;
- (d) The date that the person was convicted of or pleaded guilty to the

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

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

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

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

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

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

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

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

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

(2) The superintendent or the superintendent's designee shall gather information of the nature described in division (C)(1) of this section that pertains to the offense and delinquency history of a person who has been

convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for inclusion in the state registry of sex offenders and child-victim offenders maintained pursuant to division (A)(1) of section 2950.13 of the Revised Code and in the internet database operated pursuant to division (A)(13) of that section and for possible inclusion in the internet database operated pursuant to division (A)(11) of that section.

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

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

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

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

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

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

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

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

(E)(1) The attorney general shall adopt rules, in accordance with

Chapter 119. of the Revised Code and subject to division (E)(2) of this section, setting forth the procedure by which a person may receive or release information gathered by the superintendent pursuant to division (A) of this section. A reasonable fee may be charged for this service. If a temporary employment service submits a request for a determination of whether a person the service plans to refer to an employment position has been convicted of or pleaded guilty to an offense listed or described in division (A)(1), (2), or (3) of section 109.572 of the Revised Code, the request shall be treated as a single request and only one fee shall be charged.

(2) Except as otherwise provided in this division, a rule adopted under division (E)(1) of this section may provide only for the release of information gathered pursuant to division (A) of this section that relates to the conviction of a person, or a person's plea of guilty to, a criminal offense. The superintendent shall not release, and the attorney general shall not adopt any rule under division (E)(1) of this section that permits the release of, any information gathered pursuant to division (A) of this section that relates to an adjudication of a child as a delinquent child, or that relates to a criminal conviction of a person under eighteen years of age if the person's case was transferred back to a juvenile court under division (B)(2) or (3) of section 2152.121 of the Revised Code and the juvenile court imposed a disposition or serious youthful offender disposition upon the person under either division, unless either of the following applies with respect to the adjudication or conviction:

(a) The adjudication or conviction was for a violation of section 2903.01 or 2903.02 of the Revised Code.

(b) The adjudication or conviction was for a sexually oriented offense, the juvenile court was required to classify the child a juvenile offender registrant for that offense under section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that classification has not been removed.

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

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

any provider or subcontractor as defined in section 5123.081 of the Revised Code; the chief administrator of any chartered nonpublic school; the chief administrator of a registered private provider that is not also a chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed under Chapter 5104. of the Revised Code; the chief administrator of any head start agency; the executive director of a public children services agency; a private company described in section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code; or an employer described in division (J)(2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, subject to division (E)(2) of this section, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date that the superintendent receives a request, subject to division (E)(2) of this section, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, subject to division (E)(2) of this section, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

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

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

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

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

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

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

27, 1997, for employment in a position that does not involve providing direct care to an older adult or adult resident, whether the bureau has any information gathered under division (A) of this section that pertains to that individual.

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

In addition to or in conjunction with any request that is required to be made under section ~~173.394~~ 173.38 of the Revised Code with respect to an individual who has applied for employment in a direct-care position ~~that involves providing direct care to an individual~~, the chief administrator of a ~~community-based long-term care agency~~ provider, as defined in section 173.39 of the Revised Code, may request that the superintendent investigate and determine, with respect to any individual who has applied for employment in a position that ~~does is not involve providing direct care a~~ direct-care position, whether the bureau has any information gathered under division (A) of this section that pertains to that applicant.

In addition to or in conjunction with any request that is required to be made under section 3712.09 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to a pediatric respite care patient, the chief administrator of a pediatric respite care program may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing direct care to a pediatric respite care patient, whether the bureau has any information gathered under division (A) of this section that pertains to that individual.

On receipt of a request under this division, the superintendent shall determine whether that information exists and, on request of the individual requesting information, shall also request from the federal bureau of

investigation any criminal records it has pertaining to the applicant. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, subject to division (E)(2) of this section, the superintendent shall send to the requester a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the requester a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

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

(J) As used in this section:

(1) "Pediatric respite care program" and "pediatric care patient" have the same meanings as in section 3712.01 of the Revised Code.

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

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

Sec. 2151.011. (A) As used in the Revised Code:

(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;

(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2) "Juvenile judge" means a judge of a court having jurisdiction under

this chapter.

(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(4) "Private noncustodial agency" means any person, organization, association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following:

- (a) Receives and cares for children for two or more consecutive weeks;
- (b) Participates in the placement of children in certified foster homes;
- (c) Provides adoption services in conjunction with a public children services agency or private child placing agency.

(B) As used in this chapter:

(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.

(2) "Adult" means an individual who is eighteen years of age or older.

(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(4) "Alternative response" means the public children services agency's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to whether child abuse or neglect occurred.

(5) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.

(6) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age.

(7) "Child day camp," "child care," "child day-care center," "part-time

child day-care center," "type A family day-care home," "licensed type B family day-care home," "type B family day-care home," "administrator of a child day-care center," "administrator of a type A family day-care home," and "in-home aide" have the same meanings as in section 5104.01 of the Revised Code.

(8) "Child care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of developmental disabilities, or the early childhood programs of the department of education.

(9) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.

(10) "Commit" means to vest custody as ordered by the court.

(11) "Counseling" includes both of the following:

(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.

(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.

(12) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.

(13) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(14) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.

(15) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.

(16) "Differential response approach" means an approach that a public children services agency may use to respond to accepted reports of child abuse or neglect with either an alternative response or a traditional response.

(17) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

(18) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents.

(19) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year.

(20) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

(21) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

(22) A "legitimate excuse for absence from the public school the child is supposed to attend" includes, but is not limited to, any of the following:

(a) The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state;

(b) The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code;

(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(23) "Mental illness" and "mentally ill person subject to hospitalization by court order" have the same meanings as in section 5122.01 of the Revised Code.

(24) "Mental injury" means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the child's care.

(25) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.

(26) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility.

(27) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(28) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere.

(29) "Out-of-home care" means detention facilities, shelter facilities, certified children's crisis care facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, type B family day-care homes, child care provided by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, public schools, chartered nonpublic schools, educational service centers, hospitals, and medical clinics that are responsible for the care, physical custody, or control of children.

(30) "Out-of-home care child abuse" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

- (a) Engaging in sexual activity with a child in the person's care;
- (b) Denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care necessary for a child's health;
- (c) Use of restraint procedures on a child that cause injury or pain;
- (d) Administration of prescription drugs or psychotropic medication to the child without the written approval and ongoing supervision of a licensed physician;
- (e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.

(31) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

- (a) Failure to provide reasonable supervision according to the standards

of care appropriate to the age, mental and physical condition, or other special needs of the child;

(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;

(c) Failure to develop a process for all of the following:

(i) Administration of prescription drugs or psychotropic drugs for the child;

(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;

(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.

(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;

(e) Confinement of the child to a locked room without monitoring by staff;

(f) Failure to provide ongoing security for all prescription and nonprescription medication;

(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.

(32) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.

(33) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.

(34) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

(35) "Person responsible for a child's care in out-of-home care" means any of the following:

(a) Any foster caregiver, in-home aide, or provider;

(b) Any administrator, employee, or agent of any of the following: a

public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; licensed type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic;

(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school;

(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children.

(36) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:

(a) A substantial impairment of vision, speech, or hearing;

(b) A congenital orthopedic impairment;

(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.

(37) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.

(38) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.

(39) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.

(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.

(40) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.

(41) "Sanction, service, or condition" means a sanction, service, or

condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.

(42) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child.

(43) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.

(44) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

(45) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes.

(46) "Residential care facility" means an institution, residence, or facility that is licensed by the department of ~~mental health~~ mental health and addiction services under section ~~5119.22~~ 5119.34 of the Revised Code and that provides care for a child.

(47) "Residential facility" means a home or facility that is licensed by the department of developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides.

(48) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the responsibility for support.

(49) "School day" means the school day established by the ~~state~~ board of education of the applicable school district pursuant to section ~~3313.48~~ 3313.481 of the Revised Code.

(50) "School ~~month~~" and "school year" ~~have~~ has the same ~~meanings~~ meaning as in section 3313.62 of the Revised Code.

(51) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.

(52) "Sexual activity" has the same meaning as in section 2907.01 of the

Revised Code.

(53) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

(54) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.

(55) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(56) "Traditional response" means a public children services agency's response to a report of child abuse or neglect that encourages engagement of the family in a comprehensive evaluation of the child's current and future safety needs and a fact-finding process to determine whether child abuse or neglect occurred and the circumstances surrounding the alleged harm or risk of harm.

(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days.

Sec. 2923.126. (A) A concealed handgun license that is issued under section 2923.125 of the Revised Code shall expire five years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of thirty days after the licensee's license expires during which the licensee's license remains valid. Except as provided in divisions (B) and (C) of this section, a licensee who has been issued a concealed handgun license under section 2923.125 or 2923.1213 of the Revised Code may carry a concealed handgun anywhere in this state if the licensee also carries a valid license and valid identification when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within forty-five days after that change.

If a licensee is the driver or an occupant of a motor vehicle that is stopped as the result of a traffic stop or a stop for another law enforcement purpose and if the licensee is transporting or has a loaded handgun in the motor vehicle at that time, the licensee shall promptly inform any law enforcement officer who approaches the vehicle while stopped that the licensee has been issued a concealed handgun license and that the licensee currently possesses or has a loaded handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law

enforcement officer given while the motor vehicle is stopped, knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of division (E) of section 2923.16 of the Revised Code, after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves. Additionally, if a licensee is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in section 5503.04 of the Revised Code and if the licensee is transporting or has a loaded handgun in the commercial motor vehicle at that time, the licensee shall promptly inform the employee of the unit who approaches the vehicle while stopped that the licensee has been issued a concealed handgun license and that the licensee currently possesses or has a loaded handgun.

If a licensee is stopped for a law enforcement purpose and if the licensee is carrying a concealed handgun at the time the officer approaches, the licensee shall promptly inform any law enforcement officer who approaches the licensee while stopped that the licensee has been issued a concealed handgun license and that the licensee currently is carrying a concealed handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the licensee is stopped or knowingly fail to keep the licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly remove, attempt to remove, grasp, or hold the loaded handgun or knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of division (B) of section 2923.12 of the Revised Code, after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves.

(B) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under division (B) of section 2923.12 of the Revised Code or in any manner prohibited under section 2923.16 of the Revised Code. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:

(1) A police station, sheriff's office, or state highway patrol station, premises controlled by the bureau of criminal identification and

investigation, a state correctional institution, jail, workhouse, or other detention facility, an airport passenger terminal, or an institution that is maintained, operated, managed, and governed pursuant to division (A) of section ~~5119.02~~ 5119.14 of the Revised Code or division (A)(1) of section 5123.03 of the Revised Code;

(2) A school safety zone if the licensee's carrying the concealed handgun is in violation of section 2923.122 of the Revised Code;

(3) A courthouse or another building or structure in which a courtroom is located, in violation of section 2923.123 of the Revised Code;

(4) Any premises or open air arena for which a D permit has been issued under Chapter 4303. of the Revised Code if the licensee's carrying the concealed handgun is in violation of section 2923.121 of the Revised Code;

(5) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;

(6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;

(7) A child day-care center, a type A family day-care home, or a type B family day-care home, except that this division does not prohibit a licensee who resides in a type A family day-care home or a type B family day-care home from carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day-care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home;

(8) An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft;

(9) Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to division (B)(3) of this section;

(10) A place in which federal law prohibits the carrying of handguns.

(C)(1) Nothing in this section shall negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor

vehicles owned by the private employer. Nothing in this section shall require a private employer of that nature to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.

(2)(a) A private employer shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer. As used in this division, "private employer" includes a private college, university, or other institution of higher education.

(b) A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in Chapter 2744. of the Revised Code, for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased, or otherwise under the control of the political subdivision. As used in this division, "political subdivision" has the same meaning as in section 2744.01 of the Revised Code.

(3)(a) Except as provided in division (C)(3)(b) of this section, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. Except as otherwise provided in this division, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of division (A)(4) of section 2911.21 of the Revised Code and is guilty of a misdemeanor of the fourth degree. If a person knowingly violates a posted prohibition of that nature and the posted land or premises primarily was a parking lot or other parking facility, the person is not guilty of criminal trespass in violation of division (A)(4) of section 2911.21 of the Revised Code and instead is subject only to a civil cause of action for trespass based on the violation.

(b) A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008, enters into a rental agreement with the

landlord for the use of residential premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.

(c) As used in division (C)(3) of this section:

(i) "Residential premises" has the same meaning as in section 5321.01 of the Revised Code, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.

(ii) "Landlord," "tenant," and "rental agreement" have the same meanings as in section 5321.01 of the Revised Code.

(D) A person who holds a concealed handgun license issued by another state that is recognized by the attorney general pursuant to a reciprocity agreement entered into pursuant to section 109.69 of the Revised Code has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code and is subject to the same restrictions that apply to a person who carries a license issued under that section.

(E) A peace officer has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code. For purposes of reciprocity with other states, a peace officer shall be considered to be a licensee in this state.

(F)(1) A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (F)(2) of this section and a valid firearms requalification certification issued pursuant to division (F)(3) of this section has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code and is subject to the same restrictions that apply to a person who carries a license issued under that section. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (F)(2) of this section and a valid firearms requalification certification issued pursuant to division (F)(3) of this section shall be considered to be a licensee in this state.

(2)(a) Each public agency of this state or of a political subdivision of this state that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following:

(i) The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental

instability.

(ii) Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.

(iii) At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.

(iv) Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of fifteen years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency.

(b) A retired peace officer identification card issued to a person under division (F)(2)(a) of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this state from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section. In addition to the required content specified in this division, a retired peace officer identification card issued to a person under division (F)(2)(a) of this section may include the firearms requalification certification described in division (F)(3) of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with division (F)(2)(a) of this section by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section, provided that the credentials so issued to retired peace officers are stamped with the word "RETIRED."

(c) A public agency of this state or of a political subdivision of this state may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card pursuant to division (F)(2)(a) of this section.

(3) If a person retired from service as a peace officer with a public agency of this state or of a political subdivision of this state and the person

satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under section 109.801 of the Revised Code. The retired peace officer may be required to pay the cost of the course.

If a retired peace officer who satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under section 109.801 of the Revised Code, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of division (F) of this section for five years from the date on which the program was successfully completed, and the requalification is valid during that five-year period. If a retired peace officer who satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under division (F)(2) of this section.

A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under section 109.801 of the Revised Code may be required to pay the cost of the program.

(G) As used in this section:

(1) "Qualified retired peace officer" means a person who satisfies all of the following:

(a) The person satisfies the criteria set forth in divisions (F)(2)(a)(i) to (v) of this section.

(b) The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(c) The person is not prohibited by federal law from receiving firearms.

(2) "Retired peace officer identification card" means an identification card that is issued pursuant to division (F)(2) of this section to a person who is a retired peace officer.

(3) "Government facility of this state or a political subdivision of this

state" means any of the following:

(a) A building or part of a building that is owned or leased by the government of this state or a political subdivision of this state and where employees of the government of this state or the political subdivision regularly are present for the purpose of performing their official duties as employees of the state or political subdivision;

(b) The office of a deputy registrar serving pursuant to Chapter 4503. of the Revised Code that is used to perform deputy registrar functions.

Sec. 5104.012. (A)(1) At the times specified in this division, the administrator of a child day-care center or a type A family day-care home shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the center or type A home for employment as a person responsible for the care, custody, or control of a child.

The administrator shall request a criminal records check pursuant to this division at the time of the applicant's initial application for employment and every ~~four~~ five years thereafter. When the administrator requests pursuant to this division a criminal records check for an applicant at the time of the applicant's initial application for employment, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrator requests a criminal records check for an applicant pursuant to this division, the administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section. On and after August 14, 2008, the administrator of a child day-care center or a type A family day-care home

shall review the results of the criminal records check before the applicant has sole responsibility for the care, custody, or control of any child.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted under division (E) of this section, no child day-care center or type A family day-care home shall employ or contract with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the center or home shall release the applicant from employment.

(C)(1) Each child day-care center and type A family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the administrator or provider of the center or home.

(2) A child day-care center and type A family day-care home may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the center or home pays under division (C)(1) of this section. If a fee is charged under this division, the center or home shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the

center or type A home will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative; the center or type A home requesting the criminal records check or its representative; the department of job and family services or a county department of job and family services; and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a center or home may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment to or employment in a position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child or any person who would serve in any position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.013. (A)(1) At the times specified in division (A)(3) of this section, the director of job and family services, as part of the process of licensure of child day-care centers, type A family day-care homes, and licensed type B family day-care homes shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal

records check with respect to the following persons:

- (a) Any owner, licensee, or administrator of a child day-care center;
- (b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home;
- (c) Any administrator of a licensed type B family day-care home and any person eighteen years of age or older who resides in a licensed type B family day-care home.

(2) At the time specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of in-home aides, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any in-home aide.

(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every ~~four~~ five years thereafter. The director of a county department of job and family services shall request a criminal records check pursuant to division (A)(2) of this section at the time of the initial application for certification and every ~~four~~ five years thereafter. When the director of job and family services or the director of a county department of job and family services requests pursuant to division (A)(1) or (2) of this section a criminal records check for a person at the time of the person's initial application for licensure or certification, the director shall request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as a part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check. In all other cases in which the director of job and family services or the director of a county department of job and family services requests a criminal records check for an applicant pursuant to division (A)(1) or (2) of this section, the director may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

(4) The director of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(1) and (3) of this section prior to approval of a license. The director of a county department of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions

(A)(2) and (3) of this section prior to approval of certification.

(B) The director of job and family services or the director of a county department of job and family services shall provide to each person for whom a criminal records check is required under this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section, obtain the completed form and impression sheet from that person, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(C) A person who receives pursuant to division (B) of this section a copy of the form and standard impression sheet described in that division and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the person, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the director may consider the failure as a reason to deny licensure or certification.

(D) Except as provided in rules adopted under division (G) of this section, the director of job and family services shall not grant a license to a child day-care center, type A family day-care home, or type B family day-care home and a county director of job and family services shall not certify an in-home aide if a person for whom a criminal records check was required in connection with the center or home previously has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code.

(E) Each child day-care center, type A family day-care home, and type B family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (A) of this section.

(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of job and family services, the director of a

county department of job and family services, the center, type A home, or type B home involved, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial of licensure or certification related to the criminal records check.

(G) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules specifying exceptions to the prohibition in division (D) of this section for persons who have been convicted of an offense listed in that division but who meet standards in regard to rehabilitation set by the director.

(H) As used in this section, "criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.03. (A) Any person, firm, organization, institution, or agency seeking to establish a child day-care center, type A family day-care home, or licensed type B family day-care home shall apply for a license to the director of job and family services on such form as the director prescribes. The director shall provide at no charge to each applicant for licensure a copy of the child care license requirements in this chapter and a copy of the rules adopted pursuant to this chapter. The copies may be provided in paper or electronic form.

Fees shall be set by the director pursuant to sections 5104.015, 5104.017, and 5104.018 of the Revised Code and shall be paid at the time of application for a license to operate a center, type A home, or type B home. Fees collected under this section shall be paid into the state treasury to the credit of the general revenue fund.

(B)(1) Upon filing of the application for a license, the director shall investigate and inspect the center, type A home, or type B home to determine the license capacity for each age category of children of the center, type A home, or type B home and to determine whether the center, type A home, or type B home complies with this chapter and rules adopted pursuant to this chapter. When, after investigation and inspection, the director is satisfied that this chapter and rules adopted pursuant to it are complied with, subject to division (H) of this section, a license shall be issued as soon as practicable in such form and manner as prescribed by the director. The license shall be designated as provisional and shall be valid for twelve months from the date of issuance unless revoked.

(2) The director may contract with a government entity or a private nonprofit entity for the entity to inspect and license type B family day-care homes pursuant to this section. The department, government entity, or nonprofit entity shall conduct the inspection prior to the issuance of a

license for the type B home and, as part of that inspection, ensure that the type B home is safe and sanitary.

(C)(1) On receipt of an application for licensure as a type B family day-care home to provide publicly funded child care, the department shall search the uniform statewide automated child welfare information system for information concerning any abuse or neglect report made pursuant to section 2151.421 of the Revised Code of which the applicant, any other adult residing in the applicant's home, or a person designated by the applicant to be an emergency or substitute caregiver for the applicant is the subject.

(2) The department shall consider any information it discovers pursuant to division (C)(1) of this section or that is provided by a public children services agency pursuant to section 5153.175 of the Revised Code. If the department determines that the information, when viewed within the totality of the circumstances, reasonably leads to the conclusion that the applicant may directly or indirectly endanger the health, safety, or welfare of children, the department shall deny the application for licensure or revoke the license of a type B family day-care home.

(D) The director shall investigate and inspect the center, type A home, or type B home at least once during operation under a license designated as provisional. If after the investigation and inspection the director determines that the requirements of this chapter and rules adopted pursuant to this chapter are met, subject to division (H) of this section, the director shall issue a new license to the center or home.

(E) Each license shall state the name of the licensee, the name of the administrator, the address of the center, type A home, or licensed type B home, and the license capacity for each age category of children. The license shall include thereon, in accordance with sections 5104.015, 5104.017, and 5104.018 of the Revised Code, the toll-free telephone number to be used by persons suspecting that the center, type A home, or licensed type B home has violated a provision of this chapter or rules adopted pursuant to this chapter. A license is valid only for the licensee, administrator, address, and license capacity for each age category of children designated on the license. The license capacity specified on the license is the maximum number of children in each age category that may be cared for in the center, type A home, or licensed type B home at one time.

The center or type A home licensee shall notify the director when the administrator of the center or home changes. The director shall amend the current license to reflect a change in an administrator, if the administrator meets the requirements of this chapter and rules adopted pursuant to this

chapter, or a change in license capacity for any age category of children as determined by the director of job and family services.

(F) If the director revokes the license of a center, a type A home, or a type B home, the director shall not issue another license to the owner of the center, type A home, or type B home until five years have elapsed from the date the license is revoked.

If the director denies an application for a license, the director shall not accept another application from the applicant until five years have elapsed from the date the application is denied.

(G) If during the application for licensure process the director determines that the license of the owner has been revoked, the investigation of the center, type A home, or type B home shall cease. This action does not constitute denial of the application and may not be appealed under division (H) of this section.

(H) All actions of the director with respect to licensing centers, type A homes, or type B homes, refusal to license, and revocation of a license shall be in accordance with Chapter 119. of the Revised Code. Any applicant who is denied a license or any owner whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

(I) In no case shall the director issue a license under this section for a center, type A home, or type B home if the director, based on documentation provided by the appropriate county department of job and family services, determines that the applicant had been certified as a type B family day-care home when such certifications were issued by county departments prior to ~~the effective date of this amendment~~ January 1, 2014, that the county department revoked that certification within the immediately preceding five years, that the revocation was based on the applicant's refusal or inability to comply with the criteria for certification, and that the refusal or inability resulted in a risk to the health or safety of children.

(J)(1) Except as provided in division (J)(2) of this section, an administrator of a type B family day-care home that receives a license pursuant to this section to provide publicly funded child care is an independent contractor and is not an employee of the department of job and family services.

(2) For purposes of Chapter 4141. of the Revised Code, determinations concerning the employment of an administrator of a type B family day-care home that receives a license pursuant to this section shall be determined under Chapter 4141. of the Revised Code.

Sec. 5104.08. (A) There is hereby created in the department of job and family services a child care advisory council to advise and assist the

department in the administration of this chapter and in the development of child care. The council shall consist of twenty-two voting members appointed by the director of job and family services with the approval of the governor. The director of job and family services, the director of developmental disabilities, the director of ~~mental health~~ mental health and addiction services, the superintendent of public instruction, the director of health, the director of commerce, and the state fire marshal shall serve as nonvoting members of the council.

Six members shall be representatives of child care centers subject to licensing, the members to represent a variety of centers, including nonprofit and proprietary, from different geographical areas of the state. At least three members shall be parents, guardians, or custodians of children receiving child care or publicly funded child care in the child's own home, a center, a type A home, a head start program, a licensed type B home, or a type B home at the time of appointment. Three members shall be representatives of in-home aides, type A homes, licensed type B homes, or type B homes or head start programs. At least six members shall represent county departments of job and family services. The remaining members shall be representatives of the teaching, child development, and health professions, and other individuals interested in the welfare of children. At least six members of the council shall not be employees or licensees of a child day-care center, head start program, or type A home, or providers operating a licensed type B home or type B home, or in-home aides.

Appointments shall be for three-year terms. Vacancies shall be filled for the unexpired terms. A member of the council is subject to removal by the director of job and family services for a willful and flagrant exercise of authority or power that is not authorized by law, for a refusal or willful neglect to perform any official duty as a member of the council imposed by law, or for being guilty of misfeasance, malfeasance, nonfeasance, or gross neglect of duty as a member of the council.

There shall be two co-chairpersons of the council. One co-chairperson shall be the director of job and family services or the director's designee, and one co-chairperson shall be elected by the members of the council. The council shall meet as often as is necessary to perform its duties, provided that it shall meet at least once in each quarter of each calendar year and at the call of the co-chairpersons. The co-chairpersons or their designee shall send to each member a written notice of the date, time, and place of each meeting.

Members of the council shall serve without compensation, but shall be reimbursed for necessary expenses.

(B) The child care advisory council shall advise the director on matters affecting the licensing of centers, type A homes, and type B homes and the certification of in-home aides. The council shall make an annual report to the director of job and family services that addresses the availability, affordability, accessibility, and quality of child care and that summarizes the recommendations and plans of action that the council has proposed to the director during the preceding fiscal year. The director of job and family services shall provide copies of the report to the governor, speaker and minority leader of the house of representatives, and the president and minority leader of the senate and, on request, shall make copies available to the public.

(C) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, licensed type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the department of job and family services. All contracts for publicly funded child care shall be contingent upon the availability of state and federal funds. The department shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child care, regardless of the source of public funds used to purchase the child care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state contracts or contracts involving the expenditure of state or federal funds, all contracts for publicly funded child care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state contracts or contracts involving the expenditure of state or federal funds.

(B) Each contract for publicly funded child care shall specify at least the following:

(1) That the provider of publicly funded child care agrees to be paid for rendering services at the lower of the rate customarily charged by the provider for children enrolled for child care or the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code;

(2) That, if a provider provides child care to an individual potentially eligible for publicly funded child care who is subsequently determined to be

eligible, the department agrees to pay for all child care provided between the date the county department of job and family services receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child care resource and referral service organization will make eligibility determinations, whether the provider or a child care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child care provider, shall continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the state department of job and family services or in some other manner as prescribed by rules adopted under section 5104.42 of the Revised Code;

(7) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law or by rules adopted under section 5104.42 of the Revised Code, the county department of job and family services shall give individuals eligible for publicly funded child care the option of obtaining certificates that the individual may use to purchase services from any provider qualified to provide publicly funded child care under section 5104.31 of the Revised Code. Providers of publicly funded child care may present these certificates for payment in accordance with rules that the director of job and family services shall adopt. Only providers may receive payment for certificates. The value of the certificate shall be based on the lower of the rate customarily charged by the provider or the rate of payment established pursuant to section 5104.30 of the Revised Code. The county department may provide the certificates to the

individuals or may contract with child care providers or child care resource and referral service organizations that make determinations of eligibility for publicly funded child care pursuant to contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the certificates to individuals whom they determine are eligible for publicly funded child care.

For each six-month period a provider of publicly funded child care provides publicly funded child care to the child of an individual given certificates, the individual shall provide the provider certificates for days the provider would have provided publicly funded child care to the child had the child been present. The maximum number of days providers shall be provided certificates shall not exceed ten days in a six-month period during which publicly funded child care is provided to the child regardless of the number of providers that provide publicly funded child care to the child during that period.

(D)(1) The department shall establish the Ohio electronic child care system to track attendance and calculate payments for publicly funded child care. The system shall include issuing an electronic child care card to each caretaker parent to swipe through a point of service device issued to an eligible provider, as described in section 5104.31 of the Revised Code.

(2) Each eligible provider that provides publicly funded child care shall participate in the Ohio electronic child care system. A provider participating in the system shall not do any of the following:

(a) Use or have possession of an electronic child care card issued to a caretaker parent;

(b) Falsify attendance records;

(c) Knowingly seek payment for publicly funded child care that was not provided;

(d) Knowingly accept reimbursement for publicly funded child care that was not provided.

SECTION 110.21. That the existing versions of sections 109.57, 2151.011, 2923.126, 5104.012, 5104.013, 5104.03, 5104.08, and 5104.32 of the Revised Code that are scheduled to take effect January 1, 2014, are hereby repealed.

SECTION 110.22. Sections 110.20 and 110.21 of this act shall take effect January 1, 2014, except that the amendments by Sections 110.20 and 110.21 of this act to divisions (B)(49) and (50) of section 2151.011 of the Revised

Code shall take effect July 1, 2014.

SECTION 110.25. That sections 5165.08, 5165.513, 5165.515, and 5165.99 of the Revised Code as they result from Section 101.01 of this act be amended to read as follows:

Sec. 5165.08. (A) ~~As used in this section:~~

~~"Bed need" means the number of long-term care beds a county needs as determined by the director of health pursuant to division (B)(3) of section 3702.593 of the Revised Code.~~

~~"Bed need excess" means that a county's bed need is such that one or more long-term care beds may be relocated from the county according to the director's determination of the county's bed need.~~

~~(B) Every provider agreement with a nursing facility provider shall do both of the following:~~

~~(1) Permit the provider to exclude one or more parts of the nursing facility from the provider agreement, even though those parts meet federal and state standards for medicaid certification, if all of the following apply:~~

~~(a) The nursing facility initially obtained both its nursing home license under Chapter 3721. of the Revised Code and medicaid certification on or after January 1, 2008.~~

~~(b) The nursing facility is located in a county that has a bed need excess at the time the provider excludes the parts from the provider agreement.~~

~~(c) Federal law permits the provider to exclude the parts from the provider agreement.~~

~~(d) The provider gives the department of medicaid written notice of the exclusion not less than forty-five days before the first day of the calendar quarter in which the exclusion is to occur.~~

~~(2) Prohibit the provider from doing either of the following:~~

~~(a)(1) Discriminating against a resident on the basis of race, color, sex, creed, or national origin;~~

~~(b)(2) Subject to division ~~(D)~~(C) of this section, failing or refusing to do either of the following:~~

~~(i)(a) Except as otherwise prohibited under section 5165.82 of the Revised Code, admit as a resident of the nursing facility an individual because the individual is, or may (as a resident of the nursing facility) become, a medicaid recipient unless at least ~~twenty-five~~ eighty per cent of the nursing facility's medicaid-certified beds are occupied by medicaid recipients at the time the person would otherwise be admitted;~~

~~(ii)~~(b) Retain as a resident of the nursing facility an individual because the individual is, or may (as a resident of the nursing facility) become, a medicaid recipient.

~~(C)~~(B) For the purpose of division ~~(B)~~(A)(2)(b)~~(ii)~~ of this section, a medicaid recipient who is a resident of a nursing facility shall be considered a resident of the nursing facility during any hospital stays totaling less than twenty-five days during any twelve-month period.

~~(D)~~(C) Nothing in this section shall bar a provider from doing any of the following:

(1) If the provider is a religious organization operating a religious or denominational nursing facility from giving preference to persons of the same religion or denomination;

(2) Giving preference to persons with whom the provider has contracted to provide continuing care;

(3) If the nursing facility is a county home organized under Chapter 5155. of the Revised Code, admitting residents exclusively from the county in which the county home is located;

(4) Retaining residents who have resided in the provider's nursing facility for not less than one year as private pay patients and who subsequently become medicaid recipients, but refusing to accept as a resident any person who is, or may (as a resident of the nursing facility) become a medicaid recipient, if all of the following apply:

(a) The provider does not refuse to retain any resident who has resided in the provider's nursing facility for not less than one year as a private pay resident because the resident becomes a medicaid recipient, except as necessary to comply with division ~~(D)~~(C)(4)(b) of this section;

(b) The number of medicaid recipients retained under division ~~(D)~~(C)(4) of this section does not at any time exceed ten per cent of all the residents in the nursing facility;

(c) On July 1, 1980, all the residents in the nursing facility were private pay residents.

~~(E)~~(D) No provider shall violate the provider agreement obligations imposed by this section.

~~(F) A nursing facility provider who excludes one or more parts of the nursing facility from a provider agreement pursuant to division (B)(1) of this section does not violate division (C) of section 3702.53 of the Revised Code.~~

Sec. 5165.513. ~~(A)~~ A provider that enters into a provider agreement with the department of medicaid under section 5165.511 or 5165.512 of the Revised Code shall do all of the following:

- ~~(1)~~(A) Comply with all applicable federal statutes and regulations;
- ~~(2)~~(B) Comply with section 5165.07 of the Revised Code and all other applicable state statutes and rules;
- ~~(3)~~(C) Subject to division (B) of this section, comply with all the terms and conditions of the exiting operator's provider agreement, including, but not limited to, all of the following:
 - ~~(a)~~(1) Any plan of correction;
 - ~~(b)~~(2) Compliance with health and safety standards;
 - ~~(c)~~(3) Compliance with the ownership and financial interest disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;
 - ~~(d)~~(4) Compliance with the civil rights requirements of 45 C.F.R. parts 80, 84, and 90;
 - ~~(e)~~(5) Compliance with additional requirements imposed by the department;
 - ~~(f)~~(6) Any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies.

~~(B) Division (A)(3) of this section does not prohibit a nursing facility provider from excluding one or more parts of the nursing facility from the provider agreement pursuant to division (B)(1) of section 5165.08 of the Revised Code.~~

Sec. 5165.515. The department of medicaid may enter into a provider agreement as provided in section 5165.07 of the Revised Code, rather than section 5165.511 or 5165.512 of the Revised Code, with an entering operator if the entering operator does not agree to a provider agreement that satisfies the requirements of division ~~(A)(3)~~(C) of section 5165.513 of the Revised Code. The department may not enter into the provider agreement unless the department of health certifies the nursing facility for participation in medicaid. The effective date of the provider agreement shall not precede any of the following:

- (A) The date that the department of health certifies the nursing facility;
- (B) The effective date of the change of operator;
- (C) The date the requirement of section 5165.51 of the Revised Code is satisfied.

Sec. 5165.99. (A) Whoever violates section 5165.102 or division ~~(E)~~(D) of section 5165.08 of the Revised Code shall be fined not less than five hundred dollars nor more than one thousand dollars for the first offense and not less than one thousand dollars nor more than five thousand dollars for each subsequent offense. Fines paid under this section shall be deposited in

the state treasury to the credit of the general revenue fund.

(B) Whoever violates division (D) of section 5165.88 of the Revised Code is guilty of registering a false complaint, a misdemeanor of the first degree.

SECTION 110.26. That existing sections 5165.08, 5165.513, 5165.515, and 5165.99 of the Revised Code are hereby repealed.

SECTION 110.27. Sections 110.25 and 110.26 of this act shall take effect January 1, 2015.

SECTION 110.30. That the versions of sections 4501.01 and 4507.06 of the Revised Code that are scheduled to take effect January 1, 2017, be amended to read as follows:

Sec. 4501.01. As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided:

(A) "Vehicles" means everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions.

(B) "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, under-speed vehicles as defined in division (XX) of this section, mini-trucks as defined in division (BBB) of this section, motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(C) "Agricultural tractor" and "traction engine" mean any

self-propelling vehicle that is designed or used for drawing other vehicles or wheeled machinery, but has no provisions for carrying loads independently of such other vehicles, and that is used principally for agricultural purposes.

(D) "Commercial tractor," except as defined in division (C) of this section, means any motor vehicle that has motive power and either is designed or used for drawing other motor vehicles, or is designed or used for drawing another motor vehicle while carrying a portion of the other motor vehicle or its load, or both.

(E) "Passenger car" means any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than fifteen persons in a ridesharing arrangement.

(F) "Collector's vehicle" means any motor vehicle or agricultural tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation. "Licensed collector's vehicle" means a collector's vehicle, other than an agricultural tractor or traction engine, that displays current, valid license tags issued under section 4503.45 of the Revised Code, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.

(G) "Historical motor vehicle" means any motor vehicle that is over twenty-five years old and is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but that in no event is used for general transportation.

(H) "Noncommercial motor vehicle" means any motor vehicle, including a farm truck as defined in section 4503.04 of the Revised Code, that is designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.

(I) "Bus" means any motor vehicle that has motor power and is designed and used for carrying more than nine passengers, except any motor vehicle that is designed and used for carrying not more than fifteen passengers in a ridesharing arrangement.

(J) "Commercial car" or "truck" means any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor.

(K) "Bicycle" means every device, other than a device that is designed

solely for use as a play vehicle by a child, that is propelled solely by human power upon which a person may ride, and that has two or more wheels, any of which is more than fourteen inches in diameter.

(L) "Motorized bicycle" or "moped" means any vehicle that either has two tandem wheels or one wheel in the front and two wheels in the rear, that may be pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

(M) "Trailer" means any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle that is formed by or operated as a combination of a semitrailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed greater than twenty-five miles per hour, and a vehicle that is designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour. "Trailer" does not include a manufactured home or travel trailer.

(N) "Noncommercial trailer" means any trailer, except a travel trailer or trailer that is used to transport a boat as described in division (B) of this section, but, where applicable, includes a vehicle that is used to transport a boat as described in division (M) of this section, that has a gross weight of no more than ten thousand pounds, and that is used exclusively for purposes other than engaging in business for a profit, such as the transportation of personal items for personal or recreational purposes.

(O) "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of section 3781.06 of the Revised Code.

(P) "Semitrailer" means any vehicle of the trailer type that does not have motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power

for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of a semitrailer into a trailer.

(Q) "Recreational vehicle" means a vehicular portable structure that meets all of the following conditions:

(1) It is designed for the sole purpose of recreational travel.

(2) It is not used for the purpose of engaging in business for profit.

(3) It is not used for the purpose of engaging in intrastate commerce.

(4) It is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended.

(5) It is not regulated by the public utilities commission pursuant to Chapter 4905., 4921., or 4923. of the Revised Code.

(6) It is classed as one of the following:

(a) "Travel trailer" or "house vehicle" means a nonself-propelled recreational vehicle that does not exceed an overall length of forty feet, exclusive of bumper and tongue or coupling. "Travel trailer" includes a tent-type fold-out camping trailer as defined in section 4517.01 of the Revised Code.

(b) "Motor home" means a self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.

(c) "Truck camper" means a nonself-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(d) "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.

(e) "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

(R) "Pneumatic tires" means tires of rubber and fabric or tires of similar material, that are inflated with air.

(S) "Solid tires" means tires of rubber or similar elastic material that are not dependent upon confined air for support of the load.

(T) "Solid tire vehicle" means any vehicle that is equipped with two or more solid tires.

(U) "Farm machinery" means all machines and tools that are used in the production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm, agricultural tractors, threshing machinery, hay-baling machinery, corn shellers, hammermills, and machinery used in the production of horticultural, agricultural, and vegetable products.

(V) "Owner" includes any person or firm, other than a manufacturer or dealer, that has title to a motor vehicle, except that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" includes in addition manufacturers and dealers.

(W) "Manufacturer" and "dealer" include all persons and firms that are regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles, at an established place of business that is used exclusively for the purpose of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. A place of business that is used for manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles shall be deemed to be used exclusively for those purposes even though snowmobiles or all-purpose vehicles are sold or displayed for sale thereat, even though farm machinery is sold or displayed for sale thereat, or even though repair, accessory, gasoline and oil, storage, parts, service, or paint departments are maintained thereat, or, in any county having a population of less than seventy-five thousand at the last federal census, even though a department in a place of business is used to dismantle, salvage, or rebuild motor vehicles by means of used parts, if such departments are operated for the purpose of furthering and assisting in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. Places of business or departments in a place of business used to dismantle, salvage, or rebuild motor vehicles by means of using used parts are not considered as being maintained for the purpose of assisting or furthering the manufacturing, selling, displaying, and offering for sale or dealing in motor vehicles.

(X) "Operator" includes any person who drives or operates a motor vehicle upon the public highways.

(Y) "Chauffeur" means any operator who operates a motor vehicle, other than a taxicab, as an employee for hire; or any operator whether or not

the owner of a motor vehicle, other than a taxicab, who operates such vehicle for transporting, for gain, compensation, or profit, either persons or property owned by another. Any operator of a motor vehicle who is voluntarily involved in a ridesharing arrangement is not considered an employee for hire or operating such vehicle for gain, compensation, or profit.

(Z) "State" includes the territories and federal districts of the United States, and the provinces of Canada.

(AA) "Public roads and highways" for vehicles includes all public thoroughfares, bridges, and culverts.

(BB) "Manufacturer's number" means the manufacturer's original serial number that is affixed to or imprinted upon the chassis or other part of the motor vehicle.

(CC) "Motor number" means the manufacturer's original number that is affixed to or imprinted upon the engine or motor of the vehicle.

(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications:

(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds;

(2) Is a power unit having three or more axles, regardless of the gross vehicle weight;

(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds.

"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used

for the transportation of chartered parties, or vehicles owned and operated by the United States, this state, or any political subdivisions thereof.

(GG) "Chartered party" means a group of persons who contract as a group to acquire the exclusive use of a passenger-carrying motor vehicle at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully on file with the United States department of transportation, for the purpose of group travel to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

(HH) "International registration plan" means a reciprocal agreement of member jurisdictions that is endorsed by the American association of motor vehicle administrators, and that promotes and encourages the fullest possible use of the highway system by authorizing apportioned registration of fleets of vehicles and recognizing registration of vehicles apportioned in member jurisdictions.

(II) "Restricted plate" means a license plate that has a restriction of time, geographic area, mileage, or commodity, and includes license plates issued to farm trucks under division (J) of section 4503.04 of the Revised Code.

(JJ) "Gross vehicle weight," with regard to any commercial car, trailer, semitrailer, or bus that is taxed at the rates established under section 4503.042 or 4503.65 of the Revised Code, means the unladen weight of the vehicle fully equipped plus the maximum weight of the load to be carried on the vehicle.

(KK) "Combined gross vehicle weight" with regard to any combination of a commercial car, trailer, and semitrailer, that is taxed at the rates established under section 4503.042 or 4503.65 of the Revised Code, means the total unladen weight of the combination of vehicles fully equipped plus the maximum weight of the load to be carried on that combination of vehicles.

(LL) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire ~~on an hourly basis~~ pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an agreement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine ~~at a fixed rate per hour or trip~~. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(MM) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(NN) "Acquired situs," with respect to a manufactured home or a mobile home, means to become located in this state by the placement of the home on real property, but does not include the placement of a manufactured home or a mobile home in the inventory of a new motor vehicle dealer or the inventory of a manufacturer, remanufacturer, or distributor of manufactured or mobile homes.

(OO) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

(PP) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

(QQ) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

(RR) "Financial transaction device" has the same meaning as in division (A) of section 113.40 of the Revised Code.

(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section.

(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(UU) "Limited driving privileges" means the privilege to operate a motor vehicle that a court grants under section 4510.021 of the Revised Code to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended.

(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities.

(WW) "Low-speed vehicle" means a three- or four-wheeled motor vehicle with an attainable speed in one mile on a paved level surface of more than twenty miles per hour but not more than twenty-five miles per hour and with a gross vehicle weight rating less than three thousand pounds.

(XX) "Under-speed vehicle" means a three- or four-wheeled vehicle,

including a vehicle commonly known as a golf cart, with an attainable speed on a paved level surface of not more than twenty miles per hour and with a gross vehicle weight rating less than three thousand pounds.

(YY) "Motor-driven cycle or motor scooter" means any vehicle designed to travel on not more than three wheels in contact with the ground, with a seat for the driver and floor pad for the driver's feet, and is equipped with a motor with a piston displacement between fifty and one hundred fifty cubic centimeters piston displacement that produces not more than five brake horsepower and is capable of propelling the vehicle at a speed greater than twenty miles per hour on a level surface.

(ZZ) "Motorcycle" means a motor vehicle with motive power having a seat or saddle for the use of the operator, designed to travel on not more than three wheels in contact with the ground, and having no occupant compartment top or occupant compartment top that can be installed or removed by the user.

(AAA) "Cab-enclosed motorcycle" means a motor vehicle with motive power having a seat or saddle for the use of the operator, designed to travel on not more than three wheels in contact with the ground, and having an occupant compartment top or an occupant compartment top that can be installed or removed by the user.

(BBB) "Mini-truck" means a vehicle that has four wheels, is propelled by an electric motor with a rated power of seven thousand five hundred watts or less or an internal combustion engine with a piston displacement capacity of six hundred sixty cubic centimeters or less, has a total dry weight of nine hundred to two thousand two hundred pounds, contains an enclosed cabin and a seat for the vehicle operator, resembles a pickup truck or van with a cargo area or bed located at the rear of the vehicle, and was not originally manufactured to meet federal motor vehicle safety standards.

Sec. 4507.06. (A)(1) Every application for a driver's license, motorcycle operator's license or endorsement, or motor-driven cycle or motor scooter license or endorsement, or duplicate of any such license or endorsement, shall be made upon the approved form furnished by the registrar of motor vehicles and shall be signed by the applicant.

Every application shall state the following:

(a) The applicant's name, date of birth, social security number if such has been assigned, sex, general description, including height, weight, color of hair, and eyes, residence address, including county of residence, duration of residence in this state, and country of citizenship;

(b) Whether the applicant previously has been licensed as an operator, chauffeur, driver, commercial driver, or motorcycle operator and, if so,

when, by what state, and whether such license is suspended or canceled at the present time and, if so, the date of and reason for the suspension or cancellation;

(c) Whether the applicant is now or ever has been afflicted with epilepsy, or whether the applicant now is suffering from any physical or mental disability or disease and, if so, the nature and extent of the disability or disease, giving the names and addresses of physicians then or previously in attendance upon the applicant;

(d) Whether an applicant for a duplicate driver's license, duplicate license containing a motorcycle operator endorsement, or duplicate license containing a motor-driven cycle or motor scooter endorsement has pending a citation for violation of any motor vehicle law or ordinance, a description of any such citation pending, and the date of the citation;

(e) ~~Whether~~ If an applicant has not certified the applicant's willingness to make an anatomical gift under section 2108.05 of the Revised Code, whether the applicant wishes to certify willingness to make such an anatomical gift ~~under section 2108.05 of the Revised Code~~, which shall be given no consideration in the issuance of a license or endorsement;

(f) Whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether the applicant wishes the applicant's license to indicate that the applicant has executed the instrument;

(g) On and after October 7, 2009, whether the applicant is a veteran, active duty, or reservist of the armed forces of the United States and, if the applicant is such, whether the applicant wishes the applicant's license to indicate that the applicant is a veteran, active duty, or reservist of the armed forces of the United States by a military designation on the license.

(2) Every applicant for a driver's license shall be photographed in color at the time the application for the license is made. The application shall state any additional information that the registrar requires.

(B) The registrar or a deputy registrar, in accordance with section 3503.11 of the Revised Code, shall register as an elector any person who applies for a license or endorsement under division (A) of this section, or for a renewal or duplicate of the license or endorsement, if the applicant is eligible and wishes to be registered as an elector. The decision of an applicant whether to register as an elector shall be given no consideration in the decision of whether to issue the applicant a license or endorsement, or a

renewal or duplicate.

(C) The registrar or a deputy registrar, in accordance with section 3503.11 of the Revised Code, shall offer the opportunity of completing a notice of change of residence or change of name to any applicant for a driver's license or endorsement under division (A) of this section, or for a renewal or duplicate of the license or endorsement, if the applicant is a registered elector who has changed the applicant's residence or name and has not filed such a notice.

(D) In addition to any other information it contains, on and after October 7, 2009, the approved form furnished by the registrar of motor vehicles for an application for a license or endorsement or an application for a duplicate of any such license or endorsement shall inform applicants that the applicant must present a copy of the applicant's DD-214 or an equivalent document in order to qualify to have the license or duplicate indicate that the applicant is a veteran, active duty, or reservist of the armed forces of the United States based on a request made pursuant to division (A)(1)(g) of this section.

SECTION 110.31. That the existing versions of sections 4501.01 and 4507.06 of the Revised Code that are scheduled to take effect January 1, 2017, are hereby repealed.

SECTION 110.32. Sections 110.30 and 110.31 of this act shall take effect January 1, 2017.

SECTION 120.10. That the versions of sections 3302.20, 3310.08, 3313.981, 3314.091, 3317.01, 3317.02, 3317.022, 3317.0217, 3317.03, 3317.16, 3317.30, and 5751.21 that result from Section 101.01 of this act and sections 3310.41, 3311.52, 3317.024, 3317.033, 3317.081, 3317.201, 3318.18, 3318.42, 3327.05, 3328.32, 3328.33, and 5727.85 be amended and section 3317.034 of the Revised Code be enacted to read as follows:

Sec. 3302.20. (A) The department of education shall develop standards for determining, from the existing data reported in accordance with sections 3301.0714 and 3314.17 of the Revised Code, the amount of annual operating expenditures for classroom instructional purposes and for nonclassroom purposes for each city, exempted village, local, and joint vocational school district, each community school established under Chapter 3314. that is not an internet- or computer-based community school, each

internet- or computer-based community school, and each STEM school established under Chapter 3326. of the Revised Code. The department shall present those standards to the state board of education for consideration. In developing the standards, the department shall adapt existing standards used by professional organizations, research organizations, and other state governments. The department also shall align the expenditure categories required for reporting under the standards with the categories that are required for reporting to the United States department of education under federal law.

The state board shall consider the proposed standards and adopt a final set of standards not later than December 31, 2012. School districts, community schools, and STEM schools shall begin reporting data in accordance with the standards on June 30, 2013.

(B)(1) The department shall categorize all city, exempted village, and local school districts into not less than three nor more than five groups based primarily on average daily student enrollment as reported on the most recent report card issued for each district under section 3302.03 of the Revised Code.

(2) The department shall categorize all joint vocational school districts into not less than three nor more than five groups based primarily on ~~average daily membership formula ADM as reported under division (D) of that term is defined in~~ section ~~3317.03~~ 3317.02 of the Revised Code rounded to the nearest whole number.

(3) The department shall categorize all community schools that are not internet- or computer-based community schools into not less than three nor more than five groups based primarily on average daily student enrollment as reported on the most recent report card issued for each community school under sections 3302.03 and 3314.012 of the Revised Code or, in the case of a school to which section 3314.017 of the Revised Code applies, on the total number of students reported under divisions (B)(2)(a) and (b) of section 3314.08 of the Revised Code.

(4) The department shall categorize all internet- or computer-based community schools into a single category.

(5) The department shall categorize all STEM schools into a single category.

(C) Using the standards adopted under division (A) of this section and the data reported under sections 3301.0714 and 3314.17 of the Revised Code, the department shall compute annually for each fiscal year, the following:

(1) The percentage of each district's, community school's, or STEM

school's total operating budget spent for classroom instructional purposes;

(2) The statewide average percentage for all districts, community schools, and STEM schools combined spent for classroom instructional purposes;

(3) The average percentage for each of the categories of districts and schools established under division (B) of this section spent for classroom instructional purposes;

(4) The ranking of each district, community school, or STEM school within its respective category established under division (B) of this section according to the following:

(a) From highest to lowest percentage spent for classroom instructional purposes;

(b) From lowest to highest percentage spent for noninstructional purposes.

(D) In its display of rankings within each category under division (C)(4) of this section, the department shall make the following notations:

(1) Within each category of city, exempted village, and local school districts, the department shall denote each district that is:

(a) Among the twenty per cent of all city, exempted village, and local school districts statewide with the lowest total operating expenditures per pupil;

(b) Among the twenty per cent of all city, exempted village, and local school districts statewide with the highest performance index scores.

(2) Within each category of joint vocational school districts, the department shall denote each district that is:

(a) Among the twenty per cent of all joint vocational school districts statewide with the lowest total operating expenditures per pupil;

(b) Among the twenty per cent of all joint vocational school districts statewide with the highest report card scores under section 3302.033 of the Revised Code.

(3) Within each category of community schools that are not internet- or computer-based community schools, the department shall denote each school that is:

(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil;

(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores, excluding such community schools to which section 3314.017 of the Revised Code applies.

(4) Within the category of internet- or computer-based community schools, the department shall denote each school that is:

(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil;

(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores, excluding such community schools to which section 3314.017 of the Revised Code applies.

(5) Within the category of STEM schools, the department shall denote each school that is:

(a) Among the twenty per cent of all STEM schools statewide with the lowest total operating expenditures per pupil;

(b) Among the twenty per cent of all STEM schools statewide with the highest performance index scores.

For purposes of divisions (D)(3)(b) and (4)(b) of this section, the display shall note that, in accordance with section 3314.017 of the Revised Code, a performance index score is not reported for some community schools that serve primarily students enrolled in dropout prevention and recovery programs.

(E) The department shall post in a prominent location on its web site the information prescribed by divisions (C) and (D) of this section. The department also shall include on each district's, community school's, and STEM school's annual report card issued under section 3302.03 or 3314.017 of the Revised Code the respective information computed for the district or school under divisions (C)(1) and (4) of this section, the statewide information computed under division (C)(2) of this section, and the information computed for the district's or school's category under division (C)(3) of this section.

(F) As used in this section:

(1) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

(2) A school district's, community school's, or STEM school's performance index score rank is its performance index score rank as computed under section 3302.21 of the Revised Code.

(3) "Operating expenditures per pupil" has the same meaning as "expenditure per equivalent pupils" as defined in section 3302.26 of the Revised Code.

Sec. 3310.08. (A) The amount paid for an eligible student under the educational choice scholarship pilot program shall be the lesser of the tuition of the chartered nonpublic school in which the student is enrolled or the maximum amount prescribed in section 3310.09 of the Revised Code.

(B)(1) The department of education shall pay to the parent of each eligible student for whom a scholarship is awarded under the program, or to

the student if at least eighteen years of age, periodic partial payments of the scholarship.

(2) The department shall proportionately reduce or terminate the payments for any student who withdraws from a chartered nonpublic school prior to the end of the school year.

(C)(1) The department shall deduct from the payments made to each school district under Chapter 3317., and if necessary, sections 321.24 and 323.156 of the Revised Code, the amount paid under division (B) of this section for each eligible student who qualifies for a scholarship under section 3310.03 of the Revised Code and who is entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district. In the case of a student entitled to attend school in a school district under division (B)(2)(a) of section 3313.64 or division (C) of section 3313.65 of the Revised Code, the department shall deduct the payments from the school district ~~that includes the student in its average daily membership whose formula ADM the student is included, as reported to the department under that term is defined in~~ section ~~3317.03~~ 3317.02 of the Revised Code, ~~as determined by the department.~~

(2) If the department reduces or terminates payments to a parent or a student, as prescribed in division (B)(2) of this section, and the student enrolls in the schools of the student's resident district or in a community school, established under Chapter 3314. of the Revised Code, before the end of the school year, the department shall proportionally restore to the resident district the amount deducted for that student under division (C)(1) of this section.

Sec. 3310.41. (A) As used in this section:

(1) "Alternative public provider" means either of the following providers that agrees to enroll a child in the provider's special education program to implement the child's individualized education program and to which the child's parent owes fees for the services provided to the child:

(a) A school district that is not the school district in which the child is entitled to attend school;

(b) A public entity other than a school district.

(2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(3) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.

(4) "Preschool child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code.

(5) "Parent" has the same meaning as in section 3313.64 of the Revised Code, except that "parent" does not mean a parent whose custodial rights have been terminated.

(6) "Preschool scholarship ADM" means the number of preschool children with disabilities ~~reported~~ certified under division (B)(3)(h) of section 3317.03 of the Revised Code.

(7) "Qualified special education child" is a child for whom all of the following conditions apply:

(a) The school district in which the child is entitled to attend school has identified the child as autistic. A child who has been identified as having a "pervasive developmental disorder - not otherwise specified (PPD-NOS)" shall be considered to be an autistic child for purposes of this section.

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child.

(c) The child either:

(i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child; or

(ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child.

(8) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the department of education to participate in the program established under this section.

(9) "Special education program" means a school or facility that provides special education and related services to children with disabilities.

(B) There is hereby established the autism scholarship program. Under the program, the department of education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the state board of education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by an alternative public provider or by a registered private provider, and to pay for other services agreed to by the provider and the parent of a qualified special education child that are not included in the individualized education program but are associated with educating the child. Upon agreement with the parent of a qualified special

education child, the alternative public provider or the registered private provider may modify the services provided to the child. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or twenty thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized and any other services agreed to by the provider and the parent of a qualified special education child. The services provided under the scholarship shall include an educational component or services designed to assist the child to benefit from the child's education.

A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider, or for a child to attend a community school established under Chapter 3314. of the Revised Code. However, nothing in this section or in any rule adopted by the state board shall prohibit a parent whose child attends a public special education program under a contract, compact, or other bilateral agreement, or a parent whose child attends a community school, from applying for and accepting a scholarship under this section so that the parent may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program for which the parent is required to pay for services for the child.

Except for development of the child's individualized education program, the school district in which a qualified special education child is entitled to attend school and the child's school district of residence, as defined in section 3323.01 of the Revised Code, if different, are not obligated to provide the child with a free appropriate public education under Chapter 3323. of the Revised Code for as long as the child continues to attend the special education program operated by either an alternative public provider or a registered private provider for which a scholarship is awarded under the autism scholarship program. If at any time, the eligible applicant for the

child decides no longer to accept scholarship payments and enrolls the child in the special education program of the school district in which the child is entitled to attend school, that district shall provide the child with a free appropriate public education under Chapter 3323. of the Revised Code.

A child attending a special education program with a scholarship under this section shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

(C)(1) As prescribed in divisions (A)(2)(h), (B)(3)(g), and (B)(10) of section 3317.03 of the Revised Code, a child who is not a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the formula ADM and the category six special education ADM of the district in which the child is entitled to attend school and not in the formula ADM and the category six special education ADM of any other school district. As prescribed in divisions (B)(3)(h) and (B)(10) of section 3317.03 of the Revised Code, a child who is a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the preschool scholarship ADM and category six special education ADM of the school district in which the child is entitled to attend school and not in the preschool scholarship ADM or category six special education ADM of any other school district.

(2) In each fiscal year, the department shall deduct from the amounts paid to each school district under Chapter 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM, or preschool scholarship ADM, and in the category six special education ADM of that school district as provided in division (C)(1) of this section.

The scholarships deducted shall be considered as an approved special education and related services expense of the school district.

(3) From time to time, the department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The department shall make no payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider.

The department shall approve entities that meet the standards established by rule of the state board for the program established under this section.

(E) The state board shall adopt rules under Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers.

The rules also shall specify that intervention services under the autism scholarship program may be provided by a qualified, credentialed provider, including, but not limited to, all of the following:

(1) A behavior analyst certified by a nationally recognized organization that certifies behavior analysts;

(2) A psychologist licensed to practice in this state under Chapter 4732. of the Revised Code;

(3) A school psychologist licensed by the state board under section 3319.22 of the Revised Code;

(4) Any person employed by a licensed psychologist or licensed school psychologist, while carrying out specific tasks, under the licensee's supervision, as an extension of the licensee's legal and ethical authority as specified under Chapter 4732. of the Revised Code who is ascribed as "psychology trainee," "psychology assistant," "psychology intern," or other appropriate term that clearly implies their supervised or training status;

(5) Unlicensed persons holding a doctoral degree in psychology or special education from a program approved by the state board;

(6) Any other qualified individual as determined by the state board.

(F) The department shall provide reasonable notice to all parents of children receiving a scholarship under the autism scholarship program, alternative public providers, and registered private providers of any amendment to a rule governing, or change in the administration of, the autism scholarship program.

Sec. 3311.52. A cooperative education school district may be established pursuant to divisions (A) to (C) of this section or pursuant to section 3311.521 of the Revised Code.

(A) A cooperative education school district may be established upon the adoption of identical resolutions within a sixty-day period by a majority of the members of the board of education of each city, local, and exempted village school district that is within the territory of a county school financing district.

A copy of each resolution shall be filed with the governing board of the educational service center which created the county school financing

district. Upon the filing of the last such resolution, the educational service center governing board shall immediately notify each board of education filing such a resolution of the date on which the last resolution was filed.

Ten days after the date on which the last resolution is filed with the educational service center governing board or ten days after the last of any notices required under division (C) of this section is received by the educational service center governing board, whichever is later, the county school financing district shall be dissolved and the new cooperative education school district and the board of education of the cooperative education school district shall be established.

On the date that any county school financing district is dissolved and a cooperative education school district is established under this section, each of the following shall apply:

(1) The territory of the dissolved district becomes the territory of the new district.

(2) Any outstanding tax levy in force in the dissolved district shall be spread over the territory of the new district and shall remain in force in the new district until the levy expires or is renewed.

(3) Any funds of the dissolved district shall be paid over in full to the new district.

(4) Any net indebtedness of the dissolved district shall be assumed in full by the new district. As used in division (A)(4) of this section, "net indebtedness" means the difference between the par value of the outstanding and unpaid bonds and notes of the dissolved district and the amount held in the sinking fund and other indebtedness retirement funds for their redemption.

When a county school financing district is dissolved and a cooperative education school district is established under this section, the governing board of the educational service center that created the dissolved district shall give written notice of this fact to the county auditor and the board of elections of each county having any territory in the new district.

(B) The resolutions adopted under division (A) of this section shall include all of the following provisions:

(1) Provision that the governing board of the educational service center which created the county school financing district shall be the board of education of the cooperative education school district, except that provision may be made for the composition, selection, and terms of office of an alternative board of education of the cooperative district, which board shall include at least one member selected from or by the members of the board of education of each city, local, and exempted village school district and at

least one member selected from or by the members of the educational service center governing board within the territory of the cooperative district;

(2) Provision that the treasurer and superintendent of the educational service center which created the county school financing district shall be the treasurer and superintendent of the cooperative education school district, except that provision may be made for the selection of a treasurer or superintendent of the cooperative district other than the treasurer or superintendent of the educational service center, which provision shall require one of the following:

(a) The selection of one person as both the treasurer and superintendent of the cooperative district, which provision may require such person to be the treasurer or superintendent of any city, local, or exempted village school district or educational service center within the territory of the cooperative district;

(b) The selection of one person as the treasurer and another person as the superintendent of the cooperative district, which provision may require either one or both such persons to be treasurers or superintendents of any city, local, or exempted village school districts or educational service center within the territory of the cooperative district.

(3) A statement of the educational program the board of education of the cooperative education school district will conduct, including but not necessarily limited to the type of educational program, the grade levels proposed for inclusion in the program, the timetable for commencing operation of the program, and the facilities proposed to be used or constructed to be used by the program;

(4) A statement of the annual amount, or the method for determining that amount, of funds or services or facilities that each city, local, and exempted village school district within the territory of the cooperative district is required to pay to or provide for the use of the board of education of the cooperative education school district;

(5) Provision for adopting amendments to the provisions of divisions (B)(2) to (4) of this section.

(C) If the resolutions adopted under division (A) of this section provide for a board of education of the cooperative education school district that is not the governing board of the educational service center that created the county school financing district, each board of education of each city, local, or exempted village school district and the governing board of the educational service center within the territory of the cooperative district shall, within thirty days after the date on which the last resolution is filed

with the educational service center governing board under division (A) of this section, select one or more members of the board of education of the cooperative district as provided in the resolutions filed with the educational service center governing board. Each such board shall immediately notify the educational service center governing board of each such selection.

(D) Except for the powers and duties in this chapter and Chapters 124., 3317., 3318., 3323., and 3331. of the Revised Code, a cooperative education school district established pursuant to divisions (A) to (C) of this section or pursuant to section 3311.521 of the Revised Code has all the powers of a city school district and its board of education has all the powers and duties of a board of education of a city school district with respect to the educational program specified in the resolutions adopted under division (A) of this section. All laws applicable to a city school district or the board of education or the members of the board of education of a city school district, except such laws in this chapter and Chapters 124., 3317., 3318., 3323., and 3331. of the Revised Code, are applicable to a cooperative education school district and its board.

The treasurer and superintendent of a cooperative education school district shall have the same respective duties and powers as a treasurer and superintendent of a city school district, except for any powers and duties in this chapter and Chapters 124., 3317., 3318., 3323., and 3331. of the Revised Code.

(E) For purposes of this title, any student included in the formula ~~ADM certified~~ calculated for any city, exempted village, or local school district under section 3317.03 of the Revised Code by virtue of being counted, in whole or in part, in the ~~average daily membership~~ enrollment of a cooperative education school district under division (A)(2)(f) of that section shall be construed to be enrolled both in that city, exempted village, or local school district and in that cooperative education school district. This division shall not be construed to mean that any such individual student may be counted more than once for purposes of determining the ~~average daily membership~~ formula ADM of any one school district.

Sec. 3313.981. (A) The state board of education shall adopt rules requiring all of the following:

(1) The board of education of each city, exempted village, and local school district to annually report to the department of education all of the following:

(a) The number of adjacent district or other district students, as applicable, and adjacent district or other district joint vocational students, as applicable, enrolled in the district and the number of native students enrolled

in adjacent or other districts, in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code;

(b) Each adjacent district or other district student's or adjacent district or other district joint vocational student's date of enrollment in the district;

(c) The full-time equivalent number of adjacent district or other district students enrolled in each of the categories of career-technical education programs or classes described in section 3317.014 of the Revised Code ;

(d) Each native student's date of enrollment in an adjacent or other district.

(2) The board of education of each joint vocational school district to annually report to the department all of the following:

(a) The number of adjacent district or other district joint vocational students, as applicable, enrolled in the district;

(b) The full-time equivalent number of adjacent district or other district joint vocational students enrolled in each category of career-technical education programs or classes described in section 3317.014 of the Revised Code ;

(c) For each adjacent district or other district joint vocational student, the city, exempted village, or local school district in which the student is also enrolled.

(3) Prior to the ~~first full school week in October each year~~ end of each reporting period specified in section 3317.03 of the Revised Code, the superintendent of each city, local, or exempted village school district that admits adjacent district or other district students or adjacent district or other district joint vocational students in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code to ~~notify~~ report to the department of education each adjacent or other ~~district~~ district's students and where those students who are enrolled in the superintendent's district under the policy are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code ~~of the number of the adjacent or other district's native students who are enrolled in the superintendent's district under the policy.~~

The rules shall provide for the method of counting students who are enrolled for part of a school year in an adjacent or other district or as an adjacent district or other district joint vocational student.

(B) From the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code and, if necessary, from the payments made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract both of the following:

(1) An amount equal to the number of the district's native students

reported under division (A)(1) of this section who are enrolled in adjacent or other school districts pursuant to policies adopted by such districts under division (B) of section 3313.98 of the Revised Code multiplied by the formula amount;

(2) The excess costs computed in accordance with division (E) of this section for any such native students receiving special education and related services in adjacent or other school districts or as an adjacent district or other district joint vocational student;

(3) For the each of the district's native students reported under division (A)(1)(c) or (2)(b) of this section as enrolled in career-technical education programs or classes described in section 3317.014 of the Revised Code, the per pupil amount prescribed by that section for the student's respective career-technical category, on a full-time equivalency basis.

(C) To the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code, the department of education shall annually add all of the following:

(1) An amount equal to the formula amount multiplied by the remainder obtained by subtracting the number of adjacent district or other district joint vocational students from the number of adjacent district or other district students enrolled in the district, as reported under division (A)(1) of this section;

(2) The excess costs computed in accordance with division (E) of this section for any adjacent district or other district students, except for any adjacent or other district joint vocational students, receiving special education and related services in the district;

(3) For the each of the adjacent or other district students who are not adjacent district or other district joint vocational students and are reported under division (A)(1)(c) of this section as enrolled in career-technical education programs or classes described in section 3317.014 of the Revised Code, the per pupil amount prescribed by that section for the student's respective career-technical category, on a full-time equivalency basis;

(4) An amount equal to the number of adjacent district or other district joint vocational students reported under division (A)(1) of this section multiplied by an amount equal to twenty per cent of the formula amount.

(D) To the payments made to a joint vocational school district under Chapter 3317. of the Revised Code, the department of education shall add, for each adjacent district or other district joint vocational student reported under division (A)(2) of this section, both of the following:

(1) The formula amount;

(2) The per pupil amount for each of the students reported pursuant to

division (A)(2)(b) of this section prescribed by section 3317.014 of the Revised Code for the student's respective career-technical category, on a full-time equivalency basis.

(E)(1) A city, exempted village, or local school board providing special education and related services to an adjacent or other district student in accordance with an IEP shall, pursuant to rules of the state board, compute the excess costs to educate such student as follows:

(a) Subtract the formula amount from the actual costs to educate the student;

(b) From the amount computed under division (E)(1)(a) of this section subtract the amount of any funds received by the district under Chapter 3317. of the Revised Code to provide special education and related services to the student.

(2) The board shall report the excess costs computed under this division to the department of education.

(3) If any student for whom excess costs are computed under division (E)(1) of this section is an adjacent or other district joint vocational student, the department of education shall add the amount of such excess costs to the payments made under Chapter 3317. of the Revised Code to the joint vocational school district enrolling the student.

(F) As provided in division (D)(1)(b) of section 3317.03 of the Revised Code, no joint vocational school district shall count any adjacent or other district joint vocational student enrolled in the district in its ~~formula-ADM~~ enrollment certified under section 3317.03 of the Revised Code.

(G) No city, exempted village, or local school district shall receive a payment under division (C) of this section for a student, and no joint vocational school district shall receive a payment under division (D) of this section for a student, if for the same school year that student is counted in the district's ~~formula-ADM~~ enrollment certified under section 3317.03 of the Revised Code.

(H) Upon request of a parent, and provided the board offers transportation to native students of the same grade level and distance from school under section 3327.01 of the Revised Code, a city, exempted village, or local school board enrolling an adjacent or other district student shall provide transportation for the student within the boundaries of the board's district, except that the board shall be required to pick up and drop off a nonhandicapped student only at a regular school bus stop designated in accordance with the board's transportation policy. Pursuant to rules of the state board of education, such board may reimburse the parent from funds received for pupil transportation under section 3317.0212 of the Revised

Code, or other provisions of law, for the reasonable cost of transportation from the student's home to the designated school bus stop if the student's family has an income below the federal poverty line.

Sec. 3314.091. (A) A school district is not required to provide transportation for any native student enrolled in a community school if the district board of education has entered into an agreement with the community school's governing authority that designates the community school as responsible for providing or arranging for the transportation of the district's native students to and from the community school. For any such agreement to be effective, it must be certified by the superintendent of public instruction as having met all of the following requirements:

(1) It is submitted to the department of education by a deadline which shall be established by the department.

(2) In accordance with divisions (C)(1) and (2) of this section, it specifies qualifications, such as residing a minimum distance from the school, for students to have their transportation provided or arranged.

(3) The transportation provided by the community school is subject to all provisions of the Revised Code and all rules adopted under the Revised Code pertaining to pupil transportation.

(4) The sponsor of the community school also has signed the agreement.

(B)(1) For the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school, if the community school during the previous school year transported the students enrolled in the school or arranged for the students' transportation, even if that arrangement consisted of having parents transport their children to and from the school, but did not enter into an agreement to transport or arrange for transportation for those students under division (A) of this section, and if the governing authority of the community school by July 15, 2007, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school.

(2) Except as provided in division (B)(4) of this section, for any school year subsequent to the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school if the governing authority of the community school, by the thirty-first day of January of the previous school year, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community

school. If the governing authority of the community school has previously accepted responsibility for providing or arranging for the transportation of a district's native students to and from the community school, under division (B)(1) or (2) of this section, and has since relinquished that responsibility under division (B)(3) of this section, the governing authority shall not accept that responsibility again unless the district board consents to the governing authority's acceptance of that responsibility.

(3) A governing authority's acceptance of responsibility under division (B)(1) or (2) of this section shall cover an entire school year, and shall remain in effect for subsequent school years unless the governing authority submits written notification to the district board that the governing authority is relinquishing the responsibility. However, a governing authority shall not relinquish responsibility for transportation before the end of a school year, and shall submit the notice relinquishing responsibility by the thirty-first day of January, in order to allow the school district reasonable time to prepare transportation for its native students enrolled in the school.

(4)(a) For any school year that begins on or after July 1, 2014, a school district is not required to provide transportation for any native student enrolled in a community school scheduled to open for operation in the current school year, if the governing authority of the community school, by the fifteenth day of April of the previous school year, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school.

(b) The governing authority of a community school that accepts responsibility for transporting its students under division (4)(a) of this section shall comply with divisions (B)(2) and (3) of this section to renew or relinquish that authority for subsequent school years.

(C)(1) A community school governing authority that enters into an agreement under division (A) of this section, or that accepts responsibility under division (B) of this section, shall provide or arrange transportation free of any charge for each of its enrolled students who is required to be transported under section 3327.01 of the Revised Code or who would otherwise be transported by the school district under the district's transportation policy. The governing authority shall report to the department of education the number of students transported or for whom transportation is arranged under this section in accordance with rules adopted by the state board of education.

(2) The governing authority may provide or arrange transportation for

any other enrolled student who is not eligible for transportation in accordance with division (C)(1) of this section and may charge a fee for such service up to the actual cost of the service.

(3) Notwithstanding anything to the contrary in division (C)(1) or (2) of this section, a community school governing authority shall provide or arrange transportation free of any charge for any disabled student enrolled in the school for whom the student's individualized education program developed under Chapter 3323. of the Revised Code specifies transportation.

(D)(1) If a school district board and a community school governing authority elect to enter into an agreement under division (A) of this section, the department of education shall make payments to the community school according to the terms of the agreement for each student actually transported under division (C)(1) of this section.

If a community school governing authority accepts transportation responsibility under division (B) of this section, the department shall make payments to the community school for each student actually transported or for whom transportation is arranged by the community school under division (C)(1) of this section, calculated as follows:

(a) For any fiscal year which the general assembly has specified that transportation payments to school districts be based on an across-the-board percentage of the district's payment for the previous school year, the per pupil payment to the community school shall be the following quotient:

(i) The total amount calculated for the school district in which the child is entitled to attend school for student transportation other than transportation of children with disabilities; divided by

(ii) The number of students included in the district's transportation ADM for the current fiscal year, as ~~reported~~ calculated under ~~division (B)(19)~~ of section 3317.03 of the Revised Code, plus the number of students enrolled in the community school not counted in the district's transportation ADM who are transported under division (B)(1) or (2) of this section.

(b) For any fiscal year which the general assembly has specified that the transportation payments to school districts be calculated in accordance with section 3317.0212 of the Revised Code and any rules of the state board of education implementing that section, the payment to the community school shall be the amount so calculated that otherwise would be paid to the school district in which the student is entitled to attend school by the method of transportation the district would have used. The community school, however, is not required to use the same method to transport that student.

(c) Divisions (D)(1)(a) and (b) of this section do not apply to fiscal years 2012 and 2013. Rather, for each of those fiscal years, the per pupil

payment to a community school for transporting a student shall be the total amount paid under former section 3306.12 of the Revised Code for fiscal year 2011 to the school district in which the child is entitled to attend school divided by that district's "qualifying ridership," as defined in that section for fiscal year 2011.

As used in this division "entitled to attend school" means entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(2) The department shall deduct the payment under division (D)(1) of this section from the state education aid, as defined in section 3314.08 of the Revised Code, and, if necessary, the payment under sections 321.14 and 323.156 of the Revised Code, that is otherwise paid to the school district in which the student enrolled in the community school is entitled to attend school. The department shall include the number of the district's native students for whom payment is made to a community school under division (D)(1) of this section in the calculation of the district's transportation payment under section 3317.0212 of the Revised Code and the operating appropriations act.

(3) A community school shall be paid under division (D)(1) of this section only for students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, and whose transportation to and from school is actually provided, who actually utilized transportation arranged, or for whom a payment in lieu of transportation is made by the community school's governing authority. To qualify for the payments, the community school shall report to the department, in the form and manner required by the department, data on the number of students transported or whose transportation is arranged, the number of miles traveled, cost to transport, and any other information requested by the department.

(4) A community school shall use payments received under this section solely to pay the costs of providing or arranging for the transportation of students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, which may include payments to a parent, guardian, or other person in charge of a child in lieu of transportation.

(E) Except when arranged through payment to a parent, guardian, or person in charge of a child, transportation provided or arranged for by a community school pursuant to an agreement under this section is subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to the construction, design, equipment, and operation of school buses and other vehicles transporting students to and from school.

The drivers and mechanics of the vehicles are subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to drivers and mechanics of such vehicles. The community school also shall comply with sections 3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) of section 3327.16 of the Revised Code and, subject to division (C)(1) of this section, sections 3327.01 and 3327.02 of the Revised Code, as if it were a school district.

Sec. 3317.01. As used in this section, "school district," unless otherwise specified, means any city, local, exempted village, joint vocational, or cooperative education school district and any educational service center.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. As soon as possible after such amounts are calculated, the superintendent shall certify to the treasurer of each school district the district's adjusted charge-off increase, as defined in section 5705.211 of the Revised Code. Certification of moneys pursuant to this section shall include the amounts payable to each school building, at a frequency determined by the superintendent, for each subgroup of students, as defined in section 3317.40 of the Revised Code, receiving services, provided for by state funding, from the district or school. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

Moneys distributed to school districts pursuant to this chapter shall be calculated based on the annual enrollment calculated from the three reports required under section 3317.03 of the Revised Code and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. The moneys appropriated for each fiscal year shall be distributed periodically to each school district unless otherwise provided for. The state board, in June of each year, shall submit to the controlling board the state board's year-end distributions pursuant to this chapter.

Except as otherwise provided, payments under this chapter shall be made only to those school districts in which:

(A) The school district, except for any educational service center and any joint vocational or cooperative education school district, levies for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing districts, limited to or to the extent apportioned to current expenses, shall be

included in this qualification requirement. School district income tax levies under Chapter 5748. of the Revised Code, limited to or to the extent apportioned to current operating expenses, shall be included in this qualification requirement to the extent determined by the tax commissioner under division (D) of section 3317.021 of the Revised Code.

(B) The school year next preceding the fiscal year for which such payments are authorized meets the requirement of section 3313.48 ~~or 3313.481~~ of the Revised Code, with regard to the minimum number of ~~days or~~ hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers. ~~This requirement shall be waived by the superintendent of public instruction if it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, law enforcement emergencies, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, provided that for those school districts operating pursuant to section 3313.48 of the Revised Code the number of days the school was actually open for instruction with pupils in attendance and for individualized parent teacher conference and reporting periods is not less than one hundred seventy five, or for those school districts operating on a trimester plan the number of days the school was actually open for instruction with pupils in attendance not less than seventy nine days in any trimester, for those school districts operating on a quarterly plan the number of days the school was actually open for instruction with pupils in attendance not less than fifty nine days in any quarter, or for those school districts operating on a pentamester plan the number of days the school was actually open for instruction with pupils in attendance not less than forty four days in any pentamester.~~

A school district shall not be considered to have failed to comply with this division ~~or section 3313.481 of the Revised Code~~ because schools were open for instruction but either twelfth grade students were excused from attendance for up to the equivalent of three school days or only a portion of the kindergarten students were in attendance for up to the equivalent of three school days in order to allow for the gradual orientation to school of such students.

~~The superintendent of public instruction shall waive the requirements of this section with reference to the minimum number of days or hours school must be in session with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation~~

~~pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to such a district beginning with the school year commencing the second July succeeding the initiation of one such plan, and for each school year thereafter.~~

~~A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled school day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.~~

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by this chapter, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only.

Sec. 3317.02. As used in this chapter:

(A)(1) "Category one career-technical education ADM" means the average daily membership enrollment of students receiving during the school year on a full-time equivalency basis in career-technical education services programs described in division (A) of section 3317.014 of the Revised Code and reported certified under division (B)(11) or (D)(2)(h) of section 3317.03 of the Revised Code.

(2) "Category two career-technical education ADM" means the average daily membership enrollment of students receiving during the school year on a full-time equivalency basis in career-technical education services programs described in division (B) of section 3317.014 of the Revised Code and reported certified under division (B)(12) or (D)(2)(i) of section 3317.03 of the Revised Code.

(3) "Category three career-technical education ADM" means the average daily membership enrollment of students receiving during the school year on a full-time equivalency basis in career-technical education services programs described in division (C) of section 3317.014 of the Revised Code and reported certified under division (B)(13) or (D)(2)(j) of section 3317.03 of the Revised Code.

(4) "Category four career-technical education ADM" means the average daily membership enrollment of students receiving during the school year on a full-time equivalency basis in career-technical education services programs described in division (D) of section 3317.014 of the Revised Code

and ~~reported~~ certified under division (B)(14) or (D)(2)(k) of section 3317.03 of the Revised Code.

(5) "Category five career-technical education ADM" means the ~~average daily membership enrollment~~ of students receiving during the school year on a full-time equivalency basis in career-technical education services programs described in division (E) of section 3317.014 of the Revised Code and ~~reported~~ certified under division (B)(15) or (D)(2)(l) of section 3317.03 of the Revised Code.

(B)(1) "Category one limited English proficient ADM" means the ~~average daily membership~~ full-time equivalent number of limited English proficient students described in division (A) of section 3317.016 of the Revised Code and ~~reported~~ certified under division (B)(16) or (D)(2)(m) of section 3317.03 of the Revised Code.

(2) "Category two limited English proficient ADM" means the ~~average daily membership~~ full-time equivalent number of limited English proficient students described in division (B) of section 3317.016 of the Revised Code and ~~reported~~ certified under division (B)(17) or (D)(2)(n) of section 3317.03 of the Revised Code.

(3) "Category three limited English proficient ADM" means the ~~average daily membership~~ full-time equivalent number of limited English proficient students described in division (C) of section 3317.016 of the Revised Code and ~~reported~~ certified under division (B)(18) or (D)(2)(o) of section 3317.03 of the Revised Code.

(C)(1) "Category one special education ADM" means the ~~average daily membership~~ full-time equivalent number of children with disabilities receiving special education services for the disability specified in division (A) of section 3317.013 of the Revised Code and ~~reported~~ certified under division (B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code.

(2) "Category two special education ADM" means the ~~average daily membership~~ full-time equivalent number of children with disabilities receiving special education services for those disabilities specified in division (B) of section 3317.013 of the Revised Code and ~~reported~~ certified under division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised Code.

(3) "Category three special education ADM" means the ~~average daily membership~~ full-time equivalent number of students receiving special education services for those disabilities specified in division (C) of section 3317.013 of the Revised Code, and ~~reported~~ certified under division (B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code.

(4) "Category four special education ADM" means the ~~average daily membership~~ full-time equivalent number of students receiving special

education services for those disabilities specified in division (D) of section 3317.013 of the Revised Code and ~~reported~~ certified under division (B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code.

(5) "Category five special education ADM" means the ~~average daily membership~~ full-time equivalent number of students receiving special education services for the disabilities specified in division (E) of section 3317.013 of the Revised Code and ~~reported~~ certified under division (B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code.

(6) "Category six special education ADM" means the ~~average daily membership~~ full-time equivalent number of students receiving special education services for the disabilities specified in division (F) of section 3317.013 of the Revised Code and ~~reported~~ certified under division (B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code.

(D) "County DD board" means a county board of developmental disabilities.

(E) "Economically disadvantaged index for a school district" means the square of the quotient of that district's percentage of students in its total ADM who are identified as economically disadvantaged as defined by the department of education, divided by the statewide percentage of students identified as economically disadvantaged.

(F)(1) "Formula ADM" means, for a city, local, or exempted village school district, the ~~average daily membership described in~~ enrollment reported under division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section, and as further adjusted by counting only twenty per cent of the number of joint vocational school district students counted under division (A)(3) of section 3317.03 of the Revised Code.

(2) "Formula ADM" means, for a joint vocational school district, the final number verified by the superintendent of public instruction, based on the ~~number reported pursuant to~~ enrollment reported and certified under division (D) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section.

(G) "Formula amount" means \$5,745, for fiscal year 2014, and \$5,800, for fiscal year 2015.

(H) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM

or in category one, two, three, four, or five career technical education ADM in the same proportion the student is counted in formula ADM.

(I) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

(J) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for individuals with intellectual disabilities.

(K)(1) A child may be identified as having an "other health impairment-major" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education and if either of the following apply:

(a) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child."

(b) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

(2) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education but the child's condition does not meet either of the conditions specified in division (K)(1)(a) or (b) of this section.

(L) "Preschool child with a disability" means a child with a disability, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

(M) "Preschool scholarship ADM" means the number of preschool children with disabilities ~~reported~~ certified under division (B)(3)(h) of section 3317.03 of the Revised Code.

(N) "Related services" includes:

(1) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational

or physical therapy, teacher assistants for children with disabilities whose disabilities are described in division (B) of section 3317.013 or division (B)(3) of this section, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;

(2) Speech and language services provided to any student with a disability, including any student whose primary or only disability is a speech and language disability;

(3) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;

(4) Any service included in units funded under former division (O)(1) of section 3317.024 of the Revised Code;

(5) Any other related service needed by children with disabilities in accordance with their individualized education programs.

(O) "School district," unless otherwise specified, means city, local, and exempted village school districts.

(P) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

(Q) "State share index" means the state share index calculated for a district under section 3317.017 of the Revised Code.

(R) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property.

(S) "Total ADM" means, for a city, local, or exempted village school district, the ~~average daily membership described in~~ enrollment reported under division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section.

(T) "Total special education ADM" means the sum of categories one through six special education ADM.

(U) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

Sec. 3317.022. (A) The department of education shall compute and distribute state core foundation funding to each eligible school district for the fiscal year, using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins, as prescribed in the following divisions:

(1) An opportunity grant calculated according to the following formula:
The formula amount X (formula ADM + preschool scholarship ADM)
X the district's state share index

(2) Targeted assistance funds calculated under divisions (A) and (B) of section 3317.0217 of the Revised Code;

(3) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code calculated as the sum of the following:

(a) The district's category one special education ADM X the amount specified in division (A) of section 3317.013 of the Revised Code X the district's state share index;

(b) The district's category two special education ADM X the amount specified in division (B) of section 3317.013 of the Revised Code X the district's state share index;

(c) The district's category three special education ADM X the amount specified in division (C) of section 3317.013 of the Revised Code X the district's state share index;

(d) The district's category four special education ADM X the amount specified in division (D) of section 3317.013 of the Revised Code X the district's state share index;

(e) The district's category five special education ADM X the amount specified in division (E) of section 3317.013 of the Revised Code X the district's state share index;

(f) The district's category six special education ADM X the amount specified in division (F) of section 3317.013 of the Revised Code X the district's state share index.

(4) Kindergarten through third grade literacy funds calculated according to the following formula:

[\$125, in fiscal year 2014, or \$175, in fiscal year 2015) X formula ADM for grades kindergarten through three X the district's state share index] + [(\$100, in fiscal year 2014, or \$160, in fiscal year 2015) X formula ADM for grades kindergarten through three]

For purposes of this calculation, the department shall subtract from a district's formula ADM for grades kindergarten through three the number of students reported under division (B)(3)(e) of section 3317.03 of the Revised Code as enrolled in an internet- or computer-based community school who are in grades kindergarten through three.

(5) Economically disadvantaged funds calculated according to the following formula:

(\$250, in fiscal year 2014, or \$253, in fiscal year 2015) X (the district's

economically disadvantaged index) X the number of students who are economically disadvantaged as ~~reported~~ certified under division (B)(21) of section 3317.03 of the Revised Code

(6) Limited English proficiency funds calculated as the sum of the following:

(a) The district's category one limited English proficient ADM X the amount specified in division (A) of section 3317.016 of the Revised Code X the district's state share index;

(b) The district's category two limited English proficient ADM X the amount specified in division (B) of section 3317.016 of the Revised Code X the district's state share index;

(c) The district's category three limited English proficient ADM X the amount specified in division (C) of section 3317.016 of the Revised Code X the district's state share index.

(7)(a) Gifted identification funds calculated according to the following formula:

(\$5, in fiscal year 2014, or \$5.05, in fiscal year 2015) X the
district's formula ADM

(b) Gifted unit funding calculated under section 3317.051 of the Revised Code.

(8) Career-technical education funds calculated as the sum of the following:

(a) The district's category one career-technical education ADM X the amount specified in division (A) of section 3317.014 of the Revised Code X the district's state share index;

(b) The district's category two career-technical education ADM X the amount specified in division (B) of section 3317.014 of the Revised Code X the district's state share index;

(c) The district's category three career-technical education ADM X the amount specified in division (C) of section 3317.014 of the Revised Code X the district's state share index;

(d) The district's category four career-technical education ADM X the amount specified in division (D) of section 3317.014 of the Revised Code X the district's state share index;

(e) The district's category five career-technical education ADM X the amount specified in division (E) of section 3317.014 of the Revised Code X the district's state share index.

Payment of funds under division (A)(8) of this section is subject to approval under section 3317.161 of the Revised Code.

(9) Career-technical education associated services funds calculated

according to the following formula:

The district's state share index X the amount for career-technical education associated services specified in section 3317.014 of the Revised Code X the sum of categories one through five career-technical education ADM

(B) In any fiscal year, a school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

(The formula amount X the total special education ADM) + (the district's category one special education ADM X the amount specified in division (A) of section 3317.013 of the Revised Code) + (the district's category two special education ADM X the amount specified in division (B) of section 3317.013 of the Revised Code) + (the district's category three special education ADM X the amount specified in division (C) of section 3317.013 of the Revised Code) + (the district's category four special education ADM X the amount specified in division (D) of section 3317.013 of the Revised Code) + (the district's category five special education ADM X the amount specified in division (E) of section 3317.013 of the Revised Code) + (the district's category six special education ADM X the amount specified in division (F) of section 3317.013 of the Revised Code)

The purposes approved by the department for special education expenses shall include, but shall not be limited to, identification of children with disabilities, compliance with state rules governing the education of children with disabilities and prescribing the continuum of program options for children with disabilities, provision of speech language pathology services, and the portion of the school district's overall administrative and overhead costs that are attributable to the district's special education student population.

The scholarships deducted from the school district's account under sections 3310.41 and 3310.55 of the Revised Code shall be considered to be an approved special education and related services expense for the purpose of the school district's compliance with this division.

(C) In any fiscal year, a school district receiving funds under division (A)(8) of this section shall spend those funds only for the purposes that the department designates as approved for career-technical education expenses. Career-technical educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (A)(8) of this section may be spent.

(D) In any fiscal year, a school district receiving funds under division (A)(9) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for career-technical education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other career-technical education services, career-technical evaluation, and other purposes designated by the department. The department may deny payment under division (A)(9) of this section to any district that the department determines is not operating those services or is using funds paid under division (A)(9) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, for other purposes.

(E) All funds received under division (A)(8) of this section shall be spent in the following manner:

(1) At least seventy-five per cent of the funds shall be spent on curriculum development, purchase, and implementation; instructional resources and supplies; industry-based program certification; student assessment, credentialing, and placement; curriculum specific equipment purchases and leases; career-technical student organization fees and expenses; home and agency linkages; work-based learning experiences; professional development; and other costs directly associated with career-technical education programs including development of new programs.

(2) Not more than twenty-five per cent of the funds shall be used for personnel expenditures.

(F) A school district shall spend the funds it receives under division (A)(5) of this section in accordance with section 3317.25 of the Revised Code.

Sec. 3317.024. The following shall be distributed monthly, quarterly, or annually as may be determined by the state board of education:

(A) An amount for each island school district and each joint state school district for the operation of each high school and each elementary school maintained within such district and for capital improvements for such schools. Such amounts shall be determined on the basis of standards adopted by the state board of education. However, for fiscal years 2012 and 2013, an island district shall receive the lesser of its actual cost of operation, as certified to the department of education, or ninety-three per cent of the amount the district received in state operating funding for fiscal year 2011. If an island district received no funding for fiscal year 2011, it shall receive no funding for either of fiscal year 2012 or 2013.

(B) An amount for each school district required to pay tuition for a child in an institution maintained by the department of youth services pursuant to section 3317.082 of the Revised Code, provided the child was not included in the calculation of the district's ~~average daily membership~~ formula ADM, as that term is defined in section 3317.02 of the Revised Code, for the preceding school year.

(C) An amount for the approved cost of transporting eligible pupils with disabilities attending a special education program approved by the department of education whom it is impossible or impractical to transport by regular school bus in the course of regular route transportation provided by the school district or educational service center. No district or service center is eligible to receive a payment under this division for the cost of transporting any pupil whom it transports by regular school bus and who is included in the district's transportation ADM. The state board of education shall establish standards and guidelines for use by the department of education in determining the approved cost of such transportation for each district or service center.

(D) An amount to each school district, including each cooperative education school district, pursuant to section 3313.81 of the Revised Code to assist in providing free lunches to needy children. The amounts shall be determined on the basis of rules adopted by the state board of education.

(E) An amount to each school district, for each pupil attending a chartered nonpublic elementary or high school within the district. The amount shall equal the amount appropriated for the implementation of section 3317.06 of the Revised Code divided by the average daily membership in grades kindergarten through twelve in nonpublic elementary and high schools within the state as determined ~~during the first full week in~~ as of the last day of October of each school year.

(F) An amount for each county DD board, distributed on the basis of standards adopted by the state board of education, for the approved cost of transportation required for children attending special education programs operated by the county DD board under section 3323.09 of the Revised Code;

(G) An amount to each institution defined under section 3317.082 of the Revised Code providing elementary or secondary education to children other than children receiving special education under section 3323.091 of the Revised Code. This amount for any institution in any fiscal year shall equal the total of all tuition amounts required to be paid to the institution under division (A)(1) of section 3317.082 of the Revised Code.

The state board of education or any other board of education or

governing board may provide for any resident of a district or educational service center territory any educational service for which funds are made available to the board by the United States under the authority of public law, whether such funds come directly or indirectly from the United States or any agency or department thereof or through the state or any agency, department, or political subdivision thereof.

Sec. 3317.0217. Payment of the amount calculated for a school district under this section shall be made under division (A) of section 3317.022 of the Revised Code.

(A) The department of education shall annually compute targeted assistance funds to school districts, as follows:

(1) Calculate the local wealth per pupil of each school district, which equals the following sum:

(a) One-half times the quotient of (i) the district's three-year average valuation divided by (ii) its formula ADM; plus

(b) One-half times the quotient of (i) the average of the total federal adjusted gross income of the school district's residents for the three years most recently reported under section 3317.021 of the Revised Code divided by (ii) its formula ADM.

(2) Rank all school districts in order of local wealth per pupil, from the district with the lowest local wealth per pupil to the district with the highest local wealth per pupil.

(3) Compute the statewide wealth per pupil, which equals the following sum:

(a) One-half times the quotient of (i) the sum of the three-year average valuations for all school districts divided by (ii) the sum of formula ADM counts for all schools districts; plus

(b) One-half times the quotient of (i) the sum of the three-year average total federal adjusted gross incomes for all school districts divided by (ii) the sum of formula ADM counts for all school districts.

(4) Compute each district's wealth index by dividing the statewide wealth per pupil by the district's local wealth per pupil.

(5) Compute the per pupil targeted assistance for each eligible school district in accordance with the following formula:

$$\frac{(\text{Threshold local wealth per pupil} - \text{the district's local wealth per pupil})}{\text{X target millage} \times \text{the district's wealth index}}$$

Where:

(a) An "eligible school district" means a school district with a local wealth per pupil less than that of the school district with the 490th lowest local wealth per pupil.

(b) "Threshold local wealth per pupil" means the local wealth per pupil of the school district with the 490th lowest local wealth per pupil.

(c) "Target millage" means 0.006.

If the result of the calculation for a school district under division (A)(5) of this section is less than zero, the district's targeted assistance shall be zero.

(6) Calculate the aggregate amount to be paid as targeted assistance funds to each school district under division (A) of section 3317.022 of the Revised Code by multiplying the per pupil targeted assistance computed under division (A)(5) of this section by the district's net formula ADM.

As used in this division, a district's "net formula ADM" means its formula ADM minus the number of community school students ~~reported~~ certified under division (B)(3)(d) of section 3317.03 of the Revised Code X 0.75, the number of internet- and computer-based community school students ~~reported~~ certified under division (B)(3)(e) of that section, and the number of scholarship students ~~reported~~ certified under divisions (B)(3)(f), (g), and (l) of that section.

(B) The department shall annually compute supplemental targeted assistance funds to school districts, as follows:

(1) Compute each district's agricultural percentage as the quotient of (a) the three-year average tax valuation of real property in the district that is classified as agricultural property divided by (b) the three-year average tax valuation of all of the real property in the district. For purposes of this computation, a district's "three-year average tax valuation" means the average of a district's tax valuation for fiscal years 2012, 2013, and 2014.

(2) Determine each district's agricultural targeted percentage as follows:

(a) If a district's agricultural percentage is greater than or equal to 0.10, then the district's agricultural targeted percentage shall be equal to 0.40.

(b) If a district's agricultural percentage is less than 0.10, then the district's agricultural targeted percentage shall be equal to 4 X the district's agricultural percentage.

(3) Calculate the aggregate amount to be paid as supplemental targeted assistance funds to each school district under division (A) of section 3317.022 of the Revised Code by multiplying the district's agricultural targeted percentage by the amount calculated for the district under division (A)(6) of this section.

Sec. 3317.03. (A) The superintendent of each city, local, and exempted village school district shall ~~certify report~~ certify report to the state board of education ~~on or before as of the fifteenth last day of October in each year for the first full school week in October the average daily membership, March, and June of~~

~~each year the enrollment of students receiving services from schools under the superintendent's supervision, and the numbers of other students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code the superintendent is required to report under this section, so that the department of education can calculate the district's formula ADM, total ADM, category one through five career-technical education ADM, category one through three limited English proficient ADM, category one through six special education ADM, preschool scholarship ADM, transportation ADM, and, for purposes of provisions of law outside of Chapter 3317. of the Revised Code, average daily membership. If a school under the superintendent's supervision is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the average daily membership for that school for that week and specify an alternate week for certifying the average daily membership of that school.~~

~~The average daily membership during such week shall consist of the sum of the following:~~

~~(1) On an FTE basis, The enrollment reported by the superintendent during the reporting period shall consist of the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:~~

~~(a) Students enrolled in adult education classes;~~

~~(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;~~

~~(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;~~

~~(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code;~~

~~(e) Students receiving services in the district through a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.~~

~~When reporting students under division (A)(1) of this section, the superintendent also shall report the district where each student is entitled to attend school pursuant to sections 3313.64 and 3313.65 of the Revised~~

Code.

(2) ~~On an FTE basis, The department of education shall compile a list of all students reported to be enrolled in a district under division (A)(1) of this section and of the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code; on an FTE basis~~ but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education district;

(f) Another school district under a cooperative education agreement, compact, or contract;

(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code, if the students qualified for the scholarship under section 3310.03 of the Revised Code;

(h) An alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.

As used in this section, "alternative public provider" and "registered private provider" have the same meanings as in section 3310.41 or 3310.51 of the Revised Code, as applicable.

(i) A science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(j) A college-preparatory boarding school established under Chapter 3328. of the Revised Code.

(3) The ~~number of~~ department also shall compile a list of the students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in a joint vocational school district or

under a career-technical education compact, excluding any students so entitled to attend school in the district ~~under section 3313.64 or 3313.65 of the Revised Code~~ who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a career-technical education compact.

The department shall provide each city, local, and exempted village school district with an opportunity to review the list of students compiled under divisions (A)(2) and (3) of this section to ensure that the students reported accurately reflect the enrollment of students in the district.

(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, ~~in addition to the average daily membership~~, each superintendent shall ~~report separately~~ certify from the reports provided by the department under division (A) of this section all of the following student counts for the same week for which average daily membership is certified:

(1) ~~The total average daily membership~~ student enrollment in regular learning day classes included in the report under division (A)(1) or (2) of this section for each of the individual grades kindergarten through twelve in schools under the superintendent's supervision;

(2) ~~The unduplicated count of the number of all preschool children with disabilities enrolled as of the first day of December in classes in the district for whom the district is eligible to receive funding under section 3317.0213 of the Revised Code and the number of those classes, which shall be reported not later than the fifteenth day of December~~ adjusted for the portion of the year each child is so enrolled, in accordance with the disability categories prescribed in section 3317.013 of the Revised Code;

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are:

(a) Participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code;

(d) Enrolled in a community school established under Chapter 3314. of

the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code and who qualified for the scholarship under section 3310.03 of the Revised Code;

(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;

(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;

(i) Participating in a program operated by a county DD board or a state institution;

(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(k) Enrolled in a college-preparatory boarding school established under Chapter 3328. of the Revised Code;

(l) Enrolled in an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code.

(4) The ~~number~~ total enrollment of pupils ~~enrolled~~ in joint vocational schools;

(5) The combined ~~average-daily-membership~~ enrollment of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(6) The combined ~~average-daily-membership~~ enrollment of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities described

in division (B) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(7) The combined ~~average daily membership~~ enrollment of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(8) The combined ~~average daily membership~~ enrollment of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(9) The combined ~~average daily membership~~ enrollment of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(10) The combined ~~average daily membership~~ enrollment of children with disabilities reported under division (A)(1) or (2) and under division (B)(3)(h) of this section receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code;

(11) The ~~average daily membership~~ enrollment of pupils reported under division (A)(1) or (2) of this section enrolled on a full-time equivalency basis in category one career-technical education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division (H) of

section 3317.02 of the Revised Code and division (C)(3) of this section;

(12) The ~~average daily membership enrollment~~ of pupils reported under division (A)(1) or (2) of this section enrolled on a full-time equivalency basis in category two career-technical education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division (H) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(13) The ~~average daily membership enrollment~~ of pupils reported under division (A)(1) or (2) of this section enrolled on a full-time equivalency basis in category three career-technical education programs or services, described in division (C) of section 3317.014 of the Revised Code, operated by the school district or another school district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division (H) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(14) The ~~average daily membership enrollment~~ of pupils reported under division (A)(1) or (2) of this section enrolled on a full-time equivalency basis in category four career-technical education programs or services, described in division (D) of section 3317.014 of the Revised Code, operated by the school district or another school district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division (H) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(15) The ~~average daily membership enrollment~~ of pupils reported under division (A)(1) or (2) of this section enrolled on a full-time equivalency basis in category five career-technical education programs or services, described in division (E) of section 3317.014 of the Revised Code, operated by the school district or another school district that is a member of the district's career-technical planning district, other than a joint vocational school district, or by an educational service center, notwithstanding division (H) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(16) The ~~average daily membership enrollment~~ of pupils reported under division (A)(1) or (2) of this section who are limited English proficient students described in division (A) of section 3317.016 of the Revised Code,

excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school;

(17) The ~~average daily membership~~ enrollment of pupils reported under division (A)(1) or (2) of this section who are limited English proficient students described in division (B) of section 3317.016 of the Revised Code, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school;

(18) The ~~average daily membership~~ enrollment of pupils reported under division (A)(1) or (2) of this section who are limited English proficient students described in division (C) of section 3317.016 of the Revised Code, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school;

(19) The average number of children transported during the reporting period by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

(20)(a) The number of children, other than preschool children with disabilities, the district placed with a county DD board in fiscal year 1998. Division (B)(20)(a) of this section does not apply after fiscal year 2013.

(b) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code;

(c) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category two disabilities described in division (B) of section 3317.013 of the Revised Code;

(d) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code;

(e) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code;

(f) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category five

disabilities described in division (E) of section 3317.013 of the Revised Code;

(g) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code.

(21) The ~~number~~ enrollment of students who are economically disadvantaged, as defined by the department, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school. A student shall not be categorically excluded from the number reported under division (B)(21) of this section based on anything other than family income.

~~(C)(1) The average daily membership in divisions (B)(1) to (12) of this section shall be based upon the number of full-time equivalent students. The state board of education shall adopt rules defining full-time equivalent students and for determining the average daily membership therefrom necessary for the purposes of implementing divisions (A), (B), and (D) of this section.~~

(2) A student enrolled in a community school established under Chapter 3314., a science, technology, engineering, and mathematics school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code shall be counted in the formula ADM and, if applicable, the category one, two, three, four, five, or six special education ADM of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code for the same proportion of the school year that the student is counted in the enrollment of the community school, the science, technology, engineering, and mathematics school, or the college-preparatory boarding school for purposes of section 3314.08, 3326.33, or 3328.24 of the Revised Code. Notwithstanding the ~~number~~ enrollment of students ~~reported~~ certified pursuant to division (B)(3)(d), (e), (j), or (k) of this section, the department may adjust the formula ADM of a school district to account for students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in a community school, a science, technology, engineering, and mathematics school, or a college-preparatory boarding school for only a portion of the school year.

(3) No child shall be counted as more than a total of one child in the sum of the ~~average daily memberships~~ enrollment of students of a school district under division (A), divisions (B)(1) to (22), or division (D) of this section, except as follows:

(a) A child with a disability described in section 3317.013 of the Revised Code may be counted both in formula ADM and in category one, two, three, four, five, or six special education ADM and, if applicable, in category one, two, three, four, or five career-technical education ADM. As provided in division (H) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM.

(b) A child enrolled in career-technical education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one, two, three, four, or five career-technical education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one, two, three, four, or five career-technical education ADM in the same proportion as the percentage of time that the child spends in the career-technical education programs or classes.

(4) Based on the information reported under this section, the department of education shall determine the total student count, as defined in section 3301.011 of the Revised Code, for each school district.

(D)(1) ~~The superintendent of each joint vocational school district shall report and certify to the superintendent of public instruction on or before as of the fifteenth last day of October in each year for the first full school week in October the average daily membership. If a school operated by the joint vocational school district is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the average daily membership for that school for that week and specify an alternate week for certifying the average daily membership of that school.~~ March, and June of each year the enrollment of students receiving services from schools under the superintendent's supervision so that the department can calculate the district's formula ADM, total ADM, category one through five career-technical education ADM, category one through three limited English proficient ADM, category one through six special education ADM, and for purposes of provisions of law outside of Chapter 3317. of the Revised Code, average daily membership.

The average daily membership enrollment reported and certified by the superintendent, except as otherwise provided in this division, shall consist of

~~the average daily membership during such week, on an FTE basis, of the number of students in grades six through twelve receiving any educational services from the district, including students enrolled in a community school established under Chapter 3314, or a science, technology, engineering, and mathematics school established under Chapter 3326, of the Revised Code who are attending the joint vocational district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district.~~

~~The except that the~~ following categories of students shall not be included in the determination ~~made under division (D)(1) of this section:~~

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, ~~in addition to the ADM,~~ each superintendent shall ~~report separately the average daily membership included in the report under division (D)(1) of this section~~ certify from the report provided under division (D)(1) of this section the enrollment for each of the following categories of students ~~for the same week for which ADM is certified:~~

- (a) Students enrolled in each individual grade included in the joint vocational district schools;
- (b) Children with disabilities receiving special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code;
- (c) Children with disabilities receiving special education services for the category two disabilities described in division (B) of section 3317.013 of the Revised Code;
- (d) Children with disabilities receiving special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code;
- (e) Children with disabilities receiving special education services for category four disabilities described in division (D) of section 3317.013 of

the Revised Code;

(f) Children with disabilities receiving special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code;

(g) Children with disabilities receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code;

(h) Students receiving category one career-technical education services, described in division (A) of section 3317.014 of the Revised Code;

(i) Students receiving category two career-technical education services, described in division (B) of section 3317.014 of the Revised Code;

(j) Students receiving category three career-technical education services, described in division (C) of section 3317.014 of the Revised Code;

(k) Students receiving category four career-technical education services, described in division (D) of section 3317.014 of the Revised Code;

(l) Students receiving category five career-technical education services, described in division (E) of section 3317.014 of the Revised Code;

(m) Limited English proficient students described in division (A) of section 3317.016 of the Revised Code;

(n) Limited English proficient students described in division (B) of section 3317.016 of the Revised Code;

(o) Limited English proficient students described in division (C) of section 3317.016 of the Revised Code;

(p) Students who are economically disadvantaged, as defined by the department. A student shall not be categorically excluded from the number reported under division (D)(2)(p) of this section based on anything other than family income.

The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school ~~membership~~ enrollment, which record shall accurately show, for each day the school is in session, the actual ~~membership-enrolled~~ enrollment in regular day classes. For the purpose of determining ~~average-daily~~ membership ~~the enrollment of students~~, the ~~membership~~ enrollment figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of ~~membership~~ enrollment for each school shall be maintained in such manner that no pupil shall be counted as

~~in membership~~ enrolled prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as ~~in membership~~ enrolled from and after the date of such withdrawal. There shall not be included in the ~~membership~~ enrollment of any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district during the previous school year when assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the assessments required by that section and was not excused pursuant to division (C)(1) or (3) of that section;

(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge;

(5) Any pupil who has a high school equivalence diploma as defined in section 5107.40 of the Revised Code.

If, however, any veteran described by division (E)(4) of this section elects to enroll in special courses organized for veterans for whom tuition is paid under the provisions of federal laws, or otherwise, that veteran shall not be included in ~~average daily membership~~ the enrollment of students determined under this section.

Notwithstanding division (E)(3) of this section, the ~~membership enrollment~~ of any school may include a pupil who did not take an assessment required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the assessment to the specific pupil and a parent is not paying tuition for the pupil pursuant to section 3313.6410 of the Revised Code. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.

~~Except as provided in divisions (B)(2) and (F) of this section, the average daily membership figure of any local, city, exempted village, or joint vocational school district shall be determined by dividing the figure representing the sum of the number of pupils enrolled during each day the school of attendance is actually open for instruction during the week for which the average daily membership is being certified by the total number~~

~~of days the school was actually open for instruction during that week. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized reasons, and those children with disabilities currently receiving home instruction.~~

~~The average daily membership figure formula ADM, total ADM, category one through five career-technical education ADM, category one through three limited English proficient ADM, category one through six special education ADM, preschool scholarship ADM, transportation ADM, and, for purposes of provisions of law outside of Chapter 3317. of the Revised Code, average daily membership of any ~~cooperative~~ education school district shall be determined in accordance with rules adopted by the state board of education.~~

(F)(1) If a student attending a community school under Chapter 3314., a science, technology, engineering, and mathematics school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code is not included in the formula ADM ~~certified~~ calculated for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. ~~This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school, the science, technology, engineering, and mathematics school, or the college preparatory boarding school during the week for which the formula ADM is being certified.~~

(2) If a student awarded an educational choice scholarship is not included in the formula ADM of the school district from which the department deducts funds for the scholarship under section 3310.08 of the Revised Code, the department shall adjust the formula ADM of that school district to include the student to the extent necessary to account for the deduction, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. ~~This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the chartered nonpublic school, the school district, or a community school during the week for which the formula ADM is being certified.~~

(3) If a student awarded a scholarship under the Jon Peterson special

needs scholarship program is not included in the formula ADM of the school district from which the department deducts funds for the scholarship under section 3310.55 of the Revised Code, the department shall adjust the formula ADM of that school district to include the student to the extent necessary to account for the deduction, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. ~~This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in an alternative public provider, a registered private provider, or the school district during the week for which the formula ADM is being certified.~~

(G)(1)(a) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education, in the manner prescribed by the superintendent of public instruction, both of the following:

(i) ~~The average daily membership~~ unduplicated count of the number of all children with disabilities other than preschool children with disabilities receiving services at the institution for each category of disability described in divisions (A) to (F) of section 3317.013 of the Revised Code adjusted for the portion of the year each child is so enrolled;

(ii) ~~The average daily membership~~ unduplicated count of the number of all preschool children with disabilities in classes or programs for whom the district is eligible to receive funding under section 3317.0213 of the Revised Code adjusted for the portion of the year each child is so enrolled, reported according to the categories prescribed in section 3317.013 of the Revised Code.

(b) The superintendent of an institution with career-technical education units approved under section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the ~~average daily membership~~ enrollment in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county DD board that maintains special education classes under section 3317.20 of the Revised Code or provides services to preschool children with disabilities pursuant to an agreement between the DD board and the appropriate school district shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the ~~average daily membership~~ enrollment in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the state board, in the manner prescribed by the board, the unduplicated count of the number of all preschool children with disabilities enrolled as of the first day of December in classes for which the DD board is eligible to receive funding under section 3317.0213 of the Revised Code adjusted for the portion of the year each child is so enrolled, reported according to the categories prescribed in section 3317.013 of the Revised Code, and the number of those classes.

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership enrollment shall not be included in that district's membership enrollment figure used in calculating the calculation of that district's formula ADM or included in the determination of any funding approved for the district under section 3317.0213 of the Revised Code payments under this chapter. The reporting official shall report separately the average daily membership enrollment of all pupils whose attendance in the district is unauthorized attendance, and the membership enrollment of each such pupil shall be credited to the school district in which the pupil is entitled to attend school under division (B) of section 3313.64 or section 3313.65 of the Revised Code as determined by the department of education.

(I)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership enrollment.

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership its enrollment:

(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend an alternative school.

(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships enrollments for all students in the cooperative education district, also indicating the city, local, or exempted village district where

each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(K) If the superintendent of public instruction determines that a component of the ~~average daily membership~~ enrollment certified or reported by a district superintendent, or other reporting entity, is not correct, the superintendent of public instruction may order that the formula ADM used for the purposes of payments under any section of Title XXXIII of the Revised Code be adjusted in the amount of the error.

Sec. 3317.033. In accordance with rules which the state board of education shall adopt, each joint vocational school district shall do both of the following:

(A) Maintain a record of district ~~membership~~ enrollment of any persons who are not eligible to be included in the ~~average daily membership determined under division (D)~~ of district's formula ADM as that term is defined in section ~~3317.03~~ 3317.02 of the Revised Code;

(B) Annually certify to the state board of education the number of persons for whom a record is maintained under division (A) of this section. These numbers shall be reported on a full-time equivalent basis.

Sec. 3317.034. For purposes of section 3317.03 of the Revised Code:

(A) A student shall be considered to be enrolled in the district for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(B) A student shall be considered to be enrolled in the district for the period of time beginning on the date on which the school has both received the documentation of the student's enrollment from a parent and the student has commenced participation in learning opportunities offered by the district. For purposes of applying divisions (B) and (C) of this section, "learning opportunities" means both classroom-based and nonclassroom-based learning opportunities overseen by licensed educational employees of the district that is in compliance with criteria and documentation requirements for student participation, which shall be established by the department. Any student's instruction time in nonclassroom-based learning opportunities shall be certified by an employee of the district.

(C) A student's enrollment shall be considered to cease on the date on which any of the following occur:

(1) The district receives documentation from a parent terminating enrollment of the student.

(2) The district is provided documentation of a student's enrollment in another public or nonpublic school.

(3) The student fails to participate in learning opportunities and has not received an excused absence for one hundred and five continuous hours. If a student is withdrawn from the district for failure to participate in learning opportunities under division (C)(1)(a)(v) of this section and the district board determines that the student is truant, the district shall take the appropriate action required under sections 3321.19 and 3321.191 of the Revised Code.

(4) The student ceases to participate in learning opportunities provided by the school.

(D) No public school may enroll or withdraw a student from the education management information system established under section 3310.0714 of the Revised Code later than thirty days after the student's actual enrollment or withdrawal from the school.

Sec. 3317.081. (A) Tuition shall be computed in accordance with this section if:

(1) The tuition is required by division (C)(3)(b) of section 3313.64 of the Revised Code; or

(2) Neither the child nor the child's parent resides in this state and tuition is required by section 3327.06 of the Revised Code.

(B) Tuition computed in accordance with this section shall equal the attendance district's tuition rate computed under section 3317.08 of the Revised Code plus the amount in state education aid, as defined in section 3317.02 of the Revised Code, that district would have received for the child during the school year had the ~~attendance district been authorized to count~~ department of education counted the child in ~~its~~ the attendance district's formula ADM for that school year under section 3317.03 of the Revised Code.

Sec. 3317.16. (A) The department of education shall compute and distribute state core foundation funding to each joint vocational school district for the fiscal year as prescribed in the following divisions:

(1) An opportunity grant calculated according to the following formula:

(The formula amount X formula ADM) - (0.0005 X the district's three-year average valuation)

If the result of the calculation for a joint vocational school district under division (A)(1) of this section is less than zero, the joint vocational school district's opportunity grant shall be zero.

(2) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code calculated as the sum of the following:

(a) The district's category one special education ADM X the amount

specified in division (A) of section 3317.013 of the Revised Code X the district's state share percentage;

(b) The district's category two special education ADM X the amount specified in division (B) of section 3317.013 of the Revised Code X the district's state share percentage;

(c) The district's category three special education ADM X the amount specified in division (C) of section 3317.013 of the Revised Code X the district's state share percentage;

(d) The district's category four special education ADM X the amount specified in division (D) of section 3317.013 of the Revised Code X the district's state share percentage;

(e) The district's category five special education ADM X the amount specified in division (E) of section 3317.013 of the Revised Code X the district's state share percentage;

(f) The district's category six special education ADM X the amount specified in division (F) of section 3317.013 of the Revised Code X the district's state share percentage.

(3) Economically disadvantaged funds calculated according to the following formula:

$(\$250, \text{ in fiscal year 2014, or } \$253, \text{ in fiscal year 2015}) \times$

$(\text{the district's economically disadvantaged index}) \times \text{the number of students who are economically disadvantaged as } \text{reported certified} \text{ under division (D)(2)(p) of section 3317.03 of the Revised Code}$

(4) Limited English proficiency funds calculated as the sum of the following:

(a) The district's category one limited English proficient ADM X the amount specified in division (A) of section 3317.016 of the Revised Code X the district's state share percentage;

(b) The district's category two limited English proficient ADM X the amount specified in division (B) of section 3317.016 of the Revised Code X the district's state share percentage;

(c) The district's category three limited English proficient ADM X the amount specified in division (C) of section 3317.016 of the Revised Code X the district's state share percentage;

(5) Career-technical education funds calculated as the sum of the following:

(a) The district's category one career-technical education ADM X the amount specified in division (A) of section 3317.014 of the Revised Code X the district's state share percentage;

(b) The district's category two career-technical education ADM X the

amount specified in division (B) of section 3317.014 of the Revised Code X the district's state share percentage;

(c) The district's category three career-technical education ADM X the amount specified in division (C) of section 3317.014 of the Revised Code X the district's state share percentage;

(d) The district's category four career-technical education ADM X the amount specified in division (D) of section 3317.014 of the Revised Code X the district's state share percentage;

(e) The district's category five career-technical education ADM X the amount specified in division (E) of section 3317.014 of the Revised Code X the district's state share percentage.

Payment of funds under division (A)(5) of this section is subject to approval under section 3317.161 of the Revised Code.

(6) Career-technical education associated services funds calculated under the following formula:

The district's state share percentage X the
amount for career-technical education associated services specified in
section 3317.014 of the Revised Code X the sum of categories one through
five career-technical
education ADM

(B)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (B) of section 3317.0214 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(a) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(b) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(2) The district shall report under division (B)(1) of this section, and the department shall pay for, only the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(C)(1) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under division (A) of this section.

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:

- (a) The formula amount;
 - (b) The amount specified in section 3317.013 of the Revised Code that is applicable to the student;
 - (c) Any funds paid under section 3317.0214 for the student.
- (2) The board of education of the joint vocational school district may report the excess costs calculated under division (C)(1) of this section to the department of education.

(3) If the board of education of the joint vocational school district reports excess costs under division (C)(2) of this section, the department shall pay the amount of excess cost calculated under division (C)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (C)(3)(a) or (b) of this section, as applicable:

(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division (J) of section 3317.023 of the Revised Code.

(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.

(D)(1) In any fiscal year, a school district receiving funds under division (A)(5) of this section shall spend those funds only for the purposes that the department designates as approved for career-technical education expenses. Career-technical educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (A)(5) of this section may be spent.

(2) All funds received under division (A)(5) of this section shall be spent in the following manner:

(a) At least seventy-five per cent of the funds shall be spent on curriculum development, purchase, and implementation; instructional resources and supplies; industry-based program certification; student assessment, credentialing, and placement; curriculum specific equipment purchases and leases; career-technical student organization fees and expenses; home and agency linkages; work-based learning experiences; professional development; and other costs directly associated with career-technical education programs including development of new programs.

(b) Not more than twenty-five per cent of the funds shall be used for personnel expenditures.

(E) In any fiscal year, a school district receiving funds under division (A)(6) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for career-technical education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other career-technical education services, career-technical evaluation, and other purposes designated by the department. The department may deny payment under division (A)(6) of this section to any district that the department determines is not operating those services or is using funds paid under division (A)(6) of this section, or through a transfer of funds pursuant to division (I) of section 3317.023 of the Revised Code, for other purposes.

(F) A joint vocational school district shall spend the funds it receives under division (A)(3) of this section in accordance with section 3317.25 of the Revised Code.

(G) As used in this section:

(1) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(2) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" is equal to the following:

The amount computed under division (A)(1) of this section /
(the formula amount X formula ADM)

Sec. 3317.201. This section does not apply to preschool children with disabilities.

(A) As used in this section, the "total special education amount" for an institution means the sum of the following amounts:

(1) The number of children ~~reported~~ certified by the institution under

division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (A) of section 3317.013 of the Revised Code multiplied by the amount specified in that division;

(2) The number of children ~~reported~~ certified by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (B) of section 3317.013 of the Revised Code multiplied by the amount specified in that division;

(3) The number of children ~~reported~~ certified by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (C) of section 3317.013 of the Revised Code multiplied by the amount specified in that division;

(4) The number of children ~~reported~~ certified by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (D) of section 3317.013 of the Revised Code multiplied by the amount specified in that division;

(5) The number of children ~~reported~~ certified by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (E) of section 3317.013 of the Revised Code multiplied by the amount specified in that division;

(6) The number of children ~~reported~~ certified by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (F) of section 3317.013 of the Revised Code multiplied by the amount specified in that division.

(B) For each fiscal year, the department of education shall pay each state institution required to provide special education services under division (A) of section 3323.091 of the Revised Code an amount equal to the institution's total special education amount.

Sec. 3317.30. (A) In the case of a child placed in the custody of a juvenile facility established under section 2151.65 or a detention facility established under section 2152.41 of the Revised Code, payment for the child's education services shall be administered by one of the following methods:

(1) If the facility educates the child, the facility, or the chartered nonpublic school it operates, may submit its request for payment directly to the school district that is to bear the cost of educating the child, as determined under section 2151.362 of the Revised Code. That district shall pay the facility or the chartered nonpublic school directly for those services.

(2) If the facility contracts directly with a school district in which the facility is located for services for that child, the school district may submit its request for payment directly to the school district that is to bear the cost

of educating the child, as determined under section 2151.362 of the Revised Code. That district shall pay the school district where the facility is located directly for those services.

(3) If that facility contracts directly with an educational service center for services for that child, the service center may submit its request for payment for services for the child directly to the school district that is responsible to bear the cost of educating the child, as determined under section 2151.362 of the Revised Code. That district shall pay the service center directly for those services.

(B) Notwithstanding anything to the contrary in section 3317.03 of the Revised Code, the district that pays a service center, facility or chartered nonpublic school the facility operates, or other school district for services for a particular child under this section shall include that child in the district's ~~average daily membership~~ enrollment as reported under division (A) of section 3317.03 of the Revised Code. No other district shall include the child in its ~~average daily membership~~ enrollment.

Payments made for a child under this section shall be determined in accordance with division (C)(4) of section 3313.64 of the Revised Code.

Sec. 3318.18. (A) As used in this section:

(1) "Valuation" of a school district means the sum of the amounts described in divisions (A)(1) and (2) of section 3317.021 of the Revised Code as most recently certified for the district before the annual computation is made under division (B) of this section.

(2) "Valuation per pupil" of a school district means the district's valuation divided by the district's formula ADM as most recently ~~reported for October~~ calculated under section 3317.03 of the Revised Code before the annual computation is made under division (B) of this section.

(3) "Statewide average valuation per pupil" means the total of the valuations of all school districts divided by the total of the formula ADMs of all school districts as most recently ~~reported for October~~ calculated under section 3317.03 of the Revised Code before the annual computation is made under division (C) of this section.

(4) "Maintenance levy requirement" means the tax required to be levied pursuant to division (C)(2)(a) of section 3318.08 and division (B) of section 3318.05 of the Revised Code or the application of proceeds of another levy to paying the costs of maintaining classroom facilities pursuant to division (A)(2) of section 3318.052, division (C)(1) or (C)(2)(b) of section 3318.08, or division (D)(2) of section 3318.36 of the Revised Code, or a combination thereof.

(5) "Project agreement" means an agreement between a school district

and the Ohio school facilities commission under section 3318.08 or division (B)(1) of section 3318.36 of the Revised Code.

(B) On or before July 1, 2006, the department of education shall compute the statewide average valuation per pupil and the valuation per pupil of each school district, and provide them to the Ohio school facilities commission. On or before the first day of July each year beginning in 2007, the department of education shall compute the statewide average valuation per pupil and the valuation per pupil of each school district that has not already entered into a project agreement, and provide the results of those computations to the commission.

(C)(1) At the time the Ohio school facilities commission enters into a project agreement with a school district, the commission shall compute the difference between the district's valuation per pupil and the statewide average valuation per pupil as most recently provided to the commission under division (B) of this section. If the school district's valuation per pupil is less than the average statewide valuation per pupil, the commission shall multiply the difference between those amounts by one-half mill times the formula ADM of the district as most recently reported to the department of education for October under division (A) of section 3317.03 of the Revised Code. The commission shall certify the resulting product to the department of education, along with the date on which the maintenance levy requirement terminates as provided in the project agreement between the school district board and the commission.

(2) In the case of a school district that entered into a project agreement after July 1, 1997, but before July 1, 2006, the commission shall make the computation described in division (C)(1) of this section on the basis of the district's valuation per pupil and the statewide average valuation per pupil computed as of September 1, 2006, and the district's formula ADM reported for October 2005.

(3) The amount computed for a school district under division (C)(1) or (2) of this section shall not change for the period during which payments are made to the district under division (D) of this section.

(4) A computation need not be made under division (C)(1) or (2) of this section for a school district that certified a resolution to the commission under division (D)(3) of section 3318.36 of the Revised Code until the district becomes eligible for state assistance as provided in that division.

(D) In the fourth quarter of each fiscal year, for each school district for which a computation has been made under division (C) of this section, the department of education shall pay the amount computed to each such school district. Payments shall be made to a school district each year until and

including the tax year in which the district's maintenance levy requirement terminates. Payments shall be paid from the half-mill equalization fund, subject to appropriation by the general assembly. However, the department shall make no payments under this section to any district that elects the procedure authorized by section 3318.051 of the Revised Code.

(E) Payments made to a school district under this section shall be credited to the district's classroom facilities maintenance fund and shall be used only for the purpose of maintaining facilities constructed or renovated under the project agreement.

(F) There is hereby created in the state treasury the half-mill equalization fund. The fund shall receive transfers pursuant to section 5727.85 of the Revised Code. The fund shall be used first to make annual payments under division (D) of this section. If a balance remains in the fund after such payments are made in full for a year, the Ohio school facilities commission may request the controlling board to transfer a reasonable amount from such remaining balance to the public school building fund created under section 3318.15 of the Revised Code for the purposes of this chapter.

All investment earnings arising from investment of money in the half-mill equalization fund shall be credited to the fund.

Sec. 3318.42. (A) Not later than the sixty-first day after ~~the effective date of this section~~ March 14, 2003, and subsequently not later than the sixty-first day after the first day of each ensuing fiscal year, the department of education shall do all of the following:

(1) Calculate the valuation per pupil of each joint vocational school district according to the following formula:

The school district's average taxable value divided by the school district's formula ADM ~~reported~~ calculated under section 3317.03 of the Revised Code for the previous fiscal year.

For purposes of this calculation:

(a) "Average taxable value" means the average of the amounts certified for a school district in the second, third, and fourth preceding tax years under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

(b) "Formula ADM" has the same meaning as defined in section 3317.02 of the Revised Code.

(2) Calculate for each school district the three-year average of the valuations per pupil calculated for the school district for the current and two preceding fiscal years;

(3) Rank all joint vocational school districts in order from the school district with the lowest three-year average valuation per pupil to the school

district with the highest three-year average valuation per pupil;

(4) Divide the ranking under division (A)(3) of this section into percentiles with the first percentile containing the one per cent of school districts having the lowest three-year average valuations per pupil and the one-hundredth percentile containing the one per cent of school districts having the highest three-year average valuations per pupil;

(5) Certify the information described in divisions (A)(1) to (4) of this section to the Ohio school facilities commission.

(B) The commission annually shall select school districts for assistance under sections 3318.40 to 3318.45 of the Revised Code in the order of the school districts' three-year average valuations per pupil such that the school district with the lowest three-year average valuation per pupil shall be given the highest priority for assistance.

(C) Each joint vocational school district's portion of the basic project cost of the school district's project under sections 3318.40 to 3318.45 of the Revised Code shall be one per cent times the percentile in which the district ranks, except that no school district's portion shall be less than twenty-five per cent or greater than ninety-five per cent of the basic project cost.

Sec. 3327.05. (A) Except as provided in division (B) of this section, no board of education of any school district shall provide transportation for any pupil who is a school resident of another school district unless the pupil is enrolled pursuant to section 3313.98 of the Revised Code or the board of the other district has given its written consent thereto. If the board of any school district files with the state board of education a written complaint that transportation for resident pupils is being provided by the board of another school district contrary to this division, the state board of education shall make an investigation of such complaint. If the state board of education finds that transportation is being provided contrary to this section, it may withdraw from state funds due the offending district any part of the amount that has been approved for transportation pursuant to section 3317.0212 of the Revised Code or other provisions of law.

(B) Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this division does not apply to any joint vocational or cooperative education school district.

A board of education may provide transportation to and from the nonpublic school of attendance if both of the following apply:

(1) The parent, guardian, or other person in charge of the pupil agrees to pay the board for all costs incurred in providing the transportation that are not reimbursed pursuant to Chapter 3317. of the Revised Code;

(2) The pupil's school district of residence does not provide

transportation for public school pupils of the same grade as the pupil being transported under this division, or that district is not required under section 3327.01 of the Revised Code to transport the pupil to and from the nonpublic school because the direct travel time to the nonpublic school is more than thirty minutes.

Upon receipt of the request to provide transportation, the board shall review the request and determine whether the board will accommodate the request. If the board agrees to transport the pupil, the board may transport the pupil to and from the nonpublic school and a collection point in the district, as determined by the board. If the board transports the pupil, the board may include the pupil in the district's ~~transportation ADM~~ enrollment reported to the department of education for purposes of calculating the district's transportation ADM under section 3317.03 of the Revised Code and, accordingly, may receive a state payment under section 3317.0212 of the Revised Code or other provisions of law for transporting the pupil.

If the board declines to transport the pupil, the board, in a written communication to the parent, guardian, or other person in charge of the pupil, shall state the reasons for declining the request.

Sec. 3328.32. ~~The city, exempted village, or local school district in which each~~ Each child enrolled in a college-preparatory boarding school established under this chapter ~~is entitled to attend school~~ shall ~~count that child~~ be included in the ~~district's average daily membership~~ enrollment of the district in which the child is entitled to attend school and in the district's category one through six special education ~~ADM enrollment~~, as appropriate, as reported under ~~divisions (A) and (B)(5) to (10)~~ of section 3317.03 of the Revised Code.

The department of education shall count that child in the district's formula ADM, total ADM, and, as appropriate, category one through six special education ADM.

Sec. 3328.33. (A) For each child enrolled in a college-preparatory boarding school, as reported under section 3328.31 of the Revised Code, the department of education shall deduct from the state education aid and, if necessary, from the payment under sections 321.24 and 323.156 of the Revised Code, for the city, exempted village, or local school district in which the child is entitled to attend school the amount calculated under division (B) of this section, as set forth in the agreement filed with the department under division (C) of this section.

(B) Each participating school district, in consultation with the college-preparatory boarding school's board of trustees, shall calculate the amount of funds per student to be deducted from the district's account under

division (A) of this section, which shall be set forth in the agreement required by division (C) of this section. The amount to be deducted for each student shall equal eighty-five per cent of the operating expenditure per pupil of that district.

As used in this division, a district's "operating expenditure per pupil" is the total amount of state payments and other nonfederal revenue spent by the district for operating expenses during the previous fiscal year, divided by the district's ~~average daily membership~~ formula ADM, as ~~reported under division (A) of that term is defined in~~ section ~~3317.03~~ 3317.02 of the Revised Code, for the previous fiscal year.

(C) Each participating school district and the college-preparatory boarding school's board of trustees shall execute an agreement setting forth the amount per student to be deducted from the district's account, as calculated under division (B) of this section, and shall file a copy of that agreement with the department.

Sec. 5727.85. (A) By the thirty-first day of July of each year, beginning in 2002 and ending in 2010, the department of education shall determine the following for each school district and each joint vocational school district:

(1) The state education aid offset, which, except as provided in division (A)(1)(c) of this section, is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the tax value loss for the school district or joint vocational school district;

(c) The state education aid offset for fiscal year 2010 and fiscal year 2011 equals the greater of the state education aid offset calculated for that fiscal year under divisions (A)(1)(a) and (b) of this section or the state education aid offset calculated for fiscal year 2009.

(2) For fiscal years 2008 through 2011, the greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code for all taxing districts in each school district and joint vocational school district.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of

this section to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through 2010, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state education aid computed for fiscal year 2002 from the district's state education aid computed for the current fiscal year as of the fifteenth day of July, by including in the definition of recognized valuation the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses, as defined in section 5751.20 of the Revised Code, for the school district or joint vocational school district for the preceding tax year;

(2) The inflation-adjusted property tax loss. The inflation-adjusted property tax loss equals the fixed-rate levy loss, excluding the tax loss from levies within the ten-mill limitation to pay debt charges, determined under division (G) of section 5727.84 of the Revised Code for all taxing districts in each school district, plus the product obtained by multiplying that loss by the cumulative percentage increase in the consumer price index from January 1, 2002, to the thirtieth day of June of the current year.

(3) The difference obtained by subtracting the amount computed under division (B)(1) from the amount of the inflation-adjusted property tax loss. If this difference is zero or a negative number, no further payments shall be made under division (C) of this section to the school district from the school district property tax replacement fund.

(C) Beginning in 2002 for school districts and beginning in August 2011 for joint vocational school districts, the department of education shall pay from the school district property tax replacement fund to each school district all of the following:

(1) In February 2002, one-half of the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code between the twenty-first and twenty-eighth days of February.

(2) From August 2002 through February 2011, one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February, provided the difference computed under division (B)(3) of this section is not less than or equal to zero.

(3) For fiscal years 2012 and thereafter, the sum of the amounts in divisions (C)(3)(a) or (b) and (c) of this section shall be paid on or before the thirty-first day of August and the twenty-eighth day of February:

(a) If the ratio of 2011 current expense S.B. 3 allocation to total resources is equal to or less than the threshold per cent, zero;

(b) If the ratio of 2011 current expense S.B. 3 allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of 2011 current expense S.B. 3 allocation minus the product of total resources multiplied by the threshold per cent;

(c) Fifty per cent of the product of 2011 non-current expense S.B. 3 allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

(E) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 through February 2011, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(F)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-half of the fixed-sum levy loss so certified for each year between the twenty-first and twenty-eighth days of August and of February.

(2) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the certification originally made under division (F)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has

expired, a revised certification for that and all subsequent years shall be made to the department of education.

(G) If the balance of the half-mill equalization fund created under section 3318.18 of the Revised Code is insufficient to make the full amount of payments required under division (D) of that section, the department of education, at the end of the third quarter of the fiscal year, shall certify to the director of budget and management the amount of the deficiency, and the director shall transfer an amount equal to the deficiency from the school district property tax replacement fund to the half-mill equalization fund.

(H) Beginning in August 2002, and ending in May 2011, the director of budget and management shall transfer from the school district property tax replacement fund to the general revenue fund each of the following:

(1) Between the twenty-eighth day of August and the fifth day of September, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund;

(2) Between the first and fifth days of May, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund.

(I) On the first day of June each year, the director of budget and management shall transfer any balance remaining in the school district property tax replacement fund after the payments have been made under divisions (C), (D), (E), (F), (G), and (H) of this section to the half-mill equalization fund created under section 3318.18 of the Revised Code to the extent required to make any payments in the current fiscal year under that section, and shall transfer the remaining balance to the general revenue fund.

(J) After fiscal year 2002, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), (E), (F), and (G) of this section at the time the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill No. 95 of the 125th general assembly.

(K) If all of the territory of a school district or joint vocational school district is merged with an existing district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or new district, the department of education, in consultation with the tax

commissioner, shall adjust the payments made under this section as follows:

(1) For the merger of all of the territory of two or more districts, the total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011 non-current expense S.B. 3 allocation, and fixed-sum levy loss of the successor district shall be equal to the sum of the total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011 non-current expense S.B. 3 allocation, and fixed-sum levy loss for each of the districts involved in the merger.

(2) For the transfer of a part of one district's territory to an existing district, the amount of the total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, and 2011 non-current expense S.B. 3 allocation that is transferred to the recipient district shall be an amount equal to the transferring district's total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, and 2011 non-current expense S.B. 3 allocation times a fraction, the numerator of which is the number of pupils being transferred to the recipient district, measured, in the case of a school district, by average daily membership formula ADM as reported under division (A) of that term is defined in section 3317.03 3317.02 of the Revised Code or, in the case of a joint vocational school district, by formula ADM as reported in division (D) of defined for a joint vocational school district in that section, and the denominator of which is the average daily membership or formula ADM of the transferor district. Fixed-sum levy losses for both districts shall be determined under division (K)(4) of this section.

(3) For the transfer of a part of the territory of one or more districts to create a new district:

(a) If the new district is created on or after January 1, 2000, but before January 1, 2005, the new district shall be paid its current fixed-rate levy loss through August 2009. In February 2010, August 2010, and February 2011, the new district shall be paid fifty per cent of the lesser of: (i) the amount calculated under division (C)(2) of this section or (ii) an amount equal to seventy per cent of the new district's fixed-rate levy loss.

Beginning in fiscal year 2012, the new district shall be paid as provided in division (C) of this section.

Fixed-sum levy losses for the districts shall be determined under division (K)(4) of this section.

(b) If the new district is created on or after January 1, 2005, the new district shall be deemed not to have any fixed-rate levy loss or, except as provided in division (K)(4) of this section, fixed-sum levy loss. The district or districts from which the territory was transferred shall have no reduction

in their fixed-rate levy loss, or, except as provided in division (K)(4) of this section, their fixed-sum levy loss.

(4) If a recipient district under division (K)(2) of this section or a new district under division (K)(3)(a) or (b) of this section takes on debt from one or more of the districts from which territory was transferred, and any of the districts transferring the territory had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy losses.

Sec. 5751.21. (A) Not later than the thirtieth day of July of 2007 through 2010, the department of education shall consult with the director of budget and management and determine the following for each school district and each joint vocational school district eligible for payment under division (B) of this section:

(1) The state education aid offset, which, except as provided in division (A)(1)(c) of this section, is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July if the valuation used in the calculation in division (B)(1) of section 3306.13 of the Revised Code as that division existed for fiscal years 2010 and 2011 included the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses for the school district or joint vocational school district for the second preceding tax year, and if taxes charged and payable associated with the tax value losses are accounted for in any state education aid computation dependent on taxes charged and payable.

(c) The state education aid offset for fiscal year 2010 and fiscal year 2011 equals the greater of the state education aid offset calculated for that fiscal year under divisions (A)(1)(a) and (b) of this section and the state education aid offset calculated for fiscal year 2009. For fiscal year 2012 and 2013, the state education aid offset equals the state education aid offset for fiscal year 2011.

(2) For fiscal years 2008 through 2011, the greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, furniture

and fixtures fixed-rate levy loss, and telephone property fixed-rate levy loss certified under divisions (G) and (I) of section 5751.20 of the Revised Code for all taxing districts in each school district and joint vocational school district for the second preceding tax year.

By the thirtieth day of July of each such year, the department of education and the director of budget and management shall agree upon the amount to be determined under division (A)(1) of this section.

(B) On or before the thirty-first day of August of 2008, 2009, and 2010, the department of education shall recalculate the offset described under division (A) of this section for the previous fiscal year and recalculate the payments made under division (C) of this section in the preceding fiscal year using the offset calculated under this division. If the payments calculated under this division differ from the payments made under division (C) of this section in the preceding fiscal year, the difference shall either be paid to a school district or recaptured from a school district through an adjustment at the same times during the current fiscal year that the payments under division (C) of this section are made. In August and October of the current fiscal year, the amount of each adjustment shall be three-sevenths of the amount calculated under this division. In May of the current fiscal year, the adjustment shall be one-seventh of the amount calculated under this division.

(C) The department of education shall pay from the school district tangible property tax replacement fund to each school district and joint vocational school district all of the following for fixed-rate levy losses certified under divisions (G) and (I) of section 5751.20 of the Revised Code:

(1) On or before May 31, 2006, one-seventh of the total fixed-rate levy loss for tax year 2006;

(2) On or before August 31, 2006, and October 31, 2006, one-half of six-sevenths of the total fixed-rate levy loss for tax year 2006;

(3) On or before May 31, 2007, one-seventh of the total fixed-rate levy loss for tax year 2007;

(4) On or before August 31, 2007, and October 31, 2007, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss for tax year 2007 and the total fixed-rate levy loss for tax year 2006.

(5) On or before May 31, 2008, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2008 and the total fixed-rate levy loss for

tax year 2006.

(6) On or before August 31, 2008, and October 31, 2008, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2008 and the total fixed-rate levy loss in tax year 2007.

(7) On or before May 31, 2009, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2009 and the total fixed-rate levy loss for tax year 2007.

(8) On or before August 31, 2009, and October 31, 2009, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2009 and the total fixed-rate levy loss in tax year 2008.

(9) On or before May 31, 2010, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss in tax year 2010 and the total fixed-rate levy loss in tax year 2008.

(10) On or before August 31, 2010, and October 31, 2010, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2010 and the telephone property fixed-rate levy loss for tax year 2009.

(11) On or before May 31, 2011, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2009.

(12) For fiscal years 2012 and thereafter, the sum of the amounts in divisions (C)(12)(a) or (b) and (c) of this section shall be paid on or before the last day of November and the last day of May:

(a) If the ratio of current expense TPP allocation to total resources is equal to or less than the threshold per cent, zero;

(b) If the ratio of current expense TPP allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of current expense TPP allocation minus the product of total resources multiplied by the threshold per cent;

(c) Fifty per cent of the product of non-current expense TPP allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter.

The department of education shall report to each school district and joint vocational school district the apportionment of the payments among the school district's or joint vocational school district's funds based on the certifications under divisions (G) and (I) of section 5751.20 of the Revised Code.

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (C) of this section.

(E)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under division (E) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the commissioner made such a determination. On or before the last day of May of the current year, the department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-third of the fixed-sum levy loss so certified, plus one-third of the amount certified under division (I) of section 5751.20 of the Revised Code, and on or before the last day of November, two-thirds of the fixed-sum levy loss so certified, plus two-thirds of the amount certified under division (I) of section 5751.20 of the Revised Code. Payments under this division of the amounts certified under division (I) of section 5751.20 of the Revised Code shall continue until the levy adopted under section 5705.219 of the Revised Code expires.

(2) Beginning in 2006, by the first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

(F) Beginning in September 2007 and through June 2013, the director of

budget and management shall transfer from the school district tangible property tax replacement fund to the general revenue fund each of the following:

(1) On the first day of September, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(2) On the first day of December, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(3) On the first day of March, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(4) On the first day of June, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section.

If, when a transfer is required under division (F)(1), (2), (3), or (4) of this section, there is not sufficient money in the school district tangible property tax replacement fund to make the transfer in the required amount, the director shall transfer the balance in the fund to the general revenue fund and may make additional transfers on later dates as determined by the director in a total amount that does not exceed one-fourth of the amount determined for the fiscal year.

(G) If the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the total amount to be paid and the amount in the school district tangible property tax replacement fund.

(H) On the fifteenth day of June of each year, the director of budget and management may transfer any balance in the school district tangible property tax replacement fund to the general revenue fund.

(I) If all of the territory of a school district or joint vocational school district is merged with another district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or newly created district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For a merger of two or more districts, the fixed-sum levy losses, total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation of the successor district shall be the sum of such items for each of the districts involved in the merger.

(2) If property is transferred from one district to a previously existing district, the amount of total resources, current expense TPP allocation, total

TPP allocation, and non-current expense TPP allocation that shall be transferred to the recipient district shall be an amount equal to total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation of the transferor district times a fraction, the numerator of which is the number of pupils being transferred to the recipient district, measured, in the case of a school district, by ~~average daily membership formula ADM as reported under division (A) of that term is defined in~~ section ~~3317.03~~ 3317.02 of the Revised Code or, in the case of a joint vocational school district, by formula ADM as ~~reported in division (D) of~~ defined for a joint vocational school district in that section, and the denominator of which is the ~~average daily membership or~~ formula ADM of the transferor district.

(3) After December 31, 2010, if property is transferred from one or more districts to a district that is newly created out of the transferred property, the newly created district shall be deemed not to have any total resources, current expense TPP allocation, total TPP allocation, or non-current expense TPP allocation.

(4) If the recipient district under division (I)(2) of this section or the newly created district under division (I)(3) of this section is assuming debt from one or more of the districts from which the property was transferred and any of the districts losing the property had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy loss reimbursements.

SECTION 120.11. That the existing versions of sections 3302.20, 3310.08, 3313.981, 3314.091, 3317.01, 3317.02, 3317.022, 3317.0217, 3317.03, 3317.16, 3317.30, and 5751.21 that result from Section 101.01 of this act and existing sections 3310.41, 3311.52, 3317.024, 3317.033, 3317.081, 3317.201, 3318.18, 3318.42, 3327.05, 3328.32, 3328.33, and 5727.85 of the Revised Code are hereby repealed.

SECTION 120.12. Sections 120.10 and 120.11 of this act take effect July 1, 2014.

SECTION 125.10. (A) Sections 5168.01, 5168.02, 5168.03, 5168.04, 5168.05, 5168.06, 5168.07, 5168.08, 5168.09, 5168.10, 5168.11, 5168.12, 5168.13, 5168.99, and 5168.991 of the Revised Code are hereby repealed, effective October 16, 2015.

(B) Any money remaining in the Legislative Budget Services Fund on October 16, 2015, the date that section 5168.12 of the Revised Code is repealed by division (A) of this section, shall be used solely for the purposes stated in then former section 5168.12 of the Revised Code. When all money in the Legislative Budget Services Fund has been spent after then former section 5168.12 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist.

SECTION 125.11. Sections 5168.20, 5168.21, 5168.22, 5168.23, 5168.24, 5168.25, 5168.26, 5168.27, and 5168.28 of the Revised Code are hereby repealed, effective October 1, 2015.

SECTION 125.11.03. Section 5124.67 of the Revised Code is hereby repealed, effective July 1, 2018.

SECTION 125.11.10. That Section 267.60.31 of Am. Sub. H.B. 153 of the 129th General Assembly is hereby repealed.

SECTION 125.12. That Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 153 of the 129th General Assembly, is hereby repealed.

SECTION 125.13. That Section 125.10 of Am. Sub. H.B. 1 of the 128th General Assembly, as most recently amended by Am. Sub. H.B. 153 of the 129th General Assembly, is hereby repealed.

SECTION 201.10. Except as otherwise provided in this act, all appropriation items in this act are appropriated out of any moneys in the state treasury to the credit of the designated fund that are not otherwise appropriated. For all appropriations made in this act, the amounts in the first column are for fiscal year 2014 and the amounts in the second column are for fiscal year 2015.

SECTION 203.10. ACC ACCOUNTANCY BOARD OF OHIO
General Services Fund Group

4J80	889601	CPA Education Assistance	\$	325,000	\$	325,000
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4K90 889609	Operating Expenses	\$	977,500	\$	977,500
TOTAL GSF General Services Fund					
Group		\$	1,302,500	\$	1,302,500
TOTAL ALL BUDGET FUND GROUPS					
		\$	1,302,500	\$	1,302,500

SECTION 205.10. ADJ ADJUTANT GENERAL

General Revenue Fund

GRF 745401	Ohio Military Reserve	\$	12,308	\$	12,308
GRF 745404	Air National Guard	\$	1,810,606	\$	1,810,606
GRF 745407	National Guard Benefits	\$	400,000	\$	400,000
GRF 745409	Central Administration	\$	2,682,098	\$	2,682,098
GRF 745499	Army National Guard	\$	3,689,871	\$	3,689,871
TOTAL GRF General Revenue Fund					
		\$	8,594,883	\$	8,594,883

General Services Fund Group

5340 745612	Property Operations Management	\$	534,304	\$	534,304
5360 745605	Marksmanship Activities	\$	128,600	\$	128,600
5360 745620	Camp Perry and Buckeye Inn Operations	\$	978,846	\$	978,846
5370 745604	Ohio National Guard Facilities Maintenance	\$	62,000	\$	62,000
TOTAL GSF General Services Fund Group					
		\$	1,703,750	\$	1,703,750

Federal Special Revenue Fund Group

3410 745615	Air National Guard Base Security	\$	2,919,000	\$	2,919,000
3420 745616	Army National Guard Service Agreement	\$	15,063,000	\$	15,063,000
3E80 745628	Air National Guard Operations and Maintenance	\$	16,850,000	\$	16,850,000
3R80 745603	Counter Drug Operations	\$	15,000	\$	15,000
TOTAL FED Federal Special Revenue Fund Group					
		\$	34,847,000	\$	34,847,000

State Special Revenue Fund Group

5LY0 745626	Military Medal of Distinction	\$	5,000	\$	5,000
5U80 745613	Community Match Armories	\$	350,000	\$	350,000
TOTAL SSR State Special Revenue Fund Group					
		\$	355,000	\$	355,000
TOTAL ALL BUDGET FUND GROUPS					
		\$	45,500,633	\$	45,500,633

NATIONAL GUARD BENEFITS

The foregoing appropriation item 745407, National Guard Benefits, shall be used for purposes of sections 5919.31 and 5919.33 of the Revised Code, and for administrative costs of the associated programs.

If necessary, in order to pay benefits in a timely manner pursuant to sections 5919.31 and 5919.33 of the Revised Code, the Adjutant General may request the Director of Budget and Management transfer appropriation from any appropriation item used by the Adjutant General to appropriation item 745407, National Guard Benefits. The Adjutant General may subsequently seek Controlling Board approval to restore the appropriation in

the appropriation item from which such a transfer was made.

For active duty members of the Ohio National Guard who died after October 7, 2001, while performing active duty, the death benefit, pursuant to section 5919.33 of the Revised Code, shall be paid to the beneficiary or beneficiaries designated on the member's Servicemembers' Group Life Insurance Policy.

STATE ACTIVE DUTY COSTS

Of the foregoing appropriation item 745409, Central Administration, \$50,000 in each fiscal year shall be used for the purpose of paying expenses related to state active duty of members of the Ohio organized militia, in accordance with a proclamation of the Governor. Expenses include, but are not limited to, the cost of equipment, supplies, and services, as determined by the Adjutant General's Department.

SECTION 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

General Revenue Fund

GRF 100403	Public Employees Health Care Program	\$	309,600	\$	309,600
GRF 100414	MARCS Lease Rental Payments	\$	5,133,700	\$	5,135,800
GRF 100415	OAKS Lease Rental Payments	\$	22,998,500	\$	22,982,500
GRF 100416	STARS Lease Rental Payments	\$	4,976,500	\$	4,973,200
GRF 100447	Administrative Building Lease Rental Payments	\$	85,847,800	\$	91,059,600
GRF 100448	Office Building Operating Payments	\$	20,000,000	\$	20,000,000
GRF 100449	DAS - Building Operating Payments	\$	7,551,571	\$	7,551,571
GRF 100452	Lean Ohio	\$	1,059,624	\$	1,059,624
GRF 100456	State IT Services	\$	1,739,038	\$	1,739,038
GRF 100457	Equal Opportunity Services	\$	1,910,516	\$	1,910,516
GRF 100459	Ohio Business Gateway	\$	4,049,094	\$	4,049,094
GRF 130321	State Agency Support Services	\$	2,477,008	\$	2,477,008
TOTAL GRF General Revenue Fund		\$	158,052,951	\$	163,247,551

General Services Fund Group

1120 100616	DAS Administration	\$	6,127,659	\$	6,147,659
1150 100632	Central Service Agency	\$	911,580	\$	927,699
1170 100644	General Services Division - Operating	\$	12,993,870	\$	12,993,870
1220 100637	Fleet Management	\$	4,200,000	\$	4,200,000
1250 100622	Human Resources Division - Operating	\$	17,749,839	\$	17,749,839
1250 100657	Benefits Communication	\$	712,316	\$	712,316

3370

1280	100620	Office of Collective Bargaining	\$	3,329,507	\$	3,329,507
1300	100606	Risk Management Reserve	\$	6,635,784	\$	6,635,784
1320	100631	DAS Building Management	\$	19,343,170	\$	19,343,170
1330	100607	IT Services Delivery	\$	57,521,975	\$	57,521,975
1880	100649	Equal Opportunity Division - Operating	\$	863,013	\$	863,013
2100	100612	State Printing	\$	20,459,526	\$	20,459,526
2290	100630	IT Governance	\$	16,446,474	\$	16,446,474
2290	100640	Leveraged Enterprise Purchases	\$	7,065,639	\$	7,065,639
4270	100602	Investment Recovery	\$	1,618,062	\$	1,638,515
4N60	100617	Major IT Purchases	\$	56,888,635	\$	56,888,635
4P30	100603	DAS Information Services	\$	6,400,070	\$	6,400,070
5C20	100605	MARCS Administration	\$	14,292,596	\$	14,512,028
5C30	100608	Minor Construction Project Management	\$	1,004,375	\$	1,004,375
5EB0	100635	OAKS Support Organization	\$	25,813,077	\$	19,813,077
5EB0	100656	OAKS Updates and Developments	\$	9,886,923	\$	2,636,923
5HU0	100655	Construction Reform Demo Compliance	\$	150,000	\$	150,000
5KZ0	100659	Building Improvement	\$	500,000	\$	500,000
5L70	100610	Professional Development	\$	2,100,000	\$	2,100,000
5LA0	100660	Building Operation	\$	26,600,767	\$	26,814,648
5LJ0	100661	IT Development	\$	13,200,000	\$	13,200,000
5V60	100619	Employee Educational Development	\$	800,000	\$	800,000
TOTAL GSF General Services Fund Group			\$	333,614,857	\$	320,854,742
Federal Special Revenue Fund Group						
3AJ0	100654	ARRA Broadband Mapping Grant	\$	1,723,009	\$	1,723,009
TOTAL FED Federal Special Revenue Fund Group			\$	1,723,009	\$	1,723,009
State Special Revenue Fund Group						
5JQ0	100658	Professionals Licensing System	\$	3,028,366	\$	990,000
5MV0	100662	Theater Equipment Maintenance	\$	80,891	\$	80,891
5NM0	100663	911 Program	\$	290,000	\$	290,000
TOTAL SSR State Special Revenue Fund Group			\$	3,399,257	\$	1,360,891
TOTAL ALL BUDGET FUND GROUPS			\$	496,790,074	\$	487,186,193

SECTION 207.20. OAKS LEASE RENTAL PAYMENTS

The foregoing appropriation item 100415, OAKS Lease Rental Payments, shall be used for payments at the times they are required to be made for the period from July 1, 2013, through June 30, 2015, pursuant to leases and agreements entered into under Chapter 125. of the Revised Code,

as supplemented by Section 281.10 of Am. Sub. H.B. 562 of the 127th General Assembly and other prior acts of the General Assembly, with respect to financing the costs associated with the acquisition, development, installation, and implementation of the Ohio Administrative Knowledge System. If it is determined that additional appropriations are necessary for this purpose, the amounts are hereby appropriated.

SECTION 207.30. STARS LEASE RENTAL PAYMENTS

The foregoing appropriation item 100416, STARS Lease Rental Payments, shall be used for payments at the times they are required to be made for the period from July 1, 2013, through June 30, 2015, pursuant to leases and agreements entered into under Chapter 125. of the Revised Code, as supplemented by Section 207.10.30 of Am. Sub. H.B. 1 of the 128th General Assembly and other prior acts of the General Assembly, with respect to financing the cost for the acquisition, development, installation, and implementation of the State Taxation Accounting and Revenue System (STARS). If it is determined that additional appropriations are necessary for this purpose, the amounts are appropriated.

The State Taxation Accounting and Revenue System (STARS) is an integrated tax collection and audit system that will replace all of the state's existing separate tax software and administration systems for the various taxes collected by the state. The Department of Administrative Services, in conjunction with the Department of Taxation, may acquire STARS, including, but not limited to, the application hardware and software and installation and implementation thereof, for the use of the Department of Taxation. Any lease-purchase agreement used under Chapter 125. of the Revised Code to acquire STARS, including any fractionalized interests as defined in division (N) of section 133.01 of the Revised Code in the lease payments under that agreement, shall provide at the end of the lease period that the financed asset becomes the property of the state. The principal amount of any new such financing is limited, excluding the principal amounts of any lease-purchase financing heretofore completed for STARS, to the amount of \$20,000,000.

SECTION 207.40. MARCS LEASE RENTAL PAYMENTS

The foregoing appropriation item 100414, MARCS Lease Rental Payments, shall be used for payments at the times they are required to be made for the period from July 1, 2013, through June 30, 2015, pursuant to leases and agreements entered into under Chapter 125. of the Revised Code,

as supplemented by Section 701.20 of Sub. H.B. 482 of the 129th General Assembly, with respect to financing the cost for the acquisition, development, installation, and implementation of the Multi-Agency Radio Communication System (MARCS) upgrade. If it is determined that additional appropriations are necessary for this purpose, the amounts are hereby appropriated.

SECTION 207.50. MULTI-AGENCY RADIO COMMUNICATION SYSTEM UPGRADE

The Multi-Agency Radio Communications System (MARCS) is a statewide computer and communications network designed to provide instant voice and data communication and supply a communications backbone to public safety and emergency management. The Department of Administrative Services may update or add functionality to MARCS to upgrade the existing system to a 700/800 megahertz voice and data system specifically designed to support interoperable communications for public safety law enforcement and first responders. The improvements may include, but are not limited to, hardware and software and the installation and implementation thereof. Any lease-purchase agreement utilized under Chapter 125. of the Revised Code to acquire MARCS and the enhancements described above, including any fractionalized interest as defined in division (N) of section 133.01 of the Revised Code in the lease payments under that agreement, shall provide at the end of the lease period that the financed asset becomes the property of the state. The principal amount of any new such financing is limited, in addition to the principal amounts of lease-purchase financing heretofore completed for MARCS, to the amount of \$27,000,000.

SECTION 207.60. ADMINISTRATIVE BUILDING LEASE RENTAL PAYMENTS

The foregoing appropriation item 100447, Administrative Building Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, by the Department of Administrative Services pursuant to leases and agreements under Chapters 152. and 154. of the Revised Code. These appropriations are the source of funds pledged for bond service charges on related obligations issued under Chapters 152. and 154. of the Revised Code.

The foregoing appropriation item 100448, Office Building Operating Payments, shall be used to pay the expenses of vacant space, space

undergoing renovation, agencies funded by the General Revenue Fund, and the rent expenses of tenants that have been relocated because of building renovations that occupy space in the James A. Rhodes State Office Tower, the Vern Riffe Center for Government and the Arts, the Frank J. Lausche State Office Building, the Michael V. DiSalle Government Center, and the Oliver R. Ocasek Government Office Building.

At least once per year, the portion of appropriation item 100448, Office Building Operating Payments, that is not used for expenses of agencies funded by the General Revenue Fund, vacant space, space undergoing renovation, and the rent expenses of tenants that are relocated because of building renovations shall be processed by the Department of Administrative Services through intrastate voucher and placed in the Building Improvements Fund (Fund 5KZ0).

SECTION 207.70. DAS - BUILDING OPERATING PAYMENTS AND BUILDING MANAGEMENT FUND

The foregoing appropriation item 100449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2014 and 2015.

The foregoing appropriation item, 100449, DAS - Building Operating Payments, also may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the state.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants, or other costs associated with the Voinovich Center in Youngstown, Ohio. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants that are relocated because of building renovations. These payments may be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 1320) or the Information Technology Services Fund (Fund 1330).

Notwithstanding section 125.28 of the Revised Code, the Department of Administrative Services may forego some or all of the amounts attributable to debt service included in reimbursements made by tenants who are

supported in whole or in part by non-GRF money for the costs of occupying space at the North High Street Complex in Columbus.

The Director of Budget and Management shall transfer the portion of payments attributed to depreciation from Fund 1320 to the General Revenue Fund, as applicable.

CASH TRANSFER FROM THE WORKFORCE DEVELOPMENT FUND TO THE HUMAN RESOURCES SERVICES FUND

Upon request of the Director of Administrative Services, during the FY 2014 - FY 2015 biennium, the Director of Budget and Management shall transfer up to \$975,000 from the Workforce Development Fund (Fund 5D70) to the Human Resources Services Fund (Fund 1250) to support one-time human resources administration activities for state agencies.

SECTION 207.80. CENTRAL SERVICE AGENCY FUND

Appropriation item 100632, Central Service Agency, shall be used to purchase the equipment, products, and services that are needed to maintain existing automated applications for the professional licensing boards and the Casino Control Commission to support board licensing functions in fiscal years 2014 and 2015 until these functions are replaced by the Ohio Professionals Licensing System. The Department of Administrative Services shall establish charges for recovering the costs of carrying out these functions. The charges shall be billed to the professional licensing boards and the Casino Control Commission, and deposited via intrastate transfer vouchers to the credit of the Central Service Agency Fund (Fund 1150).

Upon implementation of the replacement Ohio Professionals Licensing System and the decommissioning of the existing automated applications, the Director of Budget and Management may transfer any cash balances that remain in the Central Service Agency Fund (Fund 1150) and that are attributable to the operation of the existing automated applications to the Professions Licensing System Fund (Fund 5JQ0).

SECTION 207.90. GENERAL SERVICE CHARGES

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the programs funded by the General Services Fund (Fund 1170) and the State Printing Fund (Fund 2100). Such charges within Fund 1170 may be used to recover the cost of paying a vendor to establish reduced pricing for contracted supplies or services.

If the Director of Administrative Services determines that additional

amounts are necessary to pay for consulting and administrative costs related to securing lower pricing, the Director of Administrative Services may request that the Director of Budget and Management approve additional expenditures. Such approved additional amounts are appropriated to appropriation item 100644, General Services Division-Operating.

SECTION 207.93. CASH TRANSFER TO THE INVESTMENT RECOVERY FUND

Notwithstanding division (B) of section 125.14 of the Revised Code, the Director of Budget and Management, at the request of the Director of Administrative Services, shall transfer up to \$200,000 of cash in excess of needs from the General Services Fund (Fund 1170) to the Investment Recovery Fund (Fund 4270) during the biennium beginning July 1, 2013, and ending June 30, 2015, to pay the operating expenses of the State Surplus, Federal Surplus, and Asset Management Programs, including expenses to develop database systems for use in these programs.

SECTION 207.95. TRANSFER OF THE EMPLOYEE ASSISTANCE PROGRAM TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES

Effective July 1, 2013, the Employee Assistance Program under section 3701.041 of the Revised Code shall be transferred to the Ohio Department of Administrative Services. The Department of Administrative Services is thereupon and thereafter successor to, assumes the operations, functions, powers, and obligations of, and otherwise constitutes the continuation of the Employee Assistance Program as provided in section 3701.041 (124.88) of the Revised Code. All related functions, equipment, assets, and liabilities, regardless of form or medium, agreements, and contracts of the program are transferred to the Department of Administrative Services.

Employees of the Employee Assistance Program shall be transferred to the Department of Administrative Services in their same classification, and shall retain the rights specified in sections 124.321 to 124.328 of the Revised Code.

On and after the effective date of this section, notwithstanding any provision of the law to the contrary, if requested by the Director of Administrative Services, the Director of Budget and Management shall make the budget changes made necessary by the transfer, if any, including administrative reorganization or program transfers.

Effective July 1, 2013, the Director of Budget and Management shall

cancel any existing encumbrances against appropriation item 440633, Employee Assistance Program, and reestablish them against appropriation item 100622, Human Resources Division - Operating. The reestablished encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 440633, Employee Assistance Program, by July 1, 2013, shall be completed under appropriation item 100622, Human Resources Division - Operating, in the same manner, and with the same effect, as if completed with regard to appropriation item 440633, Employee Assistance Program. All of the rules, policies, orders, and determinations associated with the program continue in effect as rules, orders, and determinations associated with the Department of Administrative Services until modified or rescinded by the Director of Administrative Services. If necessary to ensure the integrity of the Administrative Code rule numbering system, the Director of the Legislative Service Commission shall renumber the rules relating to the Employee Assistance Program to reflect their transfer to the Department of Administrative Services. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer and shall be administered with regard to appropriation item 100622, Human Resources Division - Operating. On and after July 1, 2013, if the Employee Assistance Program is referred to in any statute, rule, contract, grant, or other document, the reference is deemed to refer to the Department of Administrative Services.

Funds collected by the Department of Health for the Employee Assistance Program, which previously were deposited in the Employee Assistance Fund (Fund 6830), shall be credited to the Human Resources Services Fund (Fund 1250) created in section 124.07 of the Revised Code. The Director of Budget and Management shall transfer from the Employee Assistance Fund to the Human Resources Services Fund any remaining cash balances in the Employee Assistance Fund. In order to facilitate this transfer, the Director of Health, on July 1, 2013, or as soon as possible thereafter, shall certify to the Director of Budget and Management an estimate of the amount to be transferred. Upon the completion of this transfer, the Employee Assistance Fund is abolished.

SECTION 207.100. COLLECTIVE BARGAINING ARBITRATION EXPENSES

With approval of the Director of Budget and Management, the Department of Administrative Services may seek reimbursement from state agencies for the actual costs and expenses the Department incurs in the

collective bargaining arbitration process. The reimbursements shall be processed through intrastate transfer vouchers and credited to the Collective Bargaining Fund (Fund 1280).

SECTION 207.110. EQUAL OPPORTUNITY PROGRAM

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EEO Fund (Fund 1880). These charges shall be deposited to the credit of the State EEO Fund (Fund 1880) upon payment made by state agencies, state-supported or state-assisted institutions of higher education, and tax-supported agencies, municipal corporations, and other political subdivisions of the state, for services rendered.

SECTION 207.111. STATE PRINTING FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$30,109.39 in cash from the General Revenue Fund to the State Printing Fund (Fund 2100) to correct fiscal year 2012 disbursements that were made from Fund 2100 but that should have been made from the General Revenue Fund.

SECTION 207.113. LEVERAGED ENTERPRISE PURCHASES

The foregoing appropriation item 100640, Leveraged Enterprise Purchases, shall be used by the Department of Administrative Services to make information technology purchases for the benefit of one or more government entities as authorized under division (G) of section 125.18 of the Revised Code. If the Director of Administrative Services determines that additional amounts are necessary to pay for pass-through information technology purchases that will be billed to one or more state agencies, the Director of Administrative Services shall seek Controlling Board approval for an increase in appropriation to make the requested purchases.

SECTION 207.120. INVESTMENT RECOVERY FUND

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund (Fund 4270) may be used to support the operating expenses of the Federal Surplus Operating Program created in sections 125.84 to 125.90 of the Revised Code.

The Director of Administrative Services shall use the foregoing

appropriation item 100602, Investment Recovery, to pay the operating expenses of the State Surplus Property Program and the Surplus Federal Property Program, under Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code.

The Director of Administrative Services shall transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds under division (A)(2) of section 125.14 of the Revised Code.

SECTION 207.130. MAJOR IT PURCHASES CHARGES

The Department of Administrative Services may bill agencies for actual expenditures made for major IT purchases if those expenditures are not recovered as part of the information technology services rates the Department charges and deposits into the Information Technology Fund (Fund 1330) created in section 125.15 of the Revised Code. These charges shall be deposited to the credit of the Major IT Purchases Fund (Fund 4N60).

SECTION 207.140. DAS INFORMATION SERVICES

There is hereby established in the State Treasury the DAS Information Services Fund. The foregoing appropriation item 100603, DAS Information Services, shall be used to pay the costs of providing information systems and services in the Department of Administrative Services. Any state agency, board, or commission may use DAS Information Services by paying for the services rendered.

The Department of Administrative Services shall establish user charges for all information systems and services that are allowable in the statewide indirect cost allocation plan submitted annually to the United States Department of Health and Human Services. These charges shall comply with federal regulations and shall be deposited to the credit of the DAS Information Services Fund (Fund 4P30).

SECTION 207.150. CASH TRANSFER FROM THE MARCS ADMINISTRATION FUND TO GRF

Upon the request of the Director of Administrative Services, the

Director of Budget and Management may transfer unobligated cash in the MARCS Administration Fund (Fund 5C20) to the General Revenue Fund to reimburse the General Revenue Fund for lease rental payments made on behalf of the MARCS upgrade.

SECTION 207.160. PROFESSIONS LICENSING SYSTEM

There is hereby created in the state treasury the Professions Licensing System Fund (Fund 5JQ0). Appropriation item 100658, Ohio Professionals Licensing System, shall be used to make payments from the fund. The fund shall be used to purchase the equipment, products, and services necessary to develop and maintain a replacement automated licensing system for the professional licensing boards. The Director of Budget and Management may transfer up to a total of \$990,000 in cash from the Occupational Licensing and Regulatory Fund (4K90), the State Medical Board Operating Fund (Fund 5C60), and the Casino Control Commission – Operating Fund (Fund 5HS0) to the Professions Licensing System Fund during the FY 2014 - FY 2015 biennium. These transfers shall be in proportion to the number of current licensees issued by the professional licensing boards and current and anticipated licenses in the case of the Casino Control Commission. The purpose of these cash transfers is to fund the initial acquisition and development of the system. Any cash balances not expended in fiscal year 2014 are hereby reappropriated in fiscal year 2015.

Effective with the implementation of the replacement licensing system, the Department of Administrative Services shall establish charges for recovering the costs of ongoing maintenance of the system. The charges shall be billed to the professional licensing boards and the Casino Control Commission, and deposited via intrastate transfer vouchers to the credit of the Professions Licensing System Fund.

SECTION 207.170. BUILDING IMPROVEMENT FUND

The foregoing appropriation item 100659, Building Improvement, shall be used to make payments from the Building Improvement Fund (Fund 5KZ0) for major maintenance or improvements required in the James A. Rhodes State Office Tower, the Vern Riffe Center for Government and the Arts, the Frank J. Lausche State Office Building, the Michael V. DiSalle Government Center, and the Oliver R. Ocasek Government Office. The Department of Administrative Services shall conduct or contract for regular assessments of these buildings and shall maintain a cash balance in the Building Improvement Fund equal to the cost of the repairs and

improvements that are recommended to occur within the next five years, with the following exception described below.

Upon request of the Director of Administrative Services, the Director of Budget and Management may permit a cash transfer from the Building Improvement Fund (Fund 5KZ0) to the Building Operating Fund (Fund 5LA0) to pay costs of operating and maintaining the James A. Rhodes State Office Tower, the Vern Riffe Center for Government and the Arts, the Frank J. Lausche State Office Building, the Michael V. DiSalle Government Center, and the Oliver R. Ocasek Government Office that are not charged to tenants during the same fiscal year.

Should the cash balance in the Building Operating Fund (Fund 5LA0) be determined to be sufficient, the Director of Administrative Services may request that the Director of Budget and Management transfer cash from the Building Operating Fund (Fund 5LA0) to the Building Improvement Fund (Fund 5KZ0) in an amount equal to the initial cash transfer made under this section plus applicable interest.

SECTION 207.180. PROFESSIONAL DEVELOPMENT FUND

The foregoing appropriation item 100610, Professional Development, shall be used to make payments from the Professional Development Fund (Fund 5L70) under section 124.182 of the Revised Code. If it is determined by the Director of Administrative Services that additional amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management approve additional amounts. Such approved additional amounts are hereby appropriated.

SECTION 207.190. BUILDING OPERATING FUND

The foregoing appropriation item 100660, Building Operation, shall be used to make payments from the Building Operating Fund (Fund 5LA0) to pay costs of operating and maintaining the James A. Rhodes State Office Tower, the Vern Riffe Center for Government and the Arts, the Frank J. Lausche State Office Building, the Michael V. DiSalle Government Center, and the Oliver R. Ocasek Government Office.

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges to be reimbursed for the cost of operating these buildings. These charges shall include the cost of applicable depreciation on the buildings and the resulting revenue shall be deposited in the Building Operating Fund (Fund 5LA0). The Director of Budget and Management shall transfer the portion of these

charges attributed to depreciation from the Building Operating Fund (Fund 5LA0) to the Building Improvement Fund (Fund 5KZ0) or to the General Revenue Fund, as applicable.

SECTION 207.200. INFORMATION TECHNOLOGY DEVELOPMENT

The foregoing appropriation item 100661, IT Development, shall be used by the Department of Administrative Services to pay the costs of modernizing the state's information technology management and investment practices away from a limited, agency-specific focus in favor of a statewide methodology supporting development of enterprise solutions.

The Department of Administrative Services, with the approval of the Director of Budget and Management, may charge state agencies an information technology development assessment based on state agencies' information technology expenditures or other methodology. The revenue from this assessment shall be deposited in the Information Technology Development Fund (Fund 5LJ0), which is hereby created.

SECTION 207.210. EMPLOYEE EDUCATIONAL DEVELOPMENT

The foregoing appropriation item 100619, Employee Educational Development, shall be used to make payments from the Employee Educational Development Fund (Fund 5V60) under section 124.86 of the Revised Code. The fund shall be used to pay the costs of administering educational programs under existing collective bargaining agreements with District 1199, the Health Care and Social Service Union; State Council of Professional Educators; Ohio Education Association and National Education Association; the Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio State Troopers Association, Units 1 and 15.

If it is determined by the Director of Administrative Services that additional amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management approve additional amounts. Such approved additional amounts are hereby appropriated.

SECTION 207.220. CASH TRANSFERS TO THE MAJOR IT PURCHASES FUND

Upon request of the Director of Administrative Services, the Director of Budget and Management may transfer up to \$4,000,000 from the OAKS Support Organization Fund (Fund 5EB0) to the Major IT Purchases Fund

(Fund 4N60). This amount represents cash transferred from Fund 4N60 during fiscal year 2010 pursuant to Section 207.30.80 of Am. Sub. H.B. 1 of the 128th General Assembly. Any portion of appropriation item 100617, Major IT Purchases, that is unencumbered and unexpended at the end of fiscal year 2014 is hereby reappropriated for fiscal year 2015.

SECTION 207.230. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT SERVICE PAYMENTS

The Director of Administrative Services, in consultation with the Multi-Agency Radio Communication System (MARCS) Steering Committee and the Director of Budget and Management, shall determine the share of debt service payments attributable to spending for MARCS components that are not specific to any one agency and that shall be charged to agencies supported by the motor fuel tax. Such share of debt service payments shall be calculated for MARCS capital disbursements made beginning July 1, 1997. Within thirty days of any payment made from appropriation item 100447, Administrative Building Lease Payments, the Director of Administrative Services shall certify to the Director of Budget and Management the amount of this share. The Director of Budget and Management shall transfer such amounts to the General Revenue Fund from the State Highway Safety Fund (Fund 7036) established in section 4501.06 of the Revised Code.

The Director of Administrative Services shall consider renting or leasing existing tower sites at reasonable or current market rates, so long as these existing sites are equipped with the technical capabilities to support the MARCS project.

SECTION 207.240. ENTERPRISE IT STRATEGY IMPLEMENTATION

The Director of Administrative Services shall determine and implement strategies that benefit the enterprise by improving efficiency, reducing costs or enhancing capacity of information technology (IT) services. Such improvements and efficiencies may result in the consolidation and transfer of such services. As determined to be necessary for successful implementation of this section and notwithstanding any provision of law to the contrary, the Director of Administrative Services may request the Director of Budget and Management to consolidate or transfer IT-specific budget authority between agencies as necessary to implement enterprise IT cost containment strategies and related efficiencies. Once the Director of

Budget and Management is satisfied that the proposed initiative is cost advantageous to the enterprise, the Director of Budget and Management may transfer appropriations, funds and cash as needed to implement the proposed initiative. The establishment of any new fund or total increased appropriation as a result of this section will be subject to approval by the Controlling Board.

The Director of Budget and Management and the Director of Administrative Services may transfer any employees, assets, and liabilities, including, but not limited to, records, contracts, and agreements in order to facilitate the improvements determined in accordance with this section.

SECTION 207.250. 911 PROGRAM

The foregoing appropriation item 100663, 911 Program, shall be used by the Department of Administrative Services to pay the administrative costs of the Statewide Emergency Services Internet Protocol Network Steering Committee.

SECTION 209.10. AGE DEPARTMENT OF AGING

General Revenue Fund

GRF 490321	Operating Expenses	\$	1,487,418	\$	1,487,418
GRF 490410	Long-Term Care Ombudsman	\$	477,448	\$	477,448
GRF 490411	Senior Community Services	\$	7,060,844	\$	7,060,844
GRF 490414	Alzheimer's Respite	\$	1,995,245	\$	1,995,245
GRF 490506	National Senior Service Corps	\$	241,413	\$	241,413
GRF 656423	Long-Term Care Program Support - State	\$	3,385,057	\$	3,385,057
TOTAL GRF General Revenue Fund		\$	14,647,425	\$	14,647,425

General Services Fund Group

4800 490606	Senior Community Outreach and Education	\$	372,523	\$	372,523
TOTAL GSF General Services Fund Group		\$	372,523	\$	372,523

Federal Special Revenue Fund Group

3220 490618	Federal Aging Grants	\$	12,000,000	\$	12,000,000
3C40 656623	Long-Term Care Program Support - Federal	\$	3,385,057	\$	3,385,057
3M40 490612	Federal Independence Services	\$	58,655,080	\$	58,655,080
TOTAL FED Federal Special Revenue Fund Group		\$	74,040,137	\$	74,040,137

State Special Revenue Fund Group

4C40 490609	Regional Long-Term Care Ombudsman Program	\$	935,000	\$	935,000
5BA0 490620	Ombudsman Support	\$	1,250,000	\$	1,250,000

5K90 490613	Long-Term Care Consumers Guide	\$	1,059,400	\$	1,059,400
5MT0 490627	Board of Executives of LTSS	\$	600,000	\$	600,000
5W10 490616	Resident Services Coordinator Program	\$	344,700	\$	344,700
TOTAL SSR State Special Revenue					
Fund Group		\$	4,189,100	\$	4,189,100
TOTAL ALL BUDGET FUND GROUPS					
		\$	93,249,185	\$	93,249,185

SECTION 209.20. LONG-TERM CARE

Pursuant to an interagency agreement, the Department of Medicaid may designate the Department of Aging to perform assessments under section 5165.04 of the Revised Code. The Department of Aging shall provide long-term care consultations under section 173.42 of the Revised Code to assist individuals in planning for their long-term health care needs.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and PACE as delegated by the Department of Medicaid in an interagency agreement. The foregoing appropriation items 656423, Long-Term Care Program Support - State, and 656623, Long-Term Care Program Support - Federal, may be used to support the Department of Aging's administrative costs associated with operating the PASSPORT, Choices, Assisted Living, and PACE programs.

PERFORMANCE-BASED REIMBURSEMENT

The Department of Aging may design and utilize a payment method for PASSPORT administrative agency operations that includes a pay-for-performance incentive component that is earned by a PASSPORT administrative agency when defined consumer and policy outcomes are achieved.

SECTION 209.30. LONG-TERM CARE OMBUDSMAN

The foregoing appropriation item 490410, Long-Term Care Ombudsman, shall be used to fund ombudsman program activities as authorized in sections 173.14 to 173.27 and section 173.99 of the Revised Code.

The State Ombudsman may explore the design of a payment method for the Ombudsman Program that includes a pay-for-performance incentive component that is earned by designated regional long-term care ombudsman programs.

SENIOR COMMUNITY SERVICES

The foregoing appropriation item 490411, Senior Community Services,

shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, prevention and disease self-management, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with senior community services funds, including, when possible, sliding-fee scale payment systems based on the income of service recipients.

ALZHEIMER'S RESPITE

The foregoing appropriation item 490414, Alzheimer's Respite, shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code.

NATIONAL SENIOR SERVICE CORPS

The foregoing appropriation item 490506, National Senior Service Corps, shall be used by the Department of Aging to fund grants for three Corporation for National and Community Service/Senior Corps programs: the Foster Grandparents Program, the Senior Companion Program, and the Retired Senior Volunteer Program. A recipient of these grant funds shall use the funds to support priorities established by the Department and the Ohio State Office of the Corporation for National and Community Service. The expenditure of these funds by any grant recipient shall be in accordance with Senior Corps policies and procedures, as stated in the Domestic Volunteer Service Act of 1973, as amended. Neither the Department nor any area agencies on aging that are involved in the distribution of these funds to lower-tiered grant recipients may use any portion of these funds to cover administrative costs.

SENIOR COMMUNITY OUTREACH AND EDUCATION

The foregoing appropriation item 490606, Senior Community Outreach and Education, may be used to provide training to workers in the field of aging pursuant to division (G) of section 173.02 of the Revised Code.

TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES AND FEDERAL AGING GRANTS

At the request of the Director of Aging, the Director of Budget and Management may transfer appropriation between appropriation items 490612, Federal Independence Services, and 490618, Federal Aging Grants. The amounts transferred shall not exceed 30 per cent of the appropriation from which the transfer is made. Any transfers shall be reported by the Department of Aging to the Controlling Board at the next scheduled meeting

of the board.

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM

The foregoing appropriation item 490609, Regional Long-Term Care Ombudsman Program, shall be used to pay the costs of operating the regional long-term care ombudsman programs designated by the State Long-Term Care Ombudsman.

TRANSFER OF RESIDENT PROTECTION FUNDS

In each fiscal year, the Director of Budget and Management may transfer up to \$1,250,000 cash from the Resident Protection Fund (Fund 4E30), which is used by the Department of Medicaid, to the Ombudsman Support Fund (Fund 5BA0), which is used by the Department of Aging.

The Director of Aging and the Office of the State Long-Term Care Ombudsman may use moneys in the Ombudsman Support Fund (Fund 5BA0) to implement a nursing home quality initiative as specified in section 173.60 of the Revised Code.

LONG-TERM CARE CONSUMERS GUIDE

The foregoing appropriation item 490613, Long-Term Care Consumers Guide, shall be used to conduct annual consumer satisfaction surveys and to pay for other administrative expenses related to the publication of the Ohio Long-Term Care Consumer Guide.

CASH TRANSFER FROM THE GENERAL OPERATIONS FUND TO THE BOARD OF EXECUTIVES OF LONG-TERM SERVICES AND SUPPORTS FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Health shall certify to the Director of Budget and Management the cash balance relating to the Board of Examiners of Nursing Home Administrators in the General Operations Fund (Fund 4700), used by the Department of Health. Upon receiving this certification, the Director of Budget and Management may transfer this cash from the General Operations Fund (Fund 4700) to the Board of Executives of Long-Term Services and Supports Fund (Fund 5MT0), used by the Department of Aging. If this transfer occurs, the Director of Budget and Management shall cancel any existing encumbrances pertaining to the Board of Examiners of Nursing Home Administrators against appropriation item 440647, Fee Supported Programs, and re-establish them against appropriation item 490627, Board of Executives of LTSS. The re-established encumbrance amounts are hereby appropriated.

SECTION 209.40. DEPARTMENT OF AGING'S APPROPRIATION ITEM STRUCTURE

Upon request from the Director of Aging, the Director of Budget and

Management may establish new funds, new appropriation items, and appropriations in order to support the transition to a new appropriation item structure in the Department of Aging's budget. Also, upon request of the Director of Aging, the Director of Budget and Management may transfer appropriations between GRF appropriation items, transfer cash between any funds used by the Department of Aging, abolish existing funds used by the Department of Aging, and cancel and reestablish encumbrances. Any establishment of new funds or appropriation items, any transfers of appropriations or cash, and any increases in appropriation under this section are subject to Controlling Board approval.

SECTION 209.50. UPDATING AUTHORIZING STATUTE CITATIONS

As used in this section, "authorizing statute" means a Revised Code section or provision of a Revised Code section that is cited in the Ohio Administrative Code as the statute that authorizes the adoption of a rule.

The Director of Aging is not required to amend any rule for the sole purpose of updating the citation in the Ohio Administrative Code to the rule's authorizing statute to reflect that this act renumbers the authorizing statute or relocates it to another Revised Code section. Such citations shall be updated as the Director amends the rules for other purposes.

SECTION 211.10. AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

GRF 700401	Animal Disease Control	\$	3,936,687	\$	3,936,687
GRF 700403	Dairy Division	\$	1,088,115	\$	1,088,115
GRF 700404	Ohio Proud	\$	50,000	\$	50,000
GRF 700406	Consumer Analytical Lab	\$	1,287,556	\$	1,287,556
GRF 700407	Food Safety	\$	848,792	\$	848,792
GRF 700409	Farmland Preservation	\$	72,750	\$	72,750
GRF 700412	Weights and Measures	\$	600,000	\$	600,000
GRF 700415	Poultry Inspection	\$	592,978	\$	592,978
GRF 700418	Livestock Regulation Program	\$	1,108,071	\$	1,108,071
GRF 700424	Livestock Testing and Inspections	\$	102,770	\$	102,770
GRF 700426	Dangerous and Restricted Animals	\$	800,000	\$	800,000
GRF 700427	High Volume Breeder Kennel Control	\$	400,000	\$	200,000
GRF 700499	Meat Inspection Program - State Share	\$	4,175,097	\$	4,175,097
GRF 700501	County Agricultural Societies	\$	391,415	\$	391,415
TOTAL GRF	General Revenue Fund	\$	15,454,231	\$	15,254,231

General Services Fund Group

3388

5DA0	700644	Laboratory Administration Support	\$	1,115,000	\$	1,115,000
5GH0	700655	Central Support Indirect Cost	\$	4,368,013	\$	4,404,073
TOTAL GSF General Services Fund Group			\$	5,483,013	\$	5,519,073
Federal Special Revenue Fund Group						
3260	700618	Meat Inspection Program - Federal Share	\$	4,450,000	\$	4,450,000
3360	700617	Ohio Farm Loan Revolving Fund	\$	150,000	\$	150,000
3820	700601	Cooperative Contracts	\$	4,500,000	\$	4,500,000
3AB0	700641	Agricultural Easement	\$	1,000,000	\$	1,000,000
3J40	700607	Indirect Cost	\$	1,100,000	\$	1,100,000
3R20	700614	Federal Plant Industry	\$	1,606,000	\$	1,606,000
TOTAL FED Federal Special Revenue Fund Group			\$	12,806,000	\$	12,806,000
State Special Revenue Fund Group						
4900	700651	License Plates - Sustainable Agriculture	\$	10,000	\$	10,000
4940	700612	Agricultural Commodity Marketing Program	\$	218,000	\$	213,000
4960	700626	Ohio Grape Industries	\$	970,000	\$	970,000
4970	700627	Commodity Handlers Regulatory Program	\$	482,672	\$	482,672
4C90	700605	Commercial Feed and Seed	\$	1,760,000	\$	1,760,000
4D20	700609	Auction Education	\$	35,000	\$	35,000
4E40	700606	Utility Radiological Safety	\$	130,000	\$	130,000
4P70	700610	Food Safety Inspection	\$	1,017,328	\$	1,017,328
4R00	700636	Ohio Proud Marketing	\$	45,500	\$	45,500
4R20	700637	Dairy Industry Inspection	\$	1,738,247	\$	1,738,247
4T60	700611	Poultry and Meat Inspection	\$	120,000	\$	120,000
5780	700620	Ride Inspection Fees	\$	1,175,142	\$	1,175,142
5880	700633	Brand Registration	\$	5,000	\$	5,000
5B80	700629	Auctioneers	\$	340,000	\$	340,000
5CP0	700652	License Plate Scholarships	\$	10,000	\$	10,000
5FC0	700648	Plant Pest Program	\$	1,190,000	\$	1,190,000
5H20	700608	Metrology Lab and Scale Certification	\$	552,000	\$	552,000
5L80	700604	Livestock Management Program	\$	145,000	\$	145,000
5MA0	700657	Dangerous and Restricted Animals	\$	195,000	\$	195,000
6520	700634	Animal and Consumer Analytical Laboratory	\$	4,966,383	\$	4,966,383
6690	700635	Pesticide, Fertilizer, and Lime Inspection Program	\$	3,418,041	\$	3,418,041
TOTAL SSR State Special Revenue Fund Group			\$	18,523,313	\$	18,518,313
Clean Ohio Conservation Fund Group						
7057	700632	Clean Ohio Agricultural Easement	\$	310,000	\$	310,000
TOTAL CLF Clean Ohio Conservation Fund Group			\$	310,000	\$	310,000
TOTAL ALL BUDGET FUND GROUPS			\$	52,576,557	\$	52,407,617

DANGEROUS AND RESTRICTED WILD ANIMALS

The foregoing GRF appropriation item 700426, Dangerous and Restricted Animals, shall be used to administer the Dangerous and Restricted Wild Animal Permitting Program.

COUNTY AGRICULTURAL SOCIETIES

The foregoing appropriation item 700501, County Agricultural Societies, shall be used to reimburse county and independent agricultural societies for expenses related to Junior Fair activities.

CLEAN OHIO AGRICULTURAL EASEMENT

The foregoing appropriation item 700632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering Ohio Agricultural Easement Fund (Fund 7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

SECTION 213.10. AIR AIR QUALITY DEVELOPMENT AUTHORITY

General Services Fund Group

5EG0 898608	Energy Strategy Development	\$	240,681	\$	240,681
TOTAL GSF General Services Fund		\$	240,681	\$	240,681

State Special Revenue Fund Group

4Z90 898602	Small Business Ombudsman	\$	288,232	\$	288,232
5700 898601	Operating Expenses	\$	323,980	\$	323,980
5A00 898603	Small Business Assistance	\$	900,000	\$	1,125,000
TOTAL SSR State Special Revenue Fund Group		\$	1,512,212	\$	1,737,212
TOTAL ALL BUDGET FUND GROUPS		\$	1,752,893	\$	1,977,893

SECTION 213.20. ENERGY STRATEGY DEVELOPMENT

The Energy Strategy Development Program shall develop energy initiatives, projects, and policy that align with the energy policy for the state. Issues addressed by such initiatives, projects, and policy shall not be limited to those governed by Chapter 3706. of the Revised Code. The Ohio Air Quality Development Authority shall be responsible for the monitoring of the program.

There is hereby created in the state treasury the Energy Strategy Development Fund (Fund 5EG0). The fund shall consist of money credited to it and money obtained for advanced energy projects from federal or private grants, loans, or other sources. Money in the fund shall be used to carry out the purposes of the program. Interest earned on the money in the fund shall be credited to the General Revenue Fund.

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management may transfer cash from the funds specified below, up to the amounts specified below, to the Energy Strategy

Development Fund. Fund 5EG0 may accept contributions and transfers made to the fund. On July 1, 2015, or as soon as possible thereafter, the Director shall transfer to the General Revenue Fund all cash credited to Fund 5EG0. Upon completion of the transfer, Fund 5EG0 is abolished.

<u>Fund</u>	<u>Fund Name</u>	<u>User</u>	<u>FY 2014</u>	<u>FY 2015</u>
1310	State Agency Construction Project Service	Ohio Facilities Construction Commission	\$27,405	\$27,439
5GH0	Central Support Indirect Cost	Department of Agriculture	\$27,405	\$27,439
1350	Supportive Services	Development Services Agency	\$27,405	\$27,439
2190	Central Support Indirect Cost	Environmental Protection Agency	\$27,405	\$27,439
1570	Central Support Indirect Chargeback	Department of Natural Resources	\$27,405	\$27,439
7002	Highway Operating	Department of Transportation	\$39,150	\$39,199

SECTION 213.30. REIMBURSEMENT TO AIR QUALITY DEVELOPMENT AUTHORITY TRUST ACCOUNT

Notwithstanding any other provision of law to the contrary, the Air Quality Development Authority may reimburse the Air Quality Development Authority trust account established under section 3706.10 of the Revised Code from all operating funds of the agency for expenses pertaining to the administration and shared costs incurred by the Air Quality Development Authority in the execution of responsibilities as prescribed in Chapter 3706. of the Revised Code. Reimbursement shall be made by voucher and completed in accordance with the administrative indirect costs allocation plan approved by the Office of Budget and Management.

SECTION 215.10. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS

General Services Fund Group						
4K90	891609	Operating	\$	481,379	\$	485,954
TOTAL GSF General Services Fund						
		Group	\$	481,379	\$	485,954
TOTAL ALL BUDGET FUND GROUPS			\$	481,379	\$	485,954

SECTION 217.10. ART OHIO ARTS COUNCIL

General Revenue Fund

GRF 370321	Operating Expenses	\$	1,649,204	\$	1,649,204
GRF 370502	State Program Subsidies	\$	9,700,000	\$	9,700,000
TOTAL GRF General Revenue Fund		\$	11,349,204	\$	11,349,204

General Services Fund Group

4600 370602	Management Expenses and Donations	\$	247,000	\$	247,000
4B70 370603	Percent for Art Acquisitions	\$	247,000	\$	247,000
TOTAL GSF General Services Fund Group		\$	494,000	\$	494,000

Federal Special Revenue Fund Group

3140 370601	Federal Support	\$	1,000,000	\$	1,000,000
TOTAL FED Federal Special Revenue Fund Group		\$	1,000,000	\$	1,000,000

TOTAL ALL BUDGET FUND GROUPS		\$	12,843,204	\$	12,843,204
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OPERATING EXPENSES

Of the foregoing appropriation item 370321, Operating Expenses, up to \$50,000 shall be used in each fiscal year for technology upgrades and improvements.

FEDERAL SUPPORT

Notwithstanding any provision of law to the contrary, the foregoing appropriation item 370601, Federal Support, shall be used by the Ohio Arts Council for subsidies only, and not for its administrative costs, unless the Council is required to use a portion of the funds for administrative costs under conditions of the federal grant.

SECTION 219.10. ATH ATHLETIC COMMISSION

General Services Fund Group

4K90 175609	Operating Expenses	\$	312,000	\$	320,000
TOTAL GSF General Services Fund Group		\$	312,000	\$	320,000
TOTAL ALL BUDGET FUND GROUPS		\$	312,000	\$	320,000

SECTION 221.10. AGO ATTORNEY GENERAL

General Revenue Fund

GRF 055321	Operating Expenses	\$	42,514,169	\$	43,114,169
GRF 055405	Law-Related Education	\$	100,000	\$	100,000
GRF 055407	Tobacco Settlement Enforcement	\$	1,500,000	\$	1,500,000
GRF 055411	County Sheriffs' Pay Supplement	\$	757,921	\$	757,921
GRF 055415	County Prosecutors' Pay Supplement	\$	831,499	\$	831,499
GRF 055501	Rape Crisis Centers	\$	1,000,000	\$	1,000,000

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TOTAL GRF General Revenue Fund		\$	46,703,589	\$	47,303,589
General Services Fund Group					
1060 055612	General Reimbursement	\$	54,806,192	\$	55,820,716
1950 055660	Workers' Compensation Section	\$	8,415,504	\$	8,415,504
4180 055615	Charitable Foundations	\$	8,286,000	\$	8,286,000
4200 055603	Attorney General Antitrust	\$	1,839,074	\$	1,839,074
4210 055617	Police Officers' Training Academy Fee	\$	500,000	\$	500,000
4Z20 055609	BCI Asset Forfeiture and Cost Reimbursement	\$	1,000,000	\$	1,000,000
5900 055633	Peace Officer Private Security Fund	\$	79,438	\$	95,325
5A90 055618	Telemarketing Fraud Enforcement	\$	45,000	\$	10,000
5L50 055619	Law Enforcement Assistance Program	\$	375,255	\$	187,627
5LR0 055655	Peace Officer Training - Casino	\$	4,629,409	\$	4,629,409
5MP0 055657	Peace Officer Training Commission	\$	25,000	\$	25,000
6310 055637	Consumer Protection Enforcement	\$	6,700,000	\$	6,834,000
TOTAL GSF General Services Fund Group		\$	86,700,872	\$	87,642,655
Federal Special Revenue Fund Group					
3060 055620	Medicaid Fraud Control	\$	4,537,408	\$	4,628,156
3810 055611	Civil Rights Legal Service	\$	75,000	\$	35,574
3830 055634	Crime Victims Assistance	\$	15,000,000	\$	15,000,000
3E50 055638	Attorney General Pass-Through Funds	\$	599,999	\$	599,999
3FV0 055656	Crime Victim Compensation	\$	7,000,000	\$	7,000,000
3R60 055613	Attorney General Federal Funds	\$	999,999	\$	999,999
TOTAL FED Federal Special Revenue Fund Group		\$	28,212,406	\$	28,263,728
State Special Revenue Fund Group					
4020 055616	Victims of Crime	\$	16,456,769	\$	16,456,769
4190 055623	Claims Section	\$	55,920,716	\$	56,937,131
4L60 055606	DARE Programs	\$	3,578,901	\$	3,486,209
4Y70 055608	Title Defect Recision	\$	600,000	\$	600,000
6590 055641	Solid and Hazardous Waste Background Investigations	\$	310,730	\$	310,730
TOTAL SSR State Special Revenue Fund Group		\$	76,867,116	\$	77,790,839
Holding Account Redistribution Fund Group					
R004 055631	General Holding Account	\$	1,000,000	\$	1,000,000
R005 055632	Antitrust Settlements	\$	1,000	\$	1,000
R018 055630	Consumer Frauds	\$	750,000	\$	750,000
R042 055601	Organized Crime Commission Distributions	\$	25,025	\$	25,025
R054 055650	Collection Payment Redistribution	\$	4,500,000	\$	4,500,000

TOTAL 090 Holding Account Redistribution Fund Group	\$	6,276,025	\$	6,276,025
Tobacco Master Settlement Agreement Fund Group				
U087 055402 Tobacco Settlement Oversight, Administration, and Enforcement	\$	500,000	\$	500,000
TOTAL TSF Tobacco Master Settlement Agreement Fund Group	\$	500,000	\$	500,000
TOTAL ALL BUDGET FUND GROUPS	\$	245,260,008	\$	247,776,836

**OHIO BCI FORENSIC RESEARCH AND PROFESSIONAL
TRAINING CENTER**

Of the foregoing appropriation item 055321, Operating Expenses, \$600,000 in fiscal year 2015 shall be used to create the Ohio BCI Forensic Research and Professional Training Center at Bowling Green State University. The purpose of the Center shall be to foster forensic science research techniques (BCI Eminent Scholar) and to create professional training opportunities to students (BCI Scholars) in the forensic science fields.

COUNTY SHERIFFS' PAY SUPPLEMENT

The foregoing appropriation item 055411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055411, County Sheriffs' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.

COUNTY PROSECUTORS' PAY SUPPLEMENT

The foregoing appropriation item 055415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code.

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055415, County Prosecutors' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county prosecutors as required by section 325.111 of the Revised Code.

**CASH TRANSFER FROM THE GENERAL REVENUE FUND TO
THE GENERAL REIMBURSEMENT FUND**

Notwithstanding any other provision of law to the contrary, on July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$80,000 cash from the General Revenue Fund to the General Reimbursement Fund (Fund 1060).

WORKERS' COMPENSATION SECTION

The Workers' Compensation Fund (Fund 1950) is entitled to receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. The advance payment shall be subject to adjustment.

In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.

All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.

ATTORNEY GENERAL PASS-THROUGH FUNDS

The foregoing appropriation item 055638, Attorney General Pass-Through Funds, shall be used to receive federal grant funds provided to the Attorney General by other state agencies, including, but not limited to, the Department of Youth Services and the Department of Public Safety.

GENERAL HOLDING ACCOUNT

The foregoing appropriation item 055631, General Holding Account, shall be used to distribute moneys under the terms of relevant court orders or other settlements received in a variety of cases involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

ANTITRUST SETTLEMENTS

The foregoing appropriation item 055632, Antitrust Settlements, shall be used to distribute moneys under the terms of relevant court orders or other out of court settlements in antitrust cases or antitrust matters involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

CONSUMER FRAUDS

The foregoing appropriation item 055630, Consumer Frauds, shall be used for distribution of moneys from court-ordered judgments against sellers in actions brought by the Office of Attorney General under sections 1334.08 and 4549.48 and division (B) of section 1345.07 of the Revised Code. These moneys shall be used to provide restitution to consumers victimized by the

fraud that generated the court-ordered judgments. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

ORGANIZED CRIME COMMISSION DISTRIBUTIONS

The foregoing appropriation item 055601, Organized Crime Commission Distributions, shall be used by the Organized Crime Investigations Commission, as provided by section 177.011 of the Revised Code, to reimburse political subdivisions for the expenses the political subdivisions incur when their law enforcement officers participate in an organized crime task force. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

COLLECTION PAYMENT REDISTRIBUTION

The foregoing appropriation item 055650, Collection Payment Redistribution, shall be used for the purpose of allocating the revenue where debtors mistakenly paid the client agencies instead of the Attorney General's Collections Enforcement Section. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

OHIO LAW ENFORCEMENT TRAINING FUND RECOMMENDATIONS

By September 1, 2013, the Attorney General, in consultation with state and local law enforcement agencies, shall submit to the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives a report recommending how to best use moneys collected from the gross casino revenue tax, pursuant to Section 6(C)(3)(f) of Article XV, Ohio Constitution, and how to best distribute such money for the purposes of enhancing public safety and providing additional training opportunities to the law enforcement community. The report shall expressly include a recommendation for sharing a portion of such moneys with local law enforcement agencies beginning in fiscal year 2015.

SECTION 223.10. AUD AUDITOR OF STATE

General Revenue Fund

GRF 070321	Operating Expenses	\$	27,434,452	\$	27,434,452
GRF 070403	Fiscal Watch/Emergency Technical Assistance	\$	800,000	\$	800,000
TOTAL GRF General Revenue Fund		\$	28,234,452	\$	28,234,452

Auditor of State Fund Group

1090 070601	Public Audit Expense - Intra-State	\$	9,069,804	\$	9,196,081
4220 070602	Public Audit Expense - Local Government	\$	31,052,999	\$	31,031,044
5840 070603	Training Program	\$	181,730	\$	181,250

3396

5JZ0	070606	LEAP Revolving Loans	\$	650,000	\$	650,000
6750	070605	Uniform Accounting Network	\$	3,241,533	\$	3,160,637
TOTAL AUD Auditor of State Fund						
Group			\$	44,196,066	\$	44,219,012
TOTAL ALL BUDGET FUND GROUPS			\$	72,430,518	\$	72,453,464

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE

The foregoing appropriation item 070403, Fiscal Watch/Emergency Technical Assistance, shall be used for expenses incurred by the Office of the Auditor of State in its role relating to fiscal watch or fiscal emergency activities under Chapters 118. and 3316. of the Revised Code. Expenses include, but are not limited to, the following: duties related to the determination or termination of fiscal watch or fiscal emergency of municipal corporations, counties, townships, or school districts; development of preliminary accounting reports; performance of annual forecasts; provision of performance audits; and supervisory, accounting, or auditing services for the municipal corporations, counties, townships, or school districts.

SECTION 225.10. BRB BOARD OF BARBER EXAMINERS**General Services Fund Group**

4K90	877609	Operating Expenses	\$	670,882	\$	674,272
TOTAL GSF General Services Fund						
Group			\$	670,882	\$	674,272
TOTAL ALL BUDGET FUND GROUPS			\$	670,882	\$	674,272

SECTION 227.10. OBM OFFICE OF BUDGET AND MANAGEMENT**General Revenue Fund**

GRF	042321	Budget Development and Implementation	\$	2,703,189	\$	2,697,483
GRF	042409	Commission Closures	\$	304,000	\$	155,000
GRF	042416	Office of Health Transformation	\$	484,486	\$	498,571
GRF	042425	Shared Services Development	\$	1,250,000	\$	1,250,000
TOTAL GRF General Revenue Fund			\$	4,741,675	\$	4,601,054

General Services Fund Group

1050	042603	Financial Management	\$	14,060,275	\$	14,451,086
1050	042620	Shared Services Operating	\$	8,837,518	\$	8,924,830
TOTAL GSF General Services Fund Group			\$	22,897,793	\$	23,375,916

Federal Special Revenue Fund Group

3CM0	042606	Office of Health Transformation - Federal	\$	438,723	\$	438,723
TOTAL FED Federal Special Revenue Fund Group			\$	438,723	\$	438,723

Agency Fund Group

5EH0	042604	Forgery Recovery	\$	40,000	\$	40,000
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TOTAL AGY Agency Fund Group	\$	40,000	\$	40,000
TOTAL ALL BUDGET FUND GROUPS	\$	28,118,191	\$	28,455,693

COMMISSION CLOSURES

The foregoing appropriation item 042409, Commission Closures, may be used to pay obligations associated with the closure of any state agency, whether in the executive, legislative, or judicial branch of government. Notwithstanding any provision of law to the contrary, this appropriation item may also be used to pay final payroll expenses occurring after the closure of any state agency, whether in the executive, legislative, or judicial branch of government in the event that appropriations or cash in the closing agency are insufficient to do so.

The Director of Budget and Management may request Controlling Board approval for funds to be transferred to appropriation item 042409, Commission Closures, from appropriation item 911614, CB Emergency Purposes, for anticipated expenses associated with agency closures.

AUDIT COSTS AND DUES

All centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state shall be paid from the foregoing appropriation item 042603, Financial Management.

Costs associated with the audit of the Auditor of State and national association dues shall be paid from the foregoing appropriation item 042321, Budget Development and Implementation.

SHARED SERVICES CENTER

The foregoing appropriation items 042425, Shared Services Development, and 042620, Shared Services Operating, shall be used by the Director of Budget and Management to support a Shared Services Center within the Office of Budget and Management for the purpose of consolidating statewide business functions and common transactional processes.

The Director of Budget and Management shall include the recovery of costs to operate the Shared Services Center in the accounting and budgeting services payroll rate and through a direct charges using intrastate transfer vouchers to agencies for services rendered. The Director of Budget and Management shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of Fund 1050.

INTERNAL AUDIT

The Director of Budget and Management shall include the recovery of costs to operate the Internal Audit Program in the accounting and budgeting services payroll rate and through a direct charge using intrastate transfer vouchers to agencies reviewed by the program. The Director of Budget and

Management, with advice from the Internal Audit Advisory Council, shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of the Accounting and Budgeting Fund (Fund 1050).

FORGERY RECOVERY

The foregoing appropriation item 042604, Forgery Recovery, shall be used to reissue warrants that have been certified as forgeries by the rightful recipient as determined by the Bureau of Criminal Identification and Investigation and the Treasurer of State. Upon receipt of funds to cover the reissuance of the warrant, the Director of Budget and Management shall reissue a state warrant of the same amount. Any additional amounts needed to reissue warrants backed by the receipt of funds are hereby appropriated.

ABOLISHMENT OF FUND 5N40 AND FUND 5Z80

On or before December 31, 2013, the Director of Budget and Management shall transfer the cash balances of the OAKS Project Implementation Fund (Fund 5N40) and the Office of Health Transformation Administration Fund (Fund 5Z80) to the General Revenue Fund. Upon completion of the transfers, Fund 5N40 and Fund 5Z80 are abolished.

CORRECTION OF ACCOUNTING ENTRIES RELATED TO MEDICAID LINE ITEM RESTRUCTURE IMPLEMENTATION

Upon the request of any of the Directors of Medicaid, Health, Mental Health and Addiction Services, Aging, Developmental Disabilities, or Job and Family Services, the Director of Budget and Management may recode certain transactions for Medicaid-related expenditures between appropriation line items made in error during implementation of the statewide Medicaid line item restructuring and transactions made to appropriation line items that received no new appropriation in fiscal year 2014 and fiscal year 2015.

SECTION 229.10. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD

General Revenue Fund

GRF 874100	Personal Services	\$	2,417,467	\$	2,417,467
GRF 874320	Maintenance and Equipment	\$	1,161,098	\$	1,161,098
TOTAL GRF General Revenue Fund		\$	3,578,565	\$	3,578,565

General Services Fund Group

4G50 874603	Capitol Square Education Center and Arts	\$	5,882	\$	5,882
4S70 874602	Statehouse Gift Shop/Events	\$	629,409	\$	629,409
TOTAL GSF General Services Fund Group		\$	635,291	\$	635,291

Underground Parking Garage

2080	874601	Underground Parking Garage Operations	\$	3,549,740	\$	3,496,740
		TOTAL UPG Underground Parking Garage	\$	3,549,740	\$	3,496,740
		TOTAL ALL BUDGET FUND GROUPS	\$	7,763,596	\$	7,710,596

WAREHOUSE PAYMENTS

Of the foregoing appropriation item 874601, Underground Parking Garage Operations, \$48,000 in each fiscal year shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, to the Department of Administrative Services for bond service charges relating to the purchase and improvement of a warehouse acquired pursuant to section 105.41 of the Revised Code, in which to store items of the Capitol Collection Trust and, whenever necessary, equipment or other property of the Board.

UNDERGROUND PARKING GARAGE FUND

Notwithstanding division (G) of section 105.41 of the Revised Code and any other provision to the contrary, moneys in the Underground Parking Garage Fund (Fund 2080) may be used for personnel and operating costs related to the operations of the Statehouse and the Statehouse Underground Parking Garage.

Of the foregoing appropriation item 874601, Underground Parking Garage Operations, up to \$10,000 in fiscal year 2014 shall be used to support the 1st Ohio Light Artillery Battery A for the 150th Anniversary Reenactment of the Battle of Gettysburg, and up to \$15,000 in fiscal year 2015 shall be used for preparations in anticipation of the Lincoln Funeral Procession Train.

Of the foregoing appropriation item 874601, Underground Parking Garage Operations, up to \$300,000 in fiscal year 2014 shall be used for site preparation, utility placement, and other preliminary construction activities needed for the erection of the permanent Holocaust memorial on the grounds of Capitol Square. The amount used for this purpose is subject to approval by the Controlling Board.

HOUSE AND SENATE PARKING REIMBURSEMENT

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$500,000 cash from the General Revenue Fund to the Underground Parking Garage Fund (Fund 2080). The amounts transferred under this section shall be used to reimburse the Capitol Square Review and Advisory Board for legislative parking costs.

SECTION 231.10. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS

3400

General Services Fund Group

4K90 233601	Operating Expenses	\$	579,328	\$	579,328
TOTAL GSF General Services Fund Group		\$	579,328	\$	579,328
TOTAL ALL BUDGET FUND GROUPS		\$	579,328	\$	579,328

SECTION 233.10. CAC CASINO CONTROL COMMISSION**State Special Revenue Fund Group**

5HS0 955321	Casino Control - Operating	\$	13,121,283	\$	13,542,674
TOTAL SSR State Special Revenue Fund Group		\$	13,121,283	\$	13,542,674
TOTAL ALL BUDGET FUND GROUPS		\$	13,121,283	\$	13,542,674

SECTION 235.10. CDP CHEMICAL DEPENDENCY**PROFESSIONALS BOARD****General Services Fund Group**

4K90 930609	Operating Expenses	\$	476,642	\$	469,349
TOTAL GSF General Services Fund Group		\$	476,642	\$	469,349
TOTAL ALL BUDGET FUND GROUPS		\$	476,642	\$	469,349

SECTION 237.10. CHR STATE CHIROPRACTIC BOARD**General Services Fund Group**

4K90 878609	Operating Expenses	\$	617,829	\$	630,775
TOTAL GSF General Services Fund Group		\$	617,829	\$	630,775
TOTAL ALL BUDGET FUND GROUPS		\$	617,829	\$	630,775

SECTION 239.10. CIV OHIO CIVIL RIGHTS COMMISSION**General Revenue Fund**

GRF 876321	Operating Expenses	\$	4,725,784	\$	4,725,784
TOTAL GRF General Revenue Fund		\$	4,725,784	\$	4,725,784

General Services Fund Group

2170 876604	Operations Support	\$	4,000	\$	4,000
TOTAL GSF General Services Fund Group		\$	4,000	\$	4,000

Federal Special Revenue Fund Group

3340 876601	Federal Programs	\$	2,820,670	\$	2,947,983
TOTAL FED Federal Special Revenue Fund Group		\$	2,820,670	\$	2,947,983
TOTAL ALL BUDGET FUND GROUPS		\$	7,550,454	\$	7,677,767

SECTION 241.10. COM DEPARTMENT OF COMMERCE**General Services Fund Group**

1630 800620	Division of Administration	\$	6,200,000	\$	6,200,000
1630 800637	Information Technology	\$	6,011,977	\$	6,011,977
5430 800602	Unclaimed Funds-Operating	\$	7,737,546	\$	7,737,546

3401

5430	800625	Unclaimed Funds-Claims	\$	64,000,000	\$	64,000,000
5F10	800635	Small Government Fire Departments	\$	300,000	\$	300,000
TOTAL GSF General Services Fund Group			\$	84,249,523	\$	84,249,523
Federal Special Revenue Fund Group						
3480	800622	Underground Storage Tanks	\$	1,129,518	\$	1,129,518
3480	800624	Leaking Underground Storage Tanks	\$	1,556,211	\$	1,556,211
TOTAL FED Federal Special Revenue Fund Group			\$	2,685,729	\$	2,685,729
State Special Revenue Fund Group						
4B20	800631	Real Estate Appraisal Recovery	\$	35,000	\$	35,000
4H90	800608	Cemeteries	\$	266,688	\$	266,688
4X20	800619	Financial Institutions	\$	1,854,298	\$	1,854,298
5440	800612	Banks	\$	6,836,589	\$	6,836,589
5450	800613	Savings Institutions	\$	2,259,536	\$	2,259,536
5460	800610	Fire Marshal	\$	17,336,990	\$	15,976,408
5460	800639	Fire Department Grants	\$	2,198,802	\$	2,198,802
5470	800603	Real Estate Education/Research	\$	69,655	\$	69,655
5480	800611	Real Estate Recovery	\$	50,000	\$	50,000
5490	800614	Real Estate	\$	3,310,412	\$	3,310,412
5500	800617	Securities	\$	4,238,814	\$	4,238,814
5520	800604	Credit Union	\$	3,297,888	\$	3,297,888
5530	800607	Consumer Finance	\$	3,481,692	\$	3,481,692
5560	800615	Industrial Compliance	\$	26,612,520	\$	27,104,205
5FW0800616		Financial Literacy Education	\$	200,000	\$	200,000
5GK0800609		Securities Investor Education/Enforcement	\$	432,150	\$	432,150
5HV0800641		Cigarette Enforcement	\$	118,800	\$	118,800
5LP0 800646		Liquor Regulatory Operating Expenses	\$	7,988,921	\$	7,844,537
5X60 800623		Video Service	\$	337,224	\$	337,224
6530 800629		UST Registration/Permit Fee	\$	3,831,888	\$	3,612,588
6A40 800630		Real Estate Appraiser-Operating	\$	672,973	\$	672,973
TOTAL SSR State Special Revenue Fund Group			\$	85,430,840	\$	84,198,259
Liquor Control Fund Group						
5LC0 800644		Liquor JobsOhio Extraordinary Allowance	\$	557,974	\$	372,661
5LN0 800645		Liquor Operating Services	\$	13,949,342	\$	9,316,535
TOTAL LCF Liquor Control Fund Group			\$	14,507,316	\$	9,689,196
TOTAL ALL BUDGET FUND GROUPS			\$	186,873,408	\$	180,822,707

ADMINISTRATIVE ASSESSMENTS

Notwithstanding any other provision of law to the contrary, the Division of Administration Fund (Fund 1630) is entitled to receive assessments from all operating funds of the Department in accordance with procedures prescribed by the Director of Commerce and approved by the Director of Budget and Management.

UNCLAIMED FUNDS PAYMENTS

The foregoing appropriation item 800625, Unclaimed Funds-Claims, shall be used to pay claims under section 169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are appropriated.

FIRE DEPARTMENT GRANTS

Of the foregoing appropriation item 800639, Fire Department Grants, up to \$2,198,802 in each fiscal year shall be used to make annual grants to the following eligible recipients: volunteer fire departments, fire departments that serve one or more small municipalities or small townships, joint fire districts comprised of fire departments that primarily serve small municipalities or small townships, local units of government responsible for such fire departments, and local units of government responsible for the provision of fire protection services for small municipalities or small townships. For the purposes of these grants, a private fire company, as that phrase is defined in section 9.60 of the Revised Code, that is providing fire protection services under a contract to a political subdivision of the state, is an additional eligible recipient for a training grant.

Eligible recipients that consist of small municipalities or small townships that all intend to contract with the same fire department or private fire company for fire protection services may jointly apply and be considered for a grant. If a joint applicant is awarded a grant, the State Fire Marshal shall, if feasible, proportionately award the grant and any equipment purchased with grant funds to each of the joint applicants based upon each applicant's contribution to and demonstrated need for fire protection services.

If the grant awarded to joint applicants is an equipment grant and the equipment to be purchased cannot be readily distributed or possessed by multiple recipients, each of the joint applicants shall be awarded by the State Fire Marshal an ownership interest in the equipment so purchased in proportion to each applicant's contribution to and demonstrated need for fire protection services. The joint applicants shall then mutually agree on how the equipment is to be maintained, operated, stored, or disposed of. If, for any reason, the joint applicants cannot agree as to how jointly owned equipment is to be maintained, operated, stored, or disposed of or any of the joint applicants no longer maintain a contract with the same fire protection service provider as the other applicants, then the joint applicants shall, with the assistance of the State Fire Marshal, mutually agree as to how the jointly owned equipment is to be maintained, operated, stored, disposed of, or owned. If the joint applicants cannot agree how the grant equipment is to be

maintained, operated, stored, disposed of, or owned, the State Fire Marshal may, in its discretion, require all of the equipment acquired by the joint applicants with grant funds to be returned to the State Fire Marshal. The State Fire Marshal may then award the returned equipment to any eligible recipients.

Except as otherwise provided in this section, the grants shall be used by recipients to purchase firefighting or rescue equipment or gear or similar items, to provide full or partial reimbursement for the documented costs of firefighter training, or, at the discretion of the State Fire Marshal, to cover fire department costs for providing fire protection services in that grant recipient's jurisdiction.

Of the foregoing appropriation item 800639, up to \$500,000 per fiscal year may be used to pay for the State Fire Marshal's costs of providing firefighter I certification classes or other firefighter classes approved by the Department of Public Safety in accordance with section 4765.55 of the Revised Code at no cost to selected students attending the Ohio Fire Academy or other class providers approved by the State Fire Marshal. The State Fire Marshal may establish the qualifications and selection processes for students to attend such classes by written policy, and such students shall be considered eligible recipients of fire department grants for the purposes of this portion of the grant program.

Grant awards for firefighting or rescue equipment or gear or for fire department costs of providing fire protection services shall be up to \$15,000 per fiscal year, or up to \$25,000 per fiscal year if an eligible entity serves a jurisdiction in which the Governor declared a natural disaster during the preceding or current fiscal year in which the grant was awarded. In addition to any grant funds awarded for rescue equipment or gear, or for fire department costs associated with the provision of fire protection services, an eligible entity may receive a grant for up to \$15,000 per fiscal year for full or partial reimbursement of the documented costs of firefighter training. For each fiscal year, the State Fire Marshal shall determine the total amounts to be allocated for each eligible purpose.

The grant program shall be administered by the State Fire Marshal in accordance with rules the State Fire Marshal adopts as part of the state fire code adopted pursuant to section 3737.82 of the Revised Code that are necessary for the administration and operation of the grant program. The rules may further define the entities eligible to receive grants and establish criteria for the awarding and expenditure of grant funds, including methods the State Fire Marshal may use to verify the proper use of grant funds or to obtain reimbursement for or the return of equipment for improperly used

grant funds. Any amounts in appropriation item 800639, Fire Department Grants, in excess of the amount allocated for these grants may be used for the administration of the grant program.

CASH TRANSFERS TO DIVISION OF REAL ESTATE OPERATING FUND

The Director of Budget and Management, upon the request of the Director of Commerce, may transfer up to \$500,000 in cash from the Real Estate Recovery Fund (Fund 5480) and up to \$250,000 in cash from the Real Estate Appraiser Recovery Fund (Fund 4B20) to the Division of Real Estate Operating Fund (Fund 5490) during the biennium ending June 30, 2015.

SECTION 243.10. OCC OFFICE OF CONSUMERS' COUNSEL

General Services Fund Group

5F50 053601	Operating Expenses	\$	5,641,093	\$	5,641,093
TOTAL GSF General Services Fund Group		\$	5,641,093	\$	5,641,093
TOTAL ALL BUDGET FUND GROUPS		\$	5,641,093	\$	5,641,093

SECTION 245.10. CEB CONTROLLING BOARD

General Revenue Fund

GRF 911441	Ballot Advertising Costs	\$	475,000	\$	475,000
TOTAL GRF General Revenue Fund		\$	475,000	\$	475,000

General Services Fund Group

5KM0911614	CB Emergency Purposes	\$	10,000,000	\$	10,000,000
TOTAL GSF General Services Fund Group		\$	10,000,000	\$	10,000,000
TOTAL ALL BUDGET FUND GROUPS		\$	10,475,000	\$	10,475,000

FEDERAL SHARE

In transferring appropriations to or from appropriation items that have federal shares identified in this act, the Controlling Board shall add or subtract corresponding amounts of federal matching funds at the percentages indicated by the state and federal division of the appropriations in this act. Such changes are hereby appropriated.

DISASTER SERVICES

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the Disaster Services Fund (5E20) to a fund and appropriation item used by the Department of Public Safety to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall

use the funding to fund the State Disaster Relief Program for disasters that have a written Governor's authorization, and the State Individual Assistance Program for disasters that have a written Governor's authorization and is declared by the federal Small Business Administration. The Ohio Emergency Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

Fund 5E20 shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriations to any fund and appropriation item for the payment of state agency disaster relief program expenses for disasters that have a written Governor's authorization, if the Director of Budget and Management determines that sufficient funds exist.

Upon the request of the Department of Public Safety, the Controlling Board may release up to \$2,615,000 for Blanchard River flood mitigation projects.

BALLOT ADVERTISING COSTS

Pursuant to section 3501.17 of the Revised Code, and upon requests submitted by the Secretary of State, the Controlling Board shall approve transfers from the foregoing appropriation item 911441, Ballot Advertising Costs, to appropriation item 050621, Statewide Ballot Advertising, in order to pay for the cost of public notices associated with statewide ballot initiatives.

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS ELIGIBILITY

A state agency director shall request that the Controlling Board increase the amount of the agency's capital appropriations if the director determines such an increase is necessary for the agency to receive and use funds under the federal American Recovery and Reinvestment Act of 2009. The Controlling Board may increase the capital appropriations pursuant to the request up to the exact amount necessary under the federal act if the Board determines it is necessary for the agency to receive and use those federal funds.

SECTION 247.10. COS STATE BOARD OF COSMETOLOGY

General Services Fund Group			
4K90 879609 Operating Expenses	\$	3,474,030	\$ 3,474,030
TOTAL GSF General Services Fund			
Group	\$	3,474,030	\$ 3,474,030
TOTAL ALL BUDGET FUND GROUPS	\$	3,474,030	\$ 3,474,030

SECTION 249.10. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY THERAPIST BOARD

General Services Fund Group

4K90 899609 Operating Expenses	\$	1,265,856	\$	1,281,478
TOTAL GSF General Services Fund Group	\$	1,265,856	\$	1,281,478
TOTAL ALL BUDGET FUND GROUPS	\$	1,265,856	\$	1,281,478

SECTION 251.10. CLA COURT OF CLAIMS

General Revenue Fund

GRF 015321 Operating Expenses	\$	2,501,052	\$	2,501,052
TOTAL GRF General Revenue Fund	\$	2,501,052	\$	2,501,052

State Special Revenue Fund Group

5K20 015603 CLA Victims of Crime	\$	415,556	\$	415,953
TOTAL SSR State Special Revenue Fund Group	\$	415,556	\$	415,953
TOTAL ALL BUDGET FUND GROUPS	\$	2,916,608	\$	2,917,005

SECTION 253.10. DEN STATE DENTAL BOARD

General Services Fund Group

4K90 880609 Operating Expenses	\$	1,566,484	\$	1,566,484
TOTAL GSF General Services Fund Group	\$	1,566,484	\$	1,566,484
TOTAL ALL BUDGET FUND GROUPS	\$	1,566,484	\$	1,566,484

SECTION 255.10. BDP BOARD OF DEPOSIT

General Services Fund Group

4M20 974601 Board of Deposit	\$	1,876,000	\$	1,876,000
TOTAL GSF General Services Fund Group	\$	1,876,000	\$	1,876,000
TOTAL ALL BUDGET FUND GROUPS	\$	1,876,000	\$	1,876,000

BOARD OF DEPOSIT EXPENSE FUND

Upon receiving certification of expenses from the Treasurer of State, the Director of Budget and Management shall transfer cash from the Investment Earnings Redistribution Fund (Fund 6080) to the Board of Deposit Expense Fund (Fund 4M20). The latter fund shall be used pursuant to section 135.02 of the Revised Code to pay for any and all necessary expenses of the Board of Deposit or for banking charges and fees required for the operation of the State of Ohio Regular Account.

SECTION 257.10. DEV DEVELOPMENT SERVICES AGENCY

General Revenue Fund

GRF	195402	Coal Research Operating	\$	261,205	\$	261,405
GRF	195405	Minority Business Development	\$	1,693,691	\$	1,693,691
GRF	195407	Travel and Tourism	\$	1,300,000	\$	0
GRF	195415	Business Development Services	\$	2,413,387	\$	2,413,387
GRF	195426	Redevelopment Assistance	\$	1,968,365	\$	468,365
GRF	195497	CDBG Operating Match	\$	1,015,000	\$	1,015,000
GRF	195501	Appalachian Local Development Districts	\$	440,000	\$	440,000
GRF	195532	Technology Programs and Grants	\$	13,547,341	\$	13,547,341
GRF	195533	Business Assistance	\$	4,205,774	\$	4,205,774
GRF	195535	Appalachia Assistance	\$	3,846,482	\$	3,846,482
GRF	195537	Ohio-Israel Agricultural Initiative	\$	150,000	\$	150,000
GRF	195901	Coal Research & Development General Obligation Debt Service	\$	2,858,900	\$	4,327,200
GRF	195905	Third Frontier Research & Development General Obligation Debt Service	\$	66,511,600	\$	83,783,000
GRF	195912	Job Ready Site Development General Obligation Debt Service	\$	15,498,400	\$	19,124,500
TOTAL GRF General Revenue Fund			\$	115,710,145	\$	135,276,145

General Services Fund Group

1350	195684	Development Services Operations	\$	10,800,000	\$	10,800,000
4W10	195646	Minority Business Enterprise Loan	\$	2,500,000	\$	2,500,000
5KN0	195640	Local Government Innovation	\$	20,730,986	\$	21,900,000
5MB0	195623	Business Incentive Grants	\$	15,000,000	\$	0
5MK0	195600	Vacant Facilities Grant	\$	1,000,000	\$	1,000,000
5W50	195690	Travel and Tourism Cooperative Projects	\$	150,000	\$	150,000
6850	195636	Development Services Reimbursable Expenditures	\$	700,000	\$	700,000
TOTAL GSF General Services Fund Group			\$	50,880,986	\$	37,050,000

Federal Special Revenue Fund Group

3080	195602	Appalachian Regional Commission	\$	475,000	\$	475,000
3080	195603	Housing Assistance Programs	\$	10,000,000	\$	10,000,000
3080	195609	Small Business Administration Grants	\$	5,271,381	\$	5,271,381
3080	195618	Energy Grants	\$	9,307,779	\$	4,109,193
3080	195670	Home Weatherization	\$	17,000,000	\$	17,000,000

		Program				
3080	195671	Brownfield Redevelopment	\$	5,000,000	\$	5,000,000
3080	195672	Manufacturing Extension Partnership	\$	5,359,305	\$	5,359,305
3080	195675	Procurement Technical Assistance	\$	600,000	\$	600,000
3080	195681	SBDC Disability Consulting	\$	1,300,000	\$	1,300,000
3350	195610	Energy Programs	\$	200,000	\$	200,000
3AE0	195643	Workforce Development Initiatives	\$	1,800,000	\$	1,800,000
3DB0	195642	Federal Stimulus - Energy Efficiency & Conservation Block Grants	\$	38,152	\$	0
3FJ0	195626	Small Business Capital Access and Collateral Enhancement Program	\$	32,046,846	\$	5,655,326
3FJ0	195661	Technology Targeted Investment Program	\$	12,750,410	\$	2,250,072
3K80	195613	Community Development Block Grant	\$	65,000,000	\$	65,000,000
3K90	195611	Home Energy Assistance Block Grant	\$	172,000,000	\$	172,000,000
3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000
3L00	195612	Community Services Block Grant	\$	27,240,217	\$	27,240,217
3V10	195601	HOME Program	\$	30,000,000	\$	30,000,000
TOTAL FED Federal Special Revenue Fund Group			\$	417,389,090	\$	375,260,494
State Special Revenue Fund Group						
4500	195624	Minority Business Bonding Program Administration	\$	74,868	\$	74,905
4510	195649	Business Assistance Programs	\$	6,300,800	\$	6,700,800
4F20	195639	State Special Projects	\$	102,145	\$	102,104
4F20	195699	Utility Community Assistance	\$	500,000	\$	500,000
5CG0	195679	Alternative Fuel Transportation	\$	750,000	\$	750,000
5HR0	195526	Incumbent Workforce Training Vouchers	\$	30,000,000	\$	30,000,000
5HR0	195622	Defense Development Assistance	\$	5,000,000	\$	5,000,000
5JR0	195635	Redevelopment Program Support	\$	100,000	\$	100,000
5KP0	195645	Historic Rehab Operating	\$	650,000	\$	650,000
5LU0	195673	Racetrack Facility Community Economic Redevelopment Fund	\$	12,000,000	\$	0
5M40	195659	Low Income Energy Assistance (USF)	\$	350,000,000	\$	350,000,000
5M50	195660	Advanced Energy Loan Programs	\$	8,000,000	\$	8,000,000
5MH0	195644	SiteOhio Administration	\$	100,000	\$	100,000
5MJ0	195683	TourismOhio Administration	\$	8,000,000	\$	8,000,000
5W60	195691	International Trade Cooperative Projects	\$	18,000	\$	18,000

3409

6170	195654	Volume Cap Administration	\$	32,562	\$	32,562
6460	195638	Low- and Moderate- Income Housing Trust Fund	\$	53,000,000	\$	53,000,000
TOTAL SSR State Special Revenue Fund Group			\$	474,628,375	\$	463,028,371
Facilities Establishment Fund Group						
5S90	195628	Capital Access Loan Program	\$	3,000,000	\$	3,000,000
7009	195664	Innovation Ohio	\$	15,000,000	\$	15,000,000
7010	195665	Research and Development	\$	22,000,000	\$	22,000,000
7037	195615	Facilities Establishment	\$	50,000,000	\$	50,000,000
TOTAL 037 Facilities Establishment Fund Group			\$	90,000,000	\$	90,000,000
Clean Ohio Revitalization Fund						
7003	195663	Clean Ohio Program	\$	950,000	\$	950,000
TOTAL 7003 Clean Ohio Revitalization Fund			\$	950,000	\$	950,000
Third Frontier Research & Development Fund Group						
7011	195686	Third Frontier Operating	\$	1,149,750	\$	1,149,750
7011	195687	Third Frontier Research & Development Projects	\$	90,850,250	\$	90,850,250
7014	195620	Third Frontier Operating - Tax	\$	1,700,000	\$	1,700,000
7014	195692	Research & Development Taxable Bond Projects	\$	38,300,000	\$	38,300,000
TOTAL 011 Third Frontier Research & Development Fund Group			\$	132,000,000	\$	132,000,000
Job Ready Site Development Fund Group						
7012	195688	Job Ready Site Development	\$	800,000	\$	800,000
TOTAL 012 Job Ready Site Development Fund Group			\$	800,000	\$	800,000
Tobacco Master Settlement Agreement Fund Group						
M087	195435	Biomedical Research and Technology Transfer	\$	1,896,595	\$	1,906,025
TOTAL TSF Tobacco Master Settlement Agreement Fund Group			\$	1,896,595	\$	1,906,025
TOTAL ALL BUDGET FUND GROUPS			\$	1,284,255,191	\$	1,236,271,035

SECTION 257.20. COAL RESEARCH OPERATING

The foregoing appropriation item 195402, Coal Research Operating, shall be used for the operating expenses of the Community Services Division in support of the Ohio Coal Development Office.

TRAVEL AND TOURISM

The foregoing appropriation item 195407, Travel and Tourism, shall be used for marketing the state of Ohio as a tourism destination and to support administrative expenses and contracts necessary to market Ohio.

BUSINESS DEVELOPMENT SERVICES

The foregoing appropriation item 195415, Business Development Services, shall be used for the operating expenses of the Business Services

Division and the regional economic development offices and for grants for cooperative economic development ventures.

REDEVELOPMENT ASSISTANCE

The foregoing appropriation item 195426, Redevelopment Assistance, shall be used to fund the costs of administering the Clean Ohio Revitalization program and other urban revitalization programs that may be implemented by the Development Services Agency. Of the foregoing appropriation item 195426, Redevelopment Assistance, \$1,500,000 in fiscal year 2014 shall be used for the Famicos Foundation.

CDBG OPERATING MATCH

The foregoing appropriation item 195497, CDBG Operating Match, shall be used as matching funds for grants from the United States Department of Housing and Urban Development pursuant to the Housing and Community Development Act of 1974 and regulations and policy guidelines for the programs pursuant thereto.

APPALACHIAN LOCAL DEVELOPMENT DISTRICTS

The foregoing appropriation item 195501, Appalachian Local Development Districts, shall be used to support four local development districts. Of the foregoing appropriation amount in each fiscal year, up to \$135,000 shall be allocated to the Ohio Valley Regional Development Commission, up to \$135,000 shall be allocated to the Ohio Mid-Eastern Government Association, up to \$135,000 shall be allocated to the Buckeye Hills-Hocking Valley Regional Development District, and up to \$35,000 shall be allocated to the Eastgate Regional Council of Governments. Local development districts receiving funding under this section shall use the funds for the implementation and administration of programs and duties under section 107.21 of the Revised Code.

TECHNOLOGY PROGRAMS AND GRANTS

Of the foregoing appropriation item 195532, Technology Programs and Grants, up to \$547,341 in each fiscal year shall be used for operating expenses incurred in administering the Ohio Third Frontier pursuant to sections 184.10 to 184.20 of the Revised Code; and up to \$13,000,000 in each fiscal year shall be used for the Thomas Edison Program pursuant to sections 122.28 to 122.38 of the Revised Code, of which not less than \$8,700,000 shall be allocated for the Edison Center Network entities defined in division (C) of section 122.33 of the Revised Code, and not more than ten per cent shall be used for operating expenses incurred in administering the program.

BUSINESS ASSISTANCE

The foregoing appropriation item 195533, Business Assistance, may be

used to provide a range of business assistance, including grants to local organizations to support economic development activities that promote minority business development, small business development, entrepreneurship, and exports of Ohio's goods and services. This appropriation item shall also be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Public Law No. 96-302 as amended by Public Law No. 98-395, and regulations and policy guidelines for the programs pursuant thereto.

APPALACHIA ASSISTANCE

The foregoing appropriation item 195535, Appalachia Assistance, may be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia, to provide financial assistance to projects in Ohio's Appalachian counties, and to pay dues for the Appalachian Regional Commission. These funds may be used to match federal funds from the Appalachian Regional Commission.

OHIO-ISRAEL AGRICULTURE INITIATIVE

The foregoing appropriation item 195537, Ohio-Israel Agricultural Initiative, shall be used for the Ohio-Israel Agricultural Initiative.

COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation line item 195901, Coal Research and Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period July 1, 2013, through June 30, 2015 for obligations issued under sections 151.01 and 151.07 of the Revised Code.

THIRD FRONTIER RESEARCH & DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195905, Third Frontier Research & Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2013, through June 30, 2015, on obligations issued for research and development purposes under sections 151.01 and 151.10 of the Revised Code.

JOB READY SITE DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195912, Job Ready Site Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2013, through June 30, 2015, on obligations issued for job ready site development purposes under sections 151.01 and 151.11 of the Revised Code.

SECTION 257.30. DEVELOPMENT SERVICES OPERATIONS

The Director of Development Services may assess offices of the agency for the cost of central service operations. An assessment shall contain the characteristics of administrative ease and uniform application. A division's payments shall be credited to the Supportive Services Fund (Fund 1350) using an intrastate transfer voucher.

LOCAL GOVERNMENT INNOVATION FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$4,600,000 in cash from the General Revenue Fund to the Local Government Innovation Fund (Fund 5KN0). On July 1, 2014, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$5,900,000 in cash from the General Revenue Fund to the Local Government Innovation Fund (5KN0).

The foregoing appropriation item 195640, Local Government Innovation, shall be used for the purposes of making loans and grants to political subdivisions under the Local Government Innovation Program in accordance with sections 189.01 to 189.10 of the Revised Code, and for the purposes of making loans and grants to political subdivisions and grants to the Department of Administrative Services under the Local Government Efficiency Program in accordance with Section 701.40 of this act. Of the foregoing appropriation item 195640, Local Government Innovation, up to \$4,600,000 in fiscal year 2014 and up to \$5,900,000 in fiscal year 2015 may be used for the Local Government Efficiency Program established in section 701.40 of this act, and the amounts used are not subject to division (B) of Section 189.04 of the Revised Code. Of the foregoing appropriation item 195640, Local Government Innovation, up to \$200,000 in each fiscal year shall be used for administrative costs incurred by the Development Services Agency, of which up to \$25,000 in each fiscal year may be used for the costs of preparing the report required under division (B) of Section 701.30 of this act. Of the foregoing appropriation item 195640, Local Government Innovation, up to \$75,000 in each fiscal year may be used to administer and provide technical assistance in providing the grants or loans under division (B)(2) of Section 701.40 of this act. In administering and providing this technical assistance, the Director of Development Services may enter into agreements with the Director of Administrative Services or other entities.

TRAVEL AND TOURISM COOPERATIVE PROJECTS

The foregoing appropriation item 195690, Travel and Tourism Cooperative Projects, shall consist solely of leveraged private sector paid advertising dollars received in tourism marketing assistance and co-op

programs. These funds are to be used for the marketing and promotion of travel and tourism in Ohio.

DEVELOPMENT SERVICES REIMBURSABLE EXPENDITURES

The foregoing appropriation item 195636, Development Services Reimbursable Expenditures, shall be used for reimbursable costs incurred by the agency. Revenues to the General Reimbursement Fund (Fund 6850) shall consist of moneys charged for administrative costs that are not central service costs.

SECTION 257.40. WORKFORCE DEVELOPMENT INITIATIVES

Of the foregoing appropriation item 195643, Workforce Development Initiatives, \$500,000 in fiscal year 2014 shall be used to fund the Heavy Machinery Pilot Program at Central Ohio Technical College for tuition support and reimbursement to train approximately 30 students for careers in construction and the oil and gas industries in Eastern Ohio and statewide.

Of the foregoing appropriation item 195643, Workforce Development Initiative, \$500,000 in each fiscal year shall be used for grants to BioOhio to support the Bioscience Workforce Development Initiative for training incumbent and prospective workers in the bioscience manufacturing industry in partnership with community colleges. BioOhio shall provide an annual report to the Office of the Governor and the General Assembly assessing the progress of the BioScience Workforce Development Initiative, and the report shall include enrollment and placement statistics.

HEAP WEATHERIZATION

Up to twenty-five per cent of the federal funds deposited to the credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) may be expended from appropriation item 195614, HEAP Weatherization, to provide home weatherization services in the state as determined by the Director of Development Services. Any transfers or increases in appropriation for the foregoing appropriation items 195614, HEAP Weatherization, or 195611, Home Energy Assistance Block Grant, shall be subject to approval by the Controlling Board.

SECTION 257.50. BUSINESS ASSISTANCE PROGRAMS

The foregoing appropriation item 195649, Business Assistance Programs, shall be used for administrative expenses associated with the operation of tax credit programs, loan servicing, the Ohio Film Office, workforce initiatives, and the Office of Strategic Business Investments.

STATE SPECIAL PROJECTS

The State Special Projects Fund (Fund 4F20), may be used for the deposit of private-sector funds from utility companies and for the deposit of other miscellaneous state funds. State moneys so deposited may also be used to match federal housing grants for the homeless.

MINORITY BUSINESS ENTERPRISE LOAN

All repayments from the Minority Development Financing Advisory Board Loan Program and the Ohio Mini-Loan Guarantee Program shall be deposited in the State Treasury to the credit of the Minority Business Enterprise Loan Fund (Fund 4W10).

MINORITY BUSINESS BONDING FUND

Notwithstanding Chapters 122., 169., and 175. of the Revised Code, the Director of Development Services may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the fiscal year 2014-fiscal year 2015 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program under section 169.05 of the Revised Code.

If needed for the payment of losses arising from the Minority Business Bonding Program, the Director of Budget and Management may, at the request of the Director of Development Services, request that the Director of Commerce transfer unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code to the Minority Bonding Fund (Fund 4490). The transfer of unclaimed funds shall only occur after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program have been used for that purpose. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195658, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are hereby appropriated.

INCUMBENT WORKFORCE TRAINING VOUCHERS

(A) The Director of Budget and Management may transfer up to \$30,000,000 cash in each fiscal year from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Development Services Agency.

(B) Of the foregoing appropriation item 195526, Incumbent Workforce Training Vouchers, up to \$30,000,000 in each fiscal year shall be used to support the Ohio Incumbent Workforce Training Voucher Program.

(C) The Ohio Incumbent Workforce Training Voucher Program shall

conform to guidelines for the operation of the program, including, but not limited to, the following:

(1) A requirement that a training voucher under the program shall not exceed \$6,000 per worker per year;

(2) A provision for an employer of an eligible employee to apply for a voucher on behalf of the eligible employee;

(3) A provision for an eligible employee to apply directly for a training voucher with the pre-approval of the employee's employer; and

(4) A requirement that an employee participating in the program, or the employee's employer, shall pay for not less than thirty-three per cent of the training costs under the program.

On July 1, 2014, or as soon as possible thereafter, the Director of Development Services may request that the Director of Budget and Management reappropriate any unexpended, unencumbered balance of the prior fiscal year's appropriation to the foregoing appropriation item 195526, Incumbent Workforce Training Vouchers, for fiscal year 2015. The Director of Budget and Management may request additional information necessary for evaluating the request, and the Director of Development Services shall provide the requested information to the Director of Budget and Management. Based on the information provided by the Director of Development Services, the Director of Budget and Management shall determine the amount to be reappropriated, and those amounts are hereby reappropriated for fiscal year 2015.

DEFENSE DEVELOPMENT ASSISTANCE

The Director of Budget and Management shall transfer up to \$5,000,000 in cash in each fiscal year from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Development Services Agency. The transferred funds shall be used for appropriation item 195622, Defense Development Assistance, for economic development programs and the creation of new jobs to leverage and support mission gains at Department of Defense facilities in Ohio by working with future base realignment and closure activities and ongoing Department of Defense efficiency initiatives, assisting efforts to secure Department of Defense support contracts for Ohio companies, assessing and supporting regional job training and workforce development needs generated by the Department of Defense and the Ohio aerospace industry, and for expanding job training and economic development programs in human performance related initiatives. A portion of these funds shall be matched in the aggregate amount of \$5,000,000 by either public or private industry partners,

educational entities, or federal agencies.

Of the foregoing appropriation item 195622, Defense Development Assistance, \$3,000,000 shall be used by Applied Research Corporation to support education or research projects conducted by public-private partnerships in Ohio that seek to develop and train the workforce of Ohio in all industries.

On July 1, 2014, or as soon as possible thereafter, the Director of Development Services may request that the Director of Budget and Management reappropriate any unexpended, unencumbered balance of the prior fiscal year's appropriation to the foregoing appropriation item 195622, Defense Development Assistance, for fiscal year 2015. The Director of Budget and Management may request additional information necessary for evaluating the request, and the Director of Development Services shall provide the requested information to the Director of Budget and Management. Based on the information provided by the Director of Development Services, the Director of Budget and Management shall determine the amount to be reappropriated, and those amounts are hereby reappropriated for fiscal year 2015.

ADVANCED ENERGY LOAN PROGRAMS

The foregoing appropriation item 195660, Advanced Energy Loan Programs, shall be used to provide financial assistance to customers for eligible advanced energy projects for residential, commercial, and industrial business, local government, educational institution, nonprofit, and agriculture customers, and to pay for the program's administrative costs as provided in sections 4928.61 to 4928.63 of the Revised Code and rules adopted by the Director of Development Services.

TOURISMOHIO ADMINISTRATION

Of the foregoing appropriation item 195683, TourismOhio Administration, \$1,000,000 in fiscal year 2014 shall be used to administer a program established by the Development Services Agency pursuant to section 122.121 of the Revised Code.

Of the foregoing appropriation item 195683, TourismOhio Administration, \$250,000 in fiscal year 2014 shall be used by Lake Erie Heritage Foundation for the promotion of events relating to bicentennial celebrations of the War of 1812 and the Battle of Lake Erie.

VOLUME CAP ADMINISTRATION

The foregoing appropriation item 195654, Volume Cap Administration, shall be used for expenses related to the administration of the Volume Cap Program. Revenues received by the Volume Cap Administration Fund (Fund 6170) shall consist of application fees, forfeited deposits, and interest

earned from the custodial account held by the Treasurer of State.

SECTION 257.60. CAPITAL ACCESS LOAN PROGRAM

The foregoing appropriation item 195628, Capital Access Loan Program, shall be used for operating, program, and administrative expenses of the program. Funds of the Capital Access Loan Program shall be used to assist participating financial institutions in making program loans to eligible businesses that face barriers in accessing working capital and obtaining fixed-asset financing.

INNOVATION OHIO LOAN FUND

The foregoing appropriation item 195664, Innovation Ohio, shall be used to provide for Innovation Ohio purposes, including loan guarantees and loans under Chapter 166. and particularly sections 166.12 to 166.16 of the Revised Code.

RESEARCH AND DEVELOPMENT

The foregoing appropriation item 195665, Research and Development, shall be used to provide for research and development purposes, including loans, under Chapter 166. and particularly sections 166.17 to 166.21 of the Revised Code.

FACILITIES ESTABLISHMENT

The foregoing appropriation item 195615, Facilities Establishment, shall be used for the purposes of the Facilities Establishment Fund (Fund 7037) under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed \$3,000,000 in cash in each fiscal year may be transferred from the Facilities Establishment Fund (Fund 7037) to the Business Assistance Fund (Fund 4510). The transfer is subject to Controlling Board approval under division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer an amount not to exceed \$1,000,000 in cash in each fiscal year from the Facilities Establishment Fund (Fund 7037) to the Minority Business Enterprise Loan Fund (Fund 4W10).

Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer an amount not to exceed \$2,000,000 in cash in each fiscal year from the Facilities Establishment Fund (Fund 7037) to the Capital Access Loan Fund (Fund 5S90).

SECTION 257.70. CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 195663, Clean Ohio Program, shall be

used by the Development Services Agency in administering Clean Ohio Revitalization Fund (Fund 7003) projects pursuant to sections 122.65 to 122.658 of the Revised Code.

SECTION 257.80. THIRD FRONTIER OPERATING

The foregoing appropriation items 195686, Third Frontier Operating, and 195620, Third Frontier Operating - Tax, shall be used for operating expenses incurred by the Development Services Agency in administering projects pursuant to sections 184.10 to 184.20 of the Revised Code. Operating expenses paid from item 195686 shall be limited to the administration of projects funded from the Third Frontier Research & Development Fund (Fund 7011) and operating expenses paid from item 195620 shall be limited to the administration of projects funded from the Third Frontier Research & Development Taxable Bond Project Fund (Fund 7014).

THIRD FRONTIER RESEARCH AND DEVELOPMENT PROJECTS AND RESEARCH AND DEVELOPMENT TAXABLE BOND PROJECTS

The foregoing appropriation items 195687, Third Frontier Research & Development Projects, 195692, Research & Development Taxable Bond Projects, and 195620, Third Frontier Operating - Tax, shall be used by the Development Services Agency to fund selected projects. Eligible costs are those costs of research and development projects to which the proceeds of the Third Frontier Research & Development Fund (Fund 7011) and the Research & Development Taxable Bond Project Fund (Fund 7014) are to be applied.

TRANSFERS OF THIRD FRONTIER APPROPRIATIONS

The Director of Budget and Management may approve written requests from the Director of Development Services for the transfer of appropriations between appropriation items 195687, Third Frontier Research & Development Projects, and 195692, Research & Development Taxable Bond Projects, based upon awards recommended by the Third Frontier Commission. The transfers are subject to approval by the Controlling Board.

In fiscal year 2015, the Director of Development Services may request that the Director of Budget and Management reappropriate any unexpended, unencumbered balances of the prior fiscal year's appropriation to the foregoing appropriation items 195687, Third Frontier Research & Development Projects, and 195692, Research & Development Taxable Bond Projects, for fiscal year 2015. The Director of Budget and Management may request additional information necessary for evaluating these requests, and the Director of Development Services shall provide the

requested information to the Director of Budget and Management. Based on the information provided by the Director of Development Services, the Director of Budget and Management shall determine the amounts to be reappropriated, and those amounts are hereby reappropriated for fiscal year 2015.

AUTHORITY TO ISSUE AND SELL ORIGINAL OBLIGATIONS

The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2p of Article VIII, Ohio Constitution, and particularly sections 151.01 and 151.10 of the Revised Code, original obligations of the State of Ohio in an aggregate amount not to exceed \$350,000,000 in addition to the original issuance of obligations authorized by prior acts of the General Assembly. The authorized obligations shall be issued and sold from time to time and in amounts necessary to ensure sufficient moneys to the credit of the Third Frontier Research and Development Fund (Fund 7011) and the Third Frontier Research and Development Taxable Bond Fund (Fund 7014) to pay costs of research and development projects.

SECTION 257.90. JOB READY SITE PROGRAM

The foregoing appropriation item 195688, Job Ready Site Development, shall be used for operating expenses incurred by the Development Services Agency in administering Job Ready Site Development Fund (Fund 7012) projects pursuant to sections 122.085 to 122.0820 of the Revised Code. Operating expenses include, but are not limited to, certain qualified expenses of the District Public Works Integrating Committees, as applicable, engineering review of submitted applications by the State Architect or a third-party engineering firm, audit and accountability activities, and costs associated with formal certifications verifying that site infrastructure is in place and is functional.

SECTION 257.110. (A) ASSORTED TRANSFERS FOR RESTRUCTURING

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer up to the cash balances in the Tax Incentive Program Operating Fund (Fund 4S00) and the Tax Credit Operating Fund (Fund 4S10) to the Business Assistance Fund (Fund 4510).

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer up to the cash balances in the Family Farm Loan Fund (Fund 5H10) and the First Frontier Fund (Fund 4H40) to

the Facility Establishment Fund (Fund 7037).

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer up to the cash balance in the Brownfield Stormwater Loan Fund (Fund 5KD0) to the New Markets Tax Credit Program Fund (Fund 5JR0).

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer up to the cash balances in the Water and Sewer Fund (Fund 4440) and the Water and Sewer Administrative Fund (Fund 6110) to the General Reimbursements Fund (Fund 6850).

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer up to the cash balance in the Local Government Services Collaboration Grant Fund (Fund 7088) to the Local Government Innovation Fund (Fund 5KN0).

(B) ABOLISHMENT OF FUNDS

On July 1, 2013, or as soon as possible thereafter, upon completion of a transfer of the cash balance in a fund as described in division (A) of this section by the Director of Budget and Management, notwithstanding the establishment authority of the fund, the fund is hereby abolished.

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Rapid Outreach Loan Fund (Fund 7022) to the Facilities Establishment Fund (Fund 7037). After completion of the transfer and on the effective date of its repeal by this act, Fund 7022 shall be abolished.

The following funds are determined to be dormant and shall be abolished on the effective date of their repeal by this act: Diesel Emissions Grant Fund (Fund 3BD0), Shovel Ready Sites Fund (Fund 5CA0), Energy Projects Fund (Fund 5DU0), Business Development and Assistance Fund (Fund 5LK0), Clean Ohio Revitalization Revolving Loan Fund (Fund 7007), and Logistics & Distribution Infrastructure Taxable Bond Fund (Fund 7048).

(C) ELIMINATION OF DORMANT FUNDS

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may determine whether the following funds are dormant. If the Director of Budget and Management determines a fund to be dormant, notwithstanding the establishment authority of the fund, the fund is hereby abolished. The funds are:

Fund Number	Fund Name
1360	International Trade
3800	Ohio Housing Agency
3BJ0	TANF Heating Assistance

3X30	TANF Housing
4450	OHFA Administration
4480	Ohio Coal Development
4D00	Public & Private Assistance
5CV0	Defense Conversion Assistance
5D10	Port Authority Bond Reserves
5D20	Urban Redevelopment Loan
5F70	Local Government Y2K Loan Program
5X50	Family Homelessness Prevention Pilot
5Y60	Economic Development Contingency
5Z30	Jobs
QA70	Electric Revenue Development

**SECTION 259.10. DDD DEPARTMENT OF DEVELOPMENTAL
DISABILITIES**

General Revenue Fund

GRF 320412	Protective Services	\$	1,918,196	\$	1,918,196
GRF 320415	Lease-Rental Payments	\$	15,843,300	\$	16,076,700
GRF 322420	Screening and Early Intervention	\$	300,000	\$	300,000
GRF 322451	Family Support Services	\$	5,932,758	\$	5,932,758
GRF 322501	County Boards Subsidies	\$	44,449,280	\$	44,449,280
GRF 322503	Tax Equity	\$	14,000,000	\$	14,000,000
GRF 322507	County Board Case Management	\$	2,500,000	\$	2,500,000
GRF 322508	Employment First Pilot Program	\$	3,000,000	\$	3,000,000
GRF 653321	Medicaid Program Support - State	\$	6,186,694	\$	6,186,694
GRF 653407	Medicaid Services	\$	430,056,111	\$	437,574,237
TOTAL GRF General Revenue Fund		\$	524,186,339	\$	531,937,865

General Services Fund Group

1520 653609	DC and Residential Operating Services	\$	3,414,317	\$	3,414,317
TOTAL GSF General Services Fund Group		\$	3,414,317	\$	3,414,317

Federal Special Revenue Fund Group

3A50 320613	DD Council	\$	3,297,656	\$	3,324,187
3250 322612	Community Social Service Programs	\$	10,604,896	\$	10,604,896
3A40 653604	DC & ICF/IID Program Support	\$	8,013,611	\$	8,013,611
3A40 653605	DC and Residential Services and Support	\$	159,548,565	\$	159,548,565

3422

3A40	653653	ICF/IID	\$	354,712,840	\$	353,895,717
3G60	653639	Medicaid Waiver Services	\$	932,073,249	\$	1,025,921,683
3G60	653640	Medicaid Waiver Program Support	\$	36,934,303	\$	36,170,872
3M70	653650	CAFS Medicaid	\$	3,000,000	\$	3,000,000
TOTAL FED Federal Special Revenue Fund Group			\$	1,508,185,120	\$	1,600,479,531
State Special Revenue Fund Group						
5GE0	320606	Operating and Services	\$	7,407,297	\$	7,407,297
2210	322620	Supplement Service Trust	\$	150,000	\$	150,000
5DJ0	322625	Targeted Case Management Match	\$	33,750,000	\$	37,260,000
5DK0	322629	Capital Replacement Facilities	\$	750,000	\$	750,000
5H00	322619	Medicaid Repayment	\$	160,000	\$	160,000
5JX0	322651	Interagency Workgroup - Autism	\$	45,000		45,000
4890	653632	DC Direct Care Services	\$	16,497,169	\$	16,497,169
5CT0	653607	Intensive Behavioral Needs	\$	1,000,000	\$	1,000,000
5DJ0	653626	Targeted Case Management Services	\$	91,740,000	\$	100,910,000
5EV0	653627	Medicaid Program Support	\$	685,000	\$	685,000
5GE0	653606	ICF/IID and Waiver Match	\$	40,353,139	\$	39,106,638
5S20	653622	Medicaid Admin and Oversight	\$	17,341,201	\$	19,032,154
5Z10	653624	County Board Waiver Match	\$	284,740,000	\$	336,480,000
TOTAL SSR State Special Revenue Fund Group			\$	494,618,806	\$	559,483,258
TOTAL ALL BUDGET FUND GROUPS			\$	2,530,404,582	\$	2,695,314,971

SECTION 259.20. LEASE-RENTAL PAYMENTS

The foregoing appropriation item 320415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, by the Department of Developmental Disabilities under leases and agreements made under section 154.20 of the Revised Code. These appropriations are the source of funds pledged for bond service charges on related obligations issued under Chapter 154. of the Revised Code.

SECTION 259.30. SCREENING AND EARLY INTERVENTION

The foregoing appropriation item 322420, Screening and Early Intervention, shall be used for screening and early intervention programs for children with autism selected by the Director of Developmental Disabilities.

SECTION 259.40. FAMILY SUPPORT SERVICES SUBSIDY

The foregoing appropriation item 322451, Family Support Services,

may be used as follows in fiscal year 2014 and fiscal year 2015:

(A) The appropriation item may be used to provide a subsidy to county boards of developmental disabilities for family support services provided under section 5126.11 of the Revised Code. The subsidy shall be paid in quarterly installments and allocated to county boards according to a formula the Director of Developmental Disabilities shall develop in consultation with representatives of county boards. A county board shall use not more than seven per cent of its subsidy for administrative costs.

(B) The appropriation item may be used to distribute funds to county boards for the purpose of addressing economic hardships and to promote efficiency of operations. In consultation with representatives of county boards, the Director shall determine the amount of funds to distribute for these purposes and the criteria for distributing the funds.

SECTION 259.50. STATE SUBSIDY TO COUNTY DD BOARDS

(A) Except as provided in the section of this act titled "NONFEDERAL SHARE OF ICF/IID SERVICES," the foregoing appropriation item 322501, County Boards Subsidies, shall be used for the following purposes:

(1) To provide a subsidy to county boards of developmental disabilities in quarterly installments and allocated according to a formula developed by the Director of Developmental Disabilities in consultation with representatives of county boards. Except as provided in section 5126.0511 of the Revised Code or in division (B) of this section, county boards shall use the subsidy for early childhood services and adult services provided under section 5126.05 of the Revised Code, service and support administration provided under section 5126.15 of the Revised Code, or supported living as defined in section 5126.01 of the Revised Code.

(2) To provide funding, as determined necessary by the Director, for residential services, including room and board, and support service programs that enable individuals with developmental disabilities to live in the community.

(3) To distribute funds to county boards of developmental disabilities to address economic hardships and promote efficiency of operations. The Director shall determine, in consultation with representatives of county boards, the amount of funds to distribute for these purposes and the criteria for distributing the funds.

(B) In collaboration with the county's family and children first council, a county board of developmental disabilities may transfer portions of funds received under this section, to a flexible funding pool in accordance with the section of this act titled "FAMILY AND CHILDREN FIRST FLEXIBLE

FUNDING POOL."

SECTION 259.60. COUNTY BOARD SHARE OF WAIVER SERVICES

As used in this section, "home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

The Director of Developmental Disabilities shall establish a methodology to be used in fiscal year 2014 and fiscal year 2015 to estimate the quarterly amount each county board of developmental disabilities is to pay of the nonfederal share of home and community-based services that section 5126.0510 of the Revised Code requires county boards to pay. Each quarter, the Director shall submit to a county board written notice of the amount the county board is to pay for that quarter. The notice shall specify when the payment is due.

SECTION 259.70. TAX EQUITY

Notwithstanding section 5126.18 of the Revised Code, the foregoing appropriation item 322503, Tax Equity, may be used to distribute funds to county boards of developmental disabilities to address economic hardships and promote efficiency of operations. The Director of Developmental Disabilities shall determine, in consultation with representatives of county boards, the amount of funds to distribute for these purposes and the criteria for distributing the funds.

SECTION 259.80. MEDICAID SERVICES

Except as provided in section 5123.0416 of the Revised Code, the purposes for which the foregoing appropriation item 653407, Medicaid Services, shall be used include the following:

(A) Home and community-based services, as defined in section 5123.01 of the Revised Code;

(B) Implementation of the requirements of the agreement settling the consent decree in *Sermak v. Manuel*, Case No. C-2-80-220, United States District Court for the Southern District of Ohio, Eastern Division;

(C) Implementation of the requirements of the agreement settling the consent decree in the *Martin v. Strickland*, Case No. 89-CV-00362, United States District Court for the Southern District of Ohio, Eastern Division;

(D) ICF/IID services, as defined in section 5124.01 of the Revised Code;

(E) Other programs as identified by the Director of Developmental

Disabilities.

SECTION 259.90. EMPLOYMENT FIRST PILOT PROGRAM

The foregoing appropriation item 322508, Employment First Pilot Program, shall be used to increase employment opportunities for individuals with developmental disabilities through the Employment First Initiative in accordance with section 5123.022 of the Revised Code.

Of the foregoing appropriation item, 322508, Employment First Pilot Program, the Director of Developmental Disabilities shall transfer, in each fiscal year, to the Opportunities for Ohioans with Disabilities Agency an amount agreed upon by the Director of Developmental Disabilities and the Executive Director of the Opportunities for Ohioans with Disabilities Agency. The transfer shall be made via an intrastate transfer voucher. The transferred funds shall be used to support the Employment First Pilot Program. The Opportunities for Ohioans with Disabilities Agency shall use the funds transferred as state matching funds to obtain available federal grant dollars for vocational rehabilitation services. Any federal match dollars received by the Opportunities for Ohioans with Disabilities Agency shall be used for the pilot program. The Director of Developmental Disabilities and the Executive Director of the Opportunities for Ohioans with Disabilities Agency shall enter into an interagency agreement in accordance with section 3304.181 of the Revised Code that will specify the responsibilities of each agency under the pilot program. Under the interagency agreement, the Opportunities for Ohioans with Disabilities Agency shall retain responsibility for eligibility determination, order of selection, plan approval, plan amendment, and release of vendor payments.

The remainder of appropriation item 322508, Employment First Pilot Program, shall be used to develop a long term, sustainable system that places individuals with developmental disabilities in community employment, as defined in section 5123.022 of the Revised Code.

SECTION 259.100. EMPLOYMENT FIRST TASKFORCE FUND

If an employment first task force is established by the Director of Developmental Disabilities in accordance with section 5123.023 of the Revised Code, the Director of Budget and Management shall establish an appropriation item from the Employment First Taskforce Fund for use by the Department of Developmental Disabilities to support the work of the task force. In fiscal year 2014 and fiscal year 2015, if an employment first task force is established, the Director of Developmental Disabilities shall

certify to the Director of Budget and Management the appropriation amounts necessary for the Department of Developmental Disabilities to fulfill its obligation to support the work of the task force. Once the certification required under this section has been submitted and approved by the Director of Budget and Management, the appropriations established under this section are hereby appropriated in the amounts approved by the Director of Budget and Management.

SECTION 259.110. TRANSFER TO OPERATING AND SERVICES FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Developmental Disabilities shall request the Director of Budget and Management to transfer the cash balance in the Home and Community-Based Services Fund (Fund 4K80) to the Operating and Services Fund (Fund 5GE0). Upon completion of the transfer, Fund 4K80 is hereby abolished. The Director of Budget and Management shall cancel any existing encumbrances against appropriation item 322604, Medicaid Waiver – State Match, and reestablish them against appropriation item 653606, ICF/IID and Waiver Match. The reestablished encumbrance amounts are hereby appropriated.

SECTION 259.120. OPERATING AND SERVICES

Of the foregoing appropriation item 320606, Operating and Services, \$100,000 in each fiscal year shall be provided to the Ohio Center for Autism and Low Incidence to establish a lifespan autism hub to support families and professionals.

SECTION 259.130. TARGETED CASE MANAGEMENT SERVICES

County boards of developmental disabilities shall pay the nonfederal portion of targeted case management costs to the Department of Developmental Disabilities.

The Director of Developmental Disabilities and the Medicaid Director may enter into an interagency agreement under which the Department of Developmental Disabilities shall transfer cash from the Targeted Case Management Fund (Fund 5DJ0) to the Health Care/Medicaid Support and Recoveries Fund (Fund 5DL0) used by the Department of Medicaid in an amount equal to the nonfederal portion of the cost of targeted case management services paid by county boards. Under the agreement, the

Department of Medicaid shall pay the total cost of targeted case management claims. The transfer shall be made using an intrastate transfer voucher.

SECTION 259.140. WITHHOLDING OF FUNDS OWED THE DEPARTMENT

If a county board of developmental disabilities does not fully pay any amount owed to the Department of Developmental Disabilities by the due date established by the Department, the Director of Developmental Disabilities may withhold the amount the county board did not pay from any amounts due to the county board. The Director may use any appropriation item or fund used by the Department to transfer cash to any other fund used by the Department in an amount equal to the amount owed the Department that the county board did not pay. Transfers under this section shall be made using an intrastate transfer voucher.

SECTION 259.150. DEVELOPMENTAL CENTER BILLING FOR SERVICES

Developmental centers of the Department of Developmental Disabilities may provide services to persons with mental retardation or developmental disabilities living in the community or to providers of services to these persons. The Department may develop a method for recovery of all costs associated with the provision of these services.

SECTION 259.160. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

The Director of Developmental Disabilities shall quarterly transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the Health Care/Medicaid Support and Recoveries Fund (Fund 5DL0) used by the Department of Medicaid, in an amount equal to the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Medicaid. The quarterly transfer shall be made using an intrastate transfer voucher.

SECTION 259.170. NONFEDERAL MATCH FOR ACTIVE TREATMENT SERVICES

Any county funds received by the Department of Developmental Disabilities from county boards of developmental disabilities for active

treatment shall be deposited in the Developmental Disabilities Operating Fund (Fund 4890).

SECTION 259.180. ODODD INNOVATIVE PILOT PROJECTS

(A) In fiscal year 2014 and fiscal year 2015, the Director of Developmental Disabilities may authorize the continuation or implementation of one or more innovative pilot projects that, in the judgment of the Director, are likely to assist in promoting the objectives of Chapter 5123. or 5126. of the Revised Code. Subject to division (B) of this section and notwithstanding any provision of Chapters 5123. and 5126. of the Revised Code and any rule adopted under either chapter, a pilot project authorized by the Director may be continued or implemented in a manner inconsistent with one or more provisions of either chapter or one or more rules adopted under either chapter. Before authorizing a pilot program, the Director shall consult with entities interested in the issue of developmental disabilities, including the Ohio Provider Resource Association, Ohio Association of County Boards of Developmental Disabilities, Ohio Health Care Association/Ohio Centers for Intellectual Disabilities, the Values and Faith Alliance, and ARC of Ohio.

(B) The Director may not authorize a pilot project to be implemented in a manner that would cause the state to be out of compliance with any requirements for a program funded in whole or in part with federal funds.

SECTION 259.190. DEPARTMENT OF DEVELOPMENTAL DISABILITIES' APPROPRIATION ITEM STRUCTURE

Upon request from the Director of Developmental Disabilities, the Director of Budget and Management may establish new funds, new appropriation items, and appropriations in order to support the transition to a new appropriation item structure in the Department of Developmental Disabilities' budget. Also, upon request of the Director of Developmental Disabilities, the Director of Budget and Management may transfer appropriations between GRF appropriation items, transfer cash between any funds used by the Department of Developmental Disabilities, abolish existing funds used by the Department of Developmental Disabilities, and cancel and reestablish encumbrances. Any establishment of new funds or appropriation items, any transfers of appropriations or cash, and any increases in appropriation under this section are subject to Controlling Board approval.

SECTION 259.200. FISCAL YEAR 2014 MEDICAID PAYMENT RATES FOR ICFs/IID

(A) As used in this section:

"Change of operator," "entering operator," "exiting operator," "ICF/IID," "ICF/IID services," "Medicaid days," "new ICF/IID," "provider," and "provider agreement" have the same meanings as in section 5124.01 of the Revised Code.

"Franchise permit fee" means the fee imposed by sections 5168.60 to 5168.71 of the Revised Code.

"Modified per diem rate" means the total per Medicaid day payment rate calculated for an ICF/IID under division (C) of this section.

"Unmodified per diem rate" means the total per Medicaid day payment rate calculated for an ICF/IID under Chapter 5124. of the Revised Code. In the case of a new ICF/IID, "unmodified per diem rate" means the initial total per Medicaid day payment rate calculated for the new ICF/IID under section 5124.151 of the Revised Code.

(B) This section applies to each ICF/IID provider to which any of the following applies:

(1) The provider has a valid Medicaid provider agreement for the ICF/IID on June 30, 2013, and a valid Medicaid provider agreement for the ICF/IID during fiscal year 2014.

(2) The ICF/IID undergoes a change of operator that takes effect during fiscal year 2014, the exiting operator has a valid Medicaid provider agreement for the ICF/IID on the day immediately preceding the effective date of the change of operator, and the entering operator has a valid Medicaid provider agreement for the ICF/IID during fiscal year 2014.

(3) The ICF/IID is a new ICF/IID for which the provider obtains an initial provider agreement during fiscal year 2014.

(C)(1) Except as otherwise provided in this section, an ICF/IID provider to which this section applies shall be paid, for ICF/IID services the ICF/IID provides during fiscal year 2014, the total modified per diem rate determined for the ICF/IID under this division.

(2) Except in the case of a new ICF/IID, an ICF/IID's total modified per diem rate for fiscal year 2014 shall be the ICF/IID's total unmodified per diem rate for that fiscal year with the following modifications:

(a) In place of the inflation adjustment otherwise made under section 5124.23 of the Revised Code, the ICF/IID's desk-reviewed, actual, allowable, per diem other protected costs, excluding the franchise permit fee, from calendar year 2012 shall be multiplied by 1.014.

(b) In place of the maximum cost per case-mix unit established for the ICF/IID's peer group under division (C) of section 5124.19 of the Revised Code, the ICF/IID's maximum costs per case-mix unit shall be the following:

(i) In the case of an ICF/IID with more than eight beds, \$123.05;

(ii) In the case of an ICF/IID with eight or fewer beds, \$117.22.

(c) In place of the inflation adjustment otherwise calculated under division (D) of section 5124.19 of the Revised Code for the purpose of division (A)(1)(b) of that section, an inflation adjustment of 1.014 shall be used.

(d) In place of the maximum rate for indirect care costs established for the ICF/IID's peer group under division (C) of section 5124.21 of the Revised Code, the maximum rate for indirect care costs for the ICF/IID's peer group shall be the following:

(i) In the case of an ICF/IID with more than eight beds, \$68.98;

(ii) In the case of an ICF/IID with eight or fewer beds, \$59.60.

(e) In place of the inflation adjustment otherwise calculated under division (D)(1) of section 5124.21 of the Revised Code for the purpose of division (B)(1) of that section only, an inflation adjustment of 1.014 shall be used.

(f) In place of the efficiency incentive otherwise calculated under division (B)(2) or (3) of section 5124.21 of the Revised Code, the ICF/IID's efficiency incentive for indirect care costs shall be the following:

(i) In the case of an ICF/IID with more than eight beds, \$3.69;

(ii) In the case of an ICF/IID with eight or fewer beds, \$3.19.

(g) The ICF/IID's efficiency incentive for capital costs, as determined under division (E) of section 5124.17 of the Revised Code, shall be reduced by 50%.

(3) In the case of a new ICF/IID, the ICF/IID's initial total modified per diem rate for fiscal year 2014 shall be the ICF/IID's total unmodified per diem rate for that fiscal year with the following modifications:

(a) In place of the amount determined under division (A)(2)(a) of section 5124.151 of the Revised Code, if there are no cost or resident assessment data for the new ICF/IID, the new ICF/IID's initial per Medicaid day rate for direct care costs shall be determined as follows:

(i) Using the costs per case-mix units determined for ICFs/IID under division (C)(3)(b) of Section 11 of Sub. H.B. 303 of the 129th General Assembly, as amended by this act, determine the median of the costs per case-mix units of each peer group;

(ii) Multiply the median determined under division (C)(3)(a)(i) of this

section by the median of the averages determined under division (C)(3)(a) of Section 11 of Sub. H.B. 303 of the 129th General Assembly, as amended by this act, for the ICFs/IID in the new ICF/IID's peer group;

(iii) Multiply the product determined under division (C)(3)(a)(ii) of this section by 1.014.

(b) In place of the amount determined under division (A)(3) of section 5124.151 of the Revised Code, the new ICF/IID's initial per Medicaid day rate for indirect care costs shall be the following:

(i) If the new ICF/IID has more than eight beds, \$68.98;

(ii) If the new ICF/IID has eight or fewer beds, \$59.60.

(c) In place of the amount determined under division (A)(4) of section 5124.151 of the Revised Code, the new ICF/IID's initial per Medicaid day rate for other protected costs shall be one hundred fifteen per cent of the median rate for ICFs/IID determined under section 5124.23 of the Revised Code with the modification made under division (C)(2)(a) of this section.

(4) A new ICF/IID's initial total modified per diem rate for fiscal year 2014 as determined under division (C)(3) of this section shall be adjusted at the applicable time specified in division (B) of section 5124.151 of the Revised Code. If the adjustment affects the ICF/IID's rate for ICF/IID services provided during fiscal year 2014, the modifications specified in division (C)(2) of this section apply to the adjustment.

(D) If the mean total per diem rate for all ICFs/IID to which this section applies, weighted by May 2013 Medicaid days and determined under division (C) of this section as of July 1, 2013, is other than \$282.84, the Department of Developmental Disabilities shall adjust, for fiscal year 2014, the total per diem rate for each ICF/IID to which this section applies by a percentage that is equal to the percentage by which the mean total per diem rate is greater or less than \$282.84.

(E) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Developmental Disabilities shall reduce the amount it pays ICF/IID providers under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(F) The Department of Developmental Disabilities shall follow this section in determining the rate to be paid ICF/IID providers subject to this section notwithstanding anything to the contrary in Chapter 5124. of the Revised Code.

(G) Of the foregoing appropriation items 653407, Medicaid Services, 653606, ICF/IID and Waiver Match, and 653653, ICF/IID, portions shall be

used to pay the Medicaid payment rates determined in accordance with this section for ICF/IID services provided during fiscal year 2014.

SECTION 259.210. FISCAL YEAR 2015 MEDICAID PAYMENT RATES FOR ICFs/IID

(A) As used in this section:

"Change of operator," "entering operator," "exiting operator," "ICF/IID," "ICF/IID services," "Medicaid days," "provider," and "provider agreement" have the same meanings as in section 5124.01 of the Revised Code.

"Franchise permit fee" means the fee imposed by sections 5168.60 to 5168.71 of the Revised Code.

"Modified per diem rate" means the total per Medicaid day payment rate calculated for an ICF/IID under division (C) of this section.

"Unmodified per diem rate" means the total per Medicaid day payment rate calculated for an ICF/IID under Chapter 5124. of the Revised Code. In the case of a new ICF/IID, "unmodified per diem rate" means the initial total per Medicaid day payment rate calculated for the new ICF/IID under section 5124.151 of the Revised Code.

(B) This section applies to each ICF/IID provider to which any of the following applies:

(1) The provider has a valid Medicaid provider agreement for the ICF/IID on June 30, 2014, and a valid Medicaid provider agreement for the ICF/IID during fiscal year 2015.

(2) The ICF/IID undergoes a change of operator that takes effect during fiscal year 2015, the exiting operator has a valid Medicaid provider agreement for the ICF/IID on the day immediately preceding the effective date of the change of operator, and the entering operator has a valid Medicaid provider agreement for the ICF/IID during fiscal year 2015.

(3) The ICF/IID is a new ICF/IID for which the provider obtains an initial provider agreement during fiscal year 2015.

(C)(1) Except as otherwise provided in this section, an ICF/IID provider to which this section applies shall be paid, for ICF/IID services the ICF/IID provides during fiscal year 2015, the total modified per diem rate determined for the ICF/IID under this division.

(2) Except in the case of a new ICF/IID, an ICF/IID's total modified per diem rate for fiscal year 2015 shall be the ICF/IID's total unmodified per diem rate for that fiscal year with the following modifications:

(a) In place of the inflation adjustment otherwise made under section 5124.23 of the Revised Code, the ICF/IID's desk-reviewed, actual,

allowable, per diem other protected costs, excluding the franchise permit fee, from calendar year 2013 shall be multiplied by 1.014.

(b) In place of the maximum cost per case-mix unit established for the ICF/IID's peer group under division (C) of section 5124.19 of the Revised Code, the ICF/IID's maximum costs per case-mix unit shall be the following:

(i) In the case of an ICF/IID with more than eight beds, \$114.37 or the different amount, if any, specified in a future amendment to this section made under division (D)(3) of this section;

(ii) In the case of an ICF/IID with eight or fewer beds, \$109.09 or the different amount, if any, specified in a future amendment to this section made under division (D)(3) of this section.

(c) In place of the inflation adjustment otherwise calculated under division (D) of section 5124.19 of the Revised Code for the purpose of division (A)(1)(b) of that section, an inflation adjustment of 1.014 shall be used.

(d) In the place of the grouper methodology prescribed, as of the day immediately before the effective date of this section, in rules authorized by section 5124.192 of the Revised Code, the new grouper methodology prescribed in rules authorized by division (D)(2)(a) of this section shall be used.

(e) In place of the maximum rate for indirect care costs established for the ICF/IID's peer group under division (C) of section 5124.21 of the Revised Code, the maximum rate for indirect care costs for the ICF/IID's peer group shall be the following:

(i) In the case of an ICF/IID with more than eight beds, \$68.98;

(ii) In the case of an ICF/IID with eight or fewer beds, \$59.60.

(f) In place of the inflation adjustment otherwise calculated under divisions (D)(1) and (2) of section 5124.21 of the Revised Code for the purpose of division (B)(1) of that section only, an inflation adjustment of 1.014 shall be used.

(g) In place of the efficiency incentive otherwise calculated under division (B)(2) or (3) of section 5124.21 of the Revised Code, the ICF/IID's efficiency incentive for indirect care costs shall be the following:

(i) In the case of an ICF/IID with more than eight beds, \$3.69;

(ii) In the case of an ICF/IID with eight or fewer beds, \$3.19.

(h) The ICF/IID's efficiency incentive for capital costs, as determined under division (E) of section 5124.17 of the Revised Code, shall be reduced by 50%.

(3) In the case of a new ICF/IID, the ICF/IID's initial total modified per

diem rate for fiscal year 2015 shall be the ICF/IID's total unmodified per diem rate for that fiscal year with the following modifications:

(a) In place of the amount determined under division (A)(2)(a) of section 5124.151 of the Revised Code, if there are no cost or resident assessment data for the new ICF/IID, the new ICF/IID's initial per Medicaid day rate for direct care costs shall be determined as follows:

(i) Using the costs per case-mix units determined for ICFs/IID under division (C)(3)(b) of Section 11 of Sub. H.B. 303 of the 129th General Assembly, as amended by this act, determine the median of the costs per case-mix units of each peer group;

(ii) Multiply the median determined under division (C)(3)(a)(i) of this section by the median annual average case-mix score for the new ICF/IID's peer group for calendar year 2013;

(iii) Multiply the product determined under division (C)(3)(a)(ii) of this section by 1.014.

(b) In place of the amount determined under division (A)(3) of section 5124.151 of the Revised Code, the new ICF/IID's initial per Medicaid day rate for indirect care costs shall be the following:

(i) If the new ICF/IID has more than eight beds, \$68.98;

(ii) If the new ICF/IID has eight or fewer beds, \$59.60.

(c) In place of the amount determined under division (A)(4) of section 5124.151 of the Revised Code, the new ICF/IID's initial per Medicaid day rate for other protected costs shall be one hundred fifteen per cent of the median rate for ICFs/IID determined under section 5124.23 of the Revised Code with the modification made under division (C)(2)(a) of this section.

(4) A new ICF/IID's initial total modified per diem rate for fiscal year 2015 as determined under division (C)(3) of this section shall be adjusted at the applicable time specified in division (B) of section 5124.151 of the Revised Code. If the adjustment affects the ICF/IID's rate for ICF/IID services provided during fiscal year 2015, the modifications specified in division (C)(2) of this section apply to the adjustment.

(D)(1) In consultation with the Ohio Provider Resource Association, Values and Faith Alliance, Ohio Association of County Boards of Developmental Disabilities, and Ohio Health Care Association/Ohio Centers for Intellectual Disabilities, the Director of Developmental Disabilities shall study all of the following:

(a) Establishing a new grouper methodology to be used when determining ICFs/IID's case-mix scores for fiscal year 2015;

(b) Whether the amounts specified in division (C)(2)(b)(i) and (ii) of this section are set at levels that will avoid or minimize rate reductions under

division (E) of this section;

(c) For the purposes of sections 5124.153 and 5124.154 of the Revised Code, specifying additional diagnoses and special care needs that individuals must have to meet the criteria for admission to designated outlier ICFs/IID or units;

(d) Sources of funding for, or mechanisms to ensure the budget neutrality of, the additional diagnoses and special care needs studied under division (D)(1)(c) of this section.

(2) Not later than March 31, 2014, the Director shall adopt rules under section 5124.03 of the Revised Code to do both of the following:

(a) Prescribe the following:

(i) If the Director and the organizations with which the Director consults under division (D)(1) of this section agree, not later than December 31, 2013, to the terms of a new grouper methodology to be used when determining ICFs/IID's case-mix scores for fiscal year 2015, a new methodology that is consistent with those terms;

(ii) If division (D)(2)(a)(i) of this section does not apply, a new grouper methodology that provides for six classes based on data available to the Director on the day immediately before the effective date of this section.

(b) Specify additional diagnoses and special care needs that individuals must have to meet the criteria for admission to designated outlier ICFs/IID or units for the purposes of Medicaid payment rates under sections 5124.153 and 5124.154 of the Revised Code.

(3) If the Director and the organizations with which the Director consults under divisions (D)(1) of this section agree that the amounts specified in divisions (C)(2)(b)(i) and (ii) of this section are not set at levels that will avoid or minimize rate reductions under division (E) of this section, the Director and organizations shall recommend, not later than March 31, 2014, that the General Assembly amend this section to revise the amounts. It is the General Assembly's intent to amend this section to revise the amounts specified in divisions (C)(2)(b)(i) and (ii) of this section if the Director and organizations recommend that the amounts be revised.

(E) If the mean total per diem rate for all ICFs/IID to which this section applies, weighted by May 2014 Medicaid days and determined under division (C) of this section as of July 1, 2014, is other than \$282.77, the Department of Developmental Disabilities shall adjust, for fiscal year 2015, the total per diem rate for each ICF/IID to which this section applies by a percentage that is equal to the percentage by which the mean total per diem rate is greater or less than \$282.77.

(F) If the United States Centers for Medicare and Medicaid Services

requires that the franchise permit fee be reduced or eliminated, the Department of Developmental Disabilities shall reduce the amount it pays ICF/IID providers under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(G) The Department of Developmental Disabilities shall follow this section in determining the rate to be paid ICF/IID providers subject to this section notwithstanding anything to the contrary in Chapter 5124. of the Revised Code.

(H) Of the foregoing appropriation items 653407, Medicaid Services, 653606, ICF/IID and Waiver Match, and 653653, ICF/IID, portions shall be used to pay the Medicaid payment rates determined in accordance with this section for ICF/IID services provided during fiscal year 2015.

SECTION 259.220. TRANSFER OF FUNDS FOR OUTLIER SERVICES PROVIDED TO PEDIATRIC VENTILATOR-DEPENDENT ICF/IID RESIDENTS

As used in this section, "ICF/IID" and "ICF/IID services" have the same meanings as in section 5124.01 of the Revised Code.

Each quarter during fiscal year 2014 and fiscal year 2015, the Director of Developmental Disabilities shall certify to the Director of Budget and Management the amount needed to pay the nonfederal share of the costs of the Medicaid rate add-on paid to ICFs/IID pursuant to section 5124.25 of the Revised Code for providing outlier ICF/IID services to residents who qualify for the services and are transferred to ICFs/IID from hospitals at which they receive ventilator services at the time of their transfer to the ICFs/IID.

On receipt of a certification, the Director of Budget and Management shall transfer appropriations equaling the certified amount from appropriation item 651525, Medicaid/Health Care Services, to appropriation item 653407, Medicaid Services, and, in addition, shall reduce the appropriation in 651525, Medicaid/Health Care Services, by the corresponding federal share.

If receipts credited to the Developmental Center and Residential Facility Services and Support Fund (Fund 3A40), used by the Department of Developmental Disabilities, exceed the amounts appropriated in appropriation item 653653, ICF/IID, the Director of Developmental Disabilities may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon approval of the Director of Budget and Management, the additional

amounts are hereby appropriated.

SECTION 259.230. ICF/IID MEDICAID RATE WORKGROUP

As used in this section, "ICF/IID," "ICF/IID services," and "Medicaid-certified capacity" have the same meanings as in section 5124.01 of the Revised Code.

For the purpose of assisting the Department of Developmental Disabilities during fiscal year 2014 and fiscal year 2015 with an evaluation of revisions to the formula used to determine Medicaid payment rates for ICF/IID services, the Department shall retain the workgroup that was created to assist with the study required by Section 309.30.80 of Am. Sub. H.B. 153 of the 129th General Assembly. In conducting the evaluation, the Department and workgroup shall do all of the following:

(A) Focus primarily on the service needs of individuals with complex challenges that ICFs/IID are able to meet;

(B) Pursue the goal of reducing the Medicaid-certified capacity of individual ICFs/IID and the total number of ICF/IID beds in the state for the purpose of increasing the service choices and community integration of individuals eligible for ICF/IID services;

(C) Consider the impact that exception reviews conducted under section 5124.193 of the Revised Code have on ICFs/IID's case-mix scores.

SECTION 259.240. NONFEDERAL SHARE OF ICF/IID SERVICES

(A) As used in this section, "ICF/IID," "ICF/IID services," and "Medicaid-certified capacity" have the same meanings as in section 5124.01 of the Revised Code.

(B) The Director of Developmental Disabilities shall pay the nonfederal share of a claim for ICF/IID services using funds specified in division (C) of this section if all of the following apply:

(1) Medicaid covers the ICF/IID services.

(2) The ICF/IID services are provided to a Medicaid recipient to whom both of the following apply:

(a) The Medicaid recipient is eligible for the ICF/IID services;

(b) The Medicaid recipient does not occupy a bed in the ICF/IID that used to be included in the Medicaid-certified capacity of another ICF/IID certified by the Director of Health before June 1, 2003.

(3) The ICF/IID services are provided by an ICF/IID whose Medicaid certification by the Director of Health was initiated or supported by a county board of developmental disabilities.

(4) The provider of the ICF/IID services has a valid Medicaid provider agreement for the services for the time that the services are provided.

(C) When required by division (B) of this section to pay the nonfederal share of a claim, the Director of Developmental Disabilities shall use the following funds to pay the claim:

(1) Funds available from appropriation item 322501, County Boards Subsidies, that the Director allocates to the county board that initiated or supported the Medicaid certification of the ICF/IID that provided the ICF/IID services for which the claim is made;

(2) If the amount of funds used pursuant to division (C)(1) of this section is insufficient to pay the claim in full, an amount of funds that are needed to make up the difference and available from amounts the Director allocates to other county boards from appropriation item 322501, County Boards Subsidies.

SECTION 259.250. FY 2014 AND FY 2015 RATES FOR CERTAIN HOMEMAKER/PERSONAL CARE SERVICES UNDER IO WAIVER

(A) As used in this section:

"Converted facility" means an ICF/IID, or former ICF/IID, that converted some or all of its beds to providing home and community-based services under the IO Waiver pursuant to section 5124.60 of the Revised Code.

"Developmental center" and "ICF/IID" have the same meanings as in section 5124.01 of the Revised Code.

"H.B. 153 increased Medicaid payment rate" means the total Medicaid payment rate for each fifteen minutes of routine homemaker/personal care services that was set by Section 263.20.70 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Am. Sub. H.B. 487 of the 129th General Assembly.

"IO Waiver" means the Medicaid waiver component, as defined in section 5166.01 of the Revised Code, known as Individual Options.

"Public hospital" has the same meaning as in section 5122.01 of the Revised Code.

"Regular Medicaid payment rate" means the total Medicaid payment rate for each fifteen minutes of routine homemaker/personal care services that are available under the IO Waiver and to which this section does not apply.

(B) This section applies to routine homemaker/personal care services to which both of the following apply:

(1) The services are provided to an IO Waiver enrollee to whom all of

the following apply:

(a) The enrollee began to receive the services from the provider on or after July 1, 2011.

(b) The enrollee resided in a developmental center, converted facility, or public hospital immediately before enrolling in the IO Waiver.

(c) The Director of Developmental Disabilities has determined that the enrollee's special circumstances (including the enrollee's diagnosis, service needs, or length of stay at the developmental center, converted facility, or public hospital) warrants paying the Medicaid payment rate authorized by this section.

(2) The provider of the services has a valid Medicaid provider agreement for the services for the period during which the enrollee receives the services from the provider.

(C) The total Medicaid payment rate for each fifteen minutes of routine homemaker/personal care services to which this section applies and that are provided during the period beginning July 1, 2013, and ending June 30, 2015, shall be the greater of the following:

(1) The H.B. 153 increased Medicaid payment rate;

(2) The regular Medicaid payment rate in effect at the time the services are provided.

(D) Of the foregoing appropriation items 653407, Medicaid Services, and 653639, Medicaid Waiver Services, portions shall be used to pay the Medicaid payment rates determined in accordance with this section for certain homemaker/personal care services under the IO Waiver.

SECTION 259.260. UPDATING AUTHORIZING STATUTE CITATIONS

As used in this section, "authorizing statute" means a Revised Code section or provision of a Revised Code section that is cited in the Ohio Administrative Code as the statute that authorizes the adoption of a rule.

The Director of Developmental Disabilities is not required to amend any rule for the sole purpose of updating the citation in the Ohio Administrative Code to the rule's authorizing statute to reflect that this act renumbers the authorizing statute or relocates it to another Revised Code section. Such citations shall be updated as the Director amends the rules for other purposes.

SECTION 259.270. REASON FOR THE REPEAL OF R.C. 5111.236

This act repeals section 5111.236 of the Revised Code to carry out the

intent of the Governor as indicated in the veto message regarding Am. Sub. H.B. 1 of the 128th General Assembly transmitted to the Clerk of the House of Representatives on July 17, 2009. The actual veto removed the section from the title and enacting clause of H.B. 1 and an earmark related to the section. However, the actual veto inadvertently showed only division (C) of the section, rather than the entire section, as being vetoed.

SECTION 261.10. OBD OHIO BOARD OF DIETETICS

General Services Fund Group

4K90 860609	Operating Expenses	\$	330,592	\$	342,592
TOTAL GSF General Services Fund Group					
		\$	330,592	\$	342,592
TOTAL ALL BUDGET FUND GROUPS					
		\$	330,592	\$	342,592

SECTION 263.10. EDU DEPARTMENT OF EDUCATION

General Revenue Fund

GRF 200321	Operating Expenses	\$	13,142,780	\$	13,142,780
GRF 200408	Early Childhood Education	\$	33,318,341	\$	45,318,341
GRF 200420	Information Technology Development and Support	\$	4,241,296	\$	4,241,296
GRF 200421	Alternative Education Programs	\$	7,403,998	\$	7,403,998
GRF 200422	School Management Assistance	\$	3,000,000	\$	3,000,000
GRF 200424	Policy Analysis	\$	328,558	\$	328,558
GRF 200425	Tech Prep Consortia Support	\$	260,542	\$	260,542
GRF 200426	Ohio Educational Computer Network	\$	29,625,569	\$	19,625,569
GRF 200427	Academic Standards	\$	3,800,000	\$	3,800,000
GRF 200437	Student Assessment	\$	55,895,000	\$	75,895,000
GRF 200439	Accountability/Report Cards	\$	3,500,000	\$	3,750,000
GRF 200442	Child Care Licensing	\$	827,140	\$	827,140
GRF 200446	Education Management Information System	\$	6,833,070	\$	6,833,070
GRF 200447	GED Testing	\$	879,551	\$	879,551
GRF 200448	Educator Preparation	\$	1,136,737	\$	1,564,237
GRF 200455	Community Schools and Choice Programs	\$	2,438,685	\$	2,491,395
GRF 200464	General Technology Operations	\$	192,097	\$	192,097
GRF 200465	Technology Integration and Professional Development	\$	1,778,879	\$	1,778,879
GRF 200502	Pupil Transportation	\$	505,013,527	\$	521,013,527
GRF 200505	School Lunch Match	\$	9,100,000	\$	9,100,000
GRF 200511	Auxiliary Services	\$	130,499,457	\$	138,214,374
GRF 200532	Nonpublic Administrative Cost Reimbursement	\$	58,951,750	\$	62,436,882
GRF 200540	Special Education	\$	156,871,292	\$	157,871,292

		Enhancements			
GRF 200545		Career-Technical Education	\$	9,372,999	\$ 9,372,999
		Enhancements			
GRF 200550		Foundation Funding	\$	5,808,098,389	\$ 6,151,463,768
GRF 200566		Literacy Improvement	\$	150,000	\$ 150,000
GRF 200901		Property Tax Allocation -	\$	1,138,800,000	\$ 1,156,402,000
		Education			
TOTAL GRF General Revenue Fund			\$	7,985,459,657	\$ 8,397,357,295
General Services Fund Group					
1380 200606		Information Technology	\$	6,850,090	\$ 6,850,090
		Development and Support			
4520 200638		Fees and Refunds	\$	500,000	\$ 500,000
4L20 200681		Teacher Certification and	\$	8,313,762	\$ 13,658,274
		Licensure			
5960 200656		Ohio Career Information	\$	529,761	\$ 529,761
		System			
5H30 200687		School District Solvency	\$	25,000,000	\$ 25,000,000
		Assistance			
5KX0 200691		Ohio School Sponsorship	\$	487,419	\$ 487,419
		Program			
5KY0 200693		Community Schools	\$	83,000	\$ 83,000
		Temporary Sponsorship			
TOTAL GSF General Services			\$	41,764,032	\$ 47,108,544
Fund Group					
Federal Special Revenue Fund Group					
3090 200601		Neglected and Delinquent	\$	2,168,642	\$ 2,168,642
		Education			
3670 200607		School Food Services	\$	8,200,664	\$ 8,700,149
3700 200624		Education of Exceptional	\$	1,530,000	\$ 1,530,000
		Children			
3AF0 200603		Schools Medicaid	\$	750,000	\$ 750,000
		Administrative Claims			
3AN0 200671		School Improvement Grants	\$	20,400,000	\$ 20,400,000
3BK0 200628		Longitudinal Data Systems	\$	1,250,000	\$ 0
3C50 200661		Early Childhood Education	\$	14,554,749	\$ 14,554,749
3CG0 200646		Teacher Incentive	\$	15,125,588	\$ 15,183,285
3D20 200667		Math Science Partnerships	\$	6,000,000	\$ 6,000,000
3EC0 200653		Teacher Incentive - Federal	\$	1,300,000	\$ 0
		Stimulus			
3EH0 200620		Migrant Education	\$	2,900,000	\$ 2,900,000
3EJ0 200622		Homeless Children Education	\$	2,600,000	\$ 2,600,000
3EK0 200637		Advanced Placement	\$	450,000	\$ 450,000
3EN0 200655		State Data Systems - Federal	\$	1,250,000	\$ 0
		Stimulus			
3FD0 200665		Race to the Top	\$	136,000,000	\$ 58,074,046
3FN0 200672		Early Learning Challenge -	\$	7,040,000	\$ 7,040,000
		Race to the Top			
3GE0 200674		Summer Food Service	\$	13,596,000	\$ 14,003,800
		Program			
3GF0 200675		Miscellaneous Nutrition	\$	700,000	\$ 700,000
		Grants			
3GG0 200676		Fresh Fruit and Vegetable	\$	4,738,000	\$ 4,880,140
		Program			

3H90	200605	Head Start Collaboration Project	\$	225,000	\$	225,000
3L60	200617	Federal School Lunch	\$	350,608,075	\$	361,126,273
3L70	200618	Federal School Breakfast	\$	108,480,590	\$	112,819,813
3L80	200619	Child/Adult Food Programs	\$	106,992,650	\$	110,202,428
3L90	200621	Career-Technical Education Basic Grant	\$	44,663,900	\$	44,663,900
3M00	200623	ESEA Title 1A	\$	560,000,000	\$	560,000,000
3M20	200680	Individuals with Disabilities Education Act	\$	443,170,050	\$	443,170,050
3T40	200613	Public Charter Schools	\$	500,000	\$	0
3Y20	200688	21st Century Community Learning Centers	\$	48,201,810	\$	50,611,900
3Y60	200635	Improving Teacher Quality	\$	101,900,000	\$	101,900,000
3Y70	200689	English Language Acquisition	\$	9,700,000	\$	9,700,000
3Y80	200639	Rural and Low Income Technical Assistance	\$	3,300,000	\$	3,300,000
3Z20	200690	State Assessments	\$	11,800,000	\$	11,800,000
3Z30	200645	Consolidated Federal Grant Administration	\$	7,949,280	\$	7,949,280
TOTAL FED Federal Special Revenue Fund Group			\$	2,038,044,998	\$	1,977,403,455
State Special Revenue Fund Group						
4540	200610	GED Testing	\$	1,050,000	\$	250,000
4550	200608	Commodity Foods	\$	24,000,000	\$	24,000,000
4R70	200695	Indirect Operational Support	\$	6,600,000	\$	6,600,000
4V70	200633	Interagency Program Support	\$	717,725	\$	717,725
5980	200659	Auxiliary Services Reimbursement	\$	1,328,910	\$	1,328,910
5BJ0	200626	Half-Mill Maintenance Equalization	\$	19,000,000	\$	20,000,000
5MM0	200677	Child Nutrition Refunds	\$	500,000	\$	500,000
5T30	200668	Gates Foundation Grants	\$	200,000	\$	153,000
5U20	200685	National Education Statistics	\$	300,000	\$	300,000
6200	200615	Educational Improvement Grants	\$	300,000	\$	300,000
TOTAL SSR State Special Revenue Fund Group			\$	53,996,635	\$	54,149,635
Lottery Profits Education Fund Group						
7017	200612	Foundation Funding	\$	775,500,000	\$	853,000,000
7017	200648	Straight A Fund	\$	100,000,000	\$	150,000,000
7017	200666	EdChoice Expansion	\$	8,500,000	\$	17,000,000
7017	200684	Community School Facilities	\$	7,500,000	\$	7,500,000
TOTAL LPE Lottery Profits Education Fund Group			\$	891,500,000	\$	1,027,500,000
Revenue Distribution Fund Group						
7047	200909	School District Property Tax Replacement-Business	\$	482,000,000	\$	482,000,000
7053	200900	School District Property Tax Replacement-Utility	\$	28,000,000	\$	28,000,000
TOTAL RDF Revenue Distribution Fund Group			\$	510,000,000	\$	510,000,000

TOTAL ALL BUDGET FUND GROUPS \$ 11,520,765,322 \$ 12,013,518,929

SECTION 263.20. OPERATING EXPENSES

A portion of the foregoing appropriation item 200321, Operating Expenses, shall be used by the Department of Education to provide matching funds under 20 U.S.C. 2321.

EARLY CHILDHOOD EDUCATION

Of the foregoing appropriation item 200408, Early Childhood Education, up to \$50,000 in each fiscal year shall be used to support the operations of the "Ready, Set, Go...to Kindergarten" Program at the Horizon Education Center in Lorain County. The effectiveness of the program shall be evaluated and reported to the Department of Education in a study that includes statistics on program participants' scores for the "Get It, Got It, Go!" assessment and the kindergarten readiness assessment.

The Department of Education shall distribute the remainder of the foregoing appropriation item 200408, Early Childhood Education, to pay the costs of early childhood education programs. The Department shall distribute such funds directly to qualifying providers.

(A) As used in this section:

(1) "Provider" means a city, local, exempted village, or joint vocational school district; an educational service center; a community school; a chartered nonpublic school; an early childhood education child care provider licensed under Chapter 5104. of the Revised Code that participates in and meets at least the third highest tier of the tiered quality rating and improvement system described in section 5104.30 of the Revised Code; or a combination of entities described in this paragraph.

(2) In the case of a city, local, or exempted village school district or early childhood education child care provider licensed under Chapter 5104. of the Revised Code, "new eligible provider" means a provider that did not receive state funding for Early Childhood Education in the previous fiscal year or demonstrates a need for early childhood programs as defined in division (D) of this section.

(3) "Eligible child" means a child who is at least three years of age as of the district entry date for kindergarten, is not of the age to be eligible for kindergarten, and whose family earns not more than two hundred per cent of the federal poverty guidelines as defined in division (A)(3) of section 5101.46 of the Revised Code. Children with an Individualized Education Program and where the Early Childhood Education program is the least restrictive environment may be enrolled on their third birthday.

(4) "Early learning program standards" means early learning program

standards for school readiness developed by the Department to assess the operation of early learning programs.

(B) In each fiscal year, up to two per cent of the total appropriation may be used by the Department for program support and technical assistance. The Department shall distribute the remainder of the appropriation in each fiscal year to serve eligible children.

(C) The Department shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate and post the report to the Department's web site, regarding early childhood education programs operated under this section and the early learning program standards.

(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2014, the Department shall distribute funds first to recipients of funds for early childhood education programs under Section 267.10.10 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Am. Sub. H.B. 487 of the 129th General Assembly, in the previous fiscal year and the balance to new eligible providers of early childhood education programs under this section or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2015, the Department shall distribute funds first to providers of early childhood education programs under this section in the previous fiscal year and the balance to new eligible providers or to existing providers to serve more eligible children as outlined under division (E) of this section or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

(E) The Department shall distribute any new or remaining funding to existing providers of early childhood education programs or any new eligible providers in an effort to invest in high quality early childhood programs where there is a need as determined by the Department. The Department shall distribute the new or remaining funds to existing providers of early childhood education programs or any new eligible providers to serve additional eligible children based on community economic disadvantage, limited access to high quality preschool or childcare services, and demonstration of high quality preschool services as determined by the Department using new metrics developed pursuant to Ohio's Race to the Top—Early Learning Challenge Grant, awarded to the Department in December 2011.

Awards under divisions (D) and (E) of this section shall be distributed on a per-pupil basis, and in accordance with division (I) of this section. The Department may adjust the per-pupil amount so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services on the first day of December or the business day closest to that date equals the amount allocated under this section.

(F) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved costs of the program.

All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (K) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program standards. The approved provider shall administer and use such property and funds for the purposes specified.

(G) The Department may examine a provider's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (F) of this section, or if the program fails to substantially meet the early learning program standards, meet a quality rating level in the tiered quality rating and improvement system developed under section 5104.30 of the Revised Code as prescribed by the Department, or exhibits below average performance as measured against the standards, the early childhood education program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the chief executive officer and the executive of the official governing body of the provider. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the early childhood education program. The Department may withhold funding pending corrective action. If an early childhood education program fails to satisfactorily complete a corrective action plan, the Department may deny expansion funding to the program or withdraw all or part of the funding to the program and establish a new eligible provider through a selection process established by the Department.

(H)(1) If the early childhood education program is licensed by the

Department of Education and is not highly rated, as determined by the Director of Job and Family Services, under the tiered quality rating and improvement system described in section 5104.30 of the Revised Code, the program shall do all of the following:

(a) Meet teacher qualification requirements prescribed by section 3301.311 of the Revised Code;

(b) Align curriculum to the early learning content standards developed by the Department;

(c) Meet any child or program assessment requirements prescribed by the Department;

(d) Require teachers, except teachers enrolled and working to obtain a degree pursuant to section 3301.311 of the Revised Code, to attend a minimum of twenty hours every two years of professional development as prescribed by the Department;

(e) Document and report child progress as prescribed by the Department;

(f) Meet and report compliance with the early learning program standards as prescribed by the Department;

(g) Participate in the tiered quality rating and improvement system developed under section 5104.30 of the Revised Code. Effective July 1, 2016, all programs shall be rated through the system.

(2) If the program is highly rated, as determined by the Director of Job and Family Services, under the tiered quality rating and improvement system developed under section 5104.30 of the Revised Code, the program shall comply with the requirements of that system.

(I) Per-pupil funding for programs subject to this section shall be sufficient to provide eligible children with services for a standard early childhood schedule which shall be defined in this section as a minimum of twelve and one-half hours per school week as defined in section 3313.62 of the Revised Code for the minimum school year as defined in sections 3313.48, 3313.481, and 3313.482 of the Revised Code. Nothing in this section shall be construed to prohibit program providers from utilizing other funds to serve eligible children in programs that exceed the twelve and one-half hours per week or that exceed the minimum school year. For any provider for which a standard early childhood education schedule creates a hardship or for which the provider shows evidence that the provider is working in collaboration with a preschool special education program, the provider may submit a waiver to the Department requesting an alternate schedule. If the Department approves a waiver for an alternate schedule that provides services for less time than the standard early childhood education

schedule, the Department may reduce the provider's annual allocation proportionately. Under no circumstances shall an annual allocation be increased because of the approval of an alternate schedule.

(J) Each provider shall develop a sliding fee scale based on family incomes and shall charge families who earn more than two hundred per cent of the federal poverty guidelines, as defined in division (A)(3) of section 5101.46 of the Revised Code, for the early childhood education program.

The Department shall conduct an annual survey of each provider to determine whether the provider charges families tuition or fees, the amount families are charged relative to family income levels, and the number of families and students charged tuition and fees for the early childhood program.

(K) If an early childhood education program voluntarily waives its right for funding, or has its funding eliminated for not meeting financial standards or the early learning program standards, the provider shall transfer control of title to property, equipment, and remaining supplies obtained through the program to providers designated by the Department and return any unexpended funds to the Department along with any reports prescribed by the Department. The funding made available from a program that waives its right for funding or has its funding eliminated or reduced may be used by the Department for new grant awards or expansion grants. The Department may award new grants or expansion grants to eligible providers who apply. The eligible providers who apply must do so in accordance with the selection process established by the Department.

(L) Eligible expenditures for the Early Childhood Education Program shall be claimed each fiscal year to help meet the state's TANF maintenance of effort requirement. The Superintendent of Public Instruction and the Director of Job and Family Services shall enter into an interagency agreement to carry out the requirements under this division, which shall include developing reporting guidelines for these expenditures.

(M) The Early Childhood Advisory Council established under section 3301.90 of the Revised Code shall provide, by October 1, 2013, recommendations including, but not limited to, the administration, implementation, and distribution of funding for an early childhood voucher program, to the Superintendent of Public Instruction, the Governor's Office of 21st Century Education, the Speaker of the House of Representatives, the President of the Senate, and the chairpersons of the standing committees of the House of Representatives and the Senate that deal primarily with issues of education. Decisions on the implementation of the voucher program shall be made by the Governor's Office of 21st Century Education with

recommendations from the State Superintendent of Public Instruction and the Early Childhood Advisory Council.

SECTION 263.30. INFORMATION TECHNOLOGY DEVELOPMENT AND SUPPORT

The foregoing appropriation item 200420, Information Technology Development and Support, shall be used to support the development and implementation of information technology solutions designed to improve the performance and services of the Department of Education. Funds may be used for personnel, maintenance, and equipment costs related to the development and implementation of these technical system projects. Implementation of these systems shall allow the Department to provide greater levels of assistance to school districts and to provide more timely information to the public, including school districts, administrators, and legislators. Funds may also be used to support data-driven decision-making and differentiated instruction, as well as to communicate academic content standards and curriculum models to schools through web-based applications.

SECTION 263.40. ALTERNATIVE EDUCATION PROGRAMS

The foregoing appropriation item 200421, Alternative Education Programs, shall be used for the renewal of successful implementation grants and for competitive matching grants to school districts for alternative educational programs for existing and new at-risk and delinquent youth. Programs shall be focused on youth in one or more of the following categories: those who have been expelled or suspended, those who have dropped out of school or who are at risk of dropping out of school, those who are habitually truant or disruptive, or those on probation or on parole from a Department of Youth Services facility. Grants shall be awarded only to programs in which the grant will not serve as the program's primary source of funding. These grants shall be administered by the Department of Education.

The Department of Education may waive compliance with any minimum education standard established under section 3301.07 of the Revised Code for any alternative school that receives a grant under this section on the grounds that the waiver will enable the program to more effectively educate students enrolled in the alternative school.

Of the foregoing appropriation item 200421, Alternative Education Programs, a portion may be used for program administration, monitoring, technical assistance, support, research, and evaluation.

SECTION 263.50. SCHOOL MANAGEMENT ASSISTANCE

Of the foregoing appropriation item 200422, School Management Assistance, \$1,000,000 in each fiscal year shall be used by the Auditor of State in consultation with the Department of Education for expenses incurred in the Auditor of State's role relating to fiscal caution, fiscal watch, and fiscal emergency activities as defined in Chapter 3316. of the Revised Code, unless an amount less than \$1,000,000 is needed and mutually agreed to by the Department and the Auditor of State. This set-aside may also be used by the Auditor of State to conduct performance audits of other school districts with priority given to districts in fiscal distress. Districts in fiscal distress shall be determined by the Auditor of State and shall include districts that the Auditor of State, in consultation with the Department of Education, determines are employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency.

The remainder of appropriation item 200422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal caution, fiscal watch, and fiscal emergency provisions under Chapter 3316. of the Revised Code.

SECTION 263.60. POLICY ANALYSIS

The foregoing appropriation item 200424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education information to be used for policy analysis. Staff supported by this appropriation shall administer the development of reports, analyses, and briefings to inform education policymakers of current trends in education practice, efficient and effective use of resources, and evaluation of programs to improve education results. The database shall be kept current at all times. These research efforts shall be used to supply information and analysis of data to the General Assembly and other state policymakers, including the Office of Budget and Management, the Governor's Office of 21st Century Education, and the Legislative Service Commission.

The Department of Education may use funding from this appropriation item to purchase or contract for the development of software systems or contract for policy studies that will assist in the provision and analysis of

policy-related information. Funding from this appropriation item also may be used to monitor and enhance quality assurance for research-based policy analysis and program evaluation to enhance the effective use of education information to inform education policymakers.

TECH PREP CONSORTIA SUPPORT

The foregoing appropriation item 200425, Tech Prep Consortia Support, shall be used by the Department of Education to support state-level activities designed to support, promote, and expand tech prep programs. Use of these funds shall include, but not be limited to, administration of grants, program evaluation, professional development, curriculum development, assessment development, program promotion, communications, and statewide coordination of tech prep consortia.

SECTION 263.70. OHIO EDUCATIONAL COMPUTER NETWORK

The foregoing appropriation item 200426, Ohio Educational Computer Network, shall be used by the Department of Education to maintain a system of information technology throughout Ohio and to provide technical assistance for such a system in support of the P-16 State Education Technology Plan developed under section 3353.09 of the Revised Code.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$10,705,569 in each fiscal year shall be used by the Department of Education to support connection of all public school buildings and participating chartered nonpublic schools to the state's education network, to each other, and to the Internet. In each fiscal year the Department of Education shall use these funds to assist information technology centers or school districts with the operational costs associated with this connectivity. The Department of Education shall develop a formula and guidelines for the distribution of these funds to information technology centers or individual school districts. As used in this section, "public school building" means a school building of any city, local, exempted village, or joint vocational school district, any community school established under Chapter 3314. of the Revised Code, any college preparatory boarding school established under Chapter 3328. of the Revised Code, any STEM school established under Chapter 3326. of the Revised Code, any educational service center building used for instructional purposes, the Ohio School for the Deaf and the Ohio School for the Blind, high schools chartered by the Ohio Department of Youth Services, or high schools operated by Ohio Department of Rehabilitation and Corrections' Ohio Central School System.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$2,500,000 in each fiscal year shall be used for

the Union Catalog and InfOhio Network and to support the provision of electronic resources with priority given to resources that support the teaching of state academic content standards in all public schools. Consideration shall be given by the Department of Education to coordinating the allocation of these moneys with the efforts of Libraries Connect Ohio, whose members include OhioLINK, the Ohio Public Information Network, and the State Library of Ohio.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$5,220,000 in each fiscal year shall be used, through a formula and guidelines devised by the Department, to subsidize the activities of designated information technology centers, as defined by State Board of Education rules, to provide school districts and chartered nonpublic schools with computer-based student and teacher instructional and administrative information services, including approved computerized financial accounting, and to ensure the effective operation of local automated administrative and instructional systems.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$10,000,000 in fiscal year 2014 shall be used for middle mile connections for the information technology centers established under section 3301.075 of the Revised Code and select large urban districts to connect to the state broadband backbone managed by the Ohio Technology Consortium and for other connectivity upgrades necessary for K-12 school buildings with severely restricted broadband connections. The Department of Education shall develop an expenditure plan to facilitate instructional technology/blended learning initiatives. The State Chief Information Officer and the Education Technology Division of the Ohio Board of Regents shall review the plan to ensure it coincides with State of Ohio and higher education network strategies and shall either approve or reject the plan. If the plan is rejected, the State Chief Information Officer and the Education Technology Division of the Ohio Board of Regents shall identify deficiencies in the plan and work with the Department to complete an acceptable plan. "Select large urban districts" are those districts that connect to the state broadband backbone directly rather than through an information technology center. At the request of the Superintendent of Public Instruction, the Director of Budget and Management may authorize the expenditure in fiscal year 2015 of any unexpended and unencumbered portion of this set-aside at the end of fiscal year 2014. The authorized expenditure is hereby reappropriated to the Department for the same purpose for fiscal year 2015.

The remainder of appropriation item 200426, Ohio Educational

Computer Network, shall be used to support the work of the development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems as well as the teacher student linkage/roster verification process and the eTranscript/student records exchange initiative. This technical assistance shall include, but not be restricted to, development and maintenance of adequate computer software systems to support network activities. In order to improve the efficiency of network activities, the Department and information technology centers may jointly purchase equipment, materials, and services from funds provided under this appropriation for use by the network and, when considered practical by the Department, may utilize the services of appropriate state purchasing agencies.

SECTION 263.80. ACADEMIC STANDARDS

The foregoing appropriation item 200427, Academic Standards, shall be used by the Department of Education to develop, revise, and communicate to school districts academic content standards and curriculum models and to develop professional development programs and other tools on the new content standards and model curriculum.

SECTION 263.90. STUDENT ASSESSMENT

Of the foregoing appropriation item 200437, Student Assessment, up to \$95,000 in each fiscal year may be used to support the assessments required under section 3301.0715 of the Revised Code.

The remainder of appropriation item 200437, Student Assessment, shall be used to develop, field test, print, distribute, score, report results, and support other associated costs for the tests required under sections 3301.0710, 3301.0711, and 3301.0712 of the Revised Code and for similar purposes as required by section 3301.27 of the Revised Code. The funds may also be used to update and develop diagnostic assessments required under sections 3301.079, 3301.0715, and 3313.608 of the Revised Code.

DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT ASSESSMENT

In fiscal year 2014 and fiscal year 2015, if the Superintendent of Public Instruction determines that additional funds are needed to fully fund the requirements of sections 3301.0710, 3301.0711, 3301.0712, and 3301.27 of the Revised Code and this act for assessments of student performance, the Superintendent of Public Instruction may recommend the reallocation of unexpended and unencumbered General Revenue Fund appropriations

within the Department of Education to appropriation item 200437, Student Assessment, to the Director of Budget and Management. If the Director of Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unexpended and unencumbered appropriations within the Department of Education as necessary to appropriation item 200437, Student Assessment. If these transferred appropriations are not sufficient to fully fund the assessment requirements in fiscal year 2014 or fiscal year 2015, the Superintendent of Public Instruction may request that the Controlling Board transfer up to \$9,000,000 cash from the Lottery Profits Education Reserve Fund (Fund 7018) to the General Revenue Fund. Upon approval of the Controlling Board, the Director of Budget and Management shall transfer the cash. These transferred funds are hereby appropriated for the same purpose as appropriation item 200437, Student Assessment.

SECTION 263.100. Notwithstanding anything to the contrary in sections 3301.0710 and 3301.0711 of the Revised Code, in the 2013-2014 school year, the Department of Education shall not furnish, and school districts and schools shall not administer, the elementary writing and social studies achievement assessments prescribed by section 3301.0710 of the Revised Code, unless the Superintendent of Public Instruction determines the Department has sufficient funds to pay the costs of furnishing and scoring those assessments.

SECTION 263.110. ACCOUNTABILITY/REPORT CARDS

Of the foregoing appropriation item 200439, Accountability/Report Cards, a portion in each fiscal year may be used to train district and regional specialists and district educators in the use of the value-added progress dimension and in the use of data as it relates to improving student achievement. This training may include teacher and administrator professional development in the use of data to improve instruction and student learning, and teacher and administrator training in understanding teacher value-added reports and how they can be used as a component in measuring teacher and administrator effectiveness. A portion of this funding may be provided to a credible nonprofit organization with expertise in value-added progress dimensions.

The remainder of appropriation item 200439, Accountability/Report Cards, shall be used by the Department to incorporate a statewide value-added progress dimension into performance ratings for school districts

and for the development of an accountability system that includes the preparation and distribution of school report cards, funding and expenditure accountability reports under sections 3302.03 and 3302.031 of the Revised Code, and the development and maintenance of teacher value-added reports.

CHILD CARE LICENSING

The foregoing appropriation item 200442, Child Care Licensing, shall be used by the Department of Education to license and to inspect preschool and school-age child care programs under sections 3301.52 to 3301.59 of the Revised Code.

SECTION 263.120. EDUCATION MANAGEMENT INFORMATION SYSTEM

The foregoing appropriation item 200446, Education Management Information System, shall be used by the Department of Education to improve the Education Management Information System (EMIS).

Of the foregoing appropriation item 200446, Education Management Information System, up to \$729,000 in each fiscal year shall be distributed to designated information technology centers for costs relating to processing, storing, and transferring data for the effective operation of the EMIS. These costs may include, but are not limited to, personnel, hardware, software development, communications connectivity, professional development, and support services, and to provide services to participate in the State Education Technology Plan developed under section 3353.09 of the Revised Code.

The remainder of appropriation item 200446, Education Management Information System, shall be used to develop and support a common core of data definitions and standards as adopted by the Education Management Information System Advisory Board, including the ongoing development and maintenance of the data dictionary and data warehouse. In addition, such funds shall be used to support the development and implementation of data standards; the design, development, and implementation of a new data exchange system; and responsibilities related to the school report cards prescribed by section 3302.03 of the Revised Code and value-added progress dimension calculations.

Any provider of software meeting the standards approved by the Education Management Information System Advisory Board shall be designated as an approved vendor and may enter into contracts with local school districts, community schools, STEMS schools, information technology centers, or other educational entities for the purpose of collecting and managing data required under Ohio's education management

information system (EMIS) laws. On an annual basis, the Department of Education shall convene an advisory group of school districts, community schools, and other education-related entities to review the Education Management Information System data definitions and data format standards. The advisory group shall recommend changes and enhancements based upon surveys of its members, education agencies in other states, and current industry practices, to reflect best practices, align with federal initiatives, and meet the needs of school districts.

School districts, STEM schools, and community schools not implementing a common and uniform set of data definitions and data format standards for Education Management Information System purposes shall have all EMIS funding withheld until they are in compliance.

SECTION 263.130. GED TESTING

The foregoing appropriation item 200447, GED Testing, shall be used to provide General Educational Development (GED) testing under rules adopted by the State Board of Education.

SECTION 263.140. EDUCATOR PREPARATION

Of the foregoing appropriation item 200448, Educator Preparation, up to \$500,000 in each fiscal year may be used by the Department of Education to monitor and support Ohio's State System of Support in accordance with the "No Child Left Behind Act of 2011," 20 U.S.C. 6317, as administered pursuant to the Elementary and Secondary Education Act flexibility waivers approved for Ohio by the United States Department of Education.

Of the foregoing appropriation item 200448, Educator Preparation, up to \$100,000 in each fiscal year may be used by the Department to support the Educator Standards Board under section 3319.61 of the Revised Code and reforms under sections 3302.042, 3302.06 through 3302.068, 3302.12, 3302.20 through 3302.22, and 3319.58 of the Revised Code.

The remainder of the foregoing appropriation item 200448, Educator Preparation, in fiscal year 2015 may be used for implementation of teacher and principal evaluation systems, including incorporation of student growth as a metric in those systems, and teacher value-added reports.

SECTION 263.150. COMMUNITY SCHOOLS AND CHOICE PROGRAMS

The foregoing appropriation item 200455, Community Schools and

Choice Programs, may be used by the Department of Education for additional services and responsibilities under section 3314.11 of the Revised Code and for operation of the school choice programs.

Of the foregoing appropriation item 200455, Community Schools and Choice Programs, a portion in each fiscal year may be used by the Department of Education for developing and conducting training sessions for community schools and sponsors and prospective sponsors of community schools as prescribed in division (A)(1) of section 3314.015 of the Revised Code, and other schools participating in school choice programs.

SECTION 263.160. TECHNOLOGY INTEGRATION AND PROFESSIONAL DEVELOPMENT

The foregoing appropriation item 200465, Technology Integration and Professional Development, shall be used by the Department of Education to provide grants to educational television stations working with partner education technology centers to provide Ohio public schools with instructional resources and services, with priority given to resources and services aligned with state academic content standards. Such resources and services shall be based upon the advice and approval of the Department, based on a formula used by the former eTech Ohio Commission unless and until a substitute formula is developed in consultation with Ohio's educational television stations and educational technology centers.

SECTION 263.170. PUPIL TRANSPORTATION

Of the foregoing appropriation item 200502, Pupil Transportation, up to \$838,930 in each fiscal year may be used by the Department of Education for training prospective and experienced school bus drivers in accordance with training programs prescribed by the Department. Up to \$60,469,220 in each fiscal year may be used by the Department of Education for special education transportation reimbursements to school districts and county DD boards for transportation operating costs as provided in divisions (C) and (F) of section 3317.024 of the Revised Code. Up to \$5,000,000 in fiscal year 2014 and up to \$2,500,000 in fiscal year 2015 may be used by the Department of Education to reimburse school districts that make payments to parents in lieu of transportation under section 3327.02 of the Revised Code and whose transportation is not funded under division (C) of section 3317.024 of the Revised Code. In each of fiscal years 2014 and 2015, if the parent, guardian, or other person in charge of a pupil accepts the offer of

payment in lieu of providing transportation, the school district shall pay that parent, guardian, or other person an amount that shall be not less than \$250 and not more than the amount determined by the Department as the average cost of pupil transportation for the previous school year. Payment may be prorated if the time period involved is only a part of the school year.

Of the foregoing appropriation item 200502, Pupil Transportation, up to \$25,300,000 in fiscal year 2014 and up to \$23,100,000 in fiscal year 2015 shall be used for additional transportation aid for school districts as provided by division (G)(2) of section 3317.0212 of the Revised Code, as amended by this act. The Department shall pay each school district a pro rata portion of the amounts calculated so that the amount appropriated is not exceeded.

Of the foregoing appropriation item 200502, Pupil Transportation, \$413,385,915 in fiscal year 2014 and \$434,055,210 in fiscal year 2015 shall be used to distribute the amounts calculated for transportation aid under division (G)(1) of section 3317.0212 of the Revised Code, as amended by this act.

SECTION 263.180. SCHOOL LUNCH MATCH

The foregoing appropriation item 200505, School Lunch Match, shall be used to provide matching funds to obtain federal funds for the school lunch program.

Any remaining appropriation after providing matching funds for the school lunch program may be used to partially reimburse school buildings within school districts that are required to have a school breakfast program under section 3313.813 of the Revised Code, at a rate decided by the Department.

SECTION 263.190. AUXILIARY SERVICES

The foregoing appropriation item 200511, Auxiliary Services, shall be used by the Department of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to \$1,888,106 in fiscal year 2014 and up to \$1,944,949 in fiscal year 2015 may be used for payment of the Post-Secondary Enrollment Program for nonpublic students, except that in fiscal year 2014 the Department may spend above the set-aside to pay for outstanding obligations for the Post-Secondary Enrollment Options Program in fiscal year 2013. Notwithstanding section 3365.10 of the Revised Code, the Department shall distribute funding according to rules adopted by the Department in accordance with Chapter 119. of the Revised Code.

SECTION 263.200. NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT

The foregoing appropriation item 200532, Nonpublic Administrative Cost Reimbursement, shall be used by the Department of Education for the purpose of implementing section 3317.063 of the Revised Code.

SECTION 263.210. SPECIAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$50,000,000 in each fiscal year shall be used to fund special education and related services at county boards of developmental disabilities for eligible students under section 3317.20 of the Revised Code and at institutions for eligible students under section 3317.201 of the Revised Code. If necessary, the Department shall proportionately reduce the amount calculated for each county board of developmental disabilities and institution so as not to exceed the amount appropriated in each fiscal year.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$1,333,468 in each fiscal year shall be used for parent mentoring programs.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$2,537,824 in each fiscal year may be used for school psychology interns.

The remainder of appropriation item 200540, Special Education Enhancements, shall be distributed by the Department of Education to school districts and institutions, as defined in section 3323.091 of the Revised Code, for preschool special education funding under section 3317.0213 of the Revised Code.

The Department may reimburse school districts and institutions for services provided by instructional assistants, related services as defined in rule 3301-51-11 of the Administrative Code, physical therapy services provided by a licensed physical therapist or physical therapist assistant under the supervision of a licensed physical therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-27 of the Administrative Code and occupational therapy services provided by a licensed occupational therapist or occupational therapy assistant under the supervision of a licensed occupational therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-7 of the Administrative Code. Nothing in this section authorizes occupational therapy assistants or physical therapist assistants to generate or manage their own caseloads.

The Department of Education shall require school districts, educational service centers, county DD boards, and institutions serving preschool children with disabilities to adhere to Ohio's early learning program standards, participate in the tiered quality rating and improvement system developed under section 5104.30 of the Revised Code, and document child progress using research-based indicators prescribed by the Department and report results annually. The reporting dates and method shall be determined by the Department. Effective July 1, 2018, all programs shall be rated through the tiered quality rating and improvement system.

SECTION 263.220. CAREER-TECHNICAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$2,563,568 in each fiscal year shall be used to fund secondary career-technical education at institutions using a grant-based methodology, notwithstanding section 3317.05 of the Revised Code.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$2,838,281 in each fiscal year shall be used by the Department of Education to fund competitive grants to tech prep consortia that expand the number of students enrolled in tech prep programs. These grant funds shall be used to directly support expanded tech prep programs provided to students enrolled in school districts, including joint vocational school districts, and affiliated higher education institutions. This support may include the purchase of equipment.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$3,100,850 in each fiscal year shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students. HSTW provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$600,000 in each fiscal year shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural

experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the set aside. The eligibility criteria developed by the Department shall allow these funds to support supervised agricultural experience that occurs anytime outside of the regular school day.

Of the foregoing appropriation item, 200545, Career-Technical Education Enhancements, up to \$162,200 in each fiscal year shall be distributed to the Cleveland Municipal School District and the Cincinnati City School District to be used for a VoAg Program in one at-risk nonvocational school in each district. The amount distributed to the Cleveland Municipal School District shall be equal to \$78,600 minus the funding allocated to the district under division (A)(8) of section 3317.022 of the Revised Code for the students participating in the program. The amount distributed to the Cincinnati City School District shall be equal to \$83,600 minus the funding allocated to the district under section 3317.162 of the Revised Code for the students participating in the program.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, \$108,100 in each fiscal year shall be used to prepare students for careers in culinary arts and restaurant management under the Ohio ProStart school restaurant program.

SECTION 263.230. FOUNDATION FUNDING

Of the foregoing appropriation item 200550, Foundation Funding, up to \$675,000 in fiscal year 2014 shall be used to support the work of the College of Education and Human Ecology at the Ohio State University in reviewing and assessing the alignment of courses offered through the distance learning clearinghouse established in sections 3333.81 to 3333.88 of the Revised Code with the academic content standards adopted under division (A) of section 3301.079 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$40,000,000 in each fiscal year shall be used to provide additional state aid to school districts, joint vocational school districts, community schools, and STEM schools for special education students under division (C)(3) of section 3314.08, section 3317.0214, division (B) of section 3317.16, and section 3326.34 of the Revised Code, except that the Controlling Board may increase these amounts if presented with such a request from the Department of Education at the final meeting of the fiscal year.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$2,000,000 in each fiscal year shall be reserved for Youth Services tuition

payments under section 3317.024 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$3,800,000 in each fiscal year shall be used to fund gifted education at educational service centers. The Department shall distribute the funding through the unit-based funding methodology in place under division (L) of section 3317.024, division (E) of section 3317.05, and divisions (A), (B), and (C) of section 3317.053 of the Revised Code as they existed prior to fiscal year 2010.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$43,500,000 in fiscal year 2014 and up to \$40,000,000 in fiscal year 2015 shall be reserved to fund the state reimbursement of educational service centers under the section of this act entitled "EDUCATIONAL SERVICE CENTERS FUNDING"; and up to \$3,500,000 in each fiscal year shall be distributed to educational service centers for School Improvement Initiatives and, in consultation with the Governor's Director of 21st Century Education, for the provision of technical assistance as required by the Elementary and Secondary Education Act Flexibility waivers approved for Ohio by the United States Department of Education. Educational service centers shall be required to support districts in the development and implementation of their continuous improvement plans as required in section 3302.04 of the Revised Code and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317, as administered pursuant to the Elementary and Secondary Education Act Flexibility waivers approved for Ohio by the United States Department of Education.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$20,000,000 in each fiscal year shall be reserved for payments under sections 3317.026, 3317.027, and 3317.028 of the Revised Code. If this amount is not sufficient, the Department of Education shall prorate the payment amounts so that the aggregate amount allocated in this paragraph is not exceeded.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$2,000,000 in each fiscal year shall be used to pay career-technical planning districts for the amounts reimbursed to students, as prescribed in this paragraph. Each career-technical planning district shall reimburse individuals taking the online General Educational Development (GED) test for the first time for application/test fees in excess of \$40. Each career-technical planning district shall designate a site or sites where individuals may register and take the exam. For each individual that registers for the exam, the career-technical planning district shall make

available and offer career counseling services, including information on adult education programs that are available.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$410,000 in each fiscal year shall be used to pay career-technical planning districts \$500 for each student that receives a journeyman certification, as recognized by the United States Department of Labor.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$18,713,327 in each fiscal year shall be used to support school choice programs.

Of the portion of the funds distributed to the Cleveland Municipal School District under this section, up to \$11,901,887 in each fiscal year shall be used to operate the school choice program in the Cleveland Municipal School District under sections 3313.974 to 3313.979 of the Revised Code. Notwithstanding divisions (B) and (C) of section 3313.978 and division (C) of section 3313.979 of the Revised Code, up to \$1,000,000 in each fiscal year of this amount shall be used by the Cleveland Municipal School District to provide tutorial assistance as provided in division (H) of section 3313.974 of the Revised Code. The Cleveland Municipal School District shall report the use of these funds in the district's three-year continuous improvement plan as described in section 3302.04 of the Revised Code in a manner approved by the Department of Education.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$2,000,000 in fiscal year 2015 shall be used to pay college-preparatory boarding schools the per pupil boarding amount pursuant to section 3328.34 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$500,000 in each fiscal year shall be used to support Jobs for Ohio's Graduates.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$250,000 in fiscal year 2015 may be used for payment of the Post-Secondary Enrollment Options Program for students instructed at home pursuant to section 3321.04 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$5,000,000 in fiscal year 2014 shall be used to reimburse school districts for the full amount deducted in that year under section 3310.55 of the Revised Code for Jon Peterson Scholarships awarded under sections 3310.51 to 3310.64 of the Revised Code to students who did not attend a public school in their resident district in the previous school year. If this amount is not sufficient, the Department of Education shall prorate the payment amounts so that the aggregate amount appropriated in this paragraph is not exceeded.

Of the foregoing appropriation item 200550, Foundation Funding, an amount shall be available in each fiscal year to be paid to joint vocational school districts in accordance with division (A) of section 3317.16 of the Revised Code and the section of this act entitled "TEMPORARY TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

Of the foregoing appropriation item 200550, Foundation Funding, up to \$700,000 in each fiscal year shall be used by the Department of Education for a program to pay for educational services for youth who have been assigned by a juvenile court or other authorized agency to any of the facilities described in division (A) of the section of this act entitled "PRIVATE TREATMENT FACILITY PROJECT."

Of the foregoing appropriation item 200550, Foundation Funding, up to \$675,000 in fiscal year 2015 shall be used to provide grants on a competitive basis to public and chartered nonpublic schools for their participation in the electronic textbook pilot project. These funds shall be administered as provided under the section of this act entitled ELECTRONIC TEXTBOOK PILOT PROJECT.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$500,000 in fiscal year 2014 and up to \$3,000,000 in fiscal year 2015 shall be used for the New Leaders for Ohio Schools Pilot Project in accordance with Section 733.40 of this act.

The remainder of appropriation item 200550, Foundation Funding, shall be used to distribute the amounts calculated for formula aid under section 3317.022 of the Revised Code and the section of this act entitled "TEMPORARY TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS."

Appropriation items 200502, Pupil Transportation, 200540, Special Education Enhancements, and 200550, Foundation Funding, other than specific set-asides, are collectively used in each fiscal year to pay state formula aid obligations for school districts, community schools, STEM schools, college preparatory boarding schools, and joint vocational school districts under this act. The first priority of these appropriation items, with the exception of specific set-asides, is to fund state formula aid obligations. It may be necessary to reallocate funds among these appropriation items or use excess funds from other general revenue fund appropriation items in the Department of Education's budget in each fiscal year, in order to meet state formula aid obligations. If it is determined that it is necessary to transfer funds among these appropriation items or to transfer funds from other General Revenue Fund appropriations in the Department of Education's

budget to meet state formula aid obligations, the Department of Education shall seek approval from the Controlling Board to transfer funds as needed.

The Superintendent of Public Instruction shall make payments, transfers, and deductions, as authorized by Title XXXIII of the Revised Code and Sections 267.30.50, 267.30.53, 267.30.56, and 267.30.60 of Am. Sub. H.B. 153 of the 129th General Assembly, in amounts substantially equal to those made in the prior year, or otherwise, at the discretion of the Superintendent, until at least the effective date of the amendments and enactments made to Title XXXIII by this act. If a new school district, community school, or STEM school opens prior to the effective date of this act, the Department of Education shall pay to the district or school an amount of \$5,000 per pupil, based upon the estimated number of students that the district or school is expected to serve. Any funds paid to districts or schools under this section shall be credited toward the annual funds calculated for the district or school after the changes made to Title XXXIII in this act are effective. Upon the effective date of changes made to Title XXXIII in this act, funds shall be calculated as an annual amount.

SECTION 263.240. TEMPORARY TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS

The Department of Education shall distribute funds within appropriation item 200550, Foundation Funding, for temporary transitional aid in each fiscal year to each qualifying city, local, and exempted village school district.

(A) For fiscal years 2014 and 2015, the Department shall pay temporary transitional aid to each city, local, or exempted village school district that experiences any decrease in its state foundation funding for the current fiscal year from its transitional aid guarantee base. The amount of the temporary transitional aid payment shall equal the difference between its foundation funding for the current fiscal year and its transitional aid guarantee base. If the computation made under this division results in a negative number, the district's funding under this division shall be zero.

(1) As used in this section, foundation funding for each city, local, and exempted village school district for a given fiscal year equals the sum of the amount calculated for the district under section 3317.022 of the Revised Code, as re-enacted by this act, and the amounts calculated for the district under divisions (G)(1) and (2) of section 3317.0212 of the Revised Code, as amended by this act, for that fiscal year.

(2) The transitional aid guarantee base for each city, local, and exempted village school district equals the sum of the amounts computed for

the district for fiscal year 2013, under Sections 267.30.50, 267.30.53, and 267.30.56 of Am. Sub. H.B. 153 of the 129th General Assembly. The Department of Education shall adjust, as necessary, the transitional aid guarantee base of any local school district that participates in the establishment of a joint vocational school district that begins receiving payments under section 3317.16 of the Revised Code, as re-enacted by this act, for fiscal year 2014, but does not receive payments under Section 267.30.60 of Am. Sub. H.B. 153 of the 129th General Assembly, for fiscal year 2013. The Department shall adjust any such local school district's guarantee base according to the amounts received by the district in fiscal year 2013 for career-technical education students who attend the newly established joint vocational school district in fiscal year 2014.

(B)(1) Notwithstanding section 3317.022 of the Revised Code, as re-enacted by this act, in fiscal year 2014, no city, local, or exempted village school district shall be allocated foundation funding that is greater than 1.0625 times the district's transitional aid guarantee base.

(2) Notwithstanding section 3317.022 of the Revised Code, as re-enacted by this act, in fiscal year 2015, no city, local, or exempted village school district shall be allocated foundation funding that is greater than 1.105 times the amount computed for foundation funding for the district for fiscal year 2014 plus any amount calculated for temporary transitional aid for fiscal year 2014 under division (A) of this section and after any reductions made for fiscal year 2014 under division (B)(1) of this section.

(3) The Department shall reduce a district's payments under divisions (A)(1), (2), (4), (5), (6), and (7) of section 3317.022 of the Revised Code, as re-enacted by this act, and divisions (G)(1) and (2) of section 3317.0212 of the Revised Code, as amended by this act, proportionately as necessary in order to comply with this division. If those amounts are insufficient, the Department shall proportionately reduce a district's payments under divisions (A)(3), (8), and (9) of section 3317.022 of the Revised Code, as re-enacted by this act.

SECTION 263.250. TEMPORARY TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS

The Department of Education shall distribute funds within appropriation item 200550, Foundation Funding, for temporary transitional aid in each fiscal year to each qualifying joint vocational school district.

(A) For fiscal years 2014 and 2015, the Department shall pay temporary transitional aid to each joint vocational school district that experiences any decrease in its state core foundation funding under division (A) of section

3317.16 of the Revised Code, as re-enacted by this act, for the current fiscal year from its transitional aid guarantee base. The amount of the temporary transitional aid payment shall equal the difference between the district's funding under division (A) of section 3317.16 of the Revised Code for the current fiscal year and its transitional aid guarantee base. If the computation made under this division results in a negative number, the district's funding under this division shall be zero.

The transitional aid guarantee base for each joint vocational school district equals the amount computed for the district for fiscal year 2013, under Section 267.30.60 of Am. Sub. H.B. 153 of the 129th General Assembly. The Department of Education shall establish, as necessary, the transitional aid guarantee base of any joint vocational school district that begins receiving payments under section 3317.16 of the Revised Code, as re-enacted by this act, for fiscal year 2014, but does not receive payments under Section 267.30.60 of Am. Sub. H.B. 153 of the 129th General Assembly, for fiscal year 2013. The Department shall establish any such joint vocational school district's guarantee base as an amount equal to the absolute value of the sum of the associated adjustments of any local school districts' guarantee bases under Section 263.240 of this act.

(B)(1) Notwithstanding division (A) of section 3317.16 of the Revised Code, as re-enacted by this act, in fiscal year 2014, no joint vocational school district shall be allocated state core foundation funding, as computed under division (A) of section 3317.16 of the Revised Code, as re-enacted by this act, that is greater than 1.0625 times the district's transitional aid guarantee base.

(2) Notwithstanding division (A) of section 3317.16 of the Revised Code, as re-enacted by this act, in fiscal year 2015, no joint vocational school district shall be allocated state core foundation funding, under division (A) of section 3317.16 of the Revised Code, as re-enacted by this act, that is greater than 1.105 times the amount computed for state core foundation funding for the district for fiscal year 2014 under division (A) of section 3317.16 of the Revised Code, as re-enacted by this act, plus any amount calculated for temporary transitional aid for fiscal year 2014 under division (A) of this section and after any reductions made for fiscal year 2014 under division (B)(1) of this section.

(3) The Department shall reduce a district's payments under divisions (A)(1), (3), and (4) of section 3317.16 of the Revised Code, as re-enacted by this act, proportionately as necessary in order to comply with this division. If those amounts are insufficient, the Department shall proportionately reduce a district's payments under divisions (A)(2), (5), and (6) of section

3317.16 of the Revised Code, as re-enacted by this act.

SECTION 263.251. (A) For the 2013-2014 school year, each city, local, exempted village, and joint vocational school district shall continue to report the average daily membership of students receiving service from the district during the first full week of October according to the schedule for those reports prescribed by section 3317.03 of the Revised Code as amended by this act.

(B) During the 2013-2014 school year, the Department of Education shall convene a group of representatives of school districts from throughout the state to assist and advise in the development of the guidelines, policies, and reports that will be necessary to implement a reporting of an annualized full-time equivalent student enrollment. The Department shall develop the guidelines and policies required to implement changes to section 3317.03 of the Revised Code in a manner that will ensure students are accurately accounted for in the enrollment data of each district.

SECTION 263.255. LITERACY IMPROVEMENT

The foregoing appropriation item 200566, Literacy Improvement, shall be used for Read Baby Read.

SECTION 263.260. PROPERTY TAX ALLOCATION - EDUCATION

The Superintendent of Public Instruction shall not request, and the Controlling Board shall not approve, the transfer of appropriation from appropriation item 200901, Property Tax Allocation - Education, to any other appropriation item.

The appropriation item 200901, Property Tax Allocation - Education, is appropriated to pay for the state's costs incurred because of the homestead exemption, the property tax rollback, and payments required under division (C) of section 5705.2110 of the Revised Code. In cooperation with the Department of Taxation, the Department of Education shall distribute these funds directly to the appropriate school districts of the state, notwithstanding sections 321.24 and 323.156 of the Revised Code, which provide for payment of the homestead exemption and property tax rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Upon receipt of these amounts, each school district shall distribute the

amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amount specifically appropriated in appropriation items 200901, Property Tax Allocation - Education, for the homestead exemption and the property tax rollback payments, and payments required under division (C) of section 5705.2110 of the Revised Code, which are determined to be necessary for these purposes, are hereby appropriated.

SECTION 263.270. TEACHER CERTIFICATION AND LICENSURE

The foregoing appropriation item 200681, Teacher Certification and Licensure, shall be used by the Department of Education in each year of the biennium to administer and support teacher certification and licensure activities.

SCHOOL DISTRICT SOLVENCY ASSISTANCE

(A) Of the foregoing appropriation item 200687, School District Solvency Assistance, \$20,000,000 in each fiscal year shall be allocated to the School District Shared Resource Account and \$5,000,000 in each fiscal year shall be allocated to the Catastrophic Expenditures Account. These funds shall be used to provide assistance and grants to school districts to enable them to remain solvent under section 3316.20 of the Revised Code. Assistance and grants shall be subject to approval by the Controlling Board. Except as provided under division (C) of this section, any required reimbursements from school districts for solvency assistance shall be made to the appropriate account in the School District Solvency Assistance Fund (Fund 5H30).

(B) Notwithstanding any provision of law to the contrary, upon the request of the Superintendent of Public Instruction, the Director of Budget and Management may make transfers to the School District Solvency Assistance Fund (Fund 5H30) from any fund used by the Department of Education or the General Revenue Fund to maintain sufficient cash balances in Fund 5H30 in fiscal years 2014 and 2015. Any cash transferred is hereby appropriated. The transferred cash may be used by the Department of Education to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary or emergency nature that the school district is unable to pay from existing resources. The Director of Budget and Management shall notify the members of the Controlling Board of any such transfers.

(C) If the cash balance of the School District Solvency Assistance Fund (Fund 5H30) is insufficient to pay solvency assistance in fiscal years 2014 and 2015, at the request of the Superintendent of Public Instruction, and with the approval of the Controlling Board, the Director of Budget and Management may transfer cash from the Lottery Profits Education Reserve Fund (Fund 7018) to Fund 5H30 to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary nature that they are unable to pay from existing resources under section 3316.20 of the Revised Code. Such transfers are hereby appropriated to appropriation item 200670, School District Solvency Assistance – Lottery. Any required reimbursements from school districts for solvency assistance granted from appropriation item 200670, School District Solvency Assistance – Lottery, shall be made to Fund 7018.

SECTION 263.280. SCHOOLS MEDICAID ADMINISTRATIVE CLAIMS

Upon the request of the Superintendent of Public Instruction, the Director of Budget and Management may transfer up to \$750,000 cash in each fiscal year from the General Revenue Fund to the Schools Medicaid Administrative Claims Fund (Fund 3AF0). The transferred cash is to be used by the Department of Education to pay the expenses the Department incurs in administering the Medicaid School Component of the Medicaid program established under sections 5162.36 to 5162.364 of the Revised Code. On June 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer cash from Fund 3AF0 back to the General Revenue Fund in an amount equal to the total amount transferred to Fund 3AF0 in that fiscal year.

The money deposited into Fund 3AF0 under division (B) of section 5162.64 of the Revised Code is hereby appropriated for fiscal years 2014 and 2015 and shall be used in accordance with division (C) of section 5162.64 of the Revised Code.

SECTION 263.290. HALF-MILL MAINTENANCE EQUALIZATION

The foregoing appropriation item 200626, Half-Mill Maintenance Equalization, shall be used to make payments pursuant to section 3318.18 of the Revised Code.

SECTION 263.300. GATES FOUNDATION GRANTS

The foregoing appropriation item 200668, Gates Foundation Grants, shall be used by the Department of Education to provide professional development to school district principals, superintendents, and other administrative staff on the use of education technology.

SECTION 263.310. AUXILIARY SERVICES REIMBURSEMENT

Notwithstanding section 3317.064 of the Revised Code, if the unexpended, unencumbered cash balance is sufficient, the Treasurer of State shall transfer \$1,500,000 in fiscal year 2014 within thirty days after the effective date of this section, and \$1,500,000 in fiscal year 2015 by August 1, 2014, from the Auxiliary Services Personnel Unemployment Compensation Fund to the Auxiliary Services Reimbursement Fund (Fund 5980) used by the Department of Education.

SECTION 263.320. LOTTERY PROFITS EDUCATION FUND

Appropriation item 200612, Foundation Funding (Fund 7017), shall be used in conjunction with appropriation item 200550, Foundation Funding (GRF), to provide state foundation payments to school districts.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200550, Foundation Funding (GRF), and appropriation item 200612, Foundation Funding (Fund 7017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

STRAIGHT A FUND

Of the foregoing appropriation item 200648, Straight A Fund, up to \$70,000 in each fiscal year shall be used by Kids Unlimited of Toledo for quality after-school tutoring and mentoring programs in two elementary school buildings in Lucas County. The school buildings may include any community school, chartered nonpublic school, or building that is part of a city, local, or exempted village school district. Kids Unlimited of Toledo shall provide local matching funds equal to the set-aside.

Of the foregoing appropriation item 200648, Straight A Fund, up to \$250,000 in each fiscal year may be used to make competitive grants in accordance with Section 263.324 of this act.

Of the foregoing appropriation item 200648, Straight A Fund, up to \$6,000,000 in fiscal year 2014 shall be distributed to the Cleveland Municipal School District to be used, as determined by the Department of

Education, to implement provisions of Am. Sub. H.B. 525 of the 129th General Assembly.

Of the foregoing appropriation item 200648, Straight A Fund, up to \$5,000,000 in each fiscal year shall be provided to school districts that meet the conditions prescribed in division (G)(3) of section 3317.0212 of the Revised Code to support innovations that improve the efficiency of pupil transportation. This may include, but is not limited to, the purchase of buses and other equipment. The Department of Education shall distribute these funds to districts based on each district's qualifying ridership as reported under division (B) of section 3317.0212 of the Revised Code.

The remainder of appropriation item 200648, Straight A Fund, shall be used to make competitive grants in accordance with Section 263.325 of this act.

EDCHOICE EXPANSION

The foregoing appropriation item 200666, EdChoice Expansion, shall be used as follows:

(A) In fiscal year 2014, notwithstanding section 3310.032 of the Revised Code, the Department of Education shall administer an expansion of the Educational Choice Scholarship program as follows:

(1) A student is an "eligible student" for purposes of the expansion of the Educational Choice Scholarship Pilot Program under division (A) of this section if the student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code and the student's family income is at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code.

(2) The Department shall pay scholarships to attend chartered nonpublic schools in accordance with section 3310.08 of the Revised Code. The number of scholarships awarded under division (A) of this section shall not exceed the number that can be funded with appropriations made by the general assembly for this purpose.

(3) Scholarships under division (A) of this section shall be awarded for the 2013-2014 school year, to eligible students who are entering kindergarten in that school year for the first time.

(4) If the number of eligible students who apply for a scholarship exceeds the scholarships available based on the appropriation for division (A) of this section, the department shall award scholarships in the following order of priority:

(a) First, to eligible students with family incomes at or below one hundred per cent of the federal poverty guidelines.

(b) Second, to other eligible students who qualify under division (A) of this section. If the number of students described in division (A)(4)(b) of this section exceeds the number of available scholarships after awards are made under division (A)(4)(a) of this section, the department shall select students described in division (A)(4)(b) of this section by lot to receive any remaining scholarships.

(5) A student who receives a scholarship under division (A) of this section remains an eligible student and may continue to receive scholarships under section 3310.032 of the Revised Code in subsequent school years until the student completes grade twelve, so long as the student satisfies the conditions specified in divisions (E)(2) and (3) of section 3310.03 of the Revised Code.

Once a scholarship is awarded under this section, the student shall remain eligible for that scholarship for the current and subsequent school years, even if the student's family income rises above the amount specified in division (A) of section 3310.032 of the Revised Code, provided the student remains enrolled in a chartered nonpublic school.

(B) In fiscal year 2015, to provide for the scholarships awarded under the expansion of the educational choice program established under section 3310.032 of the Revised Code. The number of scholarships awarded under the expansion of the educational choice program shall not exceed the number that can be funded with the appropriations made by the General Assembly for this purpose.

COMMUNITY SCHOOL FACILITIES

The foregoing appropriation item 200684, Community School Facilities, shall be used to pay each community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school and each STEM school established under Chapter 3326. of the Revised Code an amount equal to \$100 for each full-time equivalent pupil for assistance with the cost associated with facilities. If the amount appropriated is not sufficient, the Department of Education shall prorate the amounts so that the aggregate amount appropriated is not exceeded.

SECTION 263.324. (A) A program that has applied for or received a Promise Neighborhood Implementation Grant from the United States Department of Education that is located in a city school district may apply to the Ohio Department of Education for a grant under this section.

(B) To be eligible to receive a grant, a program shall meet either of the following criteria:

(1) The program was awarded a Promise Neighborhood Implementation

Grant in the year for which a grant is sought from the Ohio Department of Education.

(2) The program applied to the United States Department of Education for a Promise Neighborhood Implementation Grant in either the year for which the state grant is sought or in the year prior to which the state grant is sought.

(C) A program that receives a grant from the Ohio Department of Education under this section shall use the funds for administrative costs associated with the Promise Neighborhood Program.

(D) Any program that receives a grant from the Ohio Department of Education under this section shall contribute local matching funds that are equal to the amount of the grant received by the Department.

SECTION 263.325. (A) The Straight A Program is hereby created for fiscal years 2014 and 2015 to provide grants to city, local, exempted village, and joint vocational school districts, educational service centers, community schools established under Chapter 3314., STEM schools established under Chapter 3326., college-preparatory boarding schools established under Chapter 3328. of the Revised Code, individual school buildings, education consortia (which may represent a partnership among school districts, school buildings, community schools, or STEM schools), institutions of higher education, and private entities partnering with one or more of the educational entities identified in this division for projects that aim to achieve significant advancement in one or more of the following goals:

(1) Student achievement;

(2) Spending reduction in the five-year fiscal forecast required under section 5705.391 of the Revised Code;

(3) Utilization of a greater share of resources in the classroom.

(B)(1) Grants shall be awarded by a nine-member governing board consisting of the Superintendent of Public Instruction, or the Superintendent's designee, four members appointed by the Governor, two members appointed by the Speaker of the House of Representatives, and two members appointed by the President of the Senate. The Department of Education shall provide administrative support to the board. No member shall be compensated for the member's service on the board.

(2) The board shall select grant advisors with fiscal expertise and education expertise. These advisors shall evaluate proposals from grant applicants and advise the staff administering the program. No advisor shall be compensated for this service.

(3) The board shall issue an annual report to the Governor, the Speaker

of the House of Representatives, the President of the Senate, and the chairpersons of the House and Senate committees that primarily deal with education regarding the types of grants awarded, the grant recipients, and the effectiveness of the grant program.

(4) The board shall create a grant application and publish on the Department's web site the application and timeline for the submission, review, notification, and awarding of grant proposals.

(5) With the approval of the board, the Department shall establish a system for evaluating and scoring the grant applications received under this section.

(C) Each grant applicant shall submit a proposal that includes all of the following:

(1) A description of the project for which the applicant is seeking a grant, including a description of how the project will have substantial value and lasting impact;

(2) An explanation of how the project will be self-sustaining. If the project will result in increased ongoing spending, the applicant shall show how the spending will be offset by verifiable, credible, permanent spending reductions.

(3) A description of quantifiable results of the project that can be benchmarked.

If an education consortia described in division (A) of this section applies for a grant, the lead applicant shall be the school district, school building, community school, or STEM school that is a member of the consortia and shall so indicate on the grant application.

(D)(1) Within seventy-five days after receiving a grant application, the board shall issue a decision on the application of "yes," "no," "hold," or "edit." In making its decision, the board shall consider whether the project has the capability of being replicated in other school districts and schools or creates something that can be used in other districts and schools. A grant awarded under this section to a school district, educational service center, community school, STEM school, college-preparatory boarding school, individual school building, institution of higher education, or private entity partnering with one or more of the educational entities identified in division (A) of this section shall not exceed \$5,000,000 in each fiscal year. A grant awarded to an education consortia shall not exceed \$15,000,000 in each fiscal year. The Superintendent of Public Instruction may make recommendations to the Controlling Board that these maximum amounts be exceeded. Upon Controlling Board approval, grants may be awarded in excess of these amounts.

(2) If the board issues a "hold" or "edit" decision for an application, it shall, upon returning the application to the applicant, specify the process for reconsideration of the application. An applicant may work with the grant advisors and staff to modify or improve a grant application.

(E) Upon deciding to award a grant to an applicant, the board shall enter into a grant agreement with the applicant that includes all of the following:

(1) The content of the applicant's proposal as outlined under division (C) of this section;

(2) The project's deliverables and a timetable for their completion;

(3) Conditions for receiving grant funding;

(4) Conditions for receiving funding in future years if the contract is a multi-year contract;

(5) A provision specifying that funding will be returned to the board if the applicant fails to implement the agreement, as determined by the Auditor of State.

(6) A provision specifying that the agreement may be amended by mutual agreement between the board and the applicant.

(F) An advisory committee for the Straight A Program is hereby established. The committee shall consist of not more than eleven members appointed by the Governor that represent all areas of the state and different interests. The committee shall annually review the Straight A Program and provide strategic advice to the governing board and the Director of the Governor's Office of 21st Century Education.

(G) Each grant awarded under this section shall be subject to approval by the Controlling Board prior to execution of the grant agreement.

SECTION 263.330. LOTTERY PROFITS EDUCATION RESERVE FUND

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 7018) in the State Treasury. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund.

(B) Notwithstanding any other provision of law to the contrary, the Director of Budget and Management may transfer cash from Fund 7018 to the Lottery Profits Education Fund (Fund 7017) in fiscal year 2014 and fiscal year 2015.

(C) On July 15, 2013, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by Fund 7017 exceeded \$680,500,000 in fiscal year 2013.

(D) On July 15, 2014, or as soon as possible thereafter, the Director of

the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by Fund 7017 exceeded \$841,000,000 in fiscal year 2014.

(E) Notwithstanding any provision of law to the contrary, in fiscal year 2014 and fiscal year 2015, the Director of Budget and Management may transfer cash in excess of the amounts necessary to support appropriations in Fund 7017 from that fund to Fund 7018.

SECTION 263.340. GENERAL REVENUE FUND TRANSFERS TO SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 7047)

Notwithstanding any provision of law to the contrary, in fiscal year 2014 and fiscal year 2015 the Director of Budget and Management may make temporary transfers between the General Revenue Fund and the School District Property Tax Replacement – Business Fund (Fund 7047), used by the Department of Education, to ensure sufficient balances in Fund 7047 and to replenish the General Revenue Fund for such transfers.

SECTION 263.350. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS

The foregoing appropriation item 200909, School District Property Tax Replacement – Business, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts under section 5751.21 of the Revised Code. If it is determined by the Director of Budget and Management that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY

The foregoing appropriation item 200900, School District Property Tax Replacement-Utility, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts under section 5727.85 of the Revised Code. If it is determined by the Director of Budget and Management that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

DISTRIBUTION FORMULAS

The Department of Education shall report the following to the Director of Budget and Management and the Legislative Service Commission:

(A) Changes in formulas for distributing state appropriations, including

administratively defined formula factors;

(B) Discretionary changes in formulas for distributing federal appropriations;

(C) Federally mandated changes in formulas for distributing federal appropriations.

Any such changes shall be reported two weeks prior to the effective date of the change.

SECTION 263.360. EDUCATIONAL SERVICE CENTERS FUNDING

In fiscal year 2014, the Department of Education shall pay the governing board of each primary educational service center state funds equal to thirty-seven dollars times its student count, as calculated under division (G)(1) of section 3313.843 of the Revised Code.

In fiscal year 2015, the Department of Education shall pay the governing board of each primary educational service center state funds equal to thirty-five dollars times its student count, as calculated under division (G)(1) of section 3313.843 of the Revised Code.

If the amount earmarked for the state reimbursement of educational service centers in appropriation item 200550, Foundation Funding, is not sufficient, the Department of Education shall prorate the payment amounts so that the appropriation is not exceeded.

Notwithstanding any provision of law to the contrary, the Department of Education shall modify the payments under this section as follows:

(A) If an educational service center ceases operation, the Department shall redistribute that center's funding, as calculated under this section, to the remaining centers in proportion to each center's service center ADM as defined in former section 3317.11 of the Revised Code, as that section existed prior to the date of its repeal.

(B) If two or more educational service centers merge operations to create a single service center, the Department shall distribute the sum of the original service centers' funding, as calculated under this section, to the new service center.

SECTION 263.370. SCHOOL DISTRICT PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATION PROGRESS

The General Assembly intends for the Superintendent of Public Instruction to provide for school district participation in the administration of the National Assessment of Education Progress in accordance with section 3301.27 of the Revised Code. Each school and school district

selected for participation by the Superintendent of Public Instruction shall participate.

SECTION 263.373. COMMUNITY SCHOOL FUNDING GUARANTEE FOR SBH STUDENTS

(A) As used in this section:

(1) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(2) "SBH student" means a student receiving special education and related services for severe behavior disabilities pursuant to an IEP.

(B) This section applies only to a community school established under Chapter 3314. of the Revised Code that in each of fiscal years 2014 and 2015 enrolls a number of SBH students equal to at least fifty per cent of the total number of students enrolled in the school in the applicable fiscal year.

(C) In addition to any state foundation payments made, in each of fiscal years 2014 and 2015, the Department of Education shall pay to a community school to which this section applies a subsidy equal to the difference between the aggregate amount calculated and paid in that fiscal year to the community school for special education and related services additional weighted costs for the SBH students enrolled in the school and the aggregate amount that would have been calculated for the school for special education and related services additional weighted costs for those same students in fiscal year 2001. If the difference is a negative number, the amount of the subsidy shall be zero.

(D) The amount of any subsidy paid to a community school under this section shall not be deducted from the school district in which any of the students enrolled in the community school are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. The amount of any subsidy paid to a community school under this section shall be paid from funds appropriated to the Department of Education in appropriation item 200550, Foundation Funding.

SECTION 263.380. EARMARK ACCOUNTABILITY

At the request of the Superintendent of Public Instruction, any entity that receives a budget earmark under the Department of Education shall submit annually to the chairpersons of the committees of the House of Representatives and the Senate primarily concerned with education and to the Department of Education a report that includes a description of the services supported by the funds, a description of the results achieved by

those services, an analysis of the effectiveness of the program, and an opinion as to the program's applicability to other school districts. For an earmarked entity that received state funds from an earmark in the prior fiscal year, no funds shall be provided by the Department of Education to an earmarked entity for a fiscal year until its report for the prior fiscal year has been submitted.

SECTION 263.390. COMMUNITY SCHOOL OPERATING FROM HOME

A community school established under Chapter 3314. of the Revised Code that was open for operation as a community school as of May 1, 2005, may operate from or in any home, as defined in section 3313.64 of the Revised Code, located in the state, regardless of when the community school's operations from or in a particular home began.

SECTION 263.400. USE OF VOLUNTEERS

The Department of Education may utilize the services of volunteers to accomplish any of the purposes of the Department. The Superintendent of Public Instruction shall approve for what purposes volunteers may be used and for these purposes may recruit, train, and oversee the services of volunteers. The Superintendent may reimburse volunteers for necessary and appropriate expenses in accordance with state guidelines and may designate volunteers as state employees for the purpose of motor vehicle accident liability insurance under section 9.83 of the Revised Code, for immunity under section 9.86 of the Revised Code, and for indemnification from liability incurred in the performance of their duties under section 9.87 of the Revised Code.

SECTION 263.410. RESTRICTION OF LIABILITY FOR CERTAIN REIMBURSEMENTS

(A) Except as expressly required under a court judgment not subject to further appeals, or a settlement agreement with a school district executed on or before June 1, 2009, in the case of a school district for which the formula ADM for fiscal year 2005, as reported for that fiscal year under division (A) of section 3317.03 of the Revised Code, was reduced based on enrollment reports for community schools, made under section 3314.08 of the Revised Code, regarding students entitled to attend school in the district, which reduction of formula ADM resulted in a reduction of foundation funding or

transitional aid funding for fiscal year 2005, 2006, or 2007, no school district, except a district named in the court's judgment or the settlement agreement, shall have a legal claim for reimbursement of the amount of such reduction in foundation funding or transitional aid funding, and the state shall not have liability for reimbursement of the amount of such reduction in foundation funding or transitional aid funding.

(B) As used in this section:

(1) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(3) "Foundation funding" means payments calculated for the respective fiscal year under Chapter 3317. of the Revised Code.

(4) "Transitional aid funding" means payments calculated for the respective fiscal year under Section 41.37 of Am. Sub. H.B. 95 of the 125th General Assembly, as subsequently amended; Section 206.09.39 of Am. Sub. H.B. 66 of the 126th General Assembly, as subsequently amended; and Section 269.30.80 of Am. Sub. H.B. 119 of the 127th General Assembly.

SECTION 263.420. UNAUDITABLE COMMUNITY SCHOOL

(A) If the Auditor of State or a public accountant, pursuant to section 117.41 of the Revised Code, declares a community school established under Chapter 3314. of the Revised Code to be unauditabile, the Auditor of State shall provide written notification of that declaration to the school, the school's sponsor, and the Department of Education. The Auditor of State also shall post the notification on the Auditor of State's web site.

(B) Notwithstanding any provision to the contrary in Chapter 3314. of the Revised Code or any other provision of law, a sponsor of a community school that is notified by the Auditor of State under division (A) of this section that a community school it sponsors is unauditabile shall not enter into contracts with any additional community schools under section 3314.03 of the Revised Code until the Auditor of State or a public accountant has completed a financial audit of that school.

(C) Not later than forty-five days after receiving notification by the Auditor of State under division (A) of this section that a community school is unauditabile, the sponsor of the school shall provide a written response to the Auditor of State. The response shall include the following:

(1) An overview of the process the sponsor will use to review and understand the circumstances that led to the community school becoming unauditabile;

(2) A plan for providing the Auditor of State with the documentation necessary to complete an audit of the community school and for ensuring that all financial documents are available in the future;

(3) The actions the sponsor will take to ensure that the plan described in division (C)(2) of this section is implemented.

(D) If a community school fails to make reasonable efforts and continuing progress to bring its accounts, records, files, or reports into an auditable condition within ninety days after being declared unauditible, the Auditor of State, in addition to requesting legal action under sections 117.41 and 117.42 of the Revised Code, shall notify the Department of the school's failure. If the Auditor of State or a public accountant subsequently is able to complete a financial audit of the school, the Auditor of State shall notify the Department that the audit has been completed.

(E) Notwithstanding any provision to the contrary in Chapter 3314. of the Revised Code or any other provision of law, upon notification by the Auditor of State under division (D) of this section that a community school has failed to make reasonable efforts and continuing progress to bring its accounts, records, files, or reports into an auditable condition following a declaration that the school is unauditible, the Department shall immediately cease all payments to the school under Chapter 3314. of the Revised Code and any other provision of law. Upon subsequent notification from the Auditor of State under that division that the Auditor of State or a public accountant was able to complete a financial audit of the community school, the Department shall release all funds withheld from the school under this section.

SECTION 263.430. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN

In collaboration with the County Family and Children First Council, a city, local, or exempted village school district, community school, STEM school, joint vocational school district, educational service center, or county board of developmental disabilities that receives allocations from the Department of Education from appropriation item 200550, Foundation Funding, or appropriation item 200540, Special Education Enhancements, may transfer portions of those allocations to a flexible funding pool authorized by the Section of this act entitled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL." Allocations used for maintenance of effort or for federal or state funding matching requirements shall not be transferred unless the allocation may still be used to meet such requirements.

SECTION 263.440. The Department of Education shall conduct for the 2014-2015 school year a formative evaluation of the Jon Peterson Special Needs Scholarship Program established under sections 3310.51 to 3310.64 of the Revised Code and shall report, not later than December 31, 2015, its findings to the General Assembly in accordance with section 101.68 of the Revised Code.

In conducting the evaluation, the Department shall to the extent possible gather comments from parents who have been awarded scholarships under the program, school district officials, representatives of registered private providers, educators, and representatives of educational organizations for inclusion in the report required under this section.

The Department may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct this study. The Department may accept grants to assist in funding this study.

SECTION 263.450. (A) The Ohio Open Enrollment Task Force is hereby established to review and make recommendations on open enrollment. The Superintendent of Public Instruction shall consult with the Governor's Office of 21st Century Education to convene a taskforce that consists of representatives from school districts that represent all sectors of Ohio's educational community.

(B) The Superintendent shall designate the chairperson of the Task Force. All meetings of the Task Force shall be held at the call of the chairperson.

(C) The Task Force shall review and make recommendations regarding the process by which students may enroll in other school districts under open enrollment and the funding mechanisms associated with open enrollment deductions and credits.

(D) Not later than December 31, 2013, the Task Force shall issue a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Upon issuance of the report, the Task Force shall cease to exist.

SECTION 263.470. (A)(1) On July 1, 2013, all responsibilities of the former eTech Ohio Commission related to the purchase of software services and supplies, the redistribution of hardware and software from closed community schools, and technology-related teacher professional

development programs are transferred from the former eTech Ohio Commission to the Department of Education as described in sections 125.05, 3314.074, and 3319.235 of the Revised Code, as amended by this act. The Department is thereupon and thereafter successor to. assumes the obligations of, and otherwise constitutes the continuation of the eTech Ohio Commission relating to these responsibilities.

(2) Any business related to these responsibilities commenced but not completed by the former eTech Ohio Commission shall be completed by the Department in the same manner, and with the same effect, as if completed by the eTech Ohio Commission. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer, and shall be recognized, administered, performed, or enforced by the Department.

(3) All of the rules of the eTech Ohio Commission related to these responsibilities continue in effect as rules of the Department, until amended or rescinded by the Department.

(4) Any judicial or administrative action or proceeding related to these responsibilities, in which the eTech Ohio Commission is a party, that is pending on the effective date of this section is affected by the transfer. Such action or proceeding shall be prosecuted or defended in the name of the Department. On application to the court or other tribunal, the Department of Education shall be substituted for the eTech Ohio Commission as a party to such action or proceeding.

(5) Subject to the layoff provisions of sections 124.321 to 124.328 and division (D) of section 3353.03 of the Revised Code, as amended by this act, all employees of the former eTech Ohio Commission assigned to these responsibilities continue with the Department and retain their positions and all benefits accruing thereto.

(6) All books, records, documents, files, transcripts, equipment, furniture, supplies, and other materials related to these responsibilities assigned to or in the possession of the former eTech Ohio Commission shall be transferred to the Department.

(7) All employees of the former eTech Ohio Commission who transferred to the Department of Education upon the reconstitution of the Commission as prescribed by Section 278.20 of H.B. 59 of the 130th General Assembly and who when employed by that Commission or a predecessor agency were included in a bargaining unit established under Chapter 4117. of the Revised Code, shall continue to be included in that bargaining unit, are public employees as defined in section 4117.01 of the

Revised Code, and may collectively bargain with the state Board of Education in accordance with that chapter. Otherwise, any employee hired by the Department after the reconstitution of the Commission, either to fill vacancies or to fill new positions related to the transferred employees' duties, shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.

(B) On July 1, 2013, or as soon as possible thereafter, notwithstanding any provision of law to the contrary, and if requested by the Department of Education, the Director of Budget and Management shall make budget changes made necessary by the transfer of the operations and related management functions of the eTech Ohio Commission to the Department of Education, if any, including administrative organization, program transfers, the creation of new funds, the transfer of state funds, and the consolidation of funds, as authorized by this section. The Director of Budget and Management may, if necessary, establish encumbrances or parts of encumbrances in the fiscal year 2014-2015 biennium in the appropriate fund and appropriation item for the same purpose and for payment to the same vendor. The established encumbrances plus any additional amounts determined to be necessary for the Ohio Department of Education to perform the operations and related management functions of the eTech Ohio Commission are hereby appropriated.

(C) Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 935607, Gates Foundation Grants, and re-establish them against appropriation item 200668, Gates Foundation Grants. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 935607 by July 1, 2013, shall be completed under appropriation item 200668 in the same manner and with the same effect as if it were completed with regard to appropriation item 935607.

(D) Effective July 1, 2013, the Director of Budget and Management shall cancel existing encumbrances against appropriation item 935408, General Operations, and re-establish them, as determined to be appropriate by the Director of Budget and Management, against appropriation item 200464, General Technology Operations. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 935408 by July 1, 2013, shall be completed, as determined to be appropriate by the Director of Budget and Management, under appropriation item 200464 in the same manner and with the same effect as if it were completed with regard to appropriation item 935408.

(E) Effective July 1, 2013, the Director of Budget and Management shall cancel existing encumbrances against appropriation item 935411, Technology Integration and Professional Development, and re-establish them, as determined to be appropriate by the Director of Budget and Management, against appropriation item 200465, Technology Integration and Professional Development. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 935411 by July 1, 2013, shall be completed, as determined to be appropriate by the Director of Budget and Management, under appropriation item 200465 in the same manner and with the same effect as if it were completed with regard to appropriation item 935411.

(F) There is hereby created the Educational Technology Practice Office as a cross-functional office comprised of employees of the Ohio Board of Regents and the Department of Education, including former employees of the eTech Ohio Commission transferred to the Ohio Board of Regents and the Department of Education. The Office shall work with educational service centers and information technology centers to develop digital learning, blended learning, and professional development materials using shared infrastructure. The Office shall also evaluate new educational technology and methodologies of teaching and learning and work with educators to increase awareness of such new technology and methodologies shown to be helpful to Ohio students.

SECTION 263.473. Notwithstanding sections 3321.01 and 3324.10 of the Revised Code, no student who was admitted to and successfully completed kindergarten in the 2012-2013 school year shall be required to repeat kindergarten based solely on the age of the student. As used in this section, "successfully completed kindergarten" means that the student attended kindergarten for not less than three-fourths of the school year.

SECTION 263.480. PRIVATE TREATMENT FACILITY PROJECT

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2014 or fiscal year 2015 or both, the Department pays through appropriation item 470401, RECLAIM Ohio;

(b) Abraxas, in Shelby;

(c) Paint Creek, in Bainbridge;

(d) F.I.R.S.T., in Mansfield.

(2) "Education program" means an elementary or secondary education program or a special education program and related services.

(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.

(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition.

(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.

(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to children under twenty-two years of age residing in the treatment center.

(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal year 2014 and fiscal year 2015 to the education program provider and in the amount specified in this division. If there is no school district responsible for tuition for a residential child and if the participating residential treatment center to which the child is assigned is located in the city, exempted village, or local school district that, if the child were not a resident of that treatment center, would be the school district where the child is entitled to attend school under sections 3313.64 and 3313.65 of the Revised Code, that school district, notwithstanding any conflicting provision of the Revised Code, shall pay tuition for the child for fiscal year 2014 and fiscal year 2015 under this division unless that school district is providing the educational program to

the child under division (B) of this section.

A tuition payment under this division shall be made to the school district, educational service center, or residential treatment facility providing the educational program to the child.

The amount of tuition paid shall be:

(1) The amount of tuition determined for the district under division (A) of section 3317.08 of the Revised Code;

(2) In addition, for any student receiving special education pursuant to an individualized education program as defined in section 3323.01 of the Revised Code, a payment for excess costs. This payment shall equal the actual cost to the school district, educational service center, or residential treatment facility of providing special education and related services to the student pursuant to the student's individualized education program, minus the tuition paid for the child under division (C)(1) of this section.

A school district paying tuition under this division shall not include the child for whom tuition is paid in the district's average daily membership certified under division (A) of section 3317.03 of the Revised Code.

(D) In each of fiscal years 2014 and 2015, the Department of Education shall reimburse, from appropriations made for the purpose, a school district, educational service center, or residential treatment facility, whichever is providing the service, that has demonstrated that it is in compliance with the funding criteria for each served child for whom a school district must pay tuition under division (C) of this section. The amount of the reimbursement shall be the amount appropriated for this purpose divided by the full-time equivalent number of children for whom reimbursement is to be made.

(E) Funds provided to a school district, educational service center, or residential treatment facility under this section shall be used to supplement, not supplant, funds from other public sources for which the school district, service center, or residential treatment facility is entitled or eligible.

(F) The Department of Education shall track the utilization of funds provided to school districts, educational service centers, and residential treatment facilities under this section and monitor the effect of the funding on the educational programs they provide in participating residential treatment facilities. The Department shall monitor the programs for educational accountability.

SECTION 263.500. (A) Not later than December 31, 2013, the Department of Education shall adopt new quality program standards for the career-technical education programs described in division (C) of section 3317.014 of the Revised Code, as amended by this act.

(B) Not later than June 30, 2015, the Department shall adopt new quality program standards for the career-technical education programs described in divisions (A), (B), (D), and (E) of section 3317.014 of the Revised Code, as amended by this act.

(C) Notwithstanding anything to the contrary in section 3317.161 of the Revised Code, as enacted by this act, during fiscal year 2015, the Department shall conduct a review of all career-technical education programs described in division (C) of section 3317.014 of the Revised Code, as amended by this act, using the quality program standards adopted under division (A) of this section. The Department shall decide based on this review whether to approve or disapprove the program for funding for the following five fiscal years and shall notify each city, local, exempted village, and joint vocational school district, community school, or STEM school that provides a career-technical education program or programs that is reviewed under this division of its decision not later than May 15, 2015.

Any program subject to review under this division that was approved by the Department for an approval period that includes fiscal year 2015 shall retain its approved status during that fiscal year.

SECTION 263.510. The amendment of sections 3311.19 and 3313.911 of the Revised Code by this act shall not be construed to require a joint vocational school district to amend the plan for that joint vocational school district that is on file with the Department of Education.

SECTION 265.10. ELC OHIO ELECTIONS COMMISSION

General Revenue Fund

GRF 051321	Operating Expenses	\$	333,117	\$	333,117
TOTAL GRF General Revenue Fund		\$	333,117	\$	333,117

General Services Fund Group

4P20 051601	Ohio Elections Commission Fund	\$	225,000	\$	225,000
TOTAL GSF General Services Fund Group		\$	225,000	\$	225,000
TOTAL ALL BUDGET FUND GROUPS		\$	558,117	\$	558,117

SECTION 267.10. FUN STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

General Services Fund Group

4K90 881609	Operating Expenses	\$	737,000	\$	741,000
TOTAL GSF General Services Fund Group		\$	737,000	\$	741,000
TOTAL ALL BUDGET FUND GROUPS		\$	737,000	\$	741,000

SECTION 269.10. PAY EMPLOYEE BENEFITS FUNDS

Accrued Leave Liability Fund Group

8060	995666	Accrued Leave Fund	\$	73,494,242	\$	74,964,127
8070	995667	Disability Fund	\$	26,593,747	\$	27,345,147
TOTAL ALF Accrued Leave Liability Fund Group			\$	100,087,989	\$	102,309,274

Agency Fund Group

1240	995673	Payroll Deductions	\$	775,712,468	\$	814,498,091
8080	995668	State Employee Health Benefit Fund	\$	689,654,314	\$	758,608,963
8090	995669	Dependent Care Spending Account	\$	2,967,711	\$	3,116,097
8100	995670	Life Insurance Investment Fund	\$	2,143,053	\$	2,143,053
8110	995671	Parental Leave Benefit Fund	\$	3,668,471	\$	3,741,840
8130	995672	Health Care Spending Account	\$	8,033,020	\$	8,434,671
TOTAL AGY Agency Fund Group			\$	1,482,179,037	\$	1,590,542,715
TOTAL ALL BUDGET FUND GROUPS			\$	1,582,267,026	\$	1,692,851,989

ACCRUED LEAVE LIABILITY FUND

The foregoing appropriation item 995666, Accrued Leave Fund, shall be used to make payments from the Accrued Leave Liability Fund (Fund 8060) pursuant to section 125.211 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND

The foregoing appropriation item 995667, Disability Fund, shall be used to make payments from the State Employee Disability Leave Benefit Fund (Fund 8070) pursuant to section 124.83 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

PAYROLL DEDUCTION FUND

The foregoing appropriation item 995673, Payroll Deductions, shall be used to make payments from the Payroll Deduction Fund (Fund 1240) pursuant to section 125.21 of the Revised Code. If it is determined by the Director of Budget and Management that additional appropriation amounts are necessary, the amounts are hereby appropriated.

STATE EMPLOYEE HEALTH BENEFIT FUND

The foregoing appropriation item 995668, State Employee Health Benefit Fund, shall be used to make payments from the State Employee Health Benefit Fund (Fund 8080) pursuant to section 124.87 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

DEPENDENT CARE SPENDING FUND

The foregoing appropriation item 995669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Fund (Fund 8090) to employees eligible for dependent care expenses pursuant to section 124.822 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

LIFE INSURANCE INVESTMENT FUND

The foregoing appropriation item 995670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 8100) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

PARENTAL LEAVE BENEFIT FUND

The foregoing appropriation item 995671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 8110) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

HEALTH CARE SPENDING ACCOUNT FUND

The foregoing appropriation item 995672, Health Care Spending Account, shall be used to make payments from the Health Care Spending Account Fund (Fund 8130) for payments pursuant to state employees' participation in a flexible spending account for non-reimbursed health care expenses and section 124.821 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated.

SECTION 269.20. CASH TRANSFERS FROM THE COST SAVINGS FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$735,000 cash from the Cost Savings Fund (Fund 8140) to the Investment Recovery Fund (Fund 4270) used by the Department of Administrative Services, and up to \$5,200,000 cash from the Cost Savings Fund (Fund 8140) to the Accrued Leave Fund (Fund 8060) in order to support accrued leave payouts to state employees who are

participating in an annual leave conversion or who are separating from state service.

SECTION 271.10. ERB STATE EMPLOYMENT RELATIONS BOARD

General Revenue Fund

GRF 125321	Operating Expenses	\$	3,761,457	\$	3,761,457
TOTAL GRF General Revenue Fund		\$	3,761,457	\$	3,761,457

General Services Fund Group

5720 125603	Training and Publications	\$	85,000	\$	85,000
TOTAL GSF General Services Fund Group		\$	85,000	\$	85,000
TOTAL ALL BUDGET FUND GROUPS		\$	3,846,457	\$	3,846,457

SECTION 273.10. ENG STATE BOARD OF ENGINEERS AND SURVEYORS

General Services Fund Group

4K90 892609	Operating Expenses	\$	996,938	\$	993,889
TOTAL GSF General Services Fund Group		\$	996,938	\$	993,889
TOTAL ALL BUDGET FUND GROUPS		\$	996,938	\$	993,889

SECTION 275.10. EPA ENVIRONMENTAL PROTECTION AGENCY

General Revenue Fund

GRF 715502	Auto Emissions e-Check Program	\$	10,923,093	\$	10,923,093
TOTAL GRF General Revenue Fund		\$	10,923,093	\$	10,923,093

General Services Fund Group

1990 715602	Laboratory Services	\$	252,153	\$	326,029
2190 715604	Central Support Indirect	\$	10,255,680	\$	10,255,680
4A10 715640	Operating Expenses	\$	2,600,000	\$	2,602,000
4D50 715618	Recycled State Materials	\$	50,000	\$	50,000
TOTAL GSF General Services Fund Group		\$	13,157,833	\$	13,233,709

Federal Special Revenue Fund Group

3530 715612	Public Water Supply	\$	2,562,578	\$	2,474,605
3540 715614	Hazardous Waste Management - Federal	\$	4,088,383	\$	4,088,383
3570 715619	Air Pollution Control - Federal	\$	6,310,203	\$	6,310,203
3620 715605	Underground Injection Control - Federal	\$	111,874	\$	111,874
3BU0 715684	Water Quality Protection	\$	16,205,000	\$	15,280,000
3CS0 715688	Federal NRD Settlements	\$	200,000	\$	200,000
3F20 715630	Revolving Loan Fund - Operating	\$	832,543	\$	1,114,543
3F30 715632	Federally Supported Cleanup	\$	3,012,021	\$	3,012,991

		and Response				
3FH0	715693	Diesel Emission Reduction Grants	\$	10,000,000	\$	10,000,000
3T30	715669	Drinking Water State Revolving Fund	\$	2,609,198	\$	2,824,076
3V70	715606	Agencywide Grants	\$	600,000	\$	600,000
TOTAL FED Federal Special Revenue Fund Group			\$	46,531,800	\$	46,016,675
State Special Revenue Fund Group						
4J00	715638	Underground Injection Control	\$	389,126	\$	402,697
4K20	715648	Clean Air - Non Title V	\$	3,165,400	\$	3,237,450
4K30	715649	Solid Waste	\$	15,685,342	\$	16,330,873
4K40	715650	Surface Water Protection	\$	6,993,800	\$	7,688,800
4K40	715686	Environmental Laboratory Services	\$	2,096,007	\$	2,096,007
4K50	715651	Drinking Water Protection	\$	6,316,772	\$	6,476,011
4P50	715654	Cozart Landfill	\$	100,000	\$	100,000
4R50	715656	Scrap Tire Management	\$	1,059,378	\$	1,070,532
4R90	715658	Voluntary Action Program	\$	916,690	\$	945,195
4T30	715659	Clean Air - Title V Permit Program	\$	14,528,885	\$	15,080,366
4U70	715660	Construction and Demolition Debris	\$	335,000	\$	335,000
5000	715608	Immediate Removal Special Account	\$	660,033	\$	660,293
5030	715621	Hazardous Waste Facility Management	\$	7,615,403	\$	8,224,041
5050	715623	Hazardous Waste Cleanup	\$	14,528,609	\$	14,933,345
5050	715674	Clean Ohio Environmental Review	\$	108,104	\$	108,104
5320	715646	Recycling and Litter Control	\$	4,514,500	\$	4,535,500
5410	715670	Site Specific Cleanup	\$	1,548,101	\$	1,548,101
5420	715671	Risk Management Reporting	\$	208,936	\$	214,826
5860	715637	Scrap Tire Market Development	\$	1,497,645	\$	1,497,645
5BC0	715617	Clean Ohio	\$	611,455	\$	611,455
5BC0	715622	Local Air Pollution Control	\$	2,297,980	\$	2,297,980
5BC0	715624	Surface Water	\$	9,614,974	\$	9,614,974
5BC0	715672	Air Pollution Control	\$	5,684,758	\$	5,684,758
5BC0	715673	Drinking and Ground Water	\$	4,863,521	\$	4,863,521
5BC0	715676	Assistance and Prevention	\$	695,069	\$	695,069
5BC0	715677	Laboratory	\$	1,358,586	\$	1,558,586
5BC0	715678	Corrective Actions	\$	705,423	\$	705,423
5BC0	715687	Areawide Planning Agencies	\$	450,000	\$	450,000
5BC0	715692	Administration	\$	10,582,627	\$	10,582,627
5BC0	715694	Environmental Resource Coordination	\$	170,000	\$	170,000
5BT0	715679	C&DD Groundwater Monitoring	\$	203,800	\$	203,800
5CD0	715682	Clean Diesel School Buses	\$	475,000	\$	475,000
5H40	715664	Groundwater Support	\$	128,212	\$	223,212
5Y30	715685	Surface Water Improvement	\$	1,800,000	\$	1,800,000
6440	715631	Emergency Response	\$	284,266	\$	290,674

		Radiological Safety			
6600	715629	Infectious Waste Management	\$	88,764	\$ 88,764
6760	715642	Water Pollution Control Loan Administration	\$	3,921,605	\$ 3,921,605
6780	715635	Air Toxic Release	\$	133,636	\$ 133,636
6790	715636	Emergency Planning	\$	2,623,252	\$ 2,623,252
6960	715643	Air Pollution Control Administration	\$	1,100,000	\$ 1,125,000
6990	715644	Water Pollution Control Administration	\$	345,000	\$ 345,000
6A10	715645	Environmental Education	\$	1,350,000	\$ 1,350,000
TOTAL SSR State Special Revenue Fund Group			\$	131,755,659	\$ 135,299,122
Clean Ohio Conservation Fund Group					
5S10	715607	Clean Ohio - Operating	\$	284,124	\$ 284,124
TOTAL CLF Clean Ohio Conservation Fund Group			\$	284,124	\$ 284,124
TOTAL ALL BUDGET FUND GROUPS			\$	202,652,509	\$ 205,756,723

AREAWIDE PLANNING AGENCIES

The Director of Environmental Protection Agency may award grants from appropriation item 715687, Areawide Planning Agencies, to areawide planning agencies engaged in areawide water quality management and planning activities in accordance with Section 208 of the "Federal Clean Water Act," 33 U.S.C. 1288.

CASH TRANSFERS

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$11,400,000 cash from the Hazardous Waste Management Fund (Fund 5030) to the Hazardous Waste Cleanup Fund (Fund 5050) to support closure and corrective action programs that were transferred to the Division of Environmental Response and Revitalization.

On July 1, 2013, or as soon as possible thereafter, the Director of Environmental Protection shall certify to the Director of Budget and Management the cash balance in the Dredge and Fill Fund (Fund 5N20). The Director of Budget and Management shall transfer the certified amount from Fund 5N20 to the Surface Water Protection Fund (Fund 4K40). Any existing encumbrances against appropriation item 715613, Dredge and Fill, shall be canceled and reestablished against appropriation item 715650, Surface Water Protection. The reestablished encumbrance amounts are hereby appropriated and Fund 5N20 is abolished.

SECTION 277.10. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION
 General Revenue Fund

GRF 172321	Operating Expenses	\$	545,530	\$	545,530
TOTAL GRF	General Revenue Fund	\$	545,530	\$	545,530
TOTAL ALL BUDGET FUND GROUPS		\$	545,530	\$	545,530

SECTION 278.10. ETC BROADCAST EDUCATIONAL MEDIA COMMISSION

General Revenue Fund

GRF 935401	Statehouse News Bureau	\$	215,561	\$	215,561
GRF 935402	Ohio Government Telecommunications Services	\$	1,252,089	\$	1,252,089
GRF 935408	General Operations	\$	495,000	\$	495,000
GRF 935409	Technology Operations	\$	2,743,962	\$	2,743,962
GRF 935410	Content Development, Acquisition, and Distribution	\$	2,607,094	\$	2,607,094
GRF 935412	Information Technology	\$	500,000	\$	500,000
TOTAL GRF	General Revenue Fund	\$	7,813,706	\$	7,813,706

General Services Fund Group

4F30 935603	Affiliate Services	\$	50,000	\$	50,000
4T20 935605	Government Television/Telecommunications Operating	\$	25,000	\$	25,000
TOTAL GSF	General Services Fund Group	\$	75,000	\$	75,000

State Special Revenue Fund Group

5FK0 935608	Media Services	\$	491,373	\$	491,373
TOTAL SSR	State Special Revenue Fund Group	\$	491,373	\$	491,373
TOTAL ALL BUDGET FUND GROUPS		\$	8,380,079	\$	8,380,079

SECTION 278.20. STATEHOUSE NEWS BUREAU

The foregoing appropriation item 935401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau.

OHIO GOVERNMENT TELECOMMUNICATIONS SERVICES

The foregoing appropriation item 935402, Ohio Government Telecommunications Services, shall be used solely to support the operations of Ohio Government Telecommunications Services which include providing multimedia support to the state government and its affiliated organizations and broadcasting the activities of the legislative, judicial, and executive branches of state government, among its other functions.

TECHNOLOGY OPERATIONS

The foregoing appropriation item 935409, Technology Operations, shall be used by the Broadcast Educational Media Commission to pay expenses of the network infrastructure, which includes the television and radio transmission infrastructure and infrastructure that shall link all public K-12 classrooms to each other and to the Internet, and provide access to voice,

video, other communication services, and data educational resources for students and teachers.

CONTENT DEVELOPMENT, ACQUISITION, AND DISTRIBUTION

The foregoing appropriation item 935410, Content Development, Acquisition, and Distribution, shall be used for the development, acquisition, and distribution of information resources by public media and radio reading services and for educational use in the classroom and online.

Of the foregoing appropriation item 935410, Content Development, Acquisition, and Distribution, up to \$658,099 in each fiscal year shall be allocated equally among the Ohio educational television stations. Funds shall be used for the production of interactive instructional programming series with priority given to resources aligned with state academic content standards. The programming shall be targeted to the needs of the poorest two hundred school districts as determined by the district's adjusted valuation per pupil as defined in former section 3317.0213 of the Revised Code as that section existed prior to June 30, 2005.

Of the foregoing appropriation item 935410, Content Development, Acquisition, and Distribution, up to \$1,749,283 in each fiscal year shall be distributed by the Broadcast Educational Media Commission to Ohio's qualified public educational television stations and educational radio stations to support their operations. The funds shall be distributed pursuant to an allocation formula used by the Ohio Educational Telecommunications Network Commission unless a substitute formula is developed by the Broadcast Educational Media Commission in consultation with Ohio's qualified public educational television stations and educational radio stations.

Of the foregoing appropriation item 935410, Content Development, Acquisition, and Distribution, up to \$199,712 in each fiscal year shall be distributed by the Broadcast Educational Media Commission to Ohio's qualified radio reading services to support their operations. The funds shall be distributed pursuant to an allocation formula used by the Ohio Educational Telecommunications Network Commission unless a substitute formula is developed by the Broadcast Educational Media Commission in consultation with Ohio's qualified radio reading services.

ADMINISTRATION AND OPERATIONS OF THE BROADCAST EDUCATIONAL MEDIA COMMISSION

Notwithstanding any provision of law to the contrary, a portion of the foregoing appropriation items 935408. General Operations, 935412, Information Technology, 935603, Affiliate Services, 935605. Government

Television/Telecommunications Operating, and 935608, Media Services, may be used as determined to be appropriate by the Broadcast Educational Media Commission for the administration and operations of the Broadcast Educational Media Commission.

Effective July 1, 2013, notwithstanding any provision of the law to the contrary, the Director of Budget and Management may make budget changes made necessary by the renaming and reconstitution of the eTech Ohio Commission as the Broadcast Educational Media Commission, among the Broadcast Educational Media Commission, Board of Regents, and Department of Education, including administrative organization, program transfers, the creation of new funds, the transfer of state funds, the consolidation of funds, and the transfer of capital appropriations, as authorized by this section.

(A) BROADCAST EDUCATIONAL MEDIA COMMISSION

On July 1, 2013, the eTech Ohio Commission is renamed and reconstituted as the Broadcast Educational Media Commission, as described in section 3353.02 of the Revised Code as amended by this act. The Broadcast Educational Media Commission is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the eTech Ohio Commission, for all obligations related to the state's educational broadcasting services, including educational television, radio, and radio reading services.

Any business related to the state's educational television, radio, or radio reading services commenced but not completed by the eTech Ohio Commission shall be completed by the Broadcast Educational Media Commission in the same manner, and with the same effect, as if completed by the eTech Ohio Commission. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the renaming, and shall be recognized, administered, performed, or enforced by the Broadcast Educational Media Commission.

All of the rules of the eTech Ohio Commission related to the state's educational broadcasting services, including educational television, radio, or radio reading services, continue in effect as rules of the Broadcast Educational Media Commission, until amended or rescinded by the Broadcast Educational Media Commission.

No judicial or administrative action or proceeding related to the state's educational broadcasting services, including educational television, radio, or radio reading services, in which the eTech Ohio Commission is a party, that is pending on the effective date of this section is affected by the renaming. Such action or proceeding shall be prosecuted or defended in the name of

the Broadcast Educational Media Commission. On application to the court or other tribunal, the Broadcast Educational Media Commission shall be substituted for the eTech Ohio Commission as a party to such action or proceeding.

Subject to the lay-off provisions of sections 124.321 to 124.328 and division (D) of section 3353.03 of the Revised Code, as amended by this act, the Broadcast Educational Media Commission may retain, at its discretion, employees of the former eTech Ohio Commission that are currently assigned to activities related to the state's educational broadcasting services, including educational television, radio, or radio reading services. If retained, employees shall continue with the Broadcast Educational Media Commission and retain their positions and all benefits accruing thereto.

All books, records, documents, files, transcripts, equipment, furniture, supplies, and other materials related to the state's educational broadcasting services, including educational television, radio, or radio reading services, assigned to or in the possession of the former eTech Ohio Commission shall be transferred to the Broadcast Educational Media Commission.

Each current member of the eTech Ohio Commission shall serve until June 30, 2013. On July 1, 2013, or as soon after July 1, 2013, as possible, each member shall either be reappointed or replaced by another member to serve on the Broadcast Educational Media Commission pursuant to section 3353.02 of the Revised Code, as amended by this act.

(B) MEMBERSHIP OF THE BROADCAST EDUCATIONAL MEDIA COMMISSION

The Broadcast Educational Media Commission, as described in section 3353.02 of the Revised Code as amended by this act, shall consist of fifteen members, eleven of whom shall be voting members. Nine of the voting members shall be representatives of the public selected from among leading citizens in the state who have demonstrated interest in educational broadcast media through service on boards or advisory councils of educational television stations, educational radio stations, educational technology agencies, or radio reading services. Of the representatives of the public, three shall be appointed by the Governor with the advice and consent of the Senate, three shall be appointed by the Speaker of the House of Representatives, and three shall be appointed by the President of the Senate. Not more than two members appointed by the Speaker of the House of Representatives and not more than two members appointed by the President of the Senate shall be of the same political party. The Superintendent of Public Instruction or a designee of the Superintendent, and the Chancellor of the Ohio Board of Regents or a designee of the Chancellor shall be ex

officio voting members. Of the nonvoting members, two shall be members of the House of Representatives appointed by the Speaker of the House of Representatives and two shall be members of the Senate appointed by the President of the Senate. The members appointed from each chamber shall not be members of the same political party.

Initial terms of office for appointed voting members shall be as follows:

(1) For one member appointed by each of the Governor, Speaker of the House of Representatives, and President of the Senate, one year;

(2) For one member appointed by each of the Governor, Speaker of the House of Representatives, and President of the Senate, two years;

(3) For one member appointed by each of the Governor, Speaker of the House of Representatives, and President of the Senate, three years.

At the first meeting of the Commission, such members shall draw lots to determine the length of the term each member will serve. Thereafter, terms of office for such members shall be for four years. Any member who is a representative of the public may be reappointed by the member's respective appointing authority, but no such member may serve more than two consecutive four-year terms. Such a member may be removed by the member's respective appointing authority for cause.

Any legislative member appointed by the Speaker of the House of Representatives or the President of the Senate who ceases to be a member of the legislative chamber from which the member was appointed shall cease to be a member of the Commission. The Speaker of the House of Representatives and the President of the Senate may remove their respective appointments to the Commission at any time.

Vacancies among appointed members shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any appointed member shall continue in office subsequent to the expiration of that member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

Members of the Commission shall serve without compensation. The members who are representatives of the public shall be reimbursed, pursuant to Office of Budget and Management guidelines, for actual and necessary expenses incurred in the performance of official duties.

The Governor shall appoint the chairperson of the Commission from among the Commission's public voting members. The chairperson shall serve a term of two years and may be reappointed. The Commission shall elect other officers as necessary from among its voting members and shall

prescribe its rules of procedure.

(C) EXECUTIVE DIRECTOR OF THE BROADCAST EDUCATIONAL MEDIA COMMISSION

The Broadcast Educational Media Commission shall appoint an Executive Director, who shall serve at the pleasure of the commission. The Executive Director shall have no authority other than that provided by law or delegated to the Executive Director by the Commission. The Executive Director shall do all of the following:

- (1) Direct the administration of all programs of the Commission;
- (2) Provide leadership and support in extending the knowledge of the citizens of this state by promoting equal access to and use of educational broadcast media, as directed by the Commission;
- (3) Provide financial and other assistance to educational television and radio stations, radio reading services, and related organizations and activities;
- (4) Implement policies and directives issued by the Commission;
- (5) Perform other duties authorized by the Commission.

The Commission shall fix the compensation of the Executive Director. The Executive Director shall employ and fix the compensation for such employees as necessary to facilitate the activities and purposes of the Commission. The employees shall serve at the pleasure of the Executive Director.

The employees of the Commission shall be placed in the unclassified service.

Except as provided in the immediately succeeding paragraph of this section, the employees of the Commission shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.

All employees of the Commission who transferred to the Commission from one of the Commission's predecessor agencies upon the Commission's creation and, when employed by the predecessor agency were included in a bargaining unit established under Chapter 4117. of the Revised Code, shall continue to be included in that bargaining unit, are public employees as defined in section 4117.01 of the Revised Code, and may collectively bargain with the Commission in accordance with that chapter. Otherwise, any employee hired by the Commission after July 1, 2005, either to fill vacancies or to fill new positions, shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.10 of the Revised Code.

(D) DUTIES OF THE BROADCAST EDUCATIONAL MEDIA

COMMISSION

The Broadcast Educational Media Commission may perform any act necessary to carry out the functions of Chapter 3353. of the Revised Code, as amended by this act, including any of the following:

(1) Promote accessibility through broadcasting services of educational products aligned with the statewide academic standards, adopted by the state board pursuant to section 3301.079 of the Revised Code, for school districts, community schools, and other entities serving grades kindergarten through twelve;

(2) Own or operate transmission facilities and interconnection facilities, or contract for transmission facilities and interconnection facilities, for an educational television, radio, or radio reading service network;

(3) Establish standards for interconnection facilities used by the Commission in the transmission of educational television, radio, or radio reading service programming;

(4) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the operation of the interconnection;

(5) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the production and use of educational television, radio, or radio reading service programs to be transmitted by the educational telecommunications network;

(6) Execute contracts and other agreements necessary and desirable to carry out the purposes of this chapter and other duties prescribed to the Commission by law or authorize the Executive Director of the Commission to execute such contracts and agreements on the Commission's behalf;

(7) Act as consultant with educational television and educational radio stations and radio reading services toward coordination within the state of the distribution of federal funds that may become available for equipment for educational broadcasting or radio reading services;

(8) Make payments to noncommercial Ohio educational television or radio broadcasting stations or radio reading services to sustain the operation of such stations or services;

(9) In consultation with participants in programs administered by the Commission, establish guidelines governing purchasing and procurement that facilitate the timely and effective implementation of such programs;

(10) In consultation with participants in programs administered by the Commission, consider the efficiency and cost savings of statewide procurement prior to allocating and releasing funds for such programs;

(11) In consultation with participants in programs administered by the

Commission, establish a systems support network to facilitate the timely implementation of the programs and other projects and activities for which the Commission provides assistance.

Chapters 123., 124., 125., and 153. of the Revised Code and sections 9.331 to 9.335 of the Revised Code do not apply to contracts, programs, projects, or activities of the Commission.

Any duties and responsibilities of the former eTech Ohio Commission not transferred in accordance with this section or Sections 263.470 or 363.570 of this act are eliminated on July 1, 2013.

SECTION 279.10. ETH OHIO ETHICS COMMISSION

General Revenue Fund

GRF 146321	Operating Expenses	\$	1,409,751	\$	1,381,556
TOTAL GRF General Revenue Fund		\$	1,409,751	\$	1,381,556

General Services Fund Group

4M60 146601	Operating Expenses	\$	636,388	\$	641,000
TOTAL GSF General Services Fund Group		\$	636,388	\$	641,000
TOTAL ALL BUDGET FUND GROUPS		\$	2,046,139	\$	2,022,556

SECTION 281.10. EXP OHIO EXPOSITIONS COMMISSION

General Revenue Fund

GRF 723403	Junior Fair Subsidy	\$	250,000	\$	250,000
GRF 723501	Construction Planning	\$	670,000	\$	0
TOTAL GRF General Revenue Fund		\$	920,000	\$	250,000

State Special Revenue Fund Group

4N20 723602	Ohio State Fair Harness Racing	\$	235,000	\$	235,000
5060 723601	Operating Expenses	\$	12,894,000	\$	12,894,000
TOTAL SSR State Special Revenue Fund Group		\$	13,129,000	\$	13,129,000
TOTAL ALL BUDGET FUND GROUPS		\$	14,049,000	\$	13,379,000

CONSTRUCTION PLANNING

The foregoing appropriation item 723501, Construction Planning, shall be used for acquiring purchased services for new and renovated facility planning, including, but not limited to, necessary architectural engineering, land or facility use consulting services, and facility construction. An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 723501, Construction Planning, is hereby reappropriated for the same purpose in FY 2015.

STATE FAIR RESERVE

The General Manager of the Expositions Commission, in consultation with the Director of Budget and Management, may submit a request to the

Controlling Board to use available amounts in the State Fair Reserve Fund (Fund 6400) if revenues for the Ohio State Fair for the 2013 or 2014 Ohio State Fair are unexpectedly low.

SECTION 282.10. FCC OHIO FACILITIES CONSTRUCTION COMMISSION					
General Revenue Fund					
GRF	230401	Lease Rental Payments - Cultural Facilities	\$	33,106,400	\$ 29,854,500
GRF	230458	State Construction Management Services	\$	2,495,751	\$ 2,245,751
GRF	230908	Common Schools General Obligation Debt Service	\$	351,806,100	\$ 377,364,700
TOTAL GRF General Revenue Fund			\$	387,408,251	\$ 409,464,951
General Services Fund Group					
1310	230639	State Construction Management Operations	\$	9,463,342	\$ 9,463,342
TOTAL GSF General Services Fund Group			\$	9,463,342	\$ 9,463,342
State Special Revenue Fund Group					
4T80	230603	Community Project Administration	\$	200,000	\$ 200,000
5E30	230644	Operating Expenses	\$	8,550,000	\$ 8,550,000
TOTAL SSR State Special Revenue Fund Group			\$	8,750,000	\$ 8,750,000
TOTAL ALL BUDGET FUND GROUPS			\$	405,621,593	\$ 427,678,293

SECTION 282.20. LEASE RENTAL PAYMENTS

The foregoing appropriation item 230401, Lease Rental Payments - Cultural Facilities, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, from the Ohio Facilities Construction Commission under the primary leases and agreements for those arts and sports facilities made under Chapters 152. and 154. of the Revised Code. These appropriations are the source of funds pledged for bond service charges on related obligations issued under Chapters 152. and 154. of the Revised Code.

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 230908, Common Schools General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, for obligations issued under sections 151.01 and 151.03 of the Revised Code.

SECTION 282.30. COMMUNITY PROJECT ADMINISTRATION

The foregoing appropriation item 230603, Community Project Administration, shall be used by the Ohio Facilities Construction Commission in administering Cultural and Sports Facilities Building Fund (Fund 7030) projects pursuant to section 123.201 of the Revised Code.

SECTION 282.40. OPERATING EXPENSES

The foregoing appropriation item 230644, Operating Expenses, shall be used by the Ohio School Facilities Commission to carry out its responsibilities under this section and Chapter 3318. of the Revised Code.

In both fiscal years 2014 and 2015, the Executive Director of the Ohio School Facilities Commission shall certify on a quarterly basis to the Director of Budget and Management the amount of cash from interest earnings to be transferred from the School Building Assistance Fund (Fund 7032), the Public School Building Fund (Fund 7021), and the Educational Facilities Trust Fund (Fund N087) to the Ohio School Facilities Commission Fund (Fund 5E30). The amount transferred from the School Building Assistance Fund (Fund 7032) may not exceed investment earnings credited to the fund, less any amount required to be paid for federal arbitrage rebate purposes.

If the Executive Director of the Ohio Facilities Construction Commission determines that transferring cash from interest earnings is insufficient to support operations and carry out its responsibilities under this section and Chapter 3318. of the Revised Code, the Commission may, with the approval of the Controlling Board, transfer cash not generated from interest from the Public School Building Fund (Fund 7021) and the Educational Trust Fund (Fund N087) to the Ohio School Facilities Commission Fund (Fund 5E30).

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION

At the request of the Executive Director of the Ohio School Facilities Commission, the Director of Budget and Management may cancel encumbrances for school district projects from a previous biennium if the district has not raised its local share of project costs within thirteen months of receiving Controlling Board approval under section 3318.05 or 3318.41 of the Revised Code. The Executive Director of the Ohio School Facilities Commission shall certify the amounts of the canceled encumbrances to the Director of Budget and Management on a quarterly basis. The amounts of

the canceled encumbrances are hereby appropriated.

SECTION 282.50. CAPITAL DONATIONS FUND CERTIFICATIONS AND APPROPRIATIONS

On July 1, 2013, or as soon as possible thereafter, the Executive Director of the Facilities Construction Commission shall certify to the Director of Budget and Management the amount of cash receipts and related investment income, irrevocable letters of credit from a bank, or certification of the availability of funds that have been received from a county or a municipal corporation for deposit into the Capital Donations Fund (Fund 5A10) and that are related to an anticipated project. These amounts are hereby appropriated to appropriation item C37146, Capital Donations. Prior to certifying these amounts to the Director, the Executive Director shall make a written agreement with the participating entity on the necessary cash flows required for the anticipated construction or equipment acquisition project.

SECTION 282.60. AMENDMENT TO PROJECT AGREEMENT FOR MAINTENANCE LEVY

The Ohio School Facilities Commission shall amend the project agreement between the Commission and a school district that is participating in the Accelerated Urban School Building Assistance Program on the effective date of this section, if the Commission determines that it is necessary to do so in order to comply with division (B)(3)(c) of section 3318.38 of the Revised Code.

SECTION 282.70. Notwithstanding any other provision of law to the contrary, the Ohio School Facilities Commission may determine the amount of funding available for disbursement in a given fiscal year for any project approved under sections 3318.01 to 3318.20 of the Revised Code in order to keep aggregate state capital spending within approved limits and may take actions including, but not limited to, determining the schedule for design or bidding of approved projects, to ensure appropriate and supportable cash flow.

SECTION 282.80. Notwithstanding division (B) of section 3318.40 of the Revised Code, the Ohio School Facilities Commission may provide assistance to at least one joint vocational school district each fiscal year for

the acquisition of classroom facilities in accordance with sections 3318.40 to 3318.45 of the Revised Code.

SECTION 282.90. The Ohio Cultural Facilities Commission is abolished. Except as otherwise provided in this section, all obligations of the Ohio Cultural Facilities Commission under agreements to which the Ohio Cultural Facilities Commission is a party, and all records and assets of the Ohio Cultural Facilities Commission, including, without limitation, equipment, inventory, contract rights, accounts, and general intangibles, are transferred to the Ohio Facilities Construction Commission.

The Ohio Facilities Construction Commission shall designate the positions, if any, to be transferred to the Ohio Facilities Construction Commission, along with any equipment assigned to those positions. Any employee transferred to the Ohio Facilities Construction Commission retains the employee's respective classification, but the Ohio Facilities Construction Commission may reassign and reclassify the employee's position and compensation as the Ohio Facilities Construction Commission determines to be in the best interest of office administration.

The Ohio Facilities Construction Commission shall complete any activities related to the design, planning, construction, and related management functions commenced but not completed by the Ohio Cultural Facilities Commission in the same manner and with the same effect as if the Ohio Cultural Facilities Commission had completed them. The consolidation of the commissions shall not cause the loss or impairment of any validation, cure, right, privilege, remedy, obligation, or liability, which the Ohio Facilities Construction Commission shall administer.

All rules, orders, and determinations related to the design, planning, and construction and related management functions of the Ohio Cultural Facilities Commission continue in effect as rules, orders, and determinations of the Ohio Facilities Construction Commission until the Ohio Facilities Construction Commission modifies or rescinds them. The Director of the Legislative Service Commission shall renumber the rules of the Ohio Cultural Facilities Commission related to that commission's design, planning, and construction and related management functions to reflect their transfer to the Ohio Facilities Construction Commission.

The transfer of functions from the Ohio Cultural Facilities Commission to the Ohio Facilities Construction Commission does not affect any pending judicial or administrative action or proceeding to which the Ohio Cultural

Facilities Commission is a party and that is related to that commission's design, planning, construction, capital funding, or related management functions. Any such action or proceeding shall be prosecuted or defended in the name of the Ohio Facilities Construction Commission. On application to the court or agency, the Ohio Facilities Construction Commission shall be substituted for the Ohio Cultural Facilities Commission as a party to the action or proceeding.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 371603, Project Administration, and re-establish them against appropriation item 230603, Community Project Administration. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 371603 by July 1, 2013, shall be completed under appropriation item 230603 in the same manner and with the same effect as if it were completed with regard to appropriation item 371603.

Funds collected as part of a management contract for the Riffe Theatres, which previously were deposited in the Ohio Cultural Facilities Commission Administration Fund (Fund 4T80), shall be credited to the Theater Equipment Maintenance Fund (Fund 5MV0), which is hereby created in the State Treasury. The Director of Budget and Management shall transfer from the Ohio Cultural Facilities Commission Administration Fund to the Theater Equipment Maintenance Fund any remaining cash balances from funds collected as part of a management contract for the Riffe Theatres. In order to facilitate this transfer, the Executive Director of the Ohio Facilities Construction Commission, by July 1, 2013, or as soon as possible thereafter, shall certify to the Director of Budget and Management an estimate of the amount to be transferred. The Department of Administrative Services shall use appropriation item 100662, Theater Equipment Maintenance, to spend cash in the Theater Equipment Maintenance Fund (Fund 5MV0).

The Ohio Facilities Construction Commission may enter into an interagency agreement with the Department of Administrative Services for the Department to perform any of the functions transferred to the Ohio Facilities Construction Commission under this section.

Any reference to the Ohio Cultural Facilities Commission in any statute, rule, contract, grant, or other document is deemed to refer to the Ohio Facilities Construction Commission.

The Ohio Facilities Construction Commission, the Ohio Public Facilities Commission, and the issuing authority of any obligations issued for the financing of capital facilities for Ohio cultural facilities and Ohio

sports facilities may execute instruments, documents, and agreements and may take necessary or appropriate actions to effect the orderly transfer of those obligations from the Ohio Cultural Facilities Commission to the Ohio Facilities Construction Commission.

This section takes effect July 1, 2013.

SECTION 283.10. GOV OFFICE OF THE GOVERNOR

General Revenue Fund

GRF 040321	Operating Expenses	\$	2,851,552	\$	2,851,552
TOTAL GRF General Revenue Fund		\$	2,851,552	\$	2,851,552

General Services Fund Group

5AK0 040607	Government Relations	\$	365,149	\$	365,149
TOTAL GSF General Services Fund Group		\$	365,149	\$	365,149
TOTAL ALL BUDGET FUND GROUPS		\$	3,216,701	\$	3,216,701

GOVERNMENT RELATIONS

A portion of the foregoing appropriation item 040607, Government Relations, may be used to support Ohio's membership in national or regional associations.

The Office of the Governor may charge any state agency of the executive branch using an intrastate transfer voucher such amounts necessary to defray the costs incurred for the conduct of governmental relations associated with issues that can be attributed to the agency. Amounts collected shall be deposited in the Government Relations Fund (Fund 5AK0).

SECTION 285.10. DOH DEPARTMENT OF HEALTH

General Revenue Fund

GRF440412	Cancer Incidence Surveillance System	\$	600,000	\$	600,000
GRF440413	Local Health Departments	\$	823,061	\$	823,061
GRF440416	Mothers and Children Safety Net Services	\$	4,428,015	\$	4,428,015
GRF440418	Immunizations	\$	8,825,829	\$	8,825,829
GRF440431	Free Clinics Safety Net Services	\$	437,326	\$	437,326
GRF440438	Breast and Cervical Cancer Screening	\$	823,217	\$	823,217
GRF440444	AIDS Prevention and Treatment	\$	5,842,315	\$	5,842,315
GRF440451	Public Health Laboratory	\$	3,655,449	\$	3,655,449
GRF440452	Child and Family Health Services Match	\$	630,444	\$	630,444
GRF440453	Health Care Quality Assurance	\$	4,874,361	\$	4,874,361
GRF440454	Environmental Health	\$	1,194,634	\$	1,194,634

GRF440459	Help Me Grow	\$	33,673,987	\$	33,673,987
GRF440465	Federally Qualified Health Centers	\$	2,686,688	\$	2,686,688
GRF440467	Access to Dental Care	\$	540,484	\$	540,484
GRF440468	Chronic Disease and Injury Prevention	\$	2,447,251	\$	2,447,251
GRF440472	Alcohol Testing	\$	1,100,000	\$	1,100,000
GRF440473	Tobacco Prevention and Cessation	\$	1,050,000	\$	1,050,000
GRF440474	Infant Vitality	\$	3,116,688	\$	3,116,688
GRF440505	Medically Handicapped Children	\$	7,512,451	\$	7,512,451
GRF440507	Targeted Health Care Services Over 21	\$	1,045,414	\$	1,045,414
GRF654453	Medicaid - Health Care Quality Assurance	\$	3,300,000	\$	3,300,000
TOTAL GRF General Revenue Fund		\$	88,607,614	\$	88,607,614
State Highway Safety Fund Group					
4T40 440603	Child Highway Safety	\$	233,894	\$	233,894
TOTAL HSF State Highway Safety Fund Group		\$	233,894	\$	233,894
General Services Fund Group					
1420 440646	Agency Health Services	\$	820,998	\$	820,998
2110 440613	Central Support Indirect Costs	\$	30,615,591	\$	31,052,469
4730 440622	Lab Operating Expenses	\$	5,000,000	\$	5,000,000
6980 440634	Nurse Aide Training	\$	99,265	\$	99,265
TOTAL GSF General Services Fund Group		\$	36,535,854	\$	36,972,732
Federal Special Revenue Fund Group					
3200 440601	Maternal Child Health Block Grant	\$	23,889,057	\$	23,889,057
3870 440602	Preventive Health Block Grant	\$	6,000,000	\$	6,000,000
3890 440604	Women, Infants, and Children	\$	250,000,000	\$	250,000,000
3910 440606	Medicare Survey and Certification	\$	19,449,282	\$	19,961,405
3920 440618	Federal Public Health Programs	\$	134,546,304	\$	135,140,586
3GD0 654601	Medicaid Program Support	\$	21,126,014	\$	22,392,094
TOTAL FED Federal Special Revenue Fund Group		\$	455,010,657	\$	457,383,142
State Special Revenue Fund Group					
4700 440647	Fee Supported Programs	\$	25,305,250	\$	25,613,586
4710 440619	Certificate of Need	\$	878,433	\$	878,433
4770 440627	Medically Handicapped Children Audit	\$	3,692,703	\$	3,692,703
4D60 440608	Genetics Services	\$	3,311,039	\$	3,311,039
4F90 440610	Sickle Cell Disease Control	\$	1,032,824	\$	1,032,824
4G00 440636	Heirloom Birth Certificate	\$	5,000	\$	5,000
4G00 440637	Birth Certificate Surcharge	\$	5,000	\$	5,000
4L30 440609	HIV Care and Miscellaneous Expenses	\$	8,333,164	\$	8,333,164

3509

4P40	440628	Ohio Physician Loan Repayment	\$	476,870	\$	476,870
4V60	440641	Save Our Sight	\$	2,255,789	\$	2,255,789
5B50	440616	Quality, Monitoring, and Inspection	\$	878,997	\$	878,997
5CN0	440645	Choose Life	\$	75,000	\$	75,000
5D60	440620	Second Chance Trust	\$	1,151,902	\$	1,151,902
5ED0	440651	Smoke Free Indoor Air	\$	250,000	\$	250,000
5G40	440639	Adoption Services	\$	20,000	\$	20,000
5Z70	440624	Ohio Dentist Loan Repayment	\$	140,000	\$	140,000
6100	440626	Radiation Emergency Response	\$	1,049,954	\$	1,086,098
6660	440607	Medically Handicapped Children - County Assessments	\$	19,739,617	\$	19,739,617
TOTAL SSR State Special Revenue Fund Group			\$	68,601,542	\$	68,946,022
Holding Account Redistribution Fund Group						
R014	440631	Vital Statistics	\$	44,986	\$	44,986
R048	440625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,000	\$	20,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	64,986	\$	64,986
Tobacco Master Settlement Agreement Fund Group						
5BX0	440656	Tobacco Use Prevention	\$	1,450,000	\$	1,450,000
TOTAL TSF Tobacco Master Settlement Agreement Fund Group			\$	1,450,000	\$	1,450,000
TOTAL ALL BUDGET FUND GROUPS			\$	650,504,547	\$	653,658,390

SECTION 285.20. MOTHERS AND CHILDREN SAFETY NET SERVICES

Of the foregoing appropriation item 440416, Mothers and Children Safety Net Services, \$200,000 in each fiscal year shall be used to assist families with hearing impaired children under twenty-one years of age in purchasing hearing aids. The Director of Health shall adopt rules governing the distribution of these funds, including rules that do both of the following: (1) establish eligibility criteria to include families with incomes at or below four hundred per cent of the federal poverty guidelines as defined in section 5101.46 of the Revised Code, and (2) develop a sliding scale of disbursements under this section based on family income. The Director may adopt other rules as necessary to implement this section. Rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

The Department shall disburse all of the funds appropriated under this section.

HIV/AIDS PREVENTION/TREATMENT

The foregoing appropriation item 440444, AIDS Prevention and Treatment, shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications and to administer educational prevention initiatives.

PUBLIC HEALTH LABORATORY

A portion of the foregoing appropriation item 440451, Public Health Laboratory, shall be used for coordination and management of prevention program operations and the purchase of drugs for sexually transmitted diseases.

HELP ME GROW

The foregoing appropriation item 440459, Help Me Grow, shall be used by the Department of Health to implement the Help Me Grow Program. Funds shall be distributed to counties through agreements, contracts, grants, or subsidies in accordance with section 3701.61 of the Revised Code. Appropriation item 440459, Help Me Grow, may be used in conjunction with other early childhood funds and services to promote the optimal development of young children and family-centered programs and services that acknowledge and support the social, emotional, cognitive, intellectual, and physical development of children and the vital role of families in ensuring the well-being and success of children. The Department of Health shall enter into interagency agreements with the Department of Education, Department of Developmental Disabilities, Department of Job and Family Services, and Department of Mental Health and Addiction Services to ensure that all early childhood programs and initiatives are coordinated and school linked.

The foregoing appropriation item 440459, Help Me Grow, may also be used for the Developmental Autism and Screening Program.

INFANT VITALITY

The foregoing appropriation item 440474, Infant Vitality, shall be used to fund the following projects, which are hereby created:

(A) The Infant Safe Sleep Campaign to educate parents and caregivers with a uniform message regarding safe sleep environments;

(B) The Progesterone Prematurity Prevention Project to enable prenatal care providers to identify, screen, treat, and track outcomes for women eligible for progesterone supplementation; and

(C) The Prenatal Smoking Cessation Project to enable prenatal care providers who work with women of reproductive age, including pregnant women, to have the tools, training, and technical assistance needed to treat smokers effectively.

TARGETED HEALTH CARE SERVICES OVER 21

The foregoing appropriation item 440507, Targeted Health Care Services Over 21, shall be used to administer the Cystic Fibrosis Program and to implement the Hemophilia Insurance Premium Payment Program.

The foregoing appropriation item 440507, Targeted Health Care Services Over 21, shall also be used to provide essential medications and to pay the copayments for drugs approved by the Department of Health and covered by Medicare Part D that are dispensed to Bureau for Children with Medical Handicaps (BCMH) participants for the Cystic Fibrosis Program.

The Department shall expend all of these funds.

CASH TRANSFERS TO THE MEDICAID FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Health shall certify to the Director of Budget and Management the cash balance relating to Medicaid restructuring in the following funds, all used by the Department of Health: the General Operations Fund (Fund 4700); the General Operations Fund (Fund 1420); the General Operations Fund (Fund 3920); and the Medicaid/Medicare Fund (Fund 3910). Upon receiving this certification, the Director of Budget and Management may transfer the amount certified to the Medicaid Fund (Fund 3GD0), used by the Department of Health. If this transfer occurs, the Director of Budget and Management shall cancel any existing encumbrances pertaining to Medicaid in appropriation items 440647, Fee Supported Programs, 440646, Agency Health Services, 440618, Federal Public Health Programs, and 440606, Medicare Survey and Certification, and reestablish them against appropriation item 654601, Medicaid Program Support. The reestablished encumbrance amounts are hereby appropriated.

GENETICS SERVICES

The foregoing appropriation item 440608, Genetics Services (Fund 4D60), shall be used by the Department of Health to administer programs authorized by sections 3701.501 and 3701.502 of the Revised Code. None of these funds shall be used to counsel or refer for abortion, except in the case of a medical emergency.

MEDICALLY HANDICAPPED CHILDREN AUDIT

The Medically Handicapped Children Audit Fund (Fund 4770) shall receive revenue from audits of hospitals and recoveries from third-party payers. Moneys may be expended for payment of audit settlements and for costs directly related to obtaining recoveries from third-party payers and for encouraging Medically Handicapped Children's Program recipients to apply for third-party benefits. Moneys also may be expended for payments for diagnostic and treatment services on behalf of medically handicapped

children, as defined in division (A) of section 3701.022 of the Revised Code, and Ohio residents who are twenty-one or more years of age and who are suffering from cystic fibrosis or hemophilia. Moneys may also be expended for administrative expenses incurred in operating the Medically Handicapped Children's Program.

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS

The foregoing appropriation item 440607, Medically Handicapped Children - County Assessments (Fund 6660), shall be used to make payments under division (E) of section 3701.023 of the Revised Code.

CASH TRANSFER FROM THE PUBLIC HEALTH PRIORITIES TRUST FUND TO THE TOBACCO USE PREVENTION FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$2,439,230 cash from the Public Health Priorities Trust Fund (Fund L087) to the Tobacco Use Prevention Fund (Fund 5BX0) to meet the operating needs of the Department of Health's tobacco enforcement and cessation efforts.

SECTION 285.30. DEPARTMENT OF HEALTH'S APPROPRIATION ITEM STRUCTURE

Upon request from the Director of Health, the Director of Budget and Management may establish new funds, new appropriation items, and appropriations in order to support the transition to a new appropriation item structure in the Department of Health's budget. Also, upon request of the Director of Health, the Director of Budget and Management may transfer appropriations between GRF appropriation items, transfer cash between any funds used by the Department of Health, abolish existing funds used by the Department of Health, and cancel and reestablish encumbrances. Any establishment of new funds or appropriation items, any transfers of appropriations or cash, and any increases in appropriation under this section are subject to Controlling Board approval.

SECTION 285.40. WIC VENDOR CONTRACTS

(A) As used in this section, "WIC" means the Special Supplemental Nutrition Program for Women, Infants, and Children established under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1786, as amended.

(B) During fiscal year 2014 and fiscal year 2015, the Department of Health shall process and review a WIC vendor contract application pursuant to Chapter 3701-42 of the Administrative Code not later than forty-five days

after receipt of the application if the applicant is a WIC-contracted vendor at the time of application and meets all of the following requirements:

(1) Submits a complete WIC vendor application with all required documents and information;

(2) Passes the required unannounced preauthorization visit within forty-five days of submitting a complete application;

(3) Completes the required in-person training within forty-five days of submitting the complete application.

(C) If an applicant fails to meet any of the requirements described in division (B) of this section, the Department shall deny the application for the contract. After an application has been denied, the applicant may reapply for a contract to act as a WIC vendor during the contracting cycle that is applicable to the applicant's WIC region.

SECTION 287.10. HEF HIGHER EDUCATIONAL FACILITY COMMISSION

Agency Fund Group

4610 372601	Operating Expenses	\$	12,500	\$	12,500
TOTAL AGY Agency Fund Group		\$	12,500	\$	12,500
TOTAL ALL BUDGET FUND GROUPS		\$	12,500	\$	12,500

SECTION 289.10. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS

General Revenue Fund

GRF 148100	Personal Services	\$	333,037	\$	347,852
GRF 148402	Community Programs	\$	44,924	\$	44,924
TOTAL GRF General Revenue Fund		\$	377,961	\$	392,776

General Services Fund Group

6010 148602	Special Initiatives	\$	24,558	\$	24,558
TOTAL GSF General Services Fund Group		\$	24,558	\$	24,558
TOTAL ALL BUDGET FUND GROUPS		\$	402,519	\$	417,334

SECTION 291.10. OHS OHIO HISTORICAL SOCIETY

General Revenue Fund

GRF 360501	Education and Collections	\$	3,618,997	\$	3,618,997
GRF 360502	Site and Museum Operations	\$	4,926,288	\$	5,426,288
GRF 360504	Ohio Preservation Office	\$	290,000	\$	290,000
GRF 360505	National Afro-American Museum	\$	414,798	\$	414,798
GRF 360506	Hayes Presidential Center	\$	309,147	\$	309,147
GRF 360508	State Historical Grants	\$	500,000	\$	400,000
GRF 360509	Outreach and Partnership	\$	90,395	\$	90,395

3514

TOTAL GRF General Revenue Fund	\$	10,149,625	\$	10,549,625
Agency Fund Group				
5KL0 360602 Ohio History Tax Check-off	\$	250,000	\$	250,000
TOTAL AGY Agency Fund Group	\$	250,000	\$	250,000
TOTAL ALL BUDGET FUND GROUPS	\$	10,399,625	\$	10,799,625

SUBSIDY APPROPRIATION

Upon approval by the Director of Budget and Management, the foregoing appropriation items shall be released to the Ohio Historical Society in quarterly amounts that in total do not exceed the annual appropriations. The funds and fiscal records of the society for fiscal year 2014 and fiscal year 2015 shall be examined by independent certified public accountants approved by the Auditor of State, and a copy of the audited financial statements shall be filed with the Office of Budget and Management. The society shall prepare and submit to the Office of Budget and Management the following:

(A) An estimated operating budget for each fiscal year of the biennium. The operating budget shall be submitted at or near the beginning of each calendar year.

(B) Financial reports, indicating actual receipts and expenditures for the fiscal year to date. These reports shall be filed at least semiannually during the fiscal biennium.

The foregoing appropriations shall be considered to be the contractual consideration provided by the state to support the state's offer to contract with the Ohio Historical Society under section 149.30 of the Revised Code.

STATE HISTORICAL GRANTS

Of the foregoing appropriation item 360508, State Historical Grants, \$200,000 in each fiscal year shall be used for the Cincinnati Museum Center, \$200,000 in each fiscal year shall be used for the Western Reserve Historical Society, and \$100,000 in fiscal year 2014 shall be used to complete renovations and additional construction work on the Chardon Heritage House.

SECTION 293.10. REP OHIO HOUSE OF REPRESENTATIVES**General Revenue Fund**

GRF 025321 Operating Expenses	\$	20,891,091	\$	20,891,091
TOTAL GRF General Revenue Fund	\$	20,891,091	\$	20,891,091

General Services Fund Group

1030 025601 House Reimbursement	\$	1,433,664	\$	1,433,664
4A40 025602 Miscellaneous Sales	\$	37,849	\$	37,849
TOTAL GSF General Services				
Fund Group	\$	1,471,513	\$	1,471,513
TOTAL ALL BUDGET FUND GROUPS	\$	22,362,604	\$	22,362,604

OPERATING EXPENSES

On July 1, 2013, or as soon as possible thereafter, the Chief Administrative Officer of the House of Representatives may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 025321, Operating Expenses, at the end of fiscal year 2013 to be reappropriated to fiscal year 2014. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2014.

On July 1, 2014, or as soon as possible thereafter, the Chief Administrative Officer of the House of Representatives may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 025321, Operating Expenses, at the end of fiscal year 2014 to be reappropriated to fiscal year 2015. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2015.

HOUSE REIMBURSEMENT

If it is determined by the Chief Administrative Officer of the House of Representatives that additional appropriations are necessary for the foregoing appropriation item 025601, House Reimbursement, the amounts are hereby appropriated.

SECTION 295.10. HFA OHIO HOUSING FINANCE AGENCY**State Special Revenue Fund Group**

5AZ0 997601	Housing Finance Agency	\$	12,526,713	\$	12,850,014
	Personal Services				
TOTAL SSR State Special Revenue Fund Group		\$	12,526,713	\$	12,850,014
TOTAL ALL BUDGET FUND GROUPS		\$	12,526,713	\$	12,850,014

SECTION 297.10. IGO OFFICE OF THE INSPECTOR GENERAL**General Revenue Fund**

GRF 965321	Operating Expenses	\$	1,175,598	\$	1,175,598
GRF 965404	Deputy Inspector General for ARRA	\$	475,000	\$	350,000
TOTAL GRF General Revenue Fund		\$	1,650,598	\$	1,525,598

General Services Fund Group

5FA0 965603	Deputy Inspector General for ODOT	\$	400,000	\$	400,000
5FT0 965604	Deputy Inspector General for BWC/OIC	\$	425,000	\$	425,000
5GI0 965605	Deputy Inspector General for ARRA	\$	25,000	\$	0
TOTAL GSF General Services Fund Group		\$	850,000	\$	825,000

TOTAL ALL BUDGET FUND GROUPS	\$	2,500,598	\$	2,350,598
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SECTION 299.10. INS DEPARTMENT OF INSURANCE

Federal Special Revenue Fund Group

3EV0 820610	Health Insurance Premium Review	\$	1,300,000	\$	1,300,000
3U50 820602	OSHIIP Operating Grant	\$	1,970,725	\$	1,970,725
TOTAL FED Federal Special Revenue Fund Group		\$	3,270,725	\$	3,270,725

State Special Revenue Fund Group

5540 820601	Operating Expenses - OSHIIP	\$	180,000	\$	180,000
5540 820606	Operating Expenses	\$	27,570,433	\$	24,910,367
5550 820605	Examination	\$	8,184,065	\$	8,184,065
TOTAL SSR State Special Revenue Fund Group		\$	35,934,498	\$	33,274,432
TOTAL ALL BUDGET FUND GROUPS		\$	39,205,223	\$	36,545,157

MARKET CONDUCT EXAMINATION

When conducting a market conduct examination of any insurer doing business in this state, the Superintendent of Insurance may assess the costs of the examination against the insurer. The superintendent may enter into consent agreements to impose administrative assessments or fines for conduct discovered that may be violations of statutes or rules administered by the Superintendent. All costs, assessments, or fines collected shall be deposited to the credit of the Department of Insurance Operating Fund (Fund 5540).

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES

The Director of Budget and Management, at the request of the Superintendent of Insurance, may transfer funds from the Department of Insurance Operating Fund (Fund 5540), established by section 3901.021 of the Revised Code, to the Superintendent's Examination Fund (Fund 5550), established by section 3901.071 of the Revised Code, only for expenses incurred in examining domestic fraternal benefit societies as required by section 3921.28 of the Revised Code.

TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND

Not later than the thirty-first day of July each fiscal year, the Director of Budget and Management shall transfer \$5,000,000 from the Department of Insurance Operating Fund (Fund 5540) to the General Revenue Fund.

SECTION 301.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES

General Revenue Fund

GRF600321	Program Support	\$	31,320,964	\$	31,109,751
GRF600410	TANF State/Maintenance of Effort	\$	152,386,934	\$	152,386,934
GRF600413	Child Care State/Maintenance of Effort	\$	84,732,730	\$	84,732,730
GRF600416	Information Technology Projects	\$	54,223,871	\$	54,184,700
GRF600420	Child Support Programs	\$	6,498,667	\$	6,591,048
GRF600421	Family Assistance Programs	\$	3,161,930	\$	3,161,930
GRF600423	Families and Children Programs	\$	6,384,514	\$	6,542,517
GRF600502	Child Support - Local	\$	23,814,103	\$	23,814,103
GRF600511	Disability Financial Assistance	\$	22,000,000	\$	22,000,000
GRF600521	Family Assistance - Local	\$	41,132,751	\$	41,132,751
GRF600523	Family and Children Services	\$	54,255,323	\$	54,255,323
GRF600528	Adoption Services				
	State	\$	28,623,389	\$	28,623,389
	Federal	\$	38,202,557	\$	38,202,557
	Adoption Services Total	\$	66,825,946	\$	66,825,946
GRF600533	Child, Family, and Adult Community & Protective Services	\$	13,500,000	\$	13,500,000
GRF600534	Adult Protective Services	\$	500,000	\$	500,000
GRF600535	Early Care and Education	\$	123,596,474	\$	123,596,474
GRF600540	Food Banks	\$	6,000,000	\$	6,000,000
GRF600541	Kinship Permanency Incentive Program	\$	3,500,000	\$	3,500,000
GRF655522	Medicaid Program Support - Local	\$	38,267,970	\$	38,267,970
GRF655523	Medicaid Program Support - Local Transportation	\$	30,680,495	\$	30,680,495
TOTAL GRF General Revenue Fund					
	State	\$	724,580,115	\$	724,580,115
	Federal	\$	38,202,557	\$	38,202,557
	GRF Total	\$	762,782,672	\$	762,782,672
General Services Fund Group					
4A80 600658	Public Assistance Activities	\$	34,000,000	\$	34,000,000
5DM0 600633	Administration & Operating	\$	19,660,339	\$	19,660,339
5HC0 600695	Unemployment Compensation Interest	\$	60,000,000	\$	60,000,000
5HL0 600602	State and County Shared Services	\$	3,020,000	\$	3,020,000
6130 600645	Training Activities	\$	8,100,000	\$	92,989
TOTAL GSF General Services Fund Group					
		\$	124,780,339	\$	116,773,328
Federal Special Revenue Fund Group					
3270 600606	Child Welfare	\$	29,769,866	\$	29,769,866
3310 600615	Veterans Programs	\$	8,000,000	\$	8,000,000
3310 600624	Employment Services Programs	\$	26,000,000	\$	26,000,000
3310 600686	Workforce Programs	\$	6,260,000	\$	6,260,000
3840 600610	Food Assistance Programs	\$	209,333,246	\$	180,381,394
3850 600614	Refugee Services	\$	12,564,952	\$	12,564,952

3950	600616	Federal Discretionary Grants	\$	2,259,264	\$	2,259,264
3960	600620	Social Services Block Grant	\$	47,000,000	\$	47,000,000
3970	600626	Child Support - Federal	\$	235,000,000	\$	235,000,000
3980	600627	Adoption Program - Federal	\$	174,178,779	\$	174,178,779
3A20	600641	Emergency Food Distribution	\$	5,000,000	\$	5,000,000
3D30	600648	Children's Trust Fund Federal	\$	3,477,699	\$	3,477,699
3F01	655624	Medicaid Program Support	\$	110,680,495	\$	110,680,495
3H70	600617	Child Care Federal	\$	241,987,805	\$	222,212,089
3N00	600628	Foster Care Program - Federal	\$	311,968,616	\$	311,968,616
3S50	600622	Child Support Projects	\$	534,050	\$	534,050
3V00	600688	Workforce Investment Act Programs	\$	136,000,000	\$	136,000,000
3V40	600678	Federal Unemployment Programs	\$	182,814,212	\$	182,814,212
3V40	600679	UC Review Commission - Federal	\$	6,185,788	\$	6,185,788
3V60	600689	TANF Block Grant	\$	777,957,809	\$	790,304,845
TOTAL FED Federal Special Revenue Fund Group			\$	2,526,972,581	\$	2,490,592,049
State Special Revenue Fund Group						
1980	600647	Children's Trust Fund	\$	5,873,848	\$	5,873,848
4A90	600607	Unemployment Compensation Administration Fund	\$	9,006,000	\$	9,006,000
4E70	600604	Family and Children Services Collections	\$	400,000	\$	400,000
4F10	600609	Family and Children Activities	\$	683,549	\$	683,549
5DB0	600637	Military Injury Relief Subsidies	\$	2,000,000	\$	2,000,000
5DP0	600634	Adoption Assistance Loan	\$	500,000	\$	500,000
5ES0	600630	Food Bank Assistance	\$	500,000	\$	500,000
5KU0	600611	Unemployment Compensation Support - Other Sources	\$	2,000,000	\$	2,000,000
5NG0	600660	Victims of Human Trafficking	\$	100,000	\$	100,000
5U60	600663	Family and Children Support	\$	4,000,000	\$	4,000,000
TOTAL SSR State Special Revenue Fund Group			\$	25,063,397	\$	25,063,397
Agency Fund Group						
1920	600646	Child Support Intercept - Federal	\$	129,250,000	\$	129,250,000
5830	600642	Child Support Intercept - State	\$	14,000,000	\$	14,000,000
5B60	600601	Food Assistance Intercept	\$	1,000,000	\$	1,000,000
TOTAL AGY Agency Fund Group			\$	144,250,000	\$	144,250,000
Holding Account Redistribution Fund Group						
R012	600643	Refunds and Audit Settlements	\$	2,200,000	\$	2,200,000
R013	600644	Forgery Collections	\$	10,000	\$	10,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	2,210,000	\$	2,210,000
TOTAL ALL BUDGET FUND GROUPS			\$	3,586,058,989	\$	3,541,671,446

SECTION 301.15. TRANSFER OF ENCUMBRANCES

On July 1, 2013, or as soon as possible thereafter, the Director of Job and Family Services shall certify to the Director of Budget and Management all medical assistance-related encumbrances held by the Department of Job and Family Services. The Director of Budget and Management may cancel any existing encumbrances, as certified by the Director of Job and Family Services, and reestablish them in the Departments of Job and Family Services and Medicaid. The reestablished encumbrance amounts are hereby appropriated.

SECTION 301.20. TRANSFER TO STATE AND COUNTY SHARED SERVICES FUND

Within thirty days of the effective date of this act, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the County Technologies Fund (Fund 5N10) to the State and County Shared Services Fund (Fund 5HL0).

SECTION 301.30. AGENCY AND HOLDING ACCOUNT REDISTRIBUTION FUND GROUPS

The Agency Fund Group and Holding Account Redistribution Fund Group shall be used to hold revenues until the appropriate fund is determined or until the revenues are directed to the appropriate governmental agency other than the Department of Job and Family Services. If receipts credited to the Support Intercept – Federal Fund (Fund 1920), the Support Intercept – State Fund (Fund 5830), the Food Stamp Offset Fund (Fund 5B60), the Refunds and Audit Settlements Fund (Fund R012), or the Forgery Collections Fund (Fund R013) exceed the amounts appropriated from the fund, the Director of Job and Family Services may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 301.33. BIG BROTHERS BIG SISTERS

Of the foregoing appropriation item 600410, TANF State/Maintenance of Effort, \$1,000,000 in each fiscal year shall be provided, in accordance with sections 5101.80 and 5101.801 of the Revised Code, to Big Brothers

Big Sisters of Central Ohio to provide mentoring services to children of incarcerated parents throughout the state.

SECTION 301.40. COUNTY ADMINISTRATIVE FUNDS

(A) The foregoing appropriation item 600521, Family Assistance - Local, may be provided to county departments of job and family services to administer food assistance and disability assistance programs.

(B) The foregoing appropriation item 655522, Medicaid Program Support - Local, may be provided to county departments of job and family services to administer the Medicaid program and the State Children's Health Insurance program.

(C) At the request of the Director of Job and Family Services, the Director of Budget and Management may transfer appropriations between appropriation item 600521, Family Assistance - Local, and appropriation item 655522, Medicaid Program Support - Local, in order to ensure county administrative funds are expended from the proper appropriation item.

(D) If receipts credited to the Medicaid Program Support Fund (Fund 3F01) and the Supplemental Nutrition Assistance Program Fund (Fund 3840) exceed the amounts appropriated, the Director of Job and Family Services shall request the Director of Budget and Management to authorize expenditures from those funds in excess of the amounts appropriated. Upon approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 301.43. LOCAL TRANSITION TO NEW ELIGIBILITY DETERMINATION SYSTEM

Of the foregoing appropriation item 655522, Medicaid Program Support - Local, \$7,200,000 in each fiscal year shall be provided to county departments of job and family services, along with the corresponding federal reimbursement from line items 600610, Food Assistance Programs, and 655624, Medicaid Program Support, for costs related to transitioning to a new public assistance eligibility determination system. County departments of job and family services shall comply with new roles, processes, and responsibilities related to the new system. Funds earmarked in this section shall not be used for existing and ongoing operating expenses. The Director of Medicaid shall establish criteria for distributing funds and for county departments of job and family services to submit allowable expenses. County departments of job and family services shall report to the Department of Job and Family Services and the Department of Medicaid

allowable expenses for transitioning to the new system separately from existing and ongoing operating expenses.

SECTION 301.50. FOOD STAMPS TRANSFER

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$1,000,000 cash from the Supplemental Nutrition Assistance Program Fund (Fund 3840), to the Food Assistance Fund (Fund 5ES0).

SECTION 301.60. NAME OF FOOD STAMP PROGRAM

The Director of Job and Family Services is not required to amend rules regarding the Food Stamp Program to change the name of the program to the Supplemental Nutrition Assistance Program. The Director may refer to the program as the Food Stamp Program or the Food Assistance Program in rules and documents of the Department of Job and Family Services.

SECTION 301.70. OHIO ASSOCIATION OF FOOD BANKS

The foregoing appropriation item 600540, Food Banks, shall be used to provide funds to the Ohio Association of Food Banks to purchase and distribute food products.

Notwithstanding section 5101.46 of the Revised Code and any other provision in this bill, in addition to funds designated for the Ohio Association of Food Banks in this section, in fiscal year 2014 and fiscal year 2015, the Director of Job and Family Services shall provide assistance from eligible funds to the Ohio Association of Food Banks in an amount up to or equal to the assistance provided in state fiscal year 2013 from all funds used by the Department, except the General Revenue Fund.

Eligible nonfederal expenditures made by member food banks of the Association shall be counted by the Department of Job and Family Services toward the TANF maintenance of effort requirements of 42 U.S.C. 609(a)(7). The Director of Job and Family Services shall enter into an agreement with the Ohio Association of Food Banks, in accordance with sections 5101.80 and 5101.801 of the Revised Code, to carry out the requirements under this section.

SECTION 301.80. PUBLIC ASSISTANCE ACTIVITIES/TANF MOE

The foregoing appropriation item 600658, Public Assistance Activities, shall be used by the Department of Job and Family Services to meet the

TANF maintenance of effort requirements of 42 U.S.C. 609(a)(7). When the state is assured that it will meet the maintenance of effort requirement, the Department of Job and Family Services may use funds from appropriation item 600658, Public Assistance Activities, to support public assistance activities.

SECTION 301.90. GOVERNOR'S OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES

Of the foregoing appropriation item 600689, TANF Block Grant, up to \$6,540,000 in each fiscal year shall be used, in accordance with sections 5101.80 and 5101.801 of the Revised Code, to provide support to programs or organizations that provide services that align with the mission and goals of the Governor's Office of Faith-Based and Community Initiatives, as outlined in section 107.12 of the Revised Code, and that further at least one of the four purposes of the TANF program, as specified in 42 U.S.C. 601.

SECTION 301.100. INDEPENDENT LIVING INITIATIVE

Of the foregoing appropriation item 600689, TANF Block Grant, up to \$2,000,000 in each fiscal year shall be used, in accordance with sections 5101.80 and 5101.801 of the Revised Code, to support the Independent Living Initiative, including life skills training and work supports for older children in foster care and those who have recently aged out of foster care.

SECTION 301.110. KINSHIP PERMANENCY INCENTIVE PROGRAM

Of the foregoing appropriation item 600689, TANF Block Grant, \$1,750,000 in each fiscal year shall be used to support the activities of the Kinship Permanency Incentive Program established in section 5101.802 of the Revised Code.

SECTION 301.120. OHIO COMMISSION ON FATHERHOOD

Of the foregoing appropriation item 600689, TANF Block Grant, \$1,000,000 in each fiscal year shall be provided to the Ohio Commission on Fatherhood.

SECTION 301.123. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS

Of the foregoing appropriation item 600689, TANF Block Grant,

\$500,000 in each fiscal year shall be provided, in accordance with sections 5101.80 and 5101.801 of the Revised Code, to the Ohio Alliance of Boys and Girls Clubs to provide after-school programs that protect at-risk children and enable youth to become responsible adults.

SECTION 301.125. HARVARD COMMUNITY SERVICES CENTER

Of the foregoing appropriation item 600689, TANF Block Grant, \$1,000,000 in fiscal year 2014 shall be provided, in accordance with sections 5101.80 and 5101.801 of the Revised Code, to the Harvard Community Services Center in Cleveland to provide workforce development and other supportive services to individuals under the Harvard Hands-On Initiative. Any amount of this earmark that remains unspent at the end of fiscal year 2014 may be transferred to fiscal year 2015.

SECTION 301.130. DIFFERENTIAL RESPONSE

In accordance with an independent evaluation of the Ohio Alternative Response Pilot Program that recommended statewide implementation, the Department of Job and Family Services shall plan the statewide expansion of the Ohio Alternative Response Pilot Program on a county by county basis, through a schedule determined by the Department. The program shall be known as the "differential response" approach as defined in section 2151.011 of the Revised Code. Notwithstanding provisions of Chapter 2151. of the Revised Code that refer to "differential response," "traditional response," and "alternative response," those provisions shall become effective on the scheduled date of expansion of the differential response approach to that county. Prior to statewide implementation, the Department may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the purposes of this section.

SECTION 301.140. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN

In collaboration with the county family and children first council, a county department of job and family services or public children services agency that receives an allocation from the Department of Job and Family Services from the foregoing appropriation item 600523, Family and Children Services, or 600533, Child, Family, and Adult Community & Protective Services, may transfer a portion of either or both allocations to a flexible funding pool as authorized by the section of this act titled

"FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL."

SECTION 301.143. CHILDREN'S CRISIS CARE FACILITIES

Of the foregoing appropriation item 600523, Family and Children Services, \$150,000 in each fiscal year shall be provided to children's crisis care facilities, as defined in section 5103.13 of the Revised Code. The Director of Job and Family Services shall allocate funds based on the number of children at each facility. A children's crisis care facility may decline to receive funds provided for under this section. A children's crisis care facility that accepts funds provided under this section shall use the funds in accordance with section 5103.13 of the Revised Code and rules in section 5101:2-9-36 of the Administrative Code.

SECTION 301.150. CHILD, FAMILY, AND ADULT COMMUNITY AND PROTECTIVE SERVICES

(A) The foregoing appropriation item 600533, Child, Family, and Adult Community & Protective Services, shall be distributed to each county department of job and family services using the formula the Department of Job and Family Services uses when distributing Title XX funds to county departments of job and family services under section 5101.46 of the Revised Code. County departments shall use the funds distributed to them under this section as follows, in accordance with the written plan of cooperation entered into under section 307.983 of the Revised Code:

(1) To assist individuals achieve or maintain self-sufficiency, including by reducing or preventing dependency among individuals with family income not exceeding two hundred per cent of the federal poverty guidelines;

(2) Subject to division (B) of this section, to respond to reports of abuse, neglect, or exploitation of children and adults, including through the differential response approach program developed under Section 309.50.10 of this act;

(3) To provide outreach and referral services regarding home and community-based services to individuals at risk of placement in a group home or institution, regardless of the individuals' family income and without need for a written application;

(4) To provide outreach, referral, application assistance, and other services to assist individuals receive assistance, benefits, or services under Medicaid; Title IV-A programs, as defined in section 5101.80 of the Revised Code; the Supplemental Nutrition Assistance Program; and other

public assistance programs.

(B) Protective services may be provided to a child or adult as part of a response, under division (A)(2) of this section, to a report of abuse, neglect, or exploitation without regard to a child or adult's family income and without need for a written application. The protective services may be provided if the case record documents circumstances of actual or potential abuse, neglect, or exploitation.

SECTION 301.160. CHILDREN AND FAMILY SERVICES ACTIVITIES

The foregoing appropriation item 600609, Children and Family Services Activities, shall be used to expend miscellaneous foundation funds and grants to support children and family services activities.

SECTION 301.170. ADOPTION ASSISTANCE LOAN

Of the foregoing appropriation item 600634, Adoption Assistance Loan, the Department of Job and Family Services may use up to ten per cent for administration of adoption assistance loans pursuant to section 3107.018 of the Revised Code.

SECTION 301.171. TRAINING ACTIVITIES

Of the foregoing appropriation item 600645, Training Activities, \$8,000,000 shall be used in fiscal year 2014 for the Workforce Training Pilot Program for the Economically Disadvantaged established in Section 751.41 of this act. An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 600645, Training Activities, at the end of fiscal year 2014 is hereby reappropriated for the same purpose for fiscal year 2015.

SECTION 301.173. VICTIMS OF HUMAN TRAFFICKING

The foregoing appropriation item 600660, Victims of Human Trafficking, shall be used to provide treatment, care, rehabilitation, education, housing, and assistance for victims of trafficking in persons as specified in section 5101.87 of the Revised Code. If receipts credited to the Victims of Human Trafficking Fund (Fund 5NG0) exceed the amounts appropriated to the fund, the Director of Job and Family Services may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of

the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 301.180. FEDERAL UNEMPLOYMENT PROGRAMS

All unexpended funds remaining at the end of fiscal year 2013 that were appropriated and made available to the state under section 903(d) of the Social Security Act, as amended, in the foregoing appropriation item 600678, Federal Unemployment Programs (Fund 3V40), are hereby appropriated to the Department of Job and Family Services. Upon the request of the Director of Job and Family Services, the Director of Budget and Management may increase the appropriation for fiscal year 2014 by the amount remaining unspent from the fiscal year 2013 appropriation and may increase the appropriation for fiscal year 2015 by the amount remaining unspent from the fiscal year 2014 appropriation. The appropriation shall be used under the direction of the Department of Job and Family Services to pay for administrative activities for the Unemployment Insurance Program, employment services, and other allowable expenditures under section 903(d) of the Social Security Act, as amended.

The amounts obligated pursuant to this section shall not exceed at any time the amount by which the aggregate of the amounts transferred to the account of the state under section 903(d) of the Social Security Act, as amended, exceeds the aggregate of the amounts obligated for administration and paid out for benefits and required by law to be charged against the amounts transferred to the account of the state.

SECTION 301.190. UNEMPLOYMENT COMPENSATION INTEREST

The foregoing appropriation item 600695, Unemployment Compensation Interest, shall be used for payment of interest costs paid to the United States Secretary of the Treasury for the repayment of accrued interest related to federal unemployment account borrowing.

SECTION 303.10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW

General Revenue Fund

GRF 029321	Operating Expenses	\$	455,858	\$	456,376
TOTAL GRF General Revenue Fund		\$	455,858	\$	456,376
TOTAL ALL BUDGET FUND GROUPS		\$	455,858	\$	456,376

OPERATING GUIDANCE

The Chief Administrative Officer of the House of Representatives and

the Clerk of the Senate shall determine, by mutual agreement, which of them shall act as fiscal agent for the Joint Committee on Agency Rule Review. Members of the Committee shall be paid in accordance with section 101.35 of the Revised Code.

OPERATING EXPENSES

On July 1, 2013, or as soon as possible thereafter, the Executive Director of the Joint Committee on Agency Rule Review may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 029321, Operating Expenses, at the end of fiscal year 2013 to be reappropriated to fiscal year 2014. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2014.

On July 1, 2014, or as soon as possible thereafter, the Executive Director of the Joint Committee on Agency Rule Review may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 029321, Operating Expenses, at the end of fiscal year 2014 to be reappropriated to fiscal year 2015. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2015.

SECTION 305.10. JCO JUDICIAL CONFERENCE OF OHIO

General Revenue Fund

GRF 018321	Operating Expenses	\$	824,900	\$	847,200
TOTAL GRF General Revenue Fund		\$	824,900	\$	847,200

General Services Fund Group

4030 018601	Ohio Jury Instructions	\$	385,000	\$	385,000
TOTAL GSF General Services Fund Group		\$	385,000	\$	385,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,209,900	\$	1,232,200

STATE COUNCIL OF UNIFORM STATE LAWS

Notwithstanding section 105.26 of the Revised Code, of the foregoing appropriation item 018321, Operating Expenses, up to \$84,900 in fiscal year 2014 and up to \$88,300 in fiscal year 2015 shall be used to pay the expenses of the State Council of Uniform State Laws, including membership dues to the National Conference of Commissioners on Uniform State Laws.

OHIO JURY INSTRUCTIONS FUND

The Ohio Jury Instructions Fund (Fund 4030) shall consist of grants, royalties, dues, conference fees, bequests, devises, and other gifts received for the purpose of supporting costs incurred by the Judicial Conference of Ohio in its activities as a part of the judicial system of the state as determined by the Judicial Conference Executive Committee. Fund 4030 shall be used by the Judicial Conference of Ohio to pay expenses incurred in

its activities as a part of the judicial system of the state as determined by the Judicial Conference Executive Committee. All moneys accruing to Fund 4030 in excess of \$385,000 in fiscal year 2014 and in excess of \$385,000 in fiscal year 2015 are hereby appropriated for the purposes authorized.

No money in Fund 4030 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board.

SECTION 307.10. JSC THE JUDICIARY/SUPREME COURT

General Revenue Fund

GRF 005321	Operating Expenses - Judiciary/Supreme Court	\$	138,016,534	\$	140,232,737
GRF 005406	Law-Related Education	\$	236,172	\$	236,172
GRF 005409	Ohio Courts Technology Initiative	\$	3,350,000	\$	3,350,000
TOTAL GRF General Revenue Fund		\$	141,602,706	\$	143,818,909

General Services Fund Group

6720 005601	Continuing Judicial Education	\$	101,392	\$	93,563
TOTAL GSF General Services Fund Group		\$	101,392	\$	93,563

Federal Special Revenue Fund Group

3J00 005603	Federal Grants	\$	1,235,900	\$	1,252,600
TOTAL FED Federal Special Revenue Fund Group		\$	1,235,900	\$	1,252,600

State Special Revenue Fund Group

4C80 005605	Attorney Services	\$	3,923,101	\$	3,915,721
5HT0 005617	Court Interpreter Certification	\$	23,000	\$	23,000
5JY0 005620	County Law Library Resources Boards	\$	258,000	\$	258,000
5T80 005609	Grants and Awards	\$	25,000	\$	25,000
6A80 005606	Supreme Court Admissions	\$	1,283,751	\$	1,308,025
TOTAL SSR State Special Revenue Fund Group		\$	5,512,852	\$	5,529,746
TOTAL ALL BUDGET FUND GROUPS		\$	148,452,850	\$	150,694,818

OPERATING EXPENSES - JUDICIARY/SUPREME COURT

Of the foregoing appropriation item 005321, Operating Expenses - Judiciary/Supreme Court, up to \$206,770 in each fiscal year may be used to support the functions of the State Criminal Sentencing Council.

LAW-RELATED EDUCATION

The foregoing appropriation item 005406, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students, expanding delinquency prevention programs, increasing activities for at-risk youth, and accessing additional public and private money for new programs.

OHIO COURTS TECHNOLOGY INITIATIVE

The foregoing appropriation item 005409, Ohio Courts Technology

Initiative, shall be used to fund an initiative by the Supreme Court to facilitate the exchange of information and warehousing of data by and between Ohio courts and other justice system partners through the creation of an Ohio Courts Network, the delivery of technology services to courts throughout the state, including the provision of hardware, software, and the development and implementation of educational and training programs for judges and court personnel, and operation of the Commission on Technology and the Courts by the Supreme Court for the promulgation of statewide rules, policies, and uniform standards, and to aid in the orderly adoption and comprehensive use of technology in Ohio courts.

CONTINUING JUDICIAL EDUCATION

The Continuing Judicial Education Fund (Fund 6720) shall consist of fees paid by judges and court personnel for attending continuing education courses and other gifts and grants received for the purpose of continuing judicial education. The foregoing appropriation item 005601, Continuing Judicial Education, shall be used to pay expenses for continuing education courses for judges and court personnel. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 6720 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 6720 shall be credited to the fund.

FEDERAL GRANTS

The Federal Grants Fund (Fund 3J00) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the United States Government or other entities that receive the moneys directly from the United States Government and distribute those moneys to the Supreme Court (The Judiciary). The foregoing appropriation item 005603, Federal Grants, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 3J00 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on money in Fund 3J00 shall be credited or transferred to the General Revenue Fund.

ATTORNEY SERVICES

The Attorney Services Fund (Fund 4C80), formerly known as the Attorney Registration Fund, shall consist of money received by the Supreme Court (The Judiciary) pursuant to the Rules for the Government of the Bar

of Ohio. In addition to funding other activities considered appropriate by the Supreme Court, the foregoing appropriation item 005605, Attorney Services, may be used to compensate employees and to fund appropriate activities of the following offices established by the Supreme Court: the Office of Disciplinary Counsel, the Board of Commissioners on Grievances and Discipline, the Clients' Security Fund, and the Attorney Services Division. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 4C80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 4C80 shall be credited to the fund.

COURT INTERPRETER CERTIFICATION

The Court Interpreter Certification Fund (Fund 5HT0) shall consist of money received by the Supreme Court (The Judiciary) pursuant to Rules 80 through 87 of the Rules of Superintendence for the Courts of Ohio. The foregoing appropriation item 005617, Court Interpreter Certification, shall be used to provide training, to provide the written examination, and to pay language experts to rate, or grade, the oral examinations of those applying to become certified court interpreters. If it is determined by the Administrative Director that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 5HT0 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 5HT0 shall be credited to the fund.

COUNTY LAW LIBRARY RESOURCES BOARD

The Statewide Consortium of County Law Library Resources Boards Fund (Fund 5JY0) shall consist of moneys deposited pursuant to section 307.515 of the Revised Code into a county's law library resources fund and forwarded by that county's treasurer for deposit in the state treasury pursuant to division (E)(1) of section 3375.481 of the Revised Code. The foregoing appropriation item 005620, County Law Library Resources Board, shall be used for the operation of the Statewide Consortium of County Law Library Resources Boards. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 5JY0 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 5JY0 shall be credited to the fund.

GRANTS AND AWARDS

The Grants and Awards Fund (Fund 5T80) shall consist of grants and other money awarded to the Supreme Court (The Judiciary) by the State Justice Institute, the Division of Criminal Justice Services, or other entities. The foregoing appropriation item 005609, Grants and Awards, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 5T80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on money in Fund 5T80 shall be credited or transferred to the General Revenue Fund.

SUPREME COURT ADMISSIONS

The foregoing appropriation item 005606, Supreme Court Admissions, shall be used to compensate Supreme Court employees who are primarily responsible for administering the attorney admissions program under the Rules for the Government of the Bar of Ohio, and to fund any other activities considered appropriate by the court. Moneys shall be deposited into the Supreme Court Admissions Fund (Fund 6A80) under the Supreme Court Rules for the Government of the Bar of Ohio. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 6A80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 6A80 shall be credited to the fund.

SECTION 309.10. LEC LAKE ERIE COMMISSION

Federal Special Revenue Fund Group

3EP0 780603	Lake Erie Federal Grants	\$	25,000	\$	0
TOTAL FED	Federal Special Revenue Fund	\$	25,000	\$	0

Group

State Special Revenue Fund Group

4C00 780601	Lake Erie Protection Fund	\$	200,000	\$	200,000
5D80 780602	Lake Erie Resources Fund	\$	298,942	\$	339,637

TOTAL SSR State Special Revenue

Fund Group		\$	498,942	\$	539,637
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TOTAL ALL BUDGET FUND GROUPS		\$	523,942	\$	539,637
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CASH TRANSFERS TO THE LAKE ERIE RESOURCES FUND

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management may transfer cash from the funds specified below, up to the amounts specified below, to the Lake Erie Resources Fund (Fund 5D80). Fund 5D80 may accept contributions and

transfers made to the fund.

Fund	Fund Name	User	FY 2014	FY 2015
5BC0	Environmental Protection	Environmental Protection Agency	\$23,500	\$53,500
6690	Pesticide, Fertilizer and Lime	Department of Agriculture	\$23,500	\$53,500
4700	General Operations	Department of Health	\$23,500	\$53,500
1570	Central Support Indirect	Department of Natural Resources	\$23,500	\$53,500

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer \$23,500 cash from a fund used by the Development Services Agency, as specified by the Director of Development Services, to Fund 5D80.

On July 1, 2014, or as soon as possible thereafter, the Director of Budget and Management may transfer \$53,500 cash from a fund used by the Development Services Agency, as specified by the Director of Development Services, to Fund 5D80.

SECTION 311.10. JLE JOINT LEGISLATIVE ETHICS COMMITTEE

General Revenue Fund

GRF 028321	Legislative Ethics Committee	\$	550,000	\$	550,000
TOTAL GRF General Revenue Fund		\$	550,000	\$	550,000

General Services Fund Group

4G70028601	Joint Legislative Ethics Committee	\$	150,000	\$	150,000
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TOTAL GSF General Services Fund Group		\$	150,000	\$	150,000
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Group

TOTAL ALL BUDGET FUND		\$	700,000	\$	700,000
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GROUPS

LEGISLATIVE ETHICS COMMITTEE

On July 1, 2013, or as soon as possible thereafter, the Legislative Inspector General of the Joint Legislative Ethics Committee may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 028321, Legislative Ethics Committee, at the end of fiscal year 2013 to be reappropriated to fiscal year 2014. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2014.

On July 1, 2014, or as soon as possible thereafter, the Legislative Inspector General of the Joint Legislative Ethics Committee may certify to

the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 028321, Legislative Ethics Committee, at the end of fiscal year 2014 to be reappropriated to fiscal year 2015. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2015.

SECTION 313.10. LSC LEGISLATIVE SERVICE COMMISSION

General Revenue Fund

GRF 035321	Operating Expenses	\$	15,117,700	\$	15,117,700
GRF 035402	Legislative Fellows	\$	1,022,120	\$	1,022,120
GRF 035405	Correctional Institution Inspection Committee	\$	460,845	\$	460,845
GRF 035407	Legislative Task Force on Redistricting	\$	320,000	\$	400,000
GRF 035409	National Associations	\$	460,560	\$	460,560
GRF 035410	Legislative Information Systems	\$	3,861,250	\$	3,861,250
GRF 035411	Ohio Constitutional Modernization Commission	\$	600,000	\$	600,000
TOTAL GRF General Revenue Fund		\$	21,842,475	\$	21,922,475

General Services Fund Group

4100 035601	Sale of Publications	\$	10,000	\$	10,000
4F60 035603	Legislative Budget Services	\$	200,000	\$	200,000
5EF0 035607	Legislative Agency Telephone Usage	\$	30,000	\$	30,000
TOTAL GSF General Services Fund Group		\$	240,000	\$	240,000
TOTAL ALL BUDGET FUND GROUPS		\$	22,082,475	\$	22,162,475

OPERATING EXPENSES

On July 1, 2013, or as soon as possible thereafter, the Director of the Legislative Service Commission may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 035321, Operating Expenses, at the end of fiscal year 2013 to be reappropriated to fiscal year 2014. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2014.

On July 1, 2014, or as soon as possible thereafter, the Director of the Legislative Service Commission may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 035321, Operating Expenses, at the end of fiscal year 2014 to be reappropriated to fiscal year 2015. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2015.

LEGISLATIVE TASK FORCE ON REDISTRICTING

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 035407, Legislative Task Force on Redistricting, at the end of fiscal year 2013 is hereby reappropriated to the Legislative Service Commission for the same purpose for fiscal year 2014.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 035407, Legislative Task Force on Redistricting, at the end of fiscal year 2014 is hereby reappropriated to the Legislative Service Commission for the same purpose for fiscal year 2015.

LEGISLATIVE INFORMATION SYSTEMS

On July 1, 2013, or as soon as possible thereafter, the Director of the Legislative Service Commission may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 035410, Legislative Information Systems, at the end of fiscal year 2013 to be reappropriated to fiscal year 2014. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2014.

On July 1, 2014, or as soon as possible thereafter, the Director of the Legislative Service Commission may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 035410, Legislative Information Systems, at the end of fiscal year 2014 to be reappropriated to fiscal year 2015. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2015.

OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

The foregoing appropriation item 035411, Ohio Constitutional Modernization Commission, shall be used to support the operation and expenses of the Ohio Constitutional Modernization Commission under sections 103.61 to 103.67 of the Revised Code. All expenditures paid from the appropriation item must be approved by the director and chairperson of the Legislative Service Commission under division (A) of section 103.21 of the Revised Code.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 035411, Ohio Constitutional Modernization Commission, at the end of fiscal year 2013 is hereby reappropriated to the Legislative Service Commission for the same purpose for fiscal year 2014.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 035411, Ohio Constitutional Modernization Commission, at the end of fiscal year 2014 is hereby reappropriated to the Legislative Service Commission for the same purpose for fiscal year 2015.

SECTION 315.10. LIB STATE LIBRARY BOARD

General Revenue Fund

GRF 350321	Operating Expenses	\$	5,057,364	\$	5,057,364
GRF 350401	Ohioana Rental Payments	\$	120,114	\$	120,114
GRF 350502	Regional Library Systems	\$	582,469	\$	582,469
TOTAL GRF General Revenue Fund		\$	5,759,947	\$	5,759,947

General Services Fund Group

1390 350602	Intra-Agency Service Charges	\$	8,000	\$	8,000
4590 350603	Library Service Charges	\$	3,237,430	\$	3,526,368
4S40 350604	Ohio Public Library Information Network	\$	5,689,788	\$	5,689,788
5GB0 350605	Library for the Blind	\$	1,274,194	\$	1,274,194
TOTAL GSF General Services Fund Group		\$	10,209,412	\$	10,498,350

Federal Special Revenue Fund Group

3130 350601	LSTA Federal	\$	5,303,693	\$	5,120,439
TOTAL FED Federal Special Revenue Fund Group		\$	5,303,693	\$	5,120,439
TOTAL ALL BUDGET FUND GROUPS		\$	21,273,052	\$	21,378,736

OHIOANA RENTAL PAYMENTS

The foregoing appropriation item 350401, Ohioana Rental Payments, shall be used to pay the rental expenses of the Martha Kinney Cooper Ohioana Library Association under section 3375.61 of the Revised Code.

REGIONAL LIBRARY SYSTEMS

The foregoing appropriation item 350502, Regional Library Systems, shall be used to support regional library systems eligible for funding under sections 3375.83 and 3375.90 of the Revised Code.

OHIO PUBLIC LIBRARY INFORMATION NETWORK

(A) The foregoing appropriation item 350604, Ohio Public Library Information Network, shall be used for an information telecommunications network linking public libraries in the state and such others as may participate in the Ohio Public Library Information Network (OPLIN).

The Ohio Public Library Information Network Board of Trustees created under section 3375.65 of the Revised Code may make decisions regarding use of the foregoing appropriation item 350604, Ohio Public Library Information Network.

(B) The OPLIN Board shall research and assist or advise local libraries with regard to emerging technologies and methods that may be effective means to control access to obscene and illegal materials. The OPLIN Director shall provide written reports upon request within ten days to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate on any

steps being taken by OPLIN and public libraries in the state to limit and control such improper usage as well as information on technological, legal, and law enforcement trends nationally and internationally affecting this area of public access and service.

(C) The Ohio Public Library Information Network, INFOhio, and OhioLINK shall, to the extent feasible, coordinate and cooperate in their purchase or other acquisition of the use of electronic databases for their respective users and shall contribute funds in an equitable manner to such effort.

LIBRARY FOR THE BLIND

The foregoing appropriation item 350605, Library for the Blind, shall be used for the statewide Talking Book Program to assist the blind and disabled.

TRANSFER TO OPLIN TECHNOLOGY FUND

Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule established by the Director of Budget and Management, the Director of Budget and Management shall transfer \$3,689,788 cash in each fiscal year from the Public Library Fund (Fund 7065) to the OPLIN Technology Fund (Fund 4S40).

TRANSFER TO LIBRARY FOR THE BLIND FUND

Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule established by the Director of Budget and Management, the Director of Budget and Management shall transfer \$1,274,194 cash in each fiscal year from the Public Library Fund (Fund 7065) to the Library for the Blind Fund (Fund 5GB0).

SECTION 317.10. LCO LIQUOR CONTROL COMMISSION

State Special Revenue Fund Group

5LP0 970601	Commission Operating Expenses	\$	784,376	\$	796,368
TOTAL SSR State Special Revenue Fund Group		\$	784,376	\$	796,368
TOTAL ALL BUDGET FUND GROUPS		\$	784,376	\$	796,368

SECTION 319.10. LOT STATE LOTTERY COMMISSION

State Lottery Fund Group

2310 950604	Charitable Gaming Oversight	\$	1,946,000	\$	1,946,000
7044 950321	Operating Expenses	\$	49,778,677	\$	51,173,293
7044 950402	Advertising Contracts	\$	23,024,080	\$	23,024,080
7044 950403	Gaming Contracts	\$	63,405,851	\$	59,356,988

7044	950601	Direct Prize Payments	\$	116,281,000	\$	114,779,000
7044	950605	Problem Gambling	\$	2,000,000	\$	3,000,000
8710	950602	Annuity Prizes	\$	79,039,985	\$	80,299,167
TOTAL SLF State Lottery Fund Group			\$	335,475,593	\$	333,578,528
TOTAL ALL BUDGET FUND GROUPS			\$	335,475,593	\$	333,578,528

OPERATING EXPENSES

Notwithstanding sections 127.14 and 131.35 of the Revised Code, the Controlling Board may, at the request of the State Lottery Commission, authorize expenditures from the State Lottery Fund in excess of the amounts appropriated, up to a maximum of 10 per cent of anticipated total revenue accruing from the sale of lottery products. Upon the approval of the Controlling Board, the additional amounts are hereby appropriated.

DIRECT PRIZE PAYMENTS

Any amounts, in addition to the amounts appropriated in appropriation item 950601, Direct Prize Payments, that the Director of the State Lottery Commission determines to be necessary to fund prizes are hereby appropriated.

ANNUITY PRIZES

Upon request of the State Lottery Commission, the Director of Budget and Management may transfer cash from the State Lottery Fund (Fund 7044) to the Deferred Prizes Trust Fund (Fund 8710) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 8710) the pro rata share of interest earned by the Treasurer of State on invested balances.

Any amounts, in addition to the amounts appropriated in appropriation item 950602, Annuity Prizes, that the Director of the State Lottery Commission determines to be necessary to fund deferred prizes and interest earnings are hereby appropriated.

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND

Estimated transfers from the State Lottery Fund (Fund 7044) to the Lottery Profits Education Fund (Fund 7017) are to be \$841,000,000 in fiscal year 2014 and \$974,500,000 in fiscal year 2015. The Director of Budget and Management shall transfer such amounts contingent upon the availability of resources. Transfers from the State Lottery Fund to the Lottery Profits Education Fund shall represent the estimated net income from operations for the Commission in fiscal year 2014 and fiscal year 2015. Transfers by the Director of Budget and Management to the Lottery Profits Education Fund shall be administered as the statutes direct.

SECTION 321.10. MHC MANUFACTURED HOMES COMMISSION

General Services Fund Group

4K90 996609	Operating Expenses	\$	459,134	\$	459,134
TOTAL GSF General Services Fund Group					
		\$	459,134	\$	459,134

State Special Revenue Fund Group

5MC0 996610	Manufactured Homes Regulation	\$	747,825	\$	747,825
TOTAL SSR State Special Revenue Fund Group					
		\$	747,825	\$	747,825
TOTAL ALL BUDGET FUND GROUPS					
		\$	1,206,959	\$	1,206,959

SECTION 323.10. MCD DEPARTMENT OF MEDICAID**General Revenue Fund**

GRF 651425	Medicaid Program Support - State	\$	177,071,199	\$	180,446,636
GRF 651525	Medicaid/Health Care Services				
	State	\$	4,739,421,777	\$	5,097,244,293
	Federal	\$	8,961,692,337	\$	9,502,550,748
	Medicaid/Health Care Services Total	\$	13,701,114,114	\$	14,599,795,041
GRF 651526	Medicare Part D	\$	309,349,142	\$	313,020,518
TOTAL GRF General Revenue Fund					
	State	\$	5,225,842,118	\$	5,590,711,447
	Federal	\$	8,961,692,337	\$	9,502,550,748
	GRF Total	\$	14,187,534,455	\$	15,093,262,195

General Services Fund Group

5DL0 651639	Medicaid Services - Recoveries	\$	462,900,000	\$	514,700,000
5FX0 651638	Medicaid Services - Payment Withholding	\$	6,000,000	\$	6,000,000
TOTAL GSF General Services Fund Group					
		\$	468,900,000	\$	520,700,000

Federal Special Revenue Fund Group

3ER0 651603	Medicaid Health Information Technology	\$	123,074,778	\$	123,089,606
3F00 651623	Medicaid Services - Federal	\$	2,965,609,943	\$	3,196,808,545
3F00 651624	Medicaid Program Support - Federal	\$	565,046,401	\$	454,423,399
3FA0 651680	Health Care Grants - Federal	\$	45,400,000	\$	44,500,000
3G50 651655	Medicaid Interagency Pass-Through	\$	1,712,881,658	\$	1,895,403,348
TOTAL FED Federal Special Revenue Fund Group					
		\$	5,412,012,780	\$	5,714,224,898

State Special Revenue Fund Group

4E30 651605	Resident Protection Fund	\$	2,878,319	\$	2,878,319
5AJ0 651631	Money Follows the Person	\$	5,555,000	\$	4,517,500
5GF0 651656	Medicaid Services - Hospitals/UPL	\$	531,273,601	\$	531,273,601
5KC0 651682	Health Care Grants - State	\$	10,000,000	\$	10,000,000
5R20 651608	Medicaid Services - Long Term Care	\$	398,000,000	\$	398,000,000

5U30	651654	Medicaid Program Support	\$	54,305,843	\$	37,903,126
6510	651649	Medicaid Services - HCAP	\$	215,527,947	\$	215,314,482
TOTAL SSR State Special Revenue Fund Group			\$	1,217,540,710	\$	1,199,887,028
Holding Account Redistribution Fund Group						
R055	651644	Refunds and Reconciliations	\$	1,000,000	\$	1,000,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	1,000,000	\$	1,000,000
TOTAL ALL BUDGET FUND GROUPS			\$	21,286,987,945	\$	22,529,074,121

SECTION 323.10.10. CREATION OF THE DEPARTMENT OF MEDICAID

(A) As used in this section, "medical assistance program" means all of the following:

(1) The Medicaid program established by Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq.

(2) The Children's Health Insurance Program authorized by Title XXI of the "Social Security Act," 42 U.S.C. 1397aa et seq.

(3) The Refugee Medical Assistance program authorized by the "Immigration and Nationality Act," section 412(e), 42 U.S.C. 1522(e).

(B) On July 1, 2013, all of the following apply:

(1) The Department of Medicaid is created.

(2) The Department of Medicaid is to be administered by the Medicaid Director who is to be appointed by the Governor with the advice and consent of the Senate.

(3) The Medicaid Director is to hold the Director's office during the term of the appointing Governor and is subject to removal at the pleasure of the Governor.

(4) The Medicaid Director is the executive head of the Department of Medicaid and all duties conferred on the Department by law or order of the Director are under the Director's control and shall be performed in accordance with rules the Director adopts.

(5) The Medicaid Director may appoint such employees as are necessary for the efficient operation of the Department of Medicaid and may prescribe the title and duties of the employees.

(6) The Office of Medical Assistance shall cease to exist.

(7) Each reference to the Department or Director of Public Welfare, Department or Director of Human Services, Department or Director of Job and Family Services, Office of Medical Assistance, or Medical Assistance Director in any statute, rule, contract, grant, or other document is deemed to refer to the Department of Medicaid or Medicaid Director, as the case may be, to the extent the reference is about a duty or authority of the Department

of Medicaid or Medicaid Director regarding a medical assistance program.

(8) Employees of the Office of Medical Assistance are hereby transferred to the Department of Medicaid. The vehicles and equipment assigned to the Office's employees are transferred to the Department.

(9) The assets, liabilities, other equipment not provided for, and records, irrespective of form or medium, of the Office of Medical Assistance are transferred to the Department of Medicaid. The Department is the successor to, assumes the obligations of, and otherwise constitutes the continuation of, the Office.

(10) Business commenced but not completed on July 1, 2013, by the Medical Assistance Director, the Office of Medical Assistance, Director of Job and Family Services, or Department of Job and Family Services regarding a medical assistance program shall be completed by the Medicaid Director or Department of Medicaid in the same manner, and with the same effect, as if completed by the Medical Assistance Director, Office of Medical Assistance, Director of Job and Family Services, or Department of Job and Family Services. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer required by this section but shall be administered by the Medicaid Director or Department of Medicaid.

(11) For the purpose of the "Social Security Act," section 1902(a)(5), 42 U.S.C. 1396a(a)(5), the Department of Medicaid shall act as the single state agency to supervise the administration of the Medicaid program. As the single state agency, the Department shall comply with 42 C.F.R. 431.10(e) and all other federal requirements applicable to the single state agency.

(D) The rules, orders, and determinations pertaining to the Office of Medical Assistance and Department of Job and Family Services regarding medical assistance programs continue in effect as rules, orders, and determinations of the Department of Medicaid until modified or rescinded by the Department of Medicaid.

(E) No judicial or administrative action or proceeding pending on July 1, 2013, is affected by the transfer of functions from the Medical Assistance Director, Office of Medical Assistance, Director of Job and Family Services, or Department of Job and Family Services to the Medicaid Director or Department of Medicaid and shall be prosecuted or defended in the name of the Medicaid Director or Department of Medicaid. On application to the court or other tribunal, the Medicaid Director or Department of Medicaid shall be substituted as a party in such actions and proceedings.

(F) When the Department of Medicaid created in section 121.02 of the Revised Code comes into effect, it is a continuation of the Department of

Medicaid created in this section.

(G) A portion of the foregoing appropriation items 651425, Medicaid Program Support – State, 651525, Medicaid/Health Care Services, 651526, Medicare Part D, 651639, Medicaid Services – Recoveries, 651638, Medicaid Services - Payment Withholding, 651603, Medicaid Health Information Technology, 651623, Medicaid Services – Federal, 651624, Medicaid Program Support – Federal, 651680 Health Care Grants – Federal, 651655, Medicaid Interagency Pass-Through, 651605, Resident Protection Fund, 651631, Money Follows the Person, 651656, Medicaid Services – Hospitals/UPL, 651682, Health Care Grants – State, 651608, Medicaid Services – Long Term Care, 651654, Medicaid Program Support, 651649, Medicaid Services – HCAP, 651644, Refunds and Reconciliations, and 651612, Managed Care Performance Payments, may be used to pay for Medicaid services and costs associated with the administration of the Medicaid program.

SECTION 323.10.20. TRANSFER OF ENCUMBRANCES AND RECEIVABLES

On July 1, 2013, or as soon as possible thereafter, the Medicaid Director shall certify to the Director of Budget and Management all medical assistance-related encumbrances held by the Department of Job and Family Services, and specify which of those encumbrances are requested to be transferred to the Department of Medicaid. The Director of Budget and Management may cancel any existing encumbrances, as certified by the Medicaid Director, and reestablish them in the Department of Medicaid. The reestablished encumbrance amounts are hereby appropriated. Any business commenced, but not completed, with regard to the encumbrances certified shall be completed by the Department of Medicaid in the same manner and with the same effect as if it were completed by the Department of Job and Family Services.

On July 1, 2013, or as soon as possible thereafter, the Medicaid Director shall certify to the Director of Budget and Management all medical assistance-related receivables held by the Department of Job and Family Services, and specify which of those receivables are requested to be transferred to the Department of Medicaid. The Director of Budget and Management may cancel any existing receivables as certified by the Medicaid Director and reestablish them in the Department of Medicaid.

A portion of the foregoing appropriation items 651425, Medicaid Program Support – State, 651525, Medicaid/Health Care Services, 651639, Medicaid Services – Recoveries, 651638, Medicaid Services-Payment

Withholding, 651624, Medicaid Program Support – Federal, 651680, Health Care Grants – Federal, 651655, Medicaid Interagency Pass-Through, 651605, Resident Protection Fund, 651631, Money Follows the Person, 651656, Medicaid Services – Hospitals/UPL, 651682, Health Care Grants – State, 651608, Medicaid Services – Long Term Care, 651654, Medicaid Program Support, and 651649, Medicaid Services – HCAP, may be used to pay for medical assistance services and costs associated with the administration of the Medicaid program.

SECTION 323.10.30. TEMPORARY AUTHORITY REGARDING EMPLOYEES

(A) As used in this section, "medical assistance program" has the same meaning as in the section of this act titled "CREATION OF THE DEPARTMENT OF MEDICAID."

(B) During the period beginning July 1, 2013, and ending June 30, 2015, all of the following apply:

(1) The Medicaid Director has the authority to establish, change, and abolish positions for the Department of Medicaid, and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote all employees of the Department of Medicaid who are not subject to Chapter 4117. of the Revised Code.

(2) As part of the transfer of medical assistance programs to the Department of Medicaid, the Director of Job and Family Services has the authority to establish, change, and abolish positions for the Department of Job and Family Services, and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote all employees of the Department of Job and Family Services who are not subject to Chapter 4117. of the Revised Code.

(C) The authority granted under division (B) of this section includes assigning or reassigning an exempt employee, as defined in section 124.152 of the Revised Code, to a bargaining unit classification if the Medicaid Director or Director of Job and Family Services determines that the bargaining unit classification is the proper classification for that employee. The actions of the Medicaid Director or Director of Job and Family Services shall be consistent with the requirements of 5 C.F.R. 900.603 for those employees subject to such requirements. If an employee in the E-1 pay range is to be assigned, reassigned, classified, reclassified, transferred, reduced, or demoted to a position in a lower classification during the period specified in this section, the Medicaid Director or Director of Job and Family Services, or in the case of a transfer outside the Department of

Medicaid or Department of Job and Family Services, the Director of Administrative Services, shall assign the employee to the appropriate classification and place the employee in Step X. The employee shall not receive any increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation.

(D) Actions taken by the Medicaid Director, Director of Job and Family Services, and Director of Administrative Services pursuant to this section are not subject to appeal to the State Personnel Board of Review.

(E) A portion of the foregoing appropriation items 651425, Medicaid Program Support – State, 651603, Medicaid Health Information Technology, 651624, Medicaid Program Support – Federal, 651680, Health Care Grants – Federal, 651655, Medicaid Interagency Pass-Through, 651605, Resident Protection Fund, 651631, Money Follows the Person, 651682, Health Care Grants – State, and 651654, Medicaid Program Support, may be used to pay for costs associated with the administration of the Medicaid program, including the assignment, reassignment, classification, reclassification, transfer, reduction, promotion, or demotion of employees authorized by this section.

SECTION 323.10.40. STAFF TRAINING REGARDING TRANSFERS

As used in this section, "medical assistance program" has the same meaning as in the section of this act titled "CREATION OF THE DEPARTMENT OF MEDICAID."

The Medicaid Director and Director of Job and Family Services may jointly or separately enter into one or more contracts with public or private entities for staff training and development to facilitate the transfer of the staff and duties regarding medical assistance programs to the Department of Medicaid. Division (B) of section 127.16 of the Revised Code does not apply to contracts entered into under this section.

A portion of the foregoing appropriation items 651425, Medicaid Program Support – State, 651624, Medicaid Program Support – Federal, 651680, Health Care Grants – Federal, 651605, Resident Protection Fund, 651631, Money Follows the Person, and 651654, Medicaid Program Support, may be used to pay for costs associated with the administration of the Medicaid program, including staff training authorized under this section.

SECTION 323.10.50. CREATION OF THE DEPARTMENT OF MEDICAID NOT A COLLECTIVE BARGAINING SUBJECT

As used in this section, "medical assistance program" has the same

meaning as in the section of this act titled "CREATION OF THE DEPARTMENT OF MEDICAID."

Notwithstanding sections 4117.08 and 4117.10 of the Revised Code, this act's creation of the Department of Medicaid and reassignment of the functions and duties of the Office of Medical Assistance regarding medical assistance programs are not appropriate subjects for collective bargaining under Chapter 4117. of the Revised Code.

A portion of the foregoing appropriation items 651425, Medicaid Program Support – State, 651624, Medicaid Program Support – Federal, 651680, Health Care Grants – Federal, 651655, Medicaid Interagency Pass-Through, 651605, Resident Protection Fund, 651631, Money Follows the Person, 651682, Health Care Grants – State, and 651654, Medicaid Program Support, may be used to pay for costs associated with the administration of the Medicaid program, including the reassignment of functions and duties related to the transition of the Office of Medical Assistance into the Department of Medicaid.

SECTION 323.10.60. NEW AND AMENDED GRANT AGREEMENTS

(A) As used in this section:

(1) "Grant agreement" has the same meaning as in section 5101.21 of the Revised Code.

(2) "Medical assistance program" has the same meaning as in the section of this act titled "CREATION OF THE DEPARTMENT OF MEDICAID."

(B) The Director of Job and Family Services and boards of county commissioners may enter into negotiations to amend an existing grant agreement or to enter into a new grant agreement regarding the transfer of medical assistance programs to the Department of Medicaid. Any such amended or new grant agreement shall be drafted in the name of the Department of Job and Family Services. The amended or new grant agreement may be executed before July 1, 2013, if the amendment or agreement does not become effective sooner than that date.

(C) A portion of the foregoing appropriation items 651525, Health Care/Medicaid Services, 651603, Medicaid Health Information Technology, 651623, Medicaid Services – Federal, 651624, Medicaid Program Support – Federal, 651680, Health Care Grants – Federal, and 651682, Health Care Grants - State, may be used to pay for Medicaid services and costs associated with the administration of the Medicaid program.

SECTION 323.10.63. EXCHANGE OF CERTAIN INFORMATION BETWEEN SPECIFIED STATE AGENCIES; HEALTH TRANSFORMATION INITIATIVES

Until the amendments to sections 191.01, 191.02, 191.04, and 191.06 of the Revised Code made by this act take effect in accordance with section 101.01 of this act, all of the following shall be the case:

(A) The definition of "state agency" in section 191.01 of the Revised Code includes the Department of Administrative Services and the Department of Medicaid in addition to the other agencies specified in divisions (I)(1) to (13) of that section.

(B) For the purpose of fulfilling the requirement in section 191.02 of the Revised Code, the Executive Director of the Office of Health Transformation may consult with the Director of Administrative Services and the Medicaid Director in addition to the other individuals specified in divisions (A) to (O) of that section.

(C) Notwithstanding any provision of the Revised Code to the contrary, the provisions in sections 191.04 and 191.06 of the Revised Code apply only for fiscal years 2013, 2014, and 2015.

(D) A portion of the foregoing appropriation items 651425, Medicaid Program Support-State, 651525, Medicaid/Health Care Services, 651639, Medicaid Services-Recoveries, 651638, Medicaid Services-Payment Withholding, 651624, Medicaid Program Support-Federal, 651680, Health Care Grants-Federal, 651655, Medicaid Interagency Pass-Through, 651605, Resident Protection Fund, 651631, Money Follows the Person, 651656, Medicaid Services-Hospitals/UPL, 651682, Health Care Grants-State, 651608, Medicaid Services-Long Term Care, 651654, Medicaid Program Support, and 651649, Medicaid Services-HCAP, may be used to pay for services and costs associated with operating protocols adopted under section 191.06 of the Revised Code and this section.

SECTION 323.10.70. LSC TO RENUMBER ADMINISTRATIVE RULES

On and after October 1, 2013, if necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules of the Office of Medical Assistance within the Department of Job and Family Services to reflect its transfer to the Department of Medicaid.

SECTION 323.20. MEDICAID/HEALTH CARE SERVICES

The foregoing appropriation item 651525, Medicaid/Health Care Services, shall not be limited by section 131.33 of the Revised Code.

SECTION 323.30. QUALITY INCENTIVE PROGRAM TO REDUCE AVOIDABLE ADMISSIONS

(A) The Department of Medicaid may implement, for fiscal year 2014 and fiscal year 2015, a quality incentive program to reduce the number of times that the following persons are admitted to hospitals and nursing facilities or utilize emergency department services when the admissions or utilizations are avoidable:

(1) Medicaid recipients enrolled in a home and community-based services Medicaid waiver component administered by the Office;

(2) Medicaid recipients receiving nursing services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(1);

(3) Medicaid recipients receiving home health aide services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(2);

(4) Medicaid recipients receiving private duty nursing services as defined in 42 C.F.R. 440.80.

(B) If the quality incentive program is implemented, the Department shall include in the program methods by which the Department will determine the program's actual savings to the Medicaid program and shall distribute not more than fifty per cent of the savings to participating Medicaid providers.

SECTION 323.40. CHILDREN'S HOSPITALS QUALITY OUTCOMES PROGRAM

(A) As used in this section, "children's hospital" means a hospital, as defined in section 3727.01 of the Revised Code, that is located in this state, primarily serves patients eighteen years of age and younger, is subject to the Medicaid prospective payment system for hospitals established in rules adopted under section 5164.02 of the Revised Code, and is excluded from Medicare prospective payments in accordance with 42 C.F.R. 412.23(d).

(B) The Medicaid Director may implement, during fiscal year 2014 and fiscal year 2015, a children's hospitals quality outcomes program that encourages children's hospitals to develop the following:

(1) Infrastructures that are needed to care for patients in the least

restrictive setting and promote the care of patients and their families;

(2) Programs designed to improve birth outcomes and measurably reduce neonatal intensive care admissions;

(3) Patient-centered methods to measurably reduce utilization of emergency department services for primary care needs and nonemergency health conditions;

(4) Other quality-focused reforms the Director identifies.

(C) Up to \$6,000,000 state share plus the corresponding federal share in each fiscal year shall be used to support payments made to children's hospitals for developing programs that achieve the outcomes specified under division (B) of this section and any other measures the Medicaid Director deems appropriate.

SECTION 323.50. UNIFIED LONG TERM CARE

The foregoing appropriation item 651425, Medicaid Program Support - State, may be used to provide the preadmission screening and resident review (PASRR), which includes screening, assessments, and determinations made under sections 5119.061 (renumbered section 5119.40 of the Revised Code in this act), 5123.021, and 5165.04 of the Revised Code.

The foregoing appropriation item 651425, Medicaid Program Support - State, may be used to assess and provide long-term care consultations under section 173.42 of the Revised Code to clients regardless of Medicaid eligibility.

The foregoing appropriation item 651525, Medicaid/Health Care Services, may be used to provide nonwaiver funded PASSPORT and assisted living services to persons who the state department has determined to be eligible to participate in the nonwaiver funded PASSPORT and assisted living programs, who applied for but have not yet been determined to be financially eligible to participate in the Medicaid waiver component of the PASSPORT Home Care Program or the Assisted Living Program by a county department of job and family services, and to persons who are not eligible for Medicaid but were enrolled in the PASSPORT Program prior to July 1, 1990.

The foregoing appropriation item 651425, Medicaid Program Support - State, shall be used to provide the required state match for federal Medicaid funds supporting the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program.

The foregoing appropriation item 651525, Medicaid/Health Care

Services, shall be used to provide the federal matching share of program costs determined by the Department of Medicaid to be eligible for Medicaid reimbursement for the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program.

SECTION 323.53. PASSPORT ADMINISTRATIVE AGENCY SITE OPERATIONS

For fiscal year 2014 and fiscal year 2015, spending for PASSPORT administrative agencies' site operating functions relating to screening, assessments, general administrative functions, and provider relations for the Medicaid waiver-funded PASSPORT Home Care Program, Choices Program, Assisted Living Program, and PACE Program shall be at one hundred five per cent of the level provided in fiscal year 2013.

SECTION 323.60. MANAGED CARE PERFORMANCE PAYMENT PROGRAM

At the beginning of each quarter, or as soon as possible thereafter, the Medicaid Director shall certify to the Director of Budget and Management the amount withheld in accordance with section 5167.30 of the Revised Code for purposes of the Managed Care Performance Payment Program. Upon receiving certification, the Director of Budget and Management shall transfer cash in the amount certified from the General Revenue Fund to the Managed Care Performance Payment Fund. Appropriation item 651525, Medicaid/Health Care Services, is hereby reduced by the amount of the transfer. Upon request of the Medicaid Director and approval of the Director of Budget and Management, appropriation up to the cash balance in the Managed Care Performance Payment Fund is hereby appropriated.

In addition to any other purpose authorized by law, the Department of Medicaid may use money in the Managed Care Performance Payment Fund for the following purposes for fiscal year 2014 and fiscal year 2015:

(A) To meet obligations specified in provider agreements with Medicaid managed care organizations;

(B) To pay for Medicaid services provided by a Medicaid managed care organization;

(C) To reimburse a Medicaid managed care organization that has paid a fine for failure to meet performance standards or other requirements specified in provider agreements or rules adopted under section 5167.02 of the Revised Code if the organization comes into compliance with the

standards or requirements.

SECTION 323.70. MEDICAID MANAGED CARE EXEMPTIONS

(A) Except as provided in division (B) of this section, the Department of Medicaid shall not include in the care management system established under section 5167.03 of the Revised Code any individual receiving services through the program for medically handicapped children established under section 3701.023 of the Revised Code who has one or more of the following conditions:

- (1) Cystic fibrosis;
- (2) Hemophilia;
- (3) Cancer.

(B) An individual described in division (A) of this section may be designated for participation in the care management system if the individual was receiving services through the system immediately before July 1, 2013.

(C) This section applies until July 1, 2014, notwithstanding any provision of section 5167.03 of the Revised Code that otherwise authorizes or requires the designation of individuals for participation in the care management system.

SECTION 323.80. PRIOR AUTHORIZATION FOR COMMUNITY MENTAL HEALTH SERVICES

(A) As used in this section, "community mental health services" means mental health services included in the state Medicaid plan pursuant to section 5164.15 of the Revised Code.

(B) For fiscal year 2014 and fiscal year 2015, a Medicaid recipient who is under twenty-one years of age automatically satisfies all requirements for any prior authorization process for community mental health services provided under a component of the Medicaid program administered by the Department of Mental Health and Addiction Services pursuant to an interagency agreement authorized by section 5162.35 of the Revised Code if any of the following apply to the recipient:

- (1) The recipient is in the temporary custody or permanent custody of a public children services agency or private child placing agency or is in a planned permanent living arrangement.
- (2) The recipient has been placed in protective supervision by a juvenile court.
- (3) The recipient has been committed to the Department of Youth Services.

(4) The recipient is an alleged or adjudicated delinquent or unruly child receiving services under the Felony Delinquent Care and Custody Program operated under section 5139.43 of the Revised Code.

SECTION 323.90. JOINT LEGISLATIVE COMMITTEE FOR UNIFIED LONG-TERM SERVICES AND SUPPORTS

(A) The Joint Legislative Committee for Unified Long-Term Services and Supports created under section 309.30.73 of Am. Sub. H.B. 153 of the 129th General Assembly, as subsequently amended, shall continue to exist during fiscal year 2014 and fiscal year 2015. The Committee shall consist of the following members:

(1) Two members of the House of Representatives from the majority party, appointed by the Speaker of the House of Representatives;

(2) One member of the House of Representatives from the minority party, appointed by the Speaker of the House of Representatives;

(3) Two members of the Senate from the majority party, appointed by the President of the Senate;

(4) One member of the Senate from the minority party, appointed by the President of the Senate.

(B) The Speaker of the House of Representatives shall designate one of the members of the Committee appointed under division (A)(1) of this section to serve as co-chairperson of the Committee. The President of the Senate shall designate one of the members of the Committee appointed under division (A)(3) of this section to serve as the other co-chairperson of the Committee. The Committee shall meet at the call of the co-chairpersons. The co-chairpersons may request assistance for the Committee from the Legislative Service Commission.

(C) The Committee may examine the following issues:

(1) The implementation of the dual eligible integrated care demonstration project authorized by section 5164.91 of the Revised Code;

(2) The implementation of a unified long-term services and support Medicaid waiver component under section 5166.14 of the Revised Code;

(3) Providing consumers choices regarding a continuum of services that meet their health-care needs, promote autonomy and independence, and improve quality of life;

(4) Ensuring that long-term care services and supports are delivered in a cost-effective and quality manner;

(5) Subjecting county homes, county nursing homes, and district homes operated pursuant to Chapter 5155. of the Revised Code to the franchise permit fee under sections 5168.40 to 5168.56 of the Revised Code;

(6) Other issues of interest to the committee.

(D) The co-chairpersons of the Committee shall provide for the Medicaid Director to testify before the Committee at least quarterly regarding the issues that the Committee examines.

SECTION 323.100. HOSPITAL INPATIENT AND OUTPATIENT SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM; MEDICAID MANAGED CARE HOSPITAL INCENTIVE PAYMENT PROGRAM

(A) As used in this section:

(1) "Hospital" has the same meaning as in section 5168.20 of the Revised Code.

(2) "Hospital Assessment Fund" means the fund created under section 5168.25 of the Revised Code.

(3) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

(B) The Department of Medicaid shall do both of the following:

(1) Continue the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program that was established pursuant to Section 309.30.17 of Am. Sub. H.B. 1 of the 128th General Assembly, with any modifications necessary to implement the program as described under division (D) of this section;

(2) Continue the Medicaid Managed Care Hospital Incentive Payment Program, as described under division (E) of this section.

(C) The Department shall use amounts deposited into the Hospital Assessment Fund in fiscal year 2014 and fiscal year 2015 for the following purposes in each fiscal year:

(1) To pay for costs associated with all of the following:

(a) The Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program;

(b) The Medicaid Managed Care Hospital Incentive Payment Program;

(c) The Medicaid payment rates for hospital inpatient and outpatient services required by the section of this act entitled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT SERVICES."

(2) To reduce spending in appropriation item 651525, Medicaid/Health Care Services.

(D)(1) Under the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program, subject to division (D)(2) of this section, supplemental Medicaid payments shall be made to hospitals for Medicaid-covered inpatient and outpatient services. The Department shall make the payments through amounts available for the Program pursuant to

division (C) of this section and any federal financial participation available for the Program.

(2) The Department shall take all actions necessary to cease implementation of the Program if the United States Secretary determines that the assessment imposed under section 5168.21 of the Revised Code is an impermissible health care-related tax under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w).

(E)(1) The purpose of the Medicaid Managed Care Hospital Incentive Payment Program is to increase access to hospital services for Medicaid recipients who are enrolled in Medicaid managed care organizations.

Under the Program, subject to division (E)(2) of this section, funds shall be provided to Medicaid managed care organizations, which shall use the funds to increase payments to hospitals for providing services to Medicaid recipients who are enrolled in the organizations. The Department shall provide the funds through amounts available for the Program pursuant to division (C) of this section and any federal financial participation available for the Program.

(2)(a) The Department shall not provide funds to Medicaid managed care organizations under the Program unless an actuary selected by the Department certifies that the Program would not violate the actuarial soundness of the capitation rates paid to Medicaid managed care organizations.

(b) The Department shall not implement the Program in a manner that causes a hospital to receive less money from the Hospital Assessment Fund than the hospital would have received if the Program were not implemented.

(c) The Department shall not implement the Program in a manner that causes a Medicaid managed care organization to receive a lower capitation payment rate solely because funds are made available to the organization under the Program.

(d) The Department shall take all necessary actions to cease implementation of the Program if the United States Secretary determines that the assessment imposed under section 5168.21 of the Revised Code is an impermissible health care-related tax under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w).

(F) The Director of Budget and Management may authorize additional expenditures from appropriation item 651623, Medicaid Services - Federal, appropriation item 651525, Medicaid/Health Care Services, and appropriation item 651656, Medicaid Services - Hospital/UPL, in order to implement the programs authorized by this section. Any amounts authorized are hereby appropriated.

(G) The Medicaid Director shall adopt rules as necessary to implement this section. The rules shall provide for the applicable assessment percentage that is used for the purpose of section 5168.21 of the Revised Code to be an amount that raises, from the assessments imposed on hospitals under that section, an amount the Director determines is appropriate to fund the purposes specified in division (C) of this section.

SECTION 323.103. CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES

(A) The Medicaid payment rates for Medicaid-covered hospital inpatient services shall be the same as the Medicaid payment rates for the services in effect on June 30, 2013, until the effective date of the first of any rules adopted under section 5164.02 of the Revised Code establishing new diagnosis-related groups for the services.

(B) The Medicaid payment rates for Medicaid-covered hospital outpatient services shall be, until June 30, 2015, the same as the Medicaid payment rates for the services in effect on June 30, 2013.

(C) The Director of Budget and Management may authorize additional expenditures from appropriation item 651623, Medicaid Services – Federal, appropriation item 651525, Medicaid/Health Care Services, and appropriation item 651656, Medicaid Services – Hospital/UPL, in order to implement this section. Any amounts authorized are hereby appropriated.

SECTION 323.110. ADMINISTRATIVE ISSUES RELATED TO TERMINATION OF MEDICAID WAIVER PROGRAMS

(A) As used in this section, "MCD or ODA Medicaid waiver component" means the following:

(1) The Medicaid waiver component of the PASSPORT program created under section 173.52 of the Revised Code;

(2) The Choices program created under section 173.53 of the Revised Code;

(3) The Medicaid waiver component of the Assisted Living program created under section 173.54 of the Revised Code.

(4) The Ohio Home Care Waiver program as defined in section 5166.01 of the Revised Code;

(5) The Ohio Transitions II Aging Carve-Out program as defined in section 5166.01 of the Revised Code;

(B) If an MCD or ODA Medicaid waiver component is terminated under section 173.52, 173.53, 173.54, 5166.12, or 5166.13 of the Revised

Code, all of the following apply:

(1) All applicable statutes, and all applicable rules, standards, guidelines, or orders issued by the Medicaid Director or Department of Medicaid or Director or Department of Aging before the component is terminated, shall remain in full force and effect on and after that date, but solely for purposes of concluding the component's operations, including fulfilling the Departments' legal obligations for claims arising from the component relating to eligibility determinations, covered medical assistance provided to eligible persons, and recovering erroneous overpayments.

(2) Notwithstanding the termination of the component, the right of subrogation for the cost of medical assistance given under section 5160.37 of the Revised Code to the Department of Medicaid and an assignment of the right to medical assistance given under section 5160.38 of the Revised Code to the Department continue to apply with respect to the component and remain in force to the full extent provided under those sections.

(3) The Department of Medicaid and Department of Aging may use appropriated funds to satisfy any claims or contingent claims for medical assistance provided under the component before the component's termination.

(4) Neither the Department of Medicaid nor the Department of Aging has liability under the component to reimburse any provider or other person for claims for medical assistance rendered under the component after it is terminated.

(C) The Medicaid Director and Director of Aging may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

SECTION 323.130. DISPENSING FEE FOR NONCOMPOUNDED DRUGS

The Medicaid dispensing fee for each noncompounded drug covered by the Medicaid program shall be \$1.80 for the period beginning July 1, 2013, and ending on the effective date of a rule changing the amount of the fee that the Medicaid Director adopts under section 5164.02 of the Revised Code.

SECTION 323.140. MONEY FOLLOWS THE PERSON ENHANCED REIMBURSEMENT FUND

The federal payments made to the state under subsection (e) of section 6071 of the "Deficit Reduction Act of 2005," Pub. L. No. 109-171, as

amended, shall be deposited into the Money Follows the Person Enhanced Reimbursement Fund. The Department of Medicaid shall continue to use money deposited into the fund for system reform activities related to the Money Follows the Person demonstration project.

SECTION 323.150. MEDICARE PART D

The foregoing appropriation item 651526, Medicare Part D, may be used by the Department of Medicaid for the implementation and operation of the Medicare Part D requirements contained in the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon the request of the Department of Medicaid, the Director of Budget and Management may transfer the state share of appropriations between appropriation item 651525, Medicaid/Health Care Services, or appropriation item 651526, Medicare Part D. If the state share of appropriation item 651525, Medicaid/Health Care Services, is adjusted, the Director of Budget and Management shall adjust the federal share accordingly. The Department of Medicaid shall provide notification to the Controlling Board of any transfers at the next scheduled Controlling Board meeting.

SECTION 323.160. REBALANCING LONG-TERM CARE

(A) As used in this section:

"Balancing Incentive Payments Program" means the program established under section 10202 of the Patient Protection and Affordable Care Act.

"Long-term services and supports" has the same meaning as in section 10202(f)(1) of the Patient Protection and Affordable Care Act.

"Non-institutionally-based long-term services and supports" has the same meaning as in section 10202(f)(1)(B) of the Patient Protection and Affordable Care Act.

"Patient Protection and Affordable Care Act" means Public Law 111-148.

(B) The Departments of Aging, Developmental Disabilities, and Medicaid shall continue efforts to achieve a sustainable and balanced delivery system for long-term services and supports. In so doing, the Departments shall strive to realize the following goals by June 30, 2015:

(1) Having at least fifty per cent of Medicaid recipients who are sixty years of age or older and need long-term services and supports utilize non-institutionally-based long-term services and supports;

(2) Having at least sixty per cent of Medicaid recipients who are less than sixty years of age and have cognitive or physical disabilities for which long-term services and supports are needed utilize non-institutionally-based long-term services and supports.

(C) If the Department of Medicaid determines that participating in the Balancing Incentive Payments Program will assist in achieving the goals specified in division (B) of this section, the Department may apply to the United States Secretary of Health and Human Services to participate in the program.

SECTION 323.170. OHIO ACCESS SUCCESS PROJECT

Of the foregoing appropriation item, 651525, Medicaid/Health Care Services, up to \$450,000 in each fiscal year may be used to provide one-time transitional benefits under the Ohio Access Success Project that the Medicaid Director may establish under section 5166.35 of the Revised Code.

SECTION 323.180. PROVIDER FRANCHISE FEE OFFSETS

(A) At least quarterly, the Medicaid Director shall certify to the Director of Budget and Management the amount of offsets withheld under section 5168.52 of the Revised Code from payments made from the General Revenue Fund.

(B) The Director of Budget and Management may transfer cash from the General Revenue Fund to the Nursing Home Franchise Permit Fee Fund (Fund 5R20), in accordance with section 5168.54 of the Revised Code.

(C) Amounts transferred pursuant to this section are hereby appropriated.

SECTION 323.190. USES FOR FEDERAL MEDICAID FUNDS

The foregoing appropriation item 651623, Medicaid Services - Federal, shall be used by the Department of Medicaid for distributing the federal share of Medicaid services required under the section of this act entitled "CREATION OF THE DEPARTMENT OF MEDICAID," including the federal share of all hospital care assurance program funds to hospitals under section 5168.09 of the Revised Code.

SECTION 323.193. HOSPITAL CARE ASSURANCE MATCH

If receipts credited to the Health Care Federal Fund (Fund 3F00) exceed

the amounts appropriated from the fund for making the hospital care assurance program distribution, the Medicaid Director may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

The foregoing appropriation item 651649, Medicaid Services – HCAP, shall be used by the Department of Medicaid for distributing the state share of all hospital care assurance program funds to hospitals under section 5168.09 of the Revised Code. If receipts credited to the Hospital Care Assurance Program Fund (Fund 6510) exceed the amounts appropriated from the fund for making the hospital care assurance program distribution, the Medicaid Director may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 323.200. HEALTH CARE SERVICES ADMINISTRATION FUND

Of the amount received by the Department of Medicaid during fiscal year 2014 and fiscal year 2015 from the first installment of assessments paid under section 5168.06 of the Revised Code and intergovernmental transfers made under section 5168.07 of the Revised Code, the Medicaid Director shall deposit \$350,000 in each fiscal year into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U30).

SECTION 323.210. TRANSFERS OF OFFSETS TO THE HEALTH CARE SERVICES ADMINISTRATION FUND

(A) As used in this section:

"Hospital offset" means an offset from a hospital's Medicaid payment authorized by section 5168.991 of the Revised Code.

"Vendor offset" means a reduction of a Medicaid payment to a Medicaid provider to correct a previous, incorrect Medicaid payment.

(B) During fiscal year 2014 and fiscal year 2015, at intervals selected by the Medicaid Director, the Director shall certify to the Director of Budget and Management the amount of hospital offsets and vendor offsets for the period covered by the certification and the particular funds that would have been used to make Medicaid payments to providers if not for the offsets. Each certification shall specify the amount that would have been taken from

each of the funds if not for the hospital offsets and vendor offsets.

(C) On receipt of a certification under division (B) of this section, the Director of Budget and Management shall transfer cash from the funds identified in the certification to the Health Care Services Administration Fund (Fund 5U30). The amount transferred from a fund shall equal the amount that would have been taken from the fund if not for the hospital offsets and vendor offsets as specified in the certification. The transferred cash is hereby appropriated.

SECTION 323.220. MEDICAID INTERAGENCY PASS-THROUGH

The Medicaid Director may request the Director of Budget and Management to increase appropriation item 651655, Medicaid Interagency Pass-Through. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 323.230. MEDICAID PAYMENTS FOR NONINSTITUTIONAL SERVICES PROVIDED TO DUAL ELIGIBLE INDIVIDUALS

(A) As used in this section:

"Dual eligible individual" has the same meaning as in the "Social Security Act," section 1915(h)(2)(B), 42 U.S.C. 1396n(h)(2)(B).

"Medicare Part B" means the Supplementary Medical Insurance Program for the Aged and Disabled component of the Medicare program established by Part B of Title XVIII of the "Social Security Act," 42 U.S.C. 1395j et seq.

"Noninstitutional services" means any services other than hospital services, nursing facility services, and intermediate care facilities for individuals with intellectual disabilities.

(B) Notwithstanding any conflicting state statute, a Medicaid payment for noninstitutional services, excluding physician services and including freestanding dialysis center services, provided during the period beginning January 1, 2014, and ending July 1, 2015, to a Medicaid recipient who is a dual eligible individual enrolled for benefits under Medicare Part B shall equal the lesser of the following:

(1) The sum of the Medicare Part B deductible, coinsurance, and copayment for the services that are applicable to the individual;

(2) The greater of the following:

(a) The maximum allowable Medicaid payment for the services when the services are provided to other Medicaid recipients, less the total

Medicaid payment (if any) most recently paid on the Medicaid recipient's behalf for such services;

(b) Zero.

SECTION 323.233. MEDICAID PAYMENTS FOR HOME HEALTH SERVICES AND PRIVATE DUTY NURSING

(A) As used in this section, "responsible adult" means the spouse of a Medicaid recipient or, in the case of a Medicaid recipient who is a minor, the minor's parent, foster caregiver, stepparent, guardian, legal custodian, or any other person who stands in loco parentis for the minor.

(B) Except as provided in division (C) of this section, for fiscal year 2014 and fiscal year 2015, Medicaid payments shall not be made for any of the following services that are provided to a Medicaid recipient by an individual who is a responsible adult for that recipient:

(1) Nursing services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(1);

(2) Home health aide services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(2);

(3) Private duty nursing services, as defined in 42 C.F.R. 440.80.

(C) For fiscal year 2014 and fiscal year 2015, the Medicaid Director shall establish the conditions under which Medicaid payments may be made for any of the services described in division (B) of this section that are provided to a Medicaid recipient by an individual who is a responsible adult for that recipient.

(D) The Director shall adopt rules in accordance with Chapter 119. of the Revised Code necessary to implement this section. The Director shall consult provider representatives, consumer representatives, and other stakeholders in developing the rules, which may include the following:

(1) Qualification and training requirements necessary for responsible adults to receive Medicaid payments under division (C) of this section;

(2) Oversight requirements necessary for responsible adults to receive Medicaid payments under division (C) of this section;

(3) Procedures designed to protect against fraud, waste, and abuse that may occur as a result of payments made under division (C) of this section;

(4) Any other procedures, standards, or requirements the Director considers appropriate.

SECTION 323.234. DIRECT CARE WORKER ADVISORY WORKGROUP

(A) As used in this section:

(1) "Core competencies" means the minimum standards a direct care worker must meet when providing direct care services and engaging in any one or more of the following activities associated with care for a medicaid recipient: maintaining a clean and safe environment, ensuring recipient-centered care, promoting the recipient's development, assisting the recipient with activities of daily living, communicating with the recipient, completing administrative tasks, and participating in professional development activities.

(2) "Direct care services" means health care services, ancillary services, or services related to or in support of the provision of health care or ancillary services.

(3) "Direct care worker" means an individual who, for direct or indirect payment, provides direct care services to a medicaid recipient in the recipient's home or other place of residence.

(4) "Direct payment" means a Medicaid payment made directly to a direct care worker for the worker's provision of direct care services to a Medicaid recipient.

(5) "Indirect payment" means a Medicaid payment made to a third party who pays a direct care worker for the worker's provision of direct care services to a Medicaid recipient.

(B) There is hereby created the Direct Care Worker Advisory Workgroup. The Workgroup shall consist of the following members:

(1) The Director of Aging or the Director's designee;

(2) The Director of Developmental Disabilities or the Director's designee;

(3) The Director of Health or the Director's designee;

(4) The Medicaid Director or the Director's designee;

(5) The Executive Director of the Office of Health Transformation or the Executive Director's designee;

(6) Two representatives from each of the following organizations, appointed by the organization's chief executive officer or the individual serving in an equivalent capacity for the organization:

(a) The Ohio Council for Home Care and Hospice;

(b) The Ohio Health Care Association;

(c) The Ohio Provider Resource Association;

(d) The Ohio Nurses Association;

(e) The Midwest Care Alliance;

(f) The Ohio Assisted Living Association;

(g) LeadingAge Ohio.

(7) Two members of the House of Representatives, one from the majority party and the other from the minority party, appointed by the Speaker of the House of Representatives;

(8) Two members of the Senate, one from the majority party and the other from the minority party, appointed by the President of the Senate.

(C) Members of the Workgroup shall be appointed not later than fifteen days after the effective date of this section. Vacancies shall be filled in the same manner as the original appointments. Each member shall serve without compensation or reimbursement for expenses incurred while serving on the Workgroup, except to the extent that serving on the Workgroup is considered to be among the member's employment duties.

(D) The Executive Director of the Office of Health Transformation or the Executive Director's designee shall serve as chairperson of the Workgroup. The Departments of Health and Medicaid shall provide staff and other support services for the Workgroup.

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

(1) Determine core competencies;

(2) Designate which direct care workers should meet core competencies;

(3) Determine whether existing regulatory requirements are equivalent or similar to core competencies;

(4) Identify funding sources that could be used to assist direct care workers in meeting core competencies;

(5) Recommend policies that may be incorporated in legislation the General Assembly intends to consider, as described in division (G) of this section.

(F) Not later than December 31, 2013, the Workgroup shall submit a report to the General Assembly describing its findings and recommendations. The report shall be submitted in accordance with section 101.68 of the Revised Code. On submission of the report, the Workgroup shall cease to exist.

(G) It is the intent of the General Assembly to enact legislation in the future, taking into account the recommendations of the Workgroup, regarding certification of direct care workers and Medicaid payments for direct care services provided by those workers. The legislation is intended to do both of the following:

(1) Require the Director of Health to establish, not later than October 1, 2014, a direct care worker certification program that applies to the workers designated by the Workgroup;

(2) Prohibit the Department of Medicaid, beginning October 1, 2015, from allowing a direct or indirect payment to be made for direct care

services provided by a direct care worker to whom the certification program applies unless the worker is appropriately certified under that program.

SECTION 323.235. NURSING FACILITY DISTINCT PART ADVISORY WORKGROUP

(A) There is created the Nursing Facility Distinct Part Advisory Workgroup. The Workgroup shall consist of all of the following members:

(1) The Executive Director of the Governor's Office of Health Transformation or the Executive Director's designee;

(2) The Director of Aging or the Director's designee;

(3) The Director of Health or the Director's designee;

(4) The Medicaid Director or the Director's designee;

(5) The State Long-Term Care Ombudsman or the Ombudsman's designee;

(6) Two representatives from each of the following, appointed by the organization's chief executive officer or the individual serving in an equivalent capacity for the organization:

(a) The Ohio Health Care Association;

(b) LeadingAge Ohio;

(c) AARP Ohio;

(d) The Academy of Senior Health Sciences.

(7) Two members of the House of Representatives, one from the majority party and the other from the minority party, appointed by the Speaker of the House of Representatives;

(8) Two members of the Senate, one from the majority party and the other from the minority party, appointed by the Senate President.

(B) Members of the Workgroup shall be appointed not later than fifteen days after the effective date of this section. Vacancies shall be appointed in the same manner as the original appointments. Each member shall serve without compensation or reimbursement for expenses incurred while serving on the Workgroup, except to the extent that serving on the Workgroup is considered to be among the member's employment duties.

(C) The Executive Director of the Governor's Office of Health Transformation or the Executive Director's designee shall serve as chairperson of the Workgroup. The Department of Medicaid shall provide staff and other support services for the Workgroup.

(D) The Workgroup shall do both of the following:

(1) Develop findings regarding the impact that allowing nursing facilities to exclude distinct parts of their facilities from their Medicaid provider agreements would have on access to nursing facility services,

quality of care, and purchasing strategies for nursing facility services provided to Medicaid recipients with specialized health care needs;

(2) Not later than December 31, 2013, submit a report to the General Assembly in accordance with section 101.68 of the Revised Code that includes the Workgroup's findings and recommendations for policies on nursing facilities excluding distinct parts of their facilities from their Medicaid provider agreements.

(E) The Workgroup shall cease to exist on submission of its report.

SECTION 323.236. PURCHASING STRATEGIES FOR CERTAIN SERVICES

As used in this section, "custom wheelchair" has the same meaning as in section 5165.01 of the Revised Code.

For the period beginning January 1, 2014, and ending June 30, 2015, the Medicaid Director shall implement strategies for purchasing oxygen (other than emergency oxygen), resident transportation services, and custom wheelchairs for Medicaid recipients residing in nursing facilities. In implementing the purchasing strategies, the Director shall seek to achieve a more efficient allocation of resources and price and quality competition among providers of the goods and services. The Director shall consider one or more of the following when determining the purchasing strategies to implement:

(A) Establishing competitive bidding;

(B) Establishing manufacturers rebate programs;

(C) Another purchasing strategy that saves the Medicaid program an amount equivalent to the savings that would be realized from the purchasing strategies specified in division (A) or (B), or both, of this section.

SECTION 323.250. REDUCED RATE FOR REPEAT RADIOLOGICAL SERVICES

(A) The Medicaid Director shall reduce the Medicaid payment rate for radiological services to which both of the following apply:

(1) They are provided in a physician's office or an independent diagnostic testing facility;

(2) They are provided more than once by the same provider for the same Medicaid recipient during the same session.

(B) The Director shall adopt rules under section 5164.02 of the Revised Code to implement the rate reduction required by this section. The rules shall not take effect before January 1, 2014.

SECTION 323.260. VARYING MEDICAID PAYMENT RATES FOR PHYSICIAN SERVICES DEPENDING ON LOCATION OF SERVICE

(A) The Medicaid Director shall do both of the following:

(1) Identify physician services for which Medicaid payment rates should vary depending on where the services are provided;

(2) Adopt rules under section 5164.02 of the Revised Code to establish the varying Medicaid payment rates.

(B) The rules required by division (A)(2) of this section shall not take effect before January 1, 2014.

SECTION 323.263. PAYMENT RATES FOR PASSPORT SERVICES

The Medicaid payment rates for services provided under the PASSPORT program, other than adult day-care services, during the period beginning July 1, 2013, and ending June 30, 2015, shall be not less than ninety-eight and five-tenths per cent of the Medicaid payment rates for the services in effect on June 30, 2011. The Medicaid payment rates for adult day-care services provided under the PASSPORT program during the period beginning July 1, 2013, and ending June 30, 2015, shall be twenty per cent higher than the amount of the Medicaid payment rates for the services in effect on June 30, 2013.

SECTION 323.270. MEDICAID PAYMENT METHODOLOGIES ALIGNED WITH MEDICARE PAYMENT METHODOLOGIES

(A) The Medicaid Director shall do both of the following:

(1) Identify Medicaid services for which the Medicaid payment methodologies should be aligned, to the extent the Director considers appropriate, with Medicare payment methodologies for the services;

(2) Adopt rules under section 5164.02 of the Revised Code to so align the payment methodologies for the services.

(B) The rules required by division (A)(2) of this section shall not take effect before January 1, 2014.

SECTION 323.280. ALTERNATIVE PURCHASING MODEL FOR NURSING FACILITY SERVICES

As used in this section, "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

The Medicaid Director may establish, as a Medicaid waiver component,

an alternative purchasing model for nursing facility services provided, during the period beginning July 1, 2013, and ending July 1, 2015, to Medicaid recipients with specialized health care needs, including recipients dependent on ventilators, recipients who have severe traumatic brain injury, and recipients who would be admitted to long-term acute care hospitals or rehabilitation hospitals if they did not receive nursing facility services. If established, the alternative purchasing model shall do all of the following:

(A) Recognize a connection between enhanced Medicaid payment rates and improved health outcomes capable of being measured;

(B) Include criteria for identifying Medicaid recipients with specialized health care needs;

(C) Include procedures for ensuring that Medicaid recipients identified pursuant to division (B) of this section receive nursing facility services under the alternative purchasing model.

The total per Medicaid day payment rate for nursing facility services provided under the alternative purchasing model may differ from the rate that would otherwise be paid pursuant to Chapter 5165. of the Revised Code.

SECTION 323.290. REVIEW OF LONG-TERM SERVICES TO IMPROVE EFFICIENCY AND INDIVIDUAL CARE

(A) The Department of Medicaid may review the following services covered by the Medicaid program to identify opportunities to improve the efficiency of, and individual care provided by, long-term care services and supports:

(1) Nursing services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(1);

(2) Home health aide services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(2);

(3) Private duty nursing services as defined in 42 C.F.R. 440.80.

(B) The Department, in its review authorized by division (A) of this section, may consider establishing the following:

(1) New methods for authorizing and coordinating long-term care services and supports, including such services and supports covered by the Medicaid state plan, using case managers or care coordinators;

(2) Competency and training requirements for the case managers or care coordinators;

(3) Other mechanisms for improving efficiency and individual care in the delivery of long-term care services and supports.

SECTION 323.300. PERFORMANCE PAYMENTS FOR MEDICAID MANAGED CARE

(A) As used in this section:

(1) "Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315, 42 U.S.C. 1396n(h)(2)(B).

(2) "Dual eligible integrated care demonstration project" means the demonstration project authorized by section 5164.91 of the Revised Code.

(3) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

(4) "Participant" means an individual participating in the dual eligible integrated care demonstration project.

(B) For fiscal year 2014 and fiscal year 2015, the Department of Medicaid shall provide performance payments as provided under this section to Medicaid managed care organizations providing care under the Dual Eligible Integrated Care Demonstration Project.

(C) If the Department implements the Dual Eligible Integrated Care Demonstration Project, and if participants receive care through Medicaid managed care organizations under the project, the Department shall, in consultation with the United States Centers for Medicare and Medicaid Services, do both of the following:

(1) Develop quality measures designed specifically to determine the effectiveness of the health care and other services provided to participants by Medicaid managed care organizations;

(2) Determine an amount to be withheld from the Medicaid premium payments paid to Medicaid managed care organizations for participants.

(D)(1) For the purposes of division (C)(2) of this section, the Department shall establish an amount that is to be withheld each time a premium payment is made to a Medicaid managed care organization for a participant. The amount shall be established as a percentage of each premium payment. The percentage shall be the same for all Medicaid managed care organizations providing care to participants.

(2) Each Medicaid managed care organization shall agree to the withholding as a condition of receiving or maintaining its Medicaid provider agreement with the Department.

(3) When the amount is established and each time the amount is modified thereafter, the Department shall certify the amount to the Director of Budget and Management and begin withholding the amount from each premium the Department pays to a Medicaid managed care organization for

a participant.

(E) The Director of Budget and Management shall transfer the amounts certified in accordance with division (D) of this section into the Managed Care Performance Payment Fund created under section 5162.60 of the Revised Code. The amounts transferred may be used to make performance payments to Medicaid managed care organizations providing care to participants in accordance with rules that may be adopted by the Medicaid Director under Chapter 119. of the Revised Code.

(F) A Medicaid managed care organization subject to this section is not subject to section 5167.30 of the Revised Code for premium payments attributed to participants during fiscal year 2014 and fiscal year 2015.

SECTION 323.310. INTEGRATED CARE DELIVERY SYSTEM PERFORMANCE PAYMENT PROGRAM

At the beginning of each quarter, or as soon as possible thereafter, the Medicaid Director may certify to the Director of Budget and Management the amount withheld in accordance with the section in this act titled "PERFORMANCE PAYMENTS FOR MEDICAID MANAGED CARE." On receipt of certification, the Director of Budget and Management shall transfer cash in the amount certified from the General Revenue Fund to the Managed Care Performance Payment Fund (Fund 5KW0). The transferred cash is hereby appropriated. Appropriation item 651525, Medicaid/Health Care Services, is hereby reduced by the amount of the transfer.

SECTION 323.320. VENDOR COLLECTION OF PATIENT LIABILITY

(A) As used in this section:

"Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

"Patient liability" means the amount that 42 C.F.R. 435.735 requires be reduced from a Medicaid payment for home and community-based services available under a Medicaid waiver component.

(B) The Medicaid Director may contract with a person or government entity to collect patient liabilities for fiscal year 2014 and fiscal year 2015. The Director may adopt rules under section 5166.02 of the Revised Code as necessary to implement this section.

SECTION 323.330. STATE PLAN HOME AND COMMUNITY-BASED

SERVICES

(A) As used in this section:

"Federal poverty line" means the official poverty line defined by the United States Office of Management and Budget based on the most recent data available from the United States Bureau of the Census and revised by the United States Secretary of Health and Human Services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

"State plan home and community-based services" means home and community-based services that may be included in the Medicaid state plan pursuant to the "Social Security Act," section 1915(i), 42 U.S.C. 1396n(i).

(B) During fiscal year 2014 and fiscal year 2015, the Medicaid program may cover state plan home and community-based services for Medicaid recipients of any age who have behavioral health issues and countable incomes not exceeding one hundred fifty per cent of the federal poverty line. A Medicaid recipient is not required to undergo a level of care determination to be eligible for the state plan home and community-based services.

The Medicaid Director may adopt rules under section 5164.02 of the Revised Code as necessary to implement this section.

SECTION 323.340. INPATIENT PSYCHIATRIC HOSPITAL SERVICES FOR INDIVIDUALS UNDER AGE 21

(A) As used in this section:

"Inpatient psychiatric hospital services for individuals under age 21" has the same meaning as in the "Social Security Act," section 1905(h), 42 U.S.C. 1396d(h).

"Psychiatric residential treatment facility" has the same meaning as in 42 C.F.R. 483.352.

(B) During fiscal year 2014 and fiscal year 2015, the Medicaid program may cover inpatient psychiatric hospital services for individuals under age 21 that are provided by psychiatric residential treatment facilities to Medicaid recipients to whom both of the following apply:

(1) They are in the custody of the Department of Youth Services.

(2) They have been identified as meeting a clinical criterion of serious emotional disturbance specified pursuant to division (C) of this section.

(C) The Department of Youth Services, in collaboration with the Department of Medicaid and Department of Mental Health and Addiction

Services, shall specify the clinical criterion of serious emotional disturbance to be used for the purpose of division (B)(2) of this section.

SECTION 323.350. MCD COLLABORATION WITH DVS

The Department of Medicaid may collaborate with the Department of Veterans Services to determine ways to improve the coordination of the services that the Departments make available to veterans in a manner that enhances veterans' receipt of the services. The Departments may implement, during fiscal year 2014 and fiscal year 2015, initiatives that they determine during the collaboration will maximize the efficiency of the services and ensure that veterans' needs are met.

SECTION 323.360. IMPROVED BIRTH OUTCOMES INITIATIVES

(A) The Medicaid Director may develop and implement, during fiscal year 2014 and fiscal year 2015, initiatives designed to improve birth outcomes for Medicaid recipients, including improvements designed to do the following:

- (1) Reduce the number of preterm births;
- (2) Reduce Medicaid costs;
- (3) Improve the quality of Medicaid services.

(B) In developing the initiatives, the Director may consult with experts in practice improvement, Medicaid managed care organizations, hospitals, and other types of Medicaid providers. The Director, Medicaid managed care organizations, and other types of Medicaid providers involved in the initiatives shall make information about the initiatives available on their web sites.

SECTION 323.370. ABOLISHMENT OF THE PRESCRIPTION DRUG REBATES FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Prescription Drug Rebates Fund (Fund 5P50) to the Health Care/Medicaid Support and Recoveries Fund (Fund 5DL0). Upon completion of the transfer, Fund 5P50 is abolished. The Director shall cancel any existing encumbrances against appropriation item 600692, Health Care/Medicaid Support – Drug Rebates, and reestablish them against appropriation item 651639, Medicaid Services - Recoveries. The re-established encumbrance amounts are hereby appropriated.

All money that would have been deposited into the Prescription Drug Rebates Fund shall be deposited into the Health Care/Medicaid Support and Recoveries Fund during fiscal year 2014 and fiscal year 2015.

SECTION 323.380. ABOLISHMENT OF THE HEALTHCARE COMPLIANCE FUND

On July 1, 2013, or as soon as possible thereafter, the Medicaid Director shall certify to the Director of Budget and Management, the cash balance related to managed care obligations in the Healthcare Compliance Fund (Fund 4Z10). The Director of Budget and Management shall transfer the amount certified from Fund 4Z10 to the Managed Care Performance Payment Fund (Fund 5KW0). The Director shall cancel any existing encumbrances related to managed care obligations against appropriation item 600625, Healthcare Compliance, and re-establish them against appropriation item 651612, Managed Care Performance Payment. The re-established encumbrance amounts are hereby appropriated.

After the cash relating to managed care obligations has been transferred, the Director of Budget and Management shall transfer the remaining cash balance in the Healthcare Compliance Fund (Fund 4Z10) to the Health Care Services Administration Fund (Fund 5U30). Upon completion of the transfer, Fund 4Z10 is abolished. The Director shall cancel any remaining encumbrances against appropriation item 600625, Healthcare Compliance, and re-establish them against appropriation item 651654, Medicaid Program Support. The re-established encumbrance amounts are hereby appropriated.

All money that would have been deposited into the Health Care Compliance Fund pursuant to division (B)(2) of former section 5111.946 of the Revised Code shall be deposited into the Health Care Services Administration Fund during fiscal year 2014 and fiscal year 2015.

SECTION 323.390. ABOLISHMENT OF THE ODJFS ADMINISTRATION AND OVERSIGHT FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the ODJFS Administration and Oversight Fund (Fund 5S30) to the Health Care Services Administration Fund (Fund 5U30). Upon completion of the transfer, Fund 5S30 is abolished. The Director shall cancel any existing encumbrances against appropriation item 600629, Healthcare Program and DDD Support, and re-establish them against appropriation item 651654, Medicaid Program Support. The re-established encumbrance amounts are hereby appropriated.

SECTION 323.400. REFUNDS AND RECONCILIATION FUND

The Refunds and Reconciliation Fund (Fund R055) shall be used to hold refund and reconciliation revenues until the appropriate fund is determined or until the revenues are directed to the appropriate governmental agency other than the Department of Medicaid. Any Medicaid refunds or reconciliations received or held by the Department of Job and Family Services shall be transferred or credited to this fund. If receipts credited to the Refunds and Reconciliation Fund exceed the amounts appropriated from the fund, the Medicaid Director may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 323.480. UPDATING AUTHORIZING STATUTE CITATIONS

As used in this section, "authorizing statute" means a Revised Code section or provision of a Revised Code section that is cited in the Ohio Administrative Code as the statute that authorizes the adoption of a rule.

The Medicaid Director is not required to amend any rule for the sole purpose of updating the citation in the Ohio Administrative Code to the rule's authorizing statute to reflect that this act renumbers the authorizing statute or relocates it to another Revised Code section. Such citations shall be updated as the Director amends the rules for other purposes.

SECTION 325.10. MED STATE MEDICAL BOARD

General Services Fund Group

5C60 883609	Operating Expenses	\$	9,172,062	\$	9,172,062
TOTAL GSF General Services					
Fund Group		\$	9,172,062	\$	9,172,062
TOTAL ALL BUDGET FUND GROUPS					
		\$	9,172,062	\$	9,172,062

SECTION 327.10. MHA DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

General Revenue Fund

GRF 333321	Central Administration	\$	13,495,337	\$	13,486,290
GRF 333402	Resident Trainees	\$	450,000	\$	450,000
GRF 333415	Lease-Rental Payments	\$	15,843,300	\$	16,076,700
GRF 333416	Research Program Evaluation	\$	321,998	\$	321,998
GRF 334412	Hospital Services	\$	190,514,437	\$	190,514,437

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GRF	334506	Court Costs	\$	784,210	\$	784,210
GRF	335405	Family & Children First	\$	1,386,000	\$	1,386,000
GRF	335406	Prevention and Wellness	\$	868,659	\$	868,659
GRF	335421	Continuum of Care Services	\$	77,733,742	\$	77,633,742
GRF	335422	Criminal Justice Services	\$	4,917,898	\$	4,917,898
GRF	335504	Community Innovations	\$	6,500,000	\$	1,500,000
GRF	335506	Residential State Supplement	\$	7,502,875	\$	7,502,875
GRF	335507	Community Behavioral Health	\$	47,500,000	\$	47,500,000
GRF	652507	Medicaid Support	\$	1,727,553	\$	1,736,600
TOTAL GRF General Revenue Fund			\$	369,546,009	\$	364,679,409
General Services Fund Group						
1490	333609	Central Office Operating	\$	1,343,190	\$	1,343,190
5T90	333641	Problem Gambling Services - Administration	\$	60,000	\$	60,000
1490	334609	Hospital - Operating Expenses	\$	28,190,000	\$	28,190,000
1500	334620	Special Education	\$	150,000	\$	150,000
4P90	335604	Community Mental Health Projects	\$	250,000	\$	250,000
5T90	335641	Problem Gambling Services	\$	275,000	\$	275,000
1510	336601	Office of Support Services	\$	115,000,000	\$	115,000,000
TOTAL GSF General Services Fund Group			\$	145,268,190	\$	145,268,190
Federal Special Revenue Fund Group						
3240	333605	Medicaid/Medicare - Refunds	\$	154,500	\$	154,500
3A60	333608	Federal Miscellaneous - Administration	\$	140,000	\$	140,000
3A70	333612	Social Services Block Grant - Administration	\$	50,000	\$	50,000
3A80	333613	Federal Grants - Administration	\$	4,717,000	\$	4,717,000
3A90	333614	Mental Health Block Grant - Administration	\$	748,470	\$	748,470
3G40	333618	Substance Abuse Block Grant- Administration	\$	3,307,789	\$	3,307,789
3H80	333606	Demonstration Grants - Administration	\$	3,237,574	\$	3,237,574
3N80	333639	Administrative Reimbursement	\$	300,000	\$	300,000
3240	334605	Medicaid/Medicare - Hospitals	\$	28,200,000	\$	28,200,000
3A60	334608	Federal Miscellaneous - Hospitals	\$	200,000	\$	200,000
3A80	334613	Federal Letter of Credit	\$	200,000	\$	200,000
3A60	335608	Federal Miscellaneous	\$	2,170,000	\$	2,170,000
3A70	335612	Social Services Block Grant	\$	8,400,000	\$	8,400,000
3A80	335613	Federal Grant - Community Mental Health Board Subsidy	\$	2,500,000	\$	2,500,000
3A90	335614	Mental Health Block Grant	\$	14,200,000	\$	14,200,000
3FR0	335638	Race to the Top - Early Learning Challenge Grant	\$	1,164,000	\$	1,164,000
3G40	335618	Substance Abuse Block Grant	\$	62,542,003	\$	62,557,967
3H80	335606	Demonstration Grants	\$	5,428,006	\$	5,428,006

3B10	652635	Community Medicaid Legacy Costs	\$	5,000,000	\$	0
3B10	652636	Community Medicaid Legacy Support	\$	7,000,000	\$	7,000,000
3J80	652609	Medicaid Legacy Costs Support	\$	3,000,000	\$	0
TOTAL FED Federal Special Revenue Fund Group			\$	152,659,342	\$	144,675,306
State Special Revenue Fund Group						
2320	333621	Family and Children First Administration	\$	400,000	\$	400,000
4750	333623	Statewide Treatment and Prevention - Administration	\$	5,490,667	\$	5,490,667
4850	333632	Mental Health Operating - Refunds	\$	134,233	\$	134,233
5JL0	333629	Problem Gambling and Casino Addictions - Administration	\$	1,361,592	\$	1,361,592
5V20	333611	Non-Federal Miscellaneous	\$	100,000	\$	100,000
6890	333640	Education and Conferences	\$	150,000	\$	150,000
4850	334632	Mental Health Operating - Hospitals	\$	2,477,500	\$	2,477,500
4750	335623	Statewide Treatment and Prevention	\$	10,059,333	\$	10,059,333
5AU0	335615	Behavioral Health Care	\$	6,690,000	\$	6,690,000
5JL0	335629	Problem Gambling and Casino Addictions	\$	4,084,772	\$	4,084,772
6320	335616	Community Capital Replacement	\$	350,000	\$	350,000
TOTAL SSR State Special Revenue Fund Group			\$	31,298,097	\$	31,298,097
TOTAL ALL BUDGET FUND GROUPS			\$	698,771,638	\$	685,921,002

SECTION 327.20. TRANSITION RELATING TO CONSOLIDATION OF DEPARTMENTS

Notwithstanding Chapters 340., 3793., 5119., and 5122. of the Revised Code, and any other provision of law to the contrary, on July 1, 2013, there is hereby created the Department of Mental Health and Addiction Services, which shall be administered by the Director of Mental Health and Addiction Services. The Director of Mental Health and Addiction Services shall be appointed by the Governor, with the advice and consent of the Senate, and shall hold office during the term of the appointing Governor, and is subject to removal at the pleasure of the Governor. The Director of Mental Health and Addiction Services is the executive head of the Department of Mental Health and Addiction Services. The Department of Alcohol and Drug Addiction Services and the Department of Mental Health shall be consolidated into the single Department of Mental Health and Addiction Services. All of the authority, functions, and assets and liabilities of the Department of Mental Health and the Department of Alcohol and Drug

Addiction Services are transferred to the Department of Mental Health and Addiction Services. The Department of Mental Health and Addiction Services is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the Department of Alcohol and Drug Addiction Services and the Department of Mental Health. The Director of Mental Health and Addiction Services assumes all of the duties, authorities, and responsibilities of the Director of Alcohol and Drug Addiction Services and the Director of Mental Health. Any action, license, or certification that was undertaken or issued by the Director of Alcohol and Drug Addiction Services or the Director of Mental Health that is current and valid on the effective date of the consolidation is deemed to be an action, license, or certification undertaken or issued by the Department of Mental Health and Addiction Services under the statute creating that Department.

Any business commenced but not completed by July 1, 2013, by the Department of Mental Health or the Department of Alcohol and Drug Addiction Services shall be completed by the Department of Mental Health and Addiction Services. The business shall be completed in the same manner, and with the same effect, as if completed by the Department of Mental Health or by the Department of Alcohol and Drug Addiction Services prior to July 1, 2013.

No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of this act's transfer of responsibility from the Department of Mental Health and the Department of Alcohol and Drug Addiction Services to the Department of Mental Health and Addiction Services. Each such validation, cure, right, remedy, obligation, or liability shall be administered by the Department of Mental Health and Addiction Services pursuant to the statute creating that department.

All rules, orders, and determinations made or undertaken pursuant to the authority and responsibilities of the Department of Mental Health and the Department of Alcohol and Drug Addiction Services prior to July 1, 2013, shall continue in effect as rules, orders, and determinations of the Department of Mental Health and Addiction Services until modified or rescinded by the Department of Mental Health and Addiction Services. If necessary to ensure the integrity of the numbering system of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules to reflect the transfer of authority and responsibility to the Department of Mental Health and Addiction Services.

Any action or proceeding that is related to the functions or duties of the Department of Mental Health or the Department of Alcohol and Drug Addiction Services pending on July 1, 2013, is not affected by the transfer

of responsibility to the Department of Mental Health and Addiction Services and shall be prosecuted or defended in the name of the Department of Mental Health and Addiction Services. In all such actions and proceedings, the Department of Mental Health and Addiction Services, on application to the court, shall be substituted as a party.

It is the intention of the Department of Mental Health and Addiction Services that community subsidies allocated or distributed by the department will be used to fund mental health and addiction services in largely the same proportion that such services were funded when allocated or distributed as separate funding streams through the separate Department of Mental Health or Department of Alcohol and Drug Addiction Services.

All employees of the Department of Mental Health and the Department of Alcohol and Drug Addiction Services shall be employees of the Department of Mental Health and Addiction Services and shall serve in the positions previously held within their respective agencies unless the Department of Mental Health and Addiction Services determines otherwise. The merger of Department of Mental Health and Department of Alcohol and Drug Addiction Services shall not be deemed a transfer of employees pursuant to division (D)(3)(b) of section 124.11 of the Revised Code. Any unclassified employee of the Department of Mental Health and Addiction Services who held a right to resume a position within the classified service of his or her previous respective agency of the Department of Mental Health or the Department of Alcohol and Drug Addiction Services shall retain such a right subject to section 5119.18 of the Revised Code as may be amended.

On July 1, 2013, or as soon as possible thereafter, notwithstanding any provision of law to the contrary, and if requested by the Department of Mental Health and Addiction Services, the Director of Budget and Management shall make budget changes made necessary by the consolidation, if any, including administrative organization, program transfers, the creation of new funds, the transfer of state funds, and the consolidation of funds, as authorized by this section. The Director of Budget and Management may make any transfer of cash balances between funds.

On July 1, 2013, or as soon as possible thereafter, the Director of Mental Health and Addiction Services shall certify to the Director of Budget and Management all encumbrances held by the Department of Mental Health and the Department of Alcohol and Drug Addiction Services, and specify which of those encumbrances are requested to be transferred to the Department of Mental Health and Addiction Services. The Director of Budget and Management may cancel any existing encumbrances as certified by the Director of Mental Health and Addiction Services and re-establish

them in the new agency. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed with regard to the encumbrances certified shall be completed by the Department of Mental Health and Addiction Services in the same manner and with the same effect as if it were completed by the Department of Mental Health or the Department of Alcohol and Drug Addiction Services.

Not later than 30 days after the transfer and consolidation of the operations and related management functions of the Department of Mental Health and the Department of Alcohol and Drug Addiction Services to the Department of Mental Health and Addiction Services, an authorized officer of the former Department of Mental Health and the former Department of Alcohol and Drug Addiction Services shall certify to the Director of Mental Health and Addiction Services the unexpended balance and location of any funds and accounts designated for building and facility operation and management functions, and the custody of such funds and accounts shall be transferred to the Department of Mental Health and Addiction Services.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038616, Problem Gambling Services, and re-establish them against appropriation items 333641, Problem Gambling Services - Administration, and 335641, Problem Gambling Services. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038616 by July 1, 2013, shall be completed under appropriation items 333641 and 335641 in the same manner and with the same effect as if it were completed with regard to appropriation item 038616.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038614, Substance Abuse Block Grant, and re-establish them against appropriation items 333618, Substance Abuse Block Grant - Administration, and 335618, Substance Abuse Block Grant. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038614 by July 1, 2013, shall be completed under appropriation items 333618 and 335618 in the same manner and with the same effect as if it were completed with regard to appropriation item 038614.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038609, Demonstration Grants, and re-establish them against appropriation items 333606, Demonstration Grants - Administration, and 335606,

Demonstration Grants. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038609 by July 1, 2013, shall be completed under appropriation items 333606 and 335606 in the same manner and with the same effect as if it were completed with regard to appropriation item 038609.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038621, Statewide Treatment and Prevention, and re-establish them against appropriation items 333623, Statewide Treatment and Prevention - Administration, and 335623, Statewide Treatment and Prevention. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038621 by July 1, 2013, shall be completed under appropriation items 333623 and 335623 in the same manner and with the same effect as if it were completed with regard to appropriation item 038621.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038629, Problem Gambling and Casino Addictions, and re-establish them against appropriation items 333629, Problem Gambling and Casino Addictions - Administration, and 335629, Problem Gambling and Casino Addictions. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038629 by July 1, 2013, shall be completed under appropriation items 333629 and 335629 in the same manner and with the same effect as if it were completed with regard to appropriation item 038629.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038611, Administrative Reimbursement, and re-establish them against appropriation item 333639, Administrative Reimbursement. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038611 by July 1, 2013, shall be completed under appropriation item 333639 in the same manner and with the same effect as if it were completed with regard to appropriation item 038611.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 335635, Community Medicaid Expansion, and re-establish them against appropriation item 652635, Community Medicaid Legacy Costs. The re-established encumbrance amounts are hereby appropriated. Any business

commenced but not completed under appropriation item 335635 by July 1, 2013, shall be completed under appropriation item 652635 in the same manner and with the same effect as if it were completed with regard to appropriation item 335635.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 333635, Community Medicaid Expansion, and re-establish them against appropriation item 652636, Community Medicaid Legacy Support. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 333635 by July 1, 2013, shall be completed under appropriation item 652636 in the same manner and with the same effect as if it were completed with regard to appropriation item 333635.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038610, Medicaid, and re-establish them against appropriation item 652609, Medicaid Legacy Costs Support. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038610 by July 1, 2013, shall be completed under appropriation item 652609 in the same manner and with the same effect as if it were completed with regard to appropriation item 038610.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038604, Education and Conferences, and re-establish them against appropriation item 333640, Education and Conferences. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038604 by July 1, 2013, shall be completed under appropriation item 333640 in the same manner and with the same effect as if it were completed with regard to appropriation item 038604.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038401, Treatment Services, and re-establish them against appropriation items 335421, Continuum of Care Services, 335422, Criminal Justice Services, and 335406, Prevention and Wellness. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038401 by July 1, 2013, shall be completed under appropriation items 335421, 335422, and 335406 in the same manner and with the same effect as if it were completed with regard to appropriation item 038401.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 335419, Community Medication Subsidy, and re-establish them against appropriation item 335421, Continuum of Care Services. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 335419 by July 1, 2013, shall be completed under appropriation item 335421 in the same manner and with the same effect as if it were completed with regard to appropriation item 335419.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 335505, Local Mental Health Systems of Care, and re-establish them against appropriation item 335421, Continuum of Care Services. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 335505 by July 1, 2013, shall be completed under appropriation item 335421 in the same manner and with the same effect as if it were completed with regard to appropriation item 335505.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 332401, Forensic Services, and re-establish them against appropriation item 335422, Criminal Justice Services. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 332401 by July 1, 2013, shall be completed under appropriation item 335422 in the same manner and with the same effect as if it were completed with regard to appropriation item 332401.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 333403, Pre-Admission Screening Expenses, and re-establish them against appropriation item 652507, Medicaid Support. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 333403 by July 1, 2013, shall be completed under appropriation item 652507 in the same manner and with the same effect as if it were completed with regard to appropriation item 333403.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038900, Indigent Drivers Alcohol Treatment, and re-establish them against appropriation item 335900, Indigent Drivers Alcohol Treatment. The re-established encumbrance amounts are hereby appropriated. Any business

commenced but not completed under appropriation item 038900 by July 1, 2013, shall be completed under appropriation item 335900 in the same manner and with the same effect as if it were completed with regard to appropriation item 038900.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038404, Prevention Services, and re-establish them against appropriation item 335406, Prevention and Wellness. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038404 by July 1, 2013, shall be completed under appropriation item 335406 in the same manner and with the same effect as if it were completed with regard to appropriation item 038404.

SECTION 327.20.10. Effective July 1, 2013, the Director of Mental Health and Addiction Services, with respect to all mental health and addiction facilities and services established and operated or provided under Chapter 340. of the Revised Code shall do all of the following:

(A) To the extent the Director determines necessary, and after consultation with the boards of alcohol, drug addiction, and mental health services and community addiction and mental health services providers, develop and operate, or contract for the operation of, a community behavioral health information system or systems. The Department shall specify the information that must be provided by boards of alcohol, drug addiction, and mental health services and by community addiction and mental health services providers for inclusion in the system or systems. Boards of alcohol, drug addiction, and mental health services and community addiction and mental health services providers shall submit information requested by the Department in the form and manner and in accordance with time frames prescribed by the Department. Information collected by the Department may include all of the following:

(1) Information on services provided;

(2) Financial information regarding expenditures of federal, state, or local funds;

(3) Information about persons served.

(B)(1) Receive and review each board's community mental health and addiction services plan, budget, and statement of services to be made available, and approve or disapprove the plan, budget, and statement of services in whole or in part.

(2) The Department may withhold all or part of the funds allocated to a board if it disapproves all or part of a plan, budget, or statement of service.

(3) Prior to a final decision to disapprove a plan, budget, or statement of services, or to withhold funds from a board, a representative of the Director shall meet with the board to discuss the reasons for the action and any corrective action that should be taken to make the plan, budget, or statement of services acceptable, and give the board a reasonable time in which to revise the plan, budget, or statement of services.

(C) Establish procedures for the review of plans, budgets, and statements of services, and a timetable for submission and review. Boards of alcohol, drug addiction, and mental health services shall submit to the Department of Mental Health and Addiction Services the information, plans, budgets, and statements of services described above in accordance with the guidance or directives of the Department or Director. After notifying and consulting with relevant constituents, the Department of Mental Health and Addiction Services shall establish a methodology for allocating to boards of alcohol, drug addiction, and mental health services the funds appropriated by the General Assembly to the Department for the purpose of local mental health and addiction services continuums of care. Subject to existing provisions of law that permit the Director to withhold funds from boards of alcohol, drug addiction, and mental health services for failure to comply with applicable sections of law, or for discriminating in making services available, and subject to a board's submission and approval of the required plan, budget, and statement of services described above, the Department shall allocate the funds to the boards in a manner consistent with the methodology and state and federal laws, rules, and regulations.

Portions of appropriation items 333609, Central Office Operating, 333606, Demonstration Grants - Administration, 333612, Social Services Block Grant - Administration, 333613, Federal Grants - Administration, 333614, Mental Health Block Grant - Administration, 333618, Substance Abuse Block Grant - Administration, 333623, Statewide Treatment and Prevention - Administration, 333629, Problem Gambling and Casino Addictions - Administration, 333608, Federal Miscellaneous - Administration, 333641, Problem Gambling Services - Administration, 335406, Prevention and Wellness, 335421, Continuum of Care Services, 335422, Criminal Justice Services, 335604, Community Mental Health Projects, 335606, Demonstration Grants, 335612, Social Services Block Grant, 335613, Federal Grant - Community Mental Health Subsidy, 335614, Mental Health Block Grant, 335615, Behavioral Health Care, 335618, Substance Abuse Block Grant, 335623, Statewide Treatment and Prevention, 335629, Problem Gambling and Casino Addictions, 335638, Race to the Top - Early Learning Challenge Grant, and 335900, Indigent

Drivers Alcohol Treatment, may be used to pay for the Department and board functions enumerated above.

SECTION 327.20.20. (A) Effective July 1, 2013, all records and reports, other than court journal entries or court docket entries, identifying a person and pertaining to the person's mental health condition, assessment, provision of care or treatment, or payment for assessment, care, or treatment that are maintained in connection with any services certified by the Department of Mental Health and Addiction Services, or any hospitals or facilities licensed or operated by the Department, shall be kept confidential and shall not be disclosed by any person, with the following exceptions:

(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents.

(2) When disclosure is provided for in Chapters 340., 5119., or 5122. of the Revised Code or in accordance with other provisions of state or federal law authorizing such disclosure.

(3) Hospitals, boards of alcohol, drug addiction, and mental health services, licensed facilities, and community mental health services providers may release necessary information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the person.

(4) Pursuant to a court order signed by a judge;

(5) A person shall be granted access to the person's own psychiatric and medical records unless access specifically is restricted in a person's treatment plan for clear treatment reasons.

(6) The Department of Mental Health and Addiction Services may exchange psychiatric records and other pertinent information with community mental health services providers and boards of alcohol, drug addiction, and mental health services relating to the person's care or services. Records and information that may be exchanged pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(7) The Department of Mental Health and Addiction Services, hospitals, and community providers operated by the Department, hospitals licensed by the Department under section 5119.20 (5119.33) of the Revised Code and community mental health services providers may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for the person or for the emergency treatment of the

person.

(8) The Department of Mental Health and Addiction Services and community mental health services providers may exchange psychiatric records and other pertinent information with boards of alcohol, drug addiction, and mental health services for purposes of any board function set forth in Chapter 340. of the Revised Code. Boards of alcohol, drug addiction, and mental health services shall not access or use any personal information from the Department or providers except as required or permitted by this section, or Chapters 340. and 5122. of the Revised Code for purposes related to payment, care coordination, health care operations, program and service evaluation, reporting activities, research, system administration, oversight, or other authorized purposes.

(9) A person's family member who is involved in the provision, planning, and monitoring of services to the person may receive medication information, a summary of the person's diagnosis and prognosis, and a list of the services and personnel available to assist the person and the person's family, if the person's treatment provider determines that the disclosure would be in the best interests of the person. No such disclosure shall be made unless the person is notified first and receives the information and does not object to the disclosure.

(10) Community mental health services providers may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other providers in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(11) Information may be disclosed to the executor or the administrator of an estate of a deceased person when the information is necessary to administer the estate.

(12) Information may be disclosed to staff members of the appropriate board or to staff members designated by the Director of Mental Health and Addiction Services for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any person.

(13) Records pertaining to the person's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the person was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised

Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under Chapter 5122. of the Revised Code.

(14) The Department of Mental Health and Addiction Services may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the Department of Rehabilitation and Correction and with the Department of Youth Services to ensure continuity of care for inmates and offenders who are receiving mental health services in an institution of the Department of Rehabilitation and Correction or the Department of Youth Services and may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with boards of alcohol, drug addiction, and mental health services and community mental health services providers to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution and are scheduled for release within six months. The release of records under this division is limited to records regarding an inmate's or offender's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(15) A community mental health services provider that ceases to operate may transfer to either a community mental health services provider that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the person resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the person's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), or (10) of this section, the custodian of the records shall attempt to obtain the consent of the person in question for the disclosure.

(C) No person shall reveal the content of a medical record of a person except as authorized by the law.

(D) Portions of appropriation items 333321, Central Administration, 333416, Research Program Evaluation, 333605, Medicaid/Medicare - Refunds, 333606, Demonstration Grants - Administration, 333608, Federal Miscellaneous - Administration, 333609, Central Office Opening, 333611, Non-Federal Miscellaneous, 333612, Social Services Block Grant - Administration, 333613, Federal Grants - Administration, 333614, Mental Health Block Grant - Administration, 333618, Substance Abuse Block Grant - Administration, 333621, Family and Children First Administration, 333623, Statewide Treatment and Prevention - Administration, 333629, Problem Gambling and Casino Addictions - Administration, 333632, Mental Health Operating - Refunds, 333608, Federal Miscellaneous -

Administration, 333640, Education and Conferences, 333641, Problem Gambling Services - Administration, 333639, Administrative Reimbursement, 334605, Medicaid/Medicare - Hospitals, 334608, Federal Miscellaneous - Hospitals, 334609, Hospital - Operating Expenses, 334613, Federal Letter of Credit, 334620, Special Education, 334632, Mental Health Operating - Hospitals, 335405, Family and Children First, 335406, Prevention and Wellness, 335421, Continuum of Care Services, 335422, Criminal Justice Services, 335604, Community Mental Health Projects, 335506, Residential State Supplement, 335608, Federal Miscellaneous, 335606, Demonstration Grants, 335612, Social Services Block Grant, 335613, Federal Grant - Community Mental Health Subsidy, 335614, Mental Health Block Grant, 335615, Behavioral Health Care, 335618, Substance Abuse Block Grant, 335623, Statewide Treatment and Prevention, 335629, Problem Gambling and Casino Addictions, 335638, Race to the Top - Early Learning Challenge Grant, 335900, Indigent Drivers Alcohol Treatment, 336601, Office of Support Services, 652609, Medicaid Legacy Costs Support, 652635, Community Medicaid Legacy Costs, and 652636, Community Medicaid Legacy Support, may be used to pay for the Department and community mental health system functions that operate under the confidentiality provisions enumerated above.

SECTION 327.20.30. Effective July 1, 2013, the Director of Mental Health and Addiction Services may adopt rules pursuant to Chapter 119. of the Revised Code governing licensure and operation of residential facilities, that include procedures for conducting criminal records checks for operators, employees, and volunteers who have direct access to facility residents.

Portions of appropriation items 334506, Court Costs, 335406, Prevention and Wellness, 335421, Continuum of Care Services, 335614, Mental Health Block Grant, 335506, Residential State Supplement, 335615, Behavioral Health Care, 335618, Substance Abuse Block Grant, 335623, Statewide Treatment and Prevention, and 335900, Indigent Drivers Alcohol Treatment, may be used to pay for these regulated activities.

SECTION 327.20.40. Effective July 1, 2013, to the extent funds are available and on application of boards of alcohol, drug addiction, and mental health services, the Director of Mental Health and Addiction Services may approve state reimbursement of, or state grants for, community construction programs, including residential housing for severely mentally disabled

persons and persons with substance use disorders. The Director may also approve an application for reimbursement or a grant for such programs submitted by other governmental entities or by private, nonprofit organizations after the board of alcohol, drug addiction, and mental health services has reviewed and approved the application and the application is consistent with the plan, budget, and statement of services submitted to and approved by the Department. The Director shall adopt rules in accordance with Chapter 119. of the Revised Code that specify procedures for applying for state reimbursement and for state grants for community construction programs, including residential housing for severely mentally disabled persons and persons with substance use disorders.

Portions of appropriation item 335616, Community Capital Replacement, may be used to pay for the Department functions enumerated above.

SECTION 327.20.50. Effective July 1, 2013, the Department of Mental Health and Addiction Services shall collect information about services delivered and persons served as required for reporting and evaluation relating to state and federal funds expended for such purposes. No alcohol, drug addiction, or mental health program, agency, or services provider shall fail to supply statistics or other information within its knowledge and with respect to its programs or services upon the request of the department.

Portions of appropriation items 333321, Central Administration, 333609 Central Office Operating, 333606, Demonstration Grants - Administration, 333612, Social Services Block Grant - Administration, 333613, Federal Grants - Administration, 333614, Mental Health Block Grant - Administration, 333618, Substance Abuse Block Grant - Administration, 333623, Statewide Treatment and Prevention - Administration, 333629, Problem Gambling and Casino Addictions - Administration, 333608, Federal Miscellaneous - Administration, 333641, Problem Gambling Services - Administration, 335406, Prevention and Wellness, 335421, Continuum of Care Services, 335422, Criminal Justice Services, 335604, Community Mental Health Projects, 335606, Demonstration Grants, 335612, Social Services Block Grant, 335613, Federal Grant - Community Mental Health Subsidy, 335614, Mental Health Block Grant, 335615, Behavioral Health Care, 335618, Substance Abuse Block Grant, 335623, Statewide Treatment and Prevention, 335629, Problem Gambling and Casino Addictions, 335638, Race to the Top - Early Learning Challenge Grant, and 335900, Indigent Drivers Alcohol Treatment, 652609, Medicaid Legacy Costs Support, and 652636, Community Medicaid Legacy Support,

may be used to pay for the Department information collection and reporting functions enumerated above.

SECTION 327.20.60. The Department of Mental Health and Addiction Services shall administer specified Medicaid services as delegated by the State's single agency responsible for the Medicaid program. Effective July 1, 2013, the Department shall use appropriation item 652507, Medicaid Support, to fund the Medicaid-related services and supports performed by the Department.

SECTION 327.30. RESIDENT TRAINEES

The foregoing appropriation item 333402, Resident Trainees, shall be used to fund training agreements entered into by the Director of Mental Health and Addiction Services for the development of curricula and the provision of training programs to support public mental health services.

SECTION 327.40. LEASE-RENTAL PAYMENTS

The foregoing appropriation item 333415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, by the Department of Mental Health and Addiction Services under leases and agreements made under section 154.20 of the Revised Code. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 154. of the Revised Code.

SECTION 327.50. HOSPITAL SERVICES

The foregoing appropriation item 334412, Hospital Services, shall be used for the operation of the State Regional Psychiatric Hospitals, including, but not limited to, all aspects involving civil and forensic commitment, treatment, and discharge as determined by the Director of Mental Health and Addiction Services. A portion of this appropriation may be used by the Department of Mental Health and Addiction Services to create, purchase, or contract for the custody, supervision, control, and treatment of persons committed to the Department of Mental Health and Addiction Services in other clinically appropriate environments, consistent with public safety.

SECTION 327.60. CONTINUUM OF CARE SERVICES

The foregoing appropriation item 335421, Continuum of Care Services, shall be used as follows:

(A) A portion of this appropriation shall be allocated to community alcohol, drug addiction, and mental health services boards in accordance with a distribution methodology determined by the Director of Mental Health and Addiction Services:

(1) For the boards to purchase mental health and addiction services permitted under Chapter 340. of the Revised Code;

(2) To provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization due to lack of medication; and

(3) To provide subsidized support for medication assisted treatment costs.

(B) A portion of this appropriation may be distributed to community alcohol, drug addiction, and mental health services boards, community addiction and/or mental health services providers, courts, or other governmental entities to provide specific grants in support of mental health and addiction services initiatives.

(C) \$665,196 shall be allocated to The Ohio State University STAR House in each fiscal year.

SECTION 327.70. CRIMINAL JUSTICE SERVICES

The foregoing appropriation item 335422, Criminal Justice Services, shall be used to provide forensic psychiatric evaluations to courts of common pleas and to conduct evaluations of patients of forensic status in facilities operated or designated by the Department of Mental Health and Addiction Services prior to conditional release to the community. A portion of this appropriation may be allocated through community alcohol, drug addiction, and mental health services boards to community addiction and/or mental health services providers in accordance with a distribution methodology as determined by the Director of Mental Health and Addiction Services.

Appropriation item 335422, Criminal Justice Services, may also be used to:

(A) Provide forensic monitoring and tracking of individuals on conditional release;

(B) Provide forensic training;

(C) Support projects that assist courts and law enforcement to identify and develop appropriate alternative services to incarceration for nonviolent mentally ill offenders;

(D) Provide specialized re-entry services to offenders leaving prisons and jails;

(E) Provide specific grants in support of addiction services alternatives to incarceration;

(F) Support specialty dockets; and

(G) Support therapeutic communities.

SECTION 327.80. COMMUNITY INNOVATIONS

Of the foregoing appropriation item 335504, Community Innovations, \$5,000,000 in fiscal year 2014 shall be used to support the pilot program established under the section of this act entitled "ADDICTION TREATMENT PILOT PROGRAM." Of the \$5,000,000 allocated for the pilot program, the Department of Mental Health and Addiction Services shall receive an amount of not more than five per cent for an administrative fee.

The foregoing appropriation item 335504, Community Innovations, may be used by the Department of Mental Health and Addiction Services to make targeted investments in programs, projects, or systems operated by or under the authority of other state agencies, governmental entities, or private not-for-profit agencies that impact, or are impacted by, the operations and functions of the Department, with the goal of achieving a net reduction in expenditure of state general revenue funds and/or improved outcomes for Ohio citizens without a net increase in state general revenue fund spending.

The Director shall identify and evaluate programs, projects, or systems proposed or operated, in whole or in part, outside of the authority of the Department, where targeted investment of these funds in the program, project, or system is expected to decrease demand for the Department or other resources funded with state general revenue funds, and/or to measurably improve outcomes for Ohio citizens with mental illness or with alcohol, drug, or gambling addictions. The Director shall have discretion to transfer money from the appropriation item to other state agencies, governmental entities, or private not-for-profit agencies in amounts, and subject to conditions, that the Director determines most likely to achieve state savings and/or improved outcomes. Distribution of moneys from this appropriation item shall not be subject to sections 9.23 to 9.239 or Chapter 125. of the Revised Code.

The Department shall enter into an agreement with each recipient of community innovation funds, identifying: allowable expenditure of the funds; other commitment of funds or other resources to the program, project, or system; expected state savings and/or improved outcomes and proposed

mechanisms for measurement of such savings or outcomes; and required reporting regarding expenditure of funds and savings or outcomes achieved.

The foregoing appropriation item 335504, Community Innovations, may also be used by the Department to make payments to the Opportunities for Ohioans with Disabilities Agency for vocational rehabilitation services to individuals receiving mental health or addiction services paid for with public dollars.

SECTION 327.83. COMMUNITY BEHAVIORAL HEALTH

Of the foregoing appropriation item 335507, Community Behavioral Health, \$30,000,000 in each fiscal year shall be allocated to community alcohol, drug addiction, and mental health services boards to provide mental health services.

Of the foregoing appropriation item 335507, Community Behavioral Health, \$17,500,000 in each fiscal year shall be allocated to community alcohol, drug addiction, and mental health services boards to be used for addiction services including medication, treatment programs, and counseling.

SECTION 327.90. COMMUNITY OPERATING/PLANNING

Appropriation item 335609, Community Operating/Planning, may be used by the Department of Mental Health and Addiction Services to make payments to the Opportunities for Ohioans with Disabilities Agency for vocational rehabilitation services to individuals receiving mental health or addiction services paid for with public dollars.

In addition, appropriation item 335609, Community Operating/Planning, may be used by the Department to make incentive payments to operators of residential facilities that are licensed by the Department of Mental Health and Addiction Services and provide accommodations and personal care services for one or two unrelated adults or accommodations, supervision, and personal care services for three to sixteen unrelated adults. The incentive payments shall be granted based upon operators demonstrating linkage between their facilities' residents and community resources, based on the residents' needs including, but not limited to, aged, mental health, and physical health issues. The financial incentive shall be used to support community living for individuals with a disability or who are aged, and to assist with costs arising from facility operations.

Appropriation item 335609, Community Operating/Planning, may also

be used by the Department to support non-Medicaid program costs for individuals moving into community settings.

SECTION 327.93. PROBLEM GAMBLING AND CASINO ADDICTIONS

A portion of appropriation item 335629, Problem Gambling and Casino Addictions, shall be allocated to boards of alcohol, drug addiction, and mental health services in accordance with a distribution methodology determined by the Director of Mental Health and Addiction Services.

SECTION 327.100. RESIDENTIAL STATE SUPPLEMENT

(A) As used in this section:

(1) "Residential facility" means a facility licensed by the Department of Mental Health and Addiction Services under section 5119.34 of the Revised Code.

(2) "Residential care facility" means a facility licensed by the Director of Health under Chapter 3721. of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code.

(B) The foregoing appropriation item 335506, Residential State Supplement, may be used by the Department of Mental Health and Addiction Services to provide training for residential facilities providing accommodations, supervision, and personal care services to three to sixteen unrelated adults with mental illness, to transfer cash to the Nursing Home Franchise Permit Fee Fund (Fund 5R20) used by the Department of Job and Family Services, and to make benefit payments to residential state supplement recipients.

(C) Under the Residential State Supplement Program, the amount used to determine whether a resident is eligible for payment, and for determining the amount per month the eligible resident will receive, shall be as follows:

(1) \$927 for a residential care facility;

(2) \$927 for a residential facility that provides accommodations, supervision, and personal care services for six to sixteen unrelated adults as described in section 5119.34 of the Revised Code;

(3) \$824 for a residential facility that provides accommodations, supervision, and personal care services for one or two unrelated adults as described in division (A)(9)(b)(ii) of section 5119.34 of the Revised Code;

(4) \$824 for a residential facility providing accommodations, supervision, and personal care services to three to five unrelated adults, as described in section 5119.34 of the Revised Code;

(5) \$824 for a residential facility that provides accommodations, supervision, and personal care services for one or two unrelated persons with mental illness or persons with severe mental disabilities who are referred by or are receiving mental health services from a community mental health services provider or a hospital, as described in division (A)(9)(b)(i) of section 5119.34 of the Revised Code;

(6) \$618 for community mental health housing services, as described in division (D)(1)(c) of section 5119.41 of the Revised Code.

The Department of Mental Health and Addiction Services shall reflect these amounts in any applicable rules the Department adopts under section 5119.41 of the Revised Code.

(D) The Department of Mental Health and Addiction Services shall, with the input of stakeholders and impacted state agencies, conduct a review of the state and federal rules and statutes governing the Residential State Supplement Program and report on potential improvements to be made in governing the program not later than January 1, 2014.

SECTION 327.110. FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL

A county family and children first council may establish and operate a flexible funding pool in order to assure access to needed services by families, children, and older adults in need of protective services. The operation of the flexible funding pools shall be subject to the following restrictions:

(A) The county council shall establish and operate the flexible funding pool in accordance with formal guidance issued by the Family and Children First Cabinet Council;

(B) The county council shall produce an annual report on its use of the pooled funds. The annual report shall conform to a format prescribed in the formal guidance issued by the Family and Children First Cabinet Council;

(C) Unless otherwise restricted, funds transferred to the flexible funding pool may include state general revenues allocated to local entities to support the provision of services to families and children;

(D) The amounts transferred to the flexible funding pool shall be limited to amounts that can be redirected without impairing the achievement of the objectives for which the initial allocation is designated; and

(E) Each amount transferred to the flexible funding pool from a specific allocation shall be approved for transfer by the director of the local agency that was the original recipient of the allocation.

SECTION 327.120. ADDICTION TREATMENT PILOT PROGRAM

(A) As used in this section:

(1) "Certified drug court program" means a session of any of the following that holds initial or final certification from the Supreme Court of Ohio as a specialized docket program for drugs: a common pleas court, municipal court, or county court or a division of any of those courts.

(2) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(B)(1) The Department of Mental Health and Addiction Services shall conduct a pilot program to provide addiction treatment, including medication-assisted treatment, to persons who are offenders within the criminal justice system, eligible to participate in a certified drug court program, and selected under this section to be participants in the pilot program because of their dependence on opioids, alcohol, or both.

(2) The Department shall conduct the pilot program in the courts of Crawford, Franklin, Hardin, Mercer, and Scioto counties that are conducting certified drug court programs. If in any these counties there is no court conducting a certified drug court program, the Department shall conduct the pilot program in a court that is conducting a certified drug court program in another county.

(3) In addition to courts of the counties listed in division (B)(2) of this section, the Department may conduct the pilot program in any court that is conducting a certified drug court program.

(C) In conducting the pilot program, the Department shall collaborate with the Supreme Court, Department of Rehabilitation and Correction, and any other state agency that it determines may be of assistance in accomplishing the objectives of the pilot program. In addition, the Department may collaborate with the boards of alcohol, drug addiction, and mental health services that serve the counties in which the courts participating in the pilot program are located.

(D) Not later than sixty days after the effective date of this section, the Department shall select a nationally recognized criminal justice research institute with extensive experience in the evaluation of criminal justice and substance abuse projects to develop an evaluation plan for the pilot program. The evaluation plan shall include performance measures that reflect the purpose of the pilot program, which is to assist participants in addressing their dependence on opioids, alcohol, or both, by maintaining abstinence from the use of those substances and reducing recidivism.

(E) Before any person may be enrolled as a participant in the pilot

program, the evaluation plan developed by the research institute shall be put into place with each of the certified drug court programs included in the pilot program and the addiction services providers that will provide treatment to the participants.

Once the evaluation plan has been put into place, the certified drug court programs shall select persons who are offenders within the criminal justice system to be participants in the pilot program. To be selected, a person must meet the legal and clinical eligibility criteria for the certified drug court program and be an active participant in the program. The total number of persons participating in the pilot program at any one time shall not exceed five hundred, except that the Department may authorize the maximum number to be exceeded in circumstances that the Department considers appropriate.

After being enrolled in the pilot program, a participant shall comply with all requirements of the certified drug court program.

(F) Treatment may be provided under the pilot program only by a community addiction services provider that is certified under section 5119.36 of the Revised Code. In serving as a treatment provider, a community addiction services provider shall do all of the following:

(1) Provide treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the addiction services provider;

(2) Conduct professional, comprehensive substance abuse and mental health diagnostic assessments of persons under consideration for selection as pilot program participants to determine whether they would benefit from substance abuse treatment and monitoring;

(3) Determine, based on the assessments described in division (F)(2) of this section, the treatment needs of the participants served by the treatment provider;

(4) Develop, for the participants served by the treatment provider, individualized goals and objectives;

(5) Provide access to the long-acting antagonist therapies, partial agonist therapies, or both that are included in the pilot program's medication-assisted treatment;

(6) Provide other types of therapies, including psychosocial therapies, for both substance abuse and any disorders that are considered by the treatment provider to be co-occurring disorders;

(7) Monitor pilot program compliance through the use of regular drug testing, including urinalysis, of the participants being served by the treatment provider.

(G) In the case of the medication-assisted treatment provided under the pilot program, all of the following conditions apply:

(1) A drug may be used only if it has been approved by the United States Food and Drug Administration for use in treating dependence on opioids, alcohol, or both or for preventing relapse into the use of opioids, alcohol, or both.

(2) One or more drugs may be used, but each drug that is used must constitute long-acting antagonist therapy or partial agonist therapy.

(3) If a drug constituting partial agonist therapy is used, the pilot program shall provide safeguards to minimize abuse and diversion of the drug, including such safeguards as routine drug testing of the pilot program participants.

(H) The research institute selected by the Department under division (D) of this section shall prepare a report of the findings obtained from the pilot program. The report shall include data derived from the drug testing and performance measures used in the pilot program. In preparing the report, the research institute shall obtain assistance from the Department.

Not later than six months after the conclusion of the pilot program, the research institute shall complete its report. On completion, the research institute shall submit the report to the Governor; Chief Justice of the Supreme Court; President of the Senate; Speaker of the House of Representatives; Department of Mental Health and Addiction Services and Department of Rehabilitation and Correction; and any other state agency the Department of Mental Health and Addiction Services collaborates with in conducting the pilot program.

SECTION 329.10. MIH COMMISSION ON MINORITY HEALTH

General Revenue Fund

GRF 149321	Operating Expenses	\$	581,490	\$	591,615
GRF 149501	Minority Health Grants	\$	889,100	\$	878,975
GRF 149502	Lupus Program	\$	110,047	\$	110,047
TOTAL GRF General Revenue Fund		\$	1,580,637	\$	1,580,637

Federal Special Revenue Fund Group

3J90 149602	Federal Grants	\$	140,000	\$	140,000
TOTAL FED Federal Special Revenue Fund Group		\$	140,000	\$	140,000

State Special Revenue Fund Group

4C20 149601	Minority Health Conference	\$	25,000	\$	25,000
TOTAL SSR State Special Revenue Fund Group		\$	25,000	\$	25,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,745,637	\$	1,745,637

SECTION 331.10. CRB MOTOR VEHICLE REPAIR BOARD

General Services Fund Group

4K90 865601	Operating Expenses	\$	487,592	\$	484,292
TOTAL GSF General Services					
Fund Group		\$	487,592	\$	484,292
TOTAL ALL BUDGET FUND GROUPS		\$	487,592	\$	484,292

SECTION 333.10. DNR DEPARTMENT OF NATURAL RESOURCES

General Revenue Fund

GRF 725401	Wildlife-GRF Central Support	\$	1,800,000	\$	1,800,000
GRF 725413	Lease Rental Payments	\$	21,622,900	\$	23,943,400
GRF 725456	Canal Lands	\$	135,000	\$	135,000
GRF 725502	Soil and Water Districts	\$	2,900,000	\$	2,900,000
GRF 725505	Healthy Lake Erie Fund	\$	650,000	\$	500,000
GRF 725507	Coal and Mine Safety Program	\$	2,500,000	\$	2,500,000
GRF 725903	Natural Resources General Obligation Debt Service	\$	24,325,400	\$	25,443,000
GRF 727321	Division of Forestry	\$	4,392,002	\$	4,392,001
GRF 729321	Office of Information Technology	\$	177,405	\$	177,405
GRF 730321	Division of Parks and Recreation	\$	30,000,000	\$	30,000,000
GRF 736321	Division of Engineering	\$	2,279,115	\$	2,324,736
GRF 737321	Division of Soil and Water Resources	\$	4,782,704	\$	4,782,652
GRF 738321	Division of Real Estate and Land Management	\$	715,963	\$	670,342
GRF 741321	Division of Natural Areas and Preserves	\$	1,200,000	\$	1,200,000
TOTAL GRF General Revenue Fund		\$	97,480,489	\$	100,768,536

General Services Fund Group

1550 725601	Departmental Projects	\$	2,109,968	\$	1,839,204
1570 725651	Central Support Indirect	\$	4,609,154	\$	4,671,566
2040 725687	Information Services	\$	5,179,097	\$	5,288,168
2050 725696	Human Resource Direct Service	\$	2,474,345	\$	2,526,662
2070 725690	Real Estate Services	\$	50,000	\$	50,000
2230 725665	Law Enforcement Administration	\$	2,126,432	\$	2,126,432
2270 725406	Parks Projects Personnel	\$	436,500	\$	436,500
4300 725671	Canal Lands	\$	883,879	\$	883,879
4S90 725622	NatureWorks Personnel	\$	404,657	\$	412,570
4X80 725662	Water Resources Council	\$	138,005	\$	138,005
5100 725631	Maintenance - State-owned Residences	\$	303,611	\$	303,611
5160 725620	Water Management	\$	2,559,292	\$	2,559,292
6350 725664	Fountain Square Facilities Management	\$	3,329,935	\$	3,346,259

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6970	725670	Submerged Lands	\$	852,982	\$	869,145
TOTAL GSF General Services						
Fund Group			\$	25,457,857	\$	25,451,293
Federal Special Revenue Fund Group						
3320	725669	Federal Mine Safety Grant	\$	265,000	\$	265,000
3B30	725640	Federal Forest Pass-Thru	\$	500,000	\$	500,000
3B40	725641	Federal Flood Pass-Thru	\$	500,000	\$	500,000
3B50	725645	Federal Abandoned Mine Lands	\$	11,851,759	\$	11,851,759
3B60	725653	Federal Land and Water Conservation Grants	\$	950,000	\$	950,000
3B70	725654	Reclamation - Regulatory	\$	3,200,000	\$	3,200,000
3P10	725632	Geological Survey - Federal	\$	933,448	\$	557,146
3P20	725642	Oil and Gas - Federal	\$	234,509	\$	234,509
3P30	725650	Coastal Management - Federal	\$	2,790,633	\$	2,790,633
3P40	725660	Federal - Soil and Water Resources	\$	969,190	\$	1,006,874
3R50	725673	Acid Mine Drainage Abatement/Treatment	\$	4,342,280	\$	4,342,280
3Z50	725657	Federal Recreation and Trails	\$	1,850,000	\$	1,850,000
TOTAL FED Federal Special Revenue						
Fund Group			\$	28,386,819	\$	28,048,201
State Special Revenue Fund Group						
4J20	725628	Injection Well Review	\$	128,466	\$	128,466
4M70	725686	Wildfire Suppression	\$	100,000	\$	100,000
4U60	725668	Scenic Rivers Protection	\$	100,000	\$	100,000
5090	725602	State Forest	\$	6,873,330	\$	6,880,158
5110	725646	Ohio Geological Mapping	\$	1,220,690	\$	1,993,519
5120	725605	State Parks Operations	\$	29,654,880	\$	29,671,044
5140	725606	Lake Erie Shoreline	\$	1,559,583	\$	1,559,583
5180	725643	Oil and Gas Permit Fees	\$	12,812,311	\$	13,140,201
5180	725677	Oil and Gas Well Plugging	\$	1,500,000	\$	1,500,000
5210	725627	Off-Road Vehicle Trails	\$	143,490	\$	143,490
5220	725656	Natural Areas and Preserves	\$	546,639	\$	546,639
5260	725610	Strip Mining Administration Fee	\$	1,800,000	\$	1,800,000
5270	725637	Surface Mining Administration	\$	1,941,532	\$	1,941,532
5290	725639	Unreclaimed Land Fund	\$	1,804,180	\$	1,804,180
5310	725648	Reclamation Forfeiture	\$	500,000	\$	500,000
5B30	725674	Mining Regulation	\$	28,135	\$	28,135
5BV0	725658	Heidelberg Water Quality Lab	\$	250,000	\$	250,000
5BV0	725683	Soil and Water Districts	\$	8,000,000	\$	8,000,000
5EJ0	725608	Forestry Law Enforcement	\$	1,000	\$	1,000
5EK0	725611	Natural Areas & Preserves Law Enforcement	\$	1,000	\$	1,000
5EL0	725612	Wildlife Law Enforcement	\$	12,000	\$	12,000
5EM0	725613	Park Law Enforcement	\$	34,000	\$	34,000
5EN0	725614	Watercraft Law Enforcement	\$	2,500	\$	2,500
5HK0	725625	Ohio Nature Preserves	\$	1,000	\$	1,000
5MF0	725635	Ohio Geology License Plate	\$	7,500	\$	7,500

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5MW0725604	Natural Resources Special Purposes	\$	10,163,812	\$	6,165,162
6150 725661	Dam Safety	\$	943,517	\$	943,517
TOTAL SSR State Special Revenue Fund Group		\$	80,129,565	\$	77,254,626
Clean Ohio Conservation Fund Group					
7061 725405	Clean Ohio Operating	\$	300,775	\$	300,775
TOTAL CLF Clean Ohio Conservation Fund Group		\$	300,775	\$	300,775
Wildlife Fund Group					
5P20 725634	Wildlife Boater Angler Administration	\$	3,000,000	\$	3,000,000
7015 740401	Division of Wildlife Conservation	\$	56,466,564	\$	57,075,976
8150 725636	Cooperative Management Projects	\$	120,449	\$	120,449
8160 725649	Wetlands Habitat	\$	966,885	\$	966,885
8170 725655	Wildlife Conservation Checkoff Fund	\$	2,000,000	\$	2,000,000
8180 725629	Cooperative Fisheries Research	\$	1,500,000	\$	1,500,000
8190 725685	Ohio River Management	\$	203,584	\$	203,584
81B0 725688	Wildlife Habitat Fund	\$	1,200,000	\$	1,200,000
TOTAL WLF Wildlife Fund Group		\$	65,457,482	\$	66,066,894
Waterways Safety Fund Group					
7086 725414	Waterways Improvement	\$	5,693,671	\$	5,693,671
7086 725418	Buoy Placement	\$	52,182	\$	52,182
7086 725501	Waterway Safety Grants	\$	120,000	\$	120,000
7086 725506	Watercraft Marine Patrol	\$	576,153	\$	576,153
7086 725513	Watercraft Educational Grants	\$	366,643	\$	366,643
7086 739401	Division of Watercraft	\$	19,467,370	\$	19,297,370
TOTAL WSF Waterways Safety Fund Group		\$	26,276,019	\$	26,106,019
Accrued Leave Liability Fund Group					
4M80 725675	FOP Contract	\$	20,219	\$	20,219
TOTAL ALF Accrued Leave Liability Fund Group		\$	20,219	\$	20,219
Holding Account Redistribution Fund Group					
R017 725659	Performance Cash Bond Refunds	\$	496,263	\$	496,263
R043 725624	Forestry	\$	2,100,000	\$	2,100,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	2,596,263	\$	2,596,263
TOTAL ALL BUDGET FUND GROUPS		\$	326,105,488	\$	326,612,826

SECTION 333.20. CENTRAL SUPPORT INDIRECT

With the exception of the Division of Wildlife, whose direct and indirect central support charges shall be paid out of the General Revenue Fund from the foregoing appropriation item 725401, Wildlife-GRF Central

Support, the Department of Natural Resources, with approval of the Director of Budget and Management, shall utilize a methodology for determining each division's payments into the Central Support Indirect Fund (Fund 1570). The methodology used shall contain the characteristics of administrative ease and uniform application in compliance with federal grant requirements. It may include direct cost charges for specific services provided. Payments to Fund 1570 shall be made using an intrastate transfer voucher.

SECTION 333.30. LEASE RENTAL PAYMENTS

The foregoing appropriation item 725413, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, by the Department of Natural Resources pursuant to leases and agreements made under section 154.22 of the Revised Code. These appropriations are the source of funds pledged for bond service charges on related obligations issued under Chapter 154. of the Revised Code.

CANAL LANDS

The foregoing appropriation item 725456, Canal Lands, shall be used to provide operating expenses for the State Canal Lands Program.

HEALTHY LAKE ERIE FUND

The foregoing appropriation item 725505, Healthy Lake Erie Fund, shall be used by the Director of Natural Resources, in consultation with the Director of Agriculture and the Director of Environmental Protection, to implement nonstatutory recommendations of the Agriculture Nutrients and Water Quality Working Group. The Director shall give priority to recommendations that encourage farmers to adopt agricultural production guidelines commonly known as 4R nutrient stewardship practices. Funds may also be used for enhanced soil testing in the Western Lake Erie Basin, monitoring the quality of Lake Erie and its tributaries, and conducting research and establishing pilot projects that have the goal of reducing algae blooms in Lake Erie.

COAL AND MINE SAFETY PROGRAM

The foregoing appropriation item 725507, Coal and Mine Safety Program, shall be used for the administration of the Mine Safety Program and the Coal Regulation Program.

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 725903, Natural Resources General Obligation Debt Service, shall be used to pay all debt service and related

financing costs during the period July 1, 2013, through June 30, 2015, on obligations issued under sections 151.01 and 151.05 of the Revised Code.

SECTION 333.40. WELL LOG FILING FEES

The Chief of the Division of Soil and Water Resources shall deposit fees forwarded to the Division pursuant to section 1521.05 of the Revised Code into the Departmental Services – Intrastate Fund (Fund 1550) for the purposes described in that section.

CRANBERRY BOG PRESERVATION

Of the foregoing appropriation item 725601, Departmental Projects, \$12,450 in fiscal year 2014 shall be used for the Greater Buckeye Lake Historical Society to preserve the Cranberry Bog.

SECTION 333.50. HUMAN RESOURCES DIRECT SERVICE

The foregoing appropriation item 725696, Human Resources Direct Service, shall be used to cover the cost of support, coordination, and oversight of the Department of Natural Resources' human resources functions. The Human Resources Chargeback Fund (Fund 2050) shall consist of cash transferred to it via intrastate transfer voucher from other funds as determined by the Director of Natural Resources and the Director of Budget and Management.

SECTION 333.60. LAW ENFORCEMENT ADMINISTRATION

The foregoing appropriation item 725665, Law Enforcement Administration, shall be used to cover the cost of support, coordination, and oversight of the Department of Natural Resources' law enforcement functions. The Law Enforcement Administration Fund (Fund 2230) shall consist of cash transferred to it via intrastate transfer voucher from other funds as determined by the Director of Natural Resources and the Director of Budget and Management.

SECTION 333.70. FOUNTAIN SQUARE AND ODNR GROUNDS AT THE OHIO EXPO CENTER

The foregoing appropriation item 725664, Fountain Square Facilities Management, shall be used for payment of repairs, renovation, utilities, property management, and building maintenance expenses for the Fountain Square complex and the Department of Natural Resources grounds at the Ohio Expo Center. Cash transferred by intrastate transfer vouchers from

various department funds and rental income received by the Department of Natural Resources shall be deposited into the Fountain Square Facilities Management Fund (Fund 6350).

SECTION 333.80. SOIL AND WATER DISTRICTS

In addition to state payments to soil and water conservation districts authorized by section 1515.10 of the Revised Code, the Department of Natural Resources may use appropriation item 725683, Soil and Water Districts, to pay any soil and water conservation district an annual amount not to exceed \$40,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit the payments to the special fund established under section 1515.10 of the Revised Code for the local soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district.

OIL AND GAS WELL PLUGGING

The foregoing appropriation item 725677, Oil and Gas Well Plugging, shall be used exclusively for the purposes of plugging wells and to properly restore the land surface of idle and orphan oil and gas wells pursuant to section 1509.071 of the Revised Code. No funds from the appropriation item shall be used for salaries, maintenance, equipment, or other administrative purposes, except for those costs directly attributed to the plugging of an idle or orphan well. This appropriation item shall not be used to transfer cash to any other fund or appropriation item.

TRANSFER OF FUNDS FOR OIL AND GAS DIVISION OPERATIONS

During fiscal years 2014 and 2015, the Director of Budget and Management may, in consultation with the Director of Natural Resources, transfer such cash as necessary from the General Revenue Fund to the Oil and Gas Well Fund (Fund 5180) for handling the increased regulatory work related to the expansion of the oil and gas program that will occur before receipts from this activity are deposited into Fund 5180. Once funds from severance taxes, application and permitting fees, and other sources have accrued to Fund 5180 in such amounts as are considered sufficient to sustain expanded operations, the Director of Budget and Management, in consultation with the Director of Natural Resources, shall establish a schedule for repaying the transferred funds from Fund 5180 to the General Revenue Fund.

NATURAL RESOURCES SPECIAL PURPOSES

Of the foregoing appropriation item 725604, Natural Resources Special

Purposes, up to \$2,100,000 in fiscal year 2014 shall be used for the construction or acquisition of a treatment train process at an Ohio inland lake, and up to \$1,800,000 in fiscal year 2014 shall be used for the purchase of two sweeper dredges for use at Ohio inland lakes, and \$263,812 in fiscal year 2014 and \$165,162 in fiscal year 2015 shall be used for the operation of the dredges purchased under this section.

SECTION 333.90. CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 725405, Clean Ohio Operating, shall be used by the Department of Natural Resources in administering Clean Ohio Trail Fund (Fund 7061) projects pursuant to section 1519.05 of the Revised Code.

SECTION 333.100. WATERCRAFT MARINE PATROL

Of the foregoing appropriation item 739401, Division of Watercraft, up to \$200,000 in each fiscal year shall be expended for the purchase of equipment for marine patrols qualifying for funding from the Department of Natural Resources pursuant to section 1547.67 of the Revised Code. Proposals for equipment shall accompany the submission of documentation for receipt of a marine patrol subsidy pursuant to section 1547.67 of the Revised Code and shall be loaned to eligible marine patrols pursuant to a cooperative agreement between the Department of Natural Resources and the eligible marine patrol.

SECTION 333.110. PARKS CAPITAL EXPENSES FUND

The Director of Natural Resources shall submit to the Director of Budget and Management the estimated design, engineering, and planning costs of capital-related work to be done by Department of Natural Resources staff for parks projects within the Ohio Parks and Recreation Improvement Fund (Fund 7035). If the Director of Budget and Management approves the estimated costs, the Director may release appropriations from appropriation item C725E6, Project Planning, Fund 7035, for those purposes. Upon release of the appropriations, the Department of Natural Resources shall pay for these expenses from the Parks Capital Expenses Fund (Fund 2270). Expenses paid from Fund 2270 shall be reimbursed by Fund 7035 using an intrastate transfer voucher.

NATUREWORKS CAPITAL EXPENSES FUND

The Department of Natural Resources shall periodically prepare and

submit to the Director of Budget and Management the estimated design, planning, and engineering costs of capital-related work to be done by Department of Natural Resources staff for each capital improvement project within the Ohio Parks and Natural Resources Fund (Fund 7031). If the Director of Budget and Management approves the estimated costs, the Director may release appropriations from appropriation item C725E5, Project Planning, in Fund 7031, for those purposes. Upon release of the appropriations, the Department of Natural Resources shall pay for these expenses from the Capital Expenses Fund (Fund 4S90). Expenses paid from Fund 4S90 shall be reimbursed by Fund 7031 by using an intrastate transfer voucher.

SECTION 333.120. ELIMINATION OF DORMANT FUNDS

The following funds are hereby abolished and the fund names and fund numbers shall be stricken from the list of funds falling within the jurisdiction of the Department of Natural Resources:

Fund Number	Fund Name
1580	Reprint and Replacement - Intrastate
1610	Parks and Recreation Depreciation Reserve
1620	Civilian Conservation Corps Earned Revenues
2060	General Services
5080	Natural Resources Publications and Promotions
5190	Burr Oak Water Plant
5250	Reclamation Forfeiture
5300	Surface Mining Reclamation
8800	Cooperative Boat Harbor Project
4B80	Forestry Development
5F90	Flood Reimbursement
81A0	Wildlife Education
R029	Reclamation Fee
R030	Surface Mining Reclamation Fee
R040	Wildlife Refunds
3280	Federal Special Revenue
3P00	Natural Areas and Preserves - Federal
5K10	Urban Forestry Grant
5150	Conservancy District Organization
6300	Wild Animal
3CH0	Mined Land Set Aside

TRANSFER OF ELIMINATED DORMANT FUNDS

The Watercraft Revolving Loan Fund (Fund 5AW0) is hereby

abolished. Any balance remaining in the fund as of July 1, 2013, shall be transferred into the Waterways Safety Fund (Fund 7086) and appropriated to appropriation item 739401, Division of Watercraft.

The Division of Forestry Law Enforcement Fund (Fund 5EJ0) and the Division of Natural Areas and Preserves Law Enforcement Fund (Fund 5EK0) are hereby abolished. Any balance remaining in these funds as of July 1, 2013, shall be transferred into the Park Law Enforcement Fund (Fund 5EM0) and appropriated to appropriation item 725613, Park Law Enforcement.

SECTION 335.10. NUR STATE BOARD OF NURSING

General Services Fund Group

4K90	884609	Operating Expenses	\$	7,181,743	\$	7,273,978
5AC0	884602	Nurse Education Grant Program	\$	1,373,506	\$	1,373,506
5P80	884601	Nursing Special Issues	\$	2,000	\$	2,000
TOTAL GSF General Services Fund Group			\$	8,557,249	\$	8,649,484
TOTAL ALL BUDGET FUND GROUPS			\$	8,557,249	\$	8,649,484

SECTION 337.10. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD

General Services Fund Group

4K90	890609	Operating Expenses	\$	866,169	\$	925,897
TOTAL GSF General Services Fund Group			\$	866,169	\$	925,897
TOTAL ALL BUDGET FUND GROUPS			\$	866,169	\$	925,897

SECTION 339.10. OLA OHIOANA LIBRARY ASSOCIATION

General Revenue Fund

GRF	355501	Library Subsidy	\$	135,000	\$	140,000
TOTAL GRF General Revenue Fund			\$	135,000	\$	140,000
TOTAL ALL BUDGET FUND GROUPS			\$	135,000	\$	140,000

SECTION 340.10. OOD OPPORTUNITIES FOR OHIOANS WITH DISABILITIES AGENCY

General Revenue Fund

GRF	415402	Independent Living Council	\$	252,000	\$	252,000
GRF	415406	Assistive Technology	\$	26,618	\$	26,618
GRF	415431	Office for People with Brain Injury	\$	126,567	\$	126,567
GRF	415506	Services for People with Disabilities	\$	15,277,885	\$	15,277,885
GRF	415508	Services for the Deaf	\$	28,000	\$	28,000

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TOTAL GRF General Revenue Fund	\$	15,711,070	\$	15,711,070
General Services Fund Group				
4670 415609 Business Enterprise	\$	962,538	\$	965,481
Operating Expenses				
TOTAL GSF General Services				
Fund Group	\$	962,538	\$	965,481
Federal Special Revenue Fund Group				
3170 415620 Disability Determination	\$	83,332,186	\$	84,641,911
3790 415616 Federal - Vocational	\$	117,431,895	\$	113,610,728
Rehabilitation				
3L10 415601 Social Security Personal Care	\$	2,748,451	\$	2,752,396
Assistance				
3L10 415605 Social Security Community	\$	772,000	\$	772,000
Centers for the Deaf				
3L10 415608 Social Security Special	\$	445,258	\$	498,269
Programs/Assistance				
3L40 415612 Federal Independent Living	\$	638,431	\$	638,431
Centers or Services				
3L40 415615 Federal - Supported	\$	916,727	\$	916,727
Employment				
3L40 415617 Independent	\$	1,548,658	\$	1,348,658
Living/Vocational				
Rehabilitation Programs				
TOTAL FED Federal Special				
Revenue Fund Group	\$	207,833,606	\$	205,179,120
State Special Revenue Fund Group				
4680 415618 Third Party Funding	\$	11,000,000	\$	11,000,000
4L10 415619 Services for Rehabilitation	\$	3,502,168	\$	3,502,168
4W50 415606 Program Management	\$	12,369,751	\$	12,594,758
Expenses				
TOTAL SSR State Special				
Revenue Fund Group	\$	26,871,919	\$	27,096,926
TOTAL ALL BUDGET FUND GROUPS	\$	251,379,133	\$	248,952,597

INDEPENDENT LIVING COUNCIL

The foregoing appropriation item 415402, Independent Living Council, shall be used to fund the operations of the State Independent Living Council and to support state independent living centers and independent living services under Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C. 796d.

Of the foregoing appropriation item 415402, Independent Living Council, \$67,662 in each fiscal year shall be used as state matching funds for vocational rehabilitation innovation and expansion activities.

ASSISTIVE TECHNOLOGY

The total amount of the foregoing appropriation item 415406, Assistive Technology, shall be provided to Assistive Technology of Ohio to provide grants and assistive technology services for people with disabilities in the State of Ohio.

OFFICE FOR PEOPLE WITH BRAIN INJURY

The foregoing appropriation item 415431, Office for People with Brain Injury, shall be provided to The Ohio State University College of Medicine to support the Brain Injury Program established under section 3304.23 of the Revised Code.

VOCATIONAL REHABILITATION SERVICES

The foregoing appropriation item 415506, Services for People with Disabilities, shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.

SERVICES FOR THE DEAF

The foregoing appropriation item 415508, Services for the Deaf, shall be used to provide grants to community centers for the deaf.

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS

The foregoing appropriation item 415617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs.

SOCIAL SECURITY REIMBURSEMENT FUNDS

Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be expended from the Social Security Reimbursement Fund (Fund 3L10), to the extent funds are available, as follows:

(A) Appropriation item 415601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;

(B) Appropriation item 415605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments; and

(C) Appropriation item 415608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item shall also be used to pay a portion of indirect costs of the Personal Care Assistance Program and the Independent Living Programs as mandated by federal OMB Circular A-87.

PROGRAM MANAGEMENT EXPENSES

The foregoing appropriation item 415606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability

determination services, and ancillary programs.

SECTION 341.10. ODB OHIO OPTICAL DISPENSERS BOARD

General Services Fund Group

4K90 894609	Operating Expenses	\$	366,000	\$	365,000
TOTAL GSF General Services					
Fund Group		\$	366,000	\$	365,000
TOTAL ALL BUDGET FUND GROUPS		\$	366,000	\$	365,000

SECTION 343.10. OPT STATE BOARD OF OPTOMETRY

General Services Fund Group

4K90 885609	Operating Expenses	\$	347,278	\$	347,278
TOTAL GSF General Services					
Fund Group		\$	347,278	\$	347,278
TOTAL ALL BUDGET FUND GROUPS		\$	347,278	\$	347,278

SECTION 345.10. OPP STATE BOARD OF ORTHOTICS,
PROSTHETICS, AND PEDORTHICS

General Services Fund Group

4K90973609	Operating Expenses	\$	151,417	\$	159,982
TOTAL GSF General Services					
Fund Group		\$	151,417	\$	159,982
TOTAL ALL BUDGET FUND GROUPS		\$	151,417	\$	159,982

SECTION 347.10. UST PETROLEUM UNDERGROUND STORAGE
TANK RELEASE COMPENSATION BOARD

State Special Revenue Fund Group

6910 810632	PUSTRCB Staff	\$	1,233,249	\$	1,252,202
TOTAL SSR State Special Revenue					
Fund Group		\$	1,233,249	\$	1,252,202
TOTAL ALL BUDGET FUND GROUPS		\$	1,233,249	\$	1,252,202

SECTION 349.10. PRX STATE BOARD OF PHARMACY

General Services Fund Group

4A50 887605	Drug Law Enforcement	\$	150,000	\$	150,000
4K90 887609	Operating Expenses	\$	6,701,285	\$	6,701,285
TOTAL GSF General Services Fund Group		\$	6,851,285	\$	6,851,285

Federal Special Revenue Fund Group

3BC0 887604	Dangerous Drugs Database	\$	390,869	\$	0
3CT0 887606	2008 Developing/Enhancing PMP	\$	224,691	\$	112,346

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3DV0 887607	Enhancing Ohio's PMP	\$	2,000	\$	2,000
3EY0 887603	Administration of PMIX Hub	\$	66,335	\$	0
TOTAL FED Federal Special Revenue Fund Group		\$	683,895	\$	114,346
TOTAL ALL BUDGET FUND GROUPS		\$	7,535,180	\$	6,965,631

SECTION 351.10. PSY STATE BOARD OF PSYCHOLOGY

General Services Fund Group

4K90 882609	Operating Expenses	\$	548,000	\$	571,000
TOTAL GSF General Services Fund Group		\$	548,000	\$	571,000
TOTAL ALL BUDGET FUND GROUPS		\$	548,000	\$	571,000

SECTION 353.10. PUB OHIO PUBLIC DEFENDER COMMISSION

General Revenue Fund

GRF 019401	State Legal Defense Services	\$	3,020,855	\$	3,020,855
GRF 019403	Multi-County: State Share	\$	1,237,318	\$	1,250,824
GRF 019404	Trumbull County - State Share	\$	354,743	\$	359,631
GRF 019405	Training Account	\$	50,000	\$	50,000
GRF 019501	County Reimbursement	\$	9,768,050	\$	9,885,175
TOTAL GRF General Revenue Fund		\$	14,430,966	\$	14,566,485

General Services Fund Group

1010 019607	Juvenile Legal Assistance	\$	200,000	\$	200,000
4070 019604	County Representation	\$	351,149	\$	354,248
4080 019605	Client Payments	\$	725,144	\$	722,931
5CX0 019617	Civil Case Filing Fee	\$	532,136	\$	528,476
TOTAL GSF General Services Fund Group		\$	1,808,429	\$	1,805,655

Federal Special Revenue Fund Group

3FX0 019621	Wrongful Conviction Program	\$	103,950	\$	103,950
3S80 019608	Federal Representation	\$	204,706	\$	202,942
TOTAL FED Federal Special Revenue Fund Group		\$	308,656	\$	306,892

State Special Revenue Fund Group

4C70 019601	Multi-County: County Share	\$	2,297,876	\$	2,322,959
4X70 019610	Trumbull County - County Share	\$	658,809	\$	667,887
5740 019606	Civil Legal Aid	\$	20,000,000	\$	20,000,000
5DY0 019618	Indigent Defense Support - County Share	\$	40,320,991	\$	41,191,285
5DY0 019619	Indigent Defense Support - State Office	\$	5,186,329	\$	5,612,719
TOTAL SSR State Special Revenue Fund Group		\$	68,464,005	\$	69,794,850
TOTAL ALL BUDGET FUND GROUPS		\$	85,012,056	\$	86,473,882

INDIGENT DEFENSE OFFICE

The foregoing appropriation items 019404, Trumbull County - State Share, and 019610, Trumbull County - County Share, shall be used to support an indigent defense office for Trumbull County.

MULTI-COUNTY OFFICE

The foregoing appropriation items 019403, Multi-County: State Share, and 019601, Multi-County: County Share, shall be used to support the Office of the Ohio Public Defender's Multi-County Branch Office Program.

TRAINING ACCOUNT

The foregoing appropriation item 019405, Training Account, shall be used by the Ohio Public Defender to provide legal training programs at no cost for private appointed counsel who represent at least one indigent defendant at no cost and for state and county public defenders and attorneys who contract with the Ohio Public Defender to provide indigent defense services.

FEDERAL REPRESENTATION

The foregoing appropriation item 019608, Federal Representation, shall be used to receive reimbursements from the federal courts when the Ohio Public Defender provides representation in federal court cases and to support representation in such cases.

SECTION 355.10. DPS DEPARTMENT OF PUBLIC SAFETY

General Revenue Fund

GRF 767420	Investigative Unit - Operating	\$	10,500,000	\$	10,500,000
TOTAL GRF General Revenue Fund		\$	10,500,000	\$	10,500,000
TOTAL ALL BUDGET FUND GROUPS		\$	10,500,000	\$	10,500,000

SECTION 357.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO

General Services Fund Group

5BP0 870623	Wireless 9-1-1 Administration	\$	18,035,000	\$	0
5F60 870622	Utility and Railroad Regulation	\$	30,619,708	\$	30,619,708
5F60 870624	NARUC/NRRI Subsidy	\$	85,000	\$	85,000
5Q50 870626	Telecommunications Relay Service	\$	5,000,000	\$	5,000,000
TOTAL GSF General Services Fund Group		\$	53,739,708	\$	35,704,708

Federal Special Revenue Fund Group

3330 870601	Gas Pipeline Safety	\$	597,959	\$	597,959
3500 870608	Motor Carrier Safety	\$	7,351,660	\$	7,351,660
3EA0 870630	Energy Assurance Planning	\$	192,001	\$	0
3ED0 870631	State Regulators Assistance	\$	115,912	\$	0
3V30 870604	Commercial Vehicle Information	\$	100,000	\$	100,000

		Systems/Networks				
TOTAL FED Federal Special Revenue						
Fund Group		\$	8,357,532	\$	8,049,619	
State Special Revenue Fund Group						
4A30	870614	Grade Crossing Protection	\$	1,347,357	\$	1,347,357
		Devices-State				
4L80	870617	Pipeline Safety-State	\$	331,992	\$	331,992
5610	870606	Power Siting Board	\$	581,618	\$	581,618
5LT0	870640	Intrastate Registration	\$	180,000	\$	180,000
5LT0	870641	Unified Carrier Registration	\$	420,000	\$	420,000
5LT0	870642	Hazardous Materials	\$	743,346	\$	753,346
		Registration				
5LT0	870643	Nonhazardous Materials Civil	\$	277,496	\$	277,496
		Forfeiture				
5LT0	870644	Hazardous Materials Civil	\$	898,800	\$	898,800
		Forfeiture				
5LT0	870645	Motor Carrier Enforcement	\$	4,768,453	\$	4,709,592
TOTAL SSR State Special Revenue						
Fund Group		\$	9,549,062	\$	9,500,201	
TOTAL ALL BUDGET FUND GROUPS		\$	71,646,302	\$	53,254,528	

SECTION 359.10. PWC PUBLIC WORKS COMMISSION

General Revenue Fund

GRF	150904	Conservation General	\$	33,376,600	\$	34,447,700
		Obligation Debt Service				
GRF	150907	State Capital Improvements	\$	227,810,300	\$	228,948,900
		General Obligation Debt				
		Service				
TOTAL GRF General Revenue Fund		\$	261,186,900	\$	263,396,600	
Clean Ohio Conservation Fund Group						
7056	150403	Clean Ohio Operating	\$	288,980	\$	288,980
		Expenses				
TOTAL 056 Clean Ohio Conservation Fund		\$	288,980	\$	288,980	
Group						
TOTAL ALL BUDGET FUND GROUPS		\$	261,475,880	\$	263,685,580	

CONSERVATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150904, Conservation General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2013, through June 30, 2015, at the times they are required to be made for obligations issued under sections 151.01 and 151.09 of the Revised Code.

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150907, State Capital Improvements General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2013, through June 30, 2015, at the times they are required to be made for obligations issued under

sections 151.01 and 151.08 of the Revised Code.

CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 150403, Clean Ohio Operating Expenses, shall be used by the Ohio Public Works Commission in administering Clean Ohio Conservation Fund (Fund 7056) projects pursuant to sections 164.20 to 164.27 of the Revised Code.

SECTION 361.10. RAC STATE RACING COMMISSION

State Special Revenue Fund Group

5620	875601	Thoroughbred Race Fund	\$	1,696,456	\$	1,696,456
5630	875602	Standardbred Development Fund	\$	1,697,452	\$	1,697,452
5640	875603	Quarter Horse Development Fund	\$	1,000	\$	1,000
5650	875604	Racing Commission Operating	\$	2,934,178	\$	2,934,178
5C40	875607	Simulcast Horse Racing Purse	\$	12,000,000	\$	12,000,000
5JK0	875610	Racing Commission Fund	\$	10,000,000	\$	10,000,000
TOTAL SSR State Special Revenue Fund Group			\$	28,329,086	\$	28,329,086
Holding Account Redistribution Fund Group						
R021	875605	Bond Reimbursements	\$	100,000	\$	100,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	100,000	\$	100,000
TOTAL ALL BUDGET FUND GROUPS			\$	28,429,086	\$	28,429,086

SECTION 363.10. BOR BOARD OF REGENTS

General Revenue Fund

GRF 235321	Operating Expenses	\$	2,850,357	\$	2,850,357
GRF 235401	Lease Rental Payments	\$	5,805,300	\$	0
GRF 235402	Sea Grants	\$	285,000	\$	285,000
GRF 235406	Articulation and Transfer	\$	2,000,000	\$	2,000,000
GRF 235408	Midwest Higher Education Compact	\$	95,000	\$	95,000
GRF 235409	HEI Information System	\$	1,505,683	\$	1,505,683
GRF 235414	State Grants and Scholarship Administration	\$	830,180	\$	830,180
GRF 235417	eStudent Services	\$	2,532,688	\$	2,532,688
GRF 235428	Appalachian New Economy Partnership	\$	737,366	\$	737,366
GRF 235433	Economic Growth Challenge	\$	521,153	\$	521,153
GRF 235434	College Readiness and Access	\$	1,200,000	\$	1,200,000
GRF 235438	Choose Ohio First Scholarship	\$	16,665,114	\$	16,665,114
GRF 235443	Adult Basic and Literacy Education - State	\$	7,427,416	\$	7,427,416
GRF 235444	Post-Secondary Adult Career-Technical Education	\$	15,817,547	\$	15,817,547
GRF 235474	Area Health Education	\$	900,000	\$	900,000

GRF 235480	Centers Program Support General Technology	\$	500,000	\$	500,000
GRF 235483	Operations Technology Integration and Professional Development	\$	3,378,598	\$	2,703,598
GRF 235501	State Share of Instruction	\$	1,789,699,580	\$	1,818,225,497
GRF 235502	Student Support Services	\$	632,974	\$	632,974
GRF 235504	War Orphans Scholarships	\$	5,500,000	\$	5,500,000
GRF 235507	OhioLINK	\$	6,211,012	\$	6,211,012
GRF 235508	Air Force Institute of Technology	\$	1,740,803	\$	1,740,803
GRF 235510	Ohio Supercomputer Center	\$	3,747,418	\$	3,747,418
GRF 235511	Cooperative Extension Service	\$	23,086,658	\$	23,056,658
GRF 235514	Central State Supplement	\$	11,063,468	\$	11,063,468
GRF 235515	Case Western Reserve University School of Medicine	\$	2,146,253	\$	2,146,253
GRF 235516	Wright State Lake Campus Agricultural Program	\$	200,000	\$	0
GRF 235519	Family Practice	\$	3,166,185	\$	3,166,185
GRF 235520	Shawnee State Supplement	\$	2,326,097	\$	2,326,097
GRF 235523	Youth STEM Commercialization and Entrepreneurship Program	\$	2,000,000	\$	3,000,000
GRF 235524	Police and Fire Protection	\$	107,814	\$	107,814
GRF 235525	Geriatric Medicine	\$	522,151	\$	522,151
GRF 235526	Primary Care Residencies	\$	1,500,000	\$	1,500,000
GRF 235535	Ohio Agricultural Research and Development Center	\$	34,126,100	\$	34,629,970
GRF 235536	The Ohio State University Clinical Teaching	\$	9,668,941	\$	9,668,941
GRF 235537	University of Cincinnati Clinical Teaching	\$	7,952,573	\$	7,952,573
GRF 235538	University of Toledo Clinical Teaching	\$	6,198,600	\$	6,198,600
GRF 235539	Wright State University Clinical Teaching	\$	3,011,400	\$	3,011,400
GRF 235540	Ohio University Clinical Teaching	\$	2,911,212	\$	2,911,212
GRF 235541	Northeast Ohio Medical University Clinical Teaching	\$	2,994,178	\$	2,994,178
GRF 235552	Capital Component	\$	13,628,639	\$	10,280,387
GRF 235555	Library Depositories	\$	1,440,342	\$	1,440,342
GRF 235556	Ohio Academic Resources Network	\$	3,172,519	\$	3,172,519
GRF 235558	Long-term Care Research	\$	325,300	\$	325,300
GRF 235563	Ohio College Opportunity Grant	\$	90,284,264	\$	90,284,264
GRF 235572	The Ohio State University Clinic Support	\$	766,533	\$	766,533
GRF 235599	National Guard Scholarship Program	\$	16,711,514	\$	17,384,511
GRF 235909	Higher Education General Obligation Debt Service	\$	221,168,700	\$	248,822,000
TOTAL GRF	General Revenue Fund	\$	2,331,062,630	\$	2,379,360,162

General Services Fund Group

2200	235614	Program Approval and Reauthorization	\$	903,595	\$	903,595
4560	235603	Sales and Services	\$	199,250	\$	199,250
5JC0	235649	Co-op Internship Program	\$	8,000,000	\$	8,000,000
5JC0	235668	Defense/Aerospace Workforce Development Initiative	\$	4,000,000	\$	4,000,000
5JC0	235685	Manufacturing Workforce Development Initiative	\$	2,000,000	\$	0
TOTAL GSF General Services Fund Group			\$	15,102,845	\$	13,102,845

Federal Special Revenue Fund Group

3120	235612	Carl D. Perkins Grant/Plan Administration	\$	1,350,000	\$	1,350,000
3120	235617	Improving Teacher Quality Grant	\$	3,200,000	\$	3,200,000
3120	235641	Adult Basic and Literacy Education - Federal	\$	14,835,671	\$	14,835,671
3120	235672	H-1B Tech Skills Training	\$	1,100,000	\$	1,100,000
3BW0	235630	Indirect Cost Recovery - Federal	\$	50,000	\$	50,000
3H20	235608	Human Services Project	\$	1,000,000	\$	1,000,000
TOTAL FED Federal Special Revenue Fund Group			\$	21,535,671	\$	21,535,671

State Special Revenue Fund Group

4E80	235602	Higher Educational Facility Commission Administration	\$	29,100	\$	29,100
4X10	235674	Telecommunity and Distance Learning	\$	49,150	\$	49,150
5D40	235675	Conferences/Special Purposes	\$	1,884,095	\$	1,884,095
5FR0	235643	Making Opportunity Affordable	\$	230,000	\$	230,000
5P30	235663	Variable Savings Plan	\$	8,066,920	\$	8,104,370
6450	235664	Guaranteed Savings Plan	\$	1,290,718	\$	1,303,129
6820	235606	Nursing Loan Program	\$	891,320	\$	891,320
TOTAL SSR State Special Revenue Fund Group			\$	12,441,303	\$	12,491,164

Third Frontier Research & Development Fund Group

7011	235634	Research Incentive Third Frontier Fund	\$	8,000,000	\$	8,000,000
TOTAL 011 Third Frontier Research & Development Fund Group			\$	8,000,000	\$	8,000,000
TOTAL ALL BUDGET FUND GROUPS			\$	2,388,142,449	\$	2,434,489,842

SECTION 363.20. LEASE RENTAL PAYMENTS

The foregoing appropriation item 235401, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, by the Chancellor of the Board of Regents under leases and agreements made

under section 154.21 of the Revised Code. These appropriations are the source of funds pledged for bond service charges on related obligations issued under Chapter 154. of the Revised Code.

SECTION 363.23. SEA GRANTS

The foregoing appropriation item 235402, Sea Grants, shall be used to match federal dollars and leverage additional support by The Ohio State University's Sea Grant program, including Stone Laboratory, for research, education, and outreach to enhance the economic value, public utilization, and responsible management of Lake Erie and Ohio's coastal resources.

SECTION 363.30. ARTICULATION AND TRANSFER

The foregoing appropriation item 235406, Articulation and Transfer, shall be used by the Chancellor of the Board of Regents to maintain and expand the work of the Articulation and Transfer Council to develop a system of transfer policies to ensure that students at state institutions of higher education can transfer and have coursework apply to their majors and degrees at any other state institution of higher education without unnecessary duplication or institutional barriers under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

SECTION 363.40. MIDWEST HIGHER EDUCATION COMPACT

The foregoing appropriation item 235408, Midwest Higher Education Compact, shall be distributed by the Chancellor of the Board of Regents under section 3333.40 of the Revised Code.

SECTION 363.50. HEI INFORMATION SYSTEM

The foregoing appropriation item 235409, HEI Information System, shall be used by the Chancellor of the Board of Regents to support the development and implementation of information technology solutions designed to improve the performance and services of the Chancellor of the Board of Regents and the University System of Ohio. Information technology solutions may be provided by the Ohio Academic Research Network (OARnet).

SECTION 363.60. STATE GRANTS AND SCHOLARSHIP ADMINISTRATION

The foregoing appropriation item 235414, State Grants and Scholarship Administration, shall be used by the Chancellor of the Board of Regents to administer the following student financial aid programs: Ohio College Opportunity Grant, Ohio War Orphans' Scholarship, Nurse Education Assistance Loan Program, Ohio Safety Officers College Memorial Fund, and any other student financial aid programs created by the General Assembly. The appropriation item also shall be used to support all state financial aid audits and student financial aid programs created by Congress, and to provide fiscal services for the Ohio National Guard Scholarship Program.

SECTION 363.70. ESTUDENT SERVICES

The foregoing appropriation item 235417, eStudent Services, shall be used by the Chancellor of the Board of Regents to support the continued implementation of eStudent Services, a consortium organized under division (T) of section 3333.04 of the Revised Code to expand access to dual enrollment opportunities for high school students, as well as adult and higher education opportunities through technology. The funds shall be used by eStudent Services to develop and promote learning and assessment through the use of technology, to test and provide advice on emerging learning-directed technologies, to support the distance learning clearinghouse and platform created under section 3333.82 of the Revised Code, and to facilitate cost-effectiveness through shared educational technology investments.

SECTION 363.80. APPALACHIAN NEW ECONOMY PARTNERSHIP

The foregoing appropriation item 235428, Appalachian New Economy Partnership, shall be distributed to Ohio University to continue a multi-campus and multi-agency coordinated effort to link Appalachia to the new economy. Ohio University shall use these funds to provide leadership in the development and implementation of initiatives in the areas of entrepreneurship, management, education, and technology.

SECTION 363.90. ECONOMIC GROWTH CHALLENGE

The foregoing appropriation item 235433, Economic Growth Challenge, shall be used for administrative expenses of the Research Incentive Program and other economic advancement initiatives undertaken by the Chancellor of the Board of Regents.

The Chancellor of the Board of Regents shall use any appropriation transfer to the foregoing appropriation item 235433, Economic Growth Challenge, to enhance the basic research and commercialization capabilities of public colleges and universities and accredited Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code, in order to strengthen academic research and commercialization for pursuing Ohio's economic development goals.

SECTION 363.93. COLLEGE READINESS AND ACCESS

The foregoing appropriation item 235434, College Readiness and Access, shall be used by the Chancellor of the Board of Regents to support early college high school initiatives. The Chancellor shall distribute grants equal to \$2,000 per enrolled early college high school student to institutions of higher education supporting an early college high school. If the Chancellor determines that the amounts appropriated are inadequate to provide full grant awards to all eligible institutions, the Chancellor may decrease the per student grant amount.

SECTION 363.100. CHOOSE OHIO FIRST SCHOLARSHIP

The foregoing appropriation item 235438, Choose Ohio First Scholarship, shall be used to operate the program prescribed in sections 3333.60 to 3333.70 of the Revised Code.

SECTION 363.110. ADULT BASIC AND LITERACY EDUCATION

Of the foregoing appropriation item 235443, Adult Basic and Literacy Education – State, \$125,000 in each fiscal year shall be used to provide a grant for an Ohio public library that provides remedial coursework instruction for postsecondary students.

The remainder of the foregoing appropriation item 235443, Adult Basic and Literacy Education - State, shall be used to support the adult basic and literacy education instructional grant program and state leadership program. The supported programs shall satisfy the state match and maintenance of effort requirements for the state-administered grant program.

SECTION 363.120. POST-SECONDARY ADULT CAREER-TECHNICAL EDUCATION

The foregoing appropriation item 235444, Post-Secondary Adult Career-Technical Education, shall be used by the Chancellor of the Board of

Regents, in consultation with the Superintendent of Public Instruction and the Governor's Office of Workforce Transformation, to support post-secondary adult career-technical education. The Chancellor of the Board of Regents, the Superintendent of Public Instruction, and the Governor's Office of Workforce Transformation, or their designees, shall hold a series of consultations with the Ohio Technical Centers during fiscal year 2014 to develop an appropriate funding formula to distribute these funds based on student outcomes, beginning in fiscal year 2015.

Not later than June 30, 2014, the Chancellor of the Board of Regents shall establish a One-Year Option credit articulation system in which graduates of Ohio Technical Centers who complete a 900-hour program of study and obtain an industry-recognized credential approved by the Chancellor shall receive 30 college technical credit hours toward a technical degree upon enrollment in an institution of higher education.

By June 30, 2014, the Chancellor also shall submit a report to the General Assembly, in accordance with section 101.68 of the Revised Code, that recommends a process to award proportional credit toward a technical degree for students who complete a program of study between 600 and 899 hours and obtain an industry-recognized credential approved by the Chancellor.

As used in this section, "institution of higher education" has the same meaning as in section 3345.12 of the Revised Code.

SECTION 363.130. AREA HEALTH EDUCATION CENTERS

The foregoing appropriation item 235474, Area Health Education Centers Program Support, shall be used by the Chancellor of the Board of Regents to support the medical school regional area health education centers' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center Program.

SECTION 363.180. TECHNOLOGY INTEGRATION AND PROFESSIONAL DEVELOPMENT

Of the foregoing appropriation item 235483, Technology Integration and Professional Development, up to \$3,000,000 in fiscal year 2014 and \$2,325,000 in fiscal year 2015 shall be used to provide grants on a competitive basis to public and chartered nonpublic schools for their participation in the electronic textbook pilot project. These funds shall be administered as provided under the section of this act entitled

ELECTRONIC TEXTBOOK PILOT PROJECT. On July 1, 2014, or as soon as possible thereafter, the Chancellor of the Board of Regents may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of this set aside at the end of fiscal year 2014 to be appropriated to fiscal year 2015. The amount certified is hereby reappropriated for the same purpose for fiscal year 2015.

The remainder of the foregoing appropriation item 235483, Technology Integration and Professional Development, shall be used by the Ohio Department of Education and the Chancellor of the Board of Regents for the provision of staff development, hardware, software, telecommunications services, and information resources to support educational uses of technology in the classroom and at a distance and for professional development for teachers, administrators, and technology staff on the use of educational technology in qualifying public schools, including the State School for the Blind, the School for the Deaf, and the Department of Youth Services.

SECTION 363.190. STATE SHARE OF INSTRUCTION FORMULAS

The Chancellor of the Board of Regents shall establish procedures to allocate the foregoing appropriation item 235501, State Share of Instruction, based on the formulas detailed in this section that utilize the enrollment, course completion, degree attainment, and student achievement factors reported annually by each state institution of higher education participating in the Higher Education Information (HEI) system.

(A) FULL-TIME EQUIVALENT (FTE) ENROLLMENTS AND COURSE COMPLETIONS

(1) As soon as possible during each fiscal year of the biennium ending June 30, 2015, in accordance with instructions of the Board of Regents, each state institution of higher education shall report its actual data, consistent with the definitions in the Higher Education Information (HEI) system's enrollment files, to the Chancellor of the Board of Regents.

(2) In defining the number of full-time equivalent students for state subsidy instructional cost purposes, the Chancellor of the Board of Regents shall exclude all undergraduate students who are not residents of Ohio, except those charged in-state fees in accordance with reciprocity agreements made under section 3333.17 of the Revised Code or employer contracts entered into under section 3333.32 of the Revised Code.

(3) In calculating the core subsidy entitlements for university branch and main campuses, the Chancellor of the Board of Regents shall use the following count of FTE students:

(a) The subsidy eligible enrollments by model shall equal only those FTE students who successfully complete the course as defined and reported through the Higher Education Information (HEI) system course enrollment file;

(b) Those undergraduate FTE students with successful course completions, identified in division (A)(3)(a) of this section, that had an expected family contribution less than 2190 or were determined to have been in need of remedial education shall be defined as at-risk students and shall have their eligible completions weighted by the following:

(i) Campus-specific course completion indexes, where the indexes are calculated based upon the number of at-risk students enrolled during the 2010-2012 academic years; and

(ii) A statewide average at-risk course completion weight determined for each subsidy model. The statewide average at-risk course completion weight shall be determined by calculating the difference between the percentage of traditional students who complete a course and the percentage of at-risk students who complete the same course.

(4) In calculating the core subsidy entitlements for Medical II models only, students repeating terms may be no more than five per cent of current year enrollment.

(B) TOTAL COSTS PER FULL-TIME EQUIVALENT STUDENT

For purposes of calculating state share of instruction allocations, the total instructional costs per full-time equivalent student shall be:

Model	Fiscal Year 2014	Fiscal Year 2015
ARTS AND HUMANITIES 1	\$7,803	\$7,940
ARTS AND HUMANITIES 2	\$10,828	\$11,018
ARTS AND HUMANITIES 3	\$13,988	\$14,234
ARTS AND HUMANITIES 4	\$20,242	\$20,598
ARTS AND HUMANITIES 5	\$33,969	\$34,567
ARTS AND HUMANITIES 6	\$38,280	\$38,954
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	\$7,109	\$7,235
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	\$8,106	\$8,249
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	\$10,640	\$10,827
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	\$12,647	\$12,869
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	\$19,657	\$20,003

SCIENCES 5		
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	\$22,006	\$22,393
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	\$30,558	\$31,096
MEDICAL 1	\$53,424	\$54,365
MEDICAL 2	\$45,873	\$46,681
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 1	\$7,190	\$7,317
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 2	\$10,091	\$10,268
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 3	\$11,928	\$12,138
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 4	\$15,186	\$15,454
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 5	\$20,043	\$20,396
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 6	\$21,633	\$22,013
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 7	\$26,471	\$26,937
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 8	\$36,766	\$37,413
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 9	\$52,170	\$53,088

Doctoral I and Doctoral II models shall be allocated in accordance with division (D)(3) of this section.

(C) SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICAL, AND GRADUATE WEIGHTS

For the purpose of implementing the recommendations of the 2006 State Share of Instruction Consultation and the Higher Education Funding Study Council that priority be given to maintaining state support for science, technology, engineering, mathematics, medicine, and graduate programs, the costs in division (B) of this section shall be weighted by the amounts provided below:

Model	Fiscal Year 2014	Fiscal Year 2015
ARTS AND HUMANITIES 1	1.0000	1.0000
ARTS AND HUMANITIES 2	1.0000	1.0000
ARTS AND HUMANITIES 3	1.0000	1.0000

ARTS AND HUMANITIES 4	1.0000	1.0000
ARTS AND HUMANITIES 5	1.0425	1.0425
ARTS AND HUMANITIES 6	1.0425	1.0425
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	1.0425	1.0425
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	1.0425	1.0425
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	1.0425	1.0425
MEDICAL 1	1.6456	1.6456
MEDICAL 2	1.7462	1.7462
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 1	1.0000	1.0000
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 2	1.0017	1.0017
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 3	1.6150	1.6150
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 4	1.6920	1.6920
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 5	1.4222	1.4222
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 6	1.8798	1.8798
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 7	1.4380	1.4380
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 8	1.5675	1.5675
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 9	1.1361	1.1361

(D) CALCULATION OF STATE SHARE OF INSTRUCTION
FORMULA ENTITLEMENTS AND ADJUSTMENTS

(1) Of the foregoing appropriation item 235501, State Share of

Instruction, 25 per cent of the fiscal year 2014 appropriation for state-supported community colleges, state community colleges, and technical colleges shall be allocated to colleges in proportion to their share of college student success factors as adopted by the Chancellor of the Board of Regents in formal communication to the Controlling Board on August 30, 2010.

(2) Of the foregoing appropriation item 235501, State Share of Instruction, 25 per cent of the fiscal year 2014 appropriation for state-supported community colleges, state community colleges, and technical colleges shall be reserved for course completion FTEs as aggregated by the subsidy models defined in division (B) of this section.

The course completion funding shall be allocated to colleges in proportion to each campuses' share of the total sector's course completions, weighted by the instructional cost of the subsidy models.

To calculate the subsidy entitlements for course completions at community colleges, state community colleges, and technical colleges, the Chancellor of the Board of Regents shall use the following calculations:

(a) In calculating each campus's count of FTE course completions, the Chancellor of the Board of Regents shall use the three-year average course completions for the three-year period ending in the prior year.

(b) The model costs as used in the calculation shall be augmented by the model weights for science, technology, engineering, mathematics, and medicine models as established in division (C) of this section.

(3) Of the foregoing appropriation item 235501, State Share of Instruction, up to 11.78 per cent of the appropriation for universities, as established in division (A)(2) of the section of this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 and 2015," in each fiscal year shall be reserved for support of doctoral programs to implement the funding recommendations made by representatives of the universities. The amount so reserved shall be referred to as the doctoral set-aside.

The doctoral set-aside shall be allocated to universities as follows:

(a) 62.50 per cent of the doctoral set-aside in fiscal year 2014 and 55 per cent of the doctoral set-aside in fiscal year 2015 shall be allocated to universities in proportion to their share of the statewide total of each state institution's three-year average Doctoral I equivalent FTEs as calculated on an institutional basis using historical FTEs for the period fiscal year 1994 through fiscal year 1998 with annualized FTEs for fiscal years 1994 through 1997 and all-term FTEs for fiscal year 1998 as adjusted to reflect the effects of doctoral review and subsequent changes in Doctoral I equivalent

enrollments. For the purposes of this calculation, Doctoral I equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs.

(b) 25 per cent of the doctoral set-aside in fiscal year 2014 and 30 per cent of the doctoral set-aside in fiscal year 2015 shall be allocated to universities in proportion to each campus's share of the total statewide doctoral degrees, weighted by the cost of the doctoral discipline. In calculating each campus's doctoral degrees the Chancellor of the Board of Regents shall use the three-year average doctoral degrees awarded for the three-year period ending in the prior year.

(c) 12.5 per cent of the doctoral set-aside in fiscal year 2014 and 15 per cent of the doctoral set-aside in fiscal year 2015 shall be allocated to universities in proportion to their share of research grant activity, using a data collection method that is reviewed and approved by the presidents of Ohio's doctoral degree granting universities. In the event that the data collection method is not available, funding for this component shall be allocated to universities in proportion to their share of research grant activity published by the National Science Foundation. Grant awards from the Department of Health and Human Services shall be weighted at 50 per cent.

(4) Of the foregoing appropriation item 235501, State Share of Instruction, 6.41 per cent of the appropriation for universities, as established in division (A)(2) of the section of this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," in each fiscal year shall be reserved for support of Medical II FTEs. The amount so reserved shall be referred to as the medical II set-aside.

The medical II set-aside shall be allocated to universities in proportion to their share of the statewide total of each state institution's three-year average Medical II FTEs as calculated in division (A) of this section, weighted by model cost.

(5) Of the foregoing appropriation item 235501, State Share of Instruction, 1.48 per cent of the appropriation for universities, as established in division (A)(2) of the section of this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," in each fiscal year shall be reserved for support of Medical I FTEs. The amount so reserved shall be referred to as the medical I set-aside.

The medical I set-aside shall be allocated to universities in proportion to their share of the statewide total of each state institution's three-year average Medical I FTEs as calculated in division (A) of this section.

(6) Of the foregoing appropriation item 235501, State Share of Instruction, 50 per cent of the appropriation in each fiscal year for

universities, net any earmarked funding for university regional campuses as detailed in division (B)(1) of the section of this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," shall be reserved for support of associate, baccalaureate, master's, and professional level degree attainment.

The degree attainment funding shall be allocated to universities in proportion to each campus's share of the total statewide degrees granted, weighted by the cost of the degree programs. The degree cost calculations shall include the model cost weights for the science, technology, engineering, mathematics, and medicine models as established in division (C) of this section.

For degrees including credits earned at multiple institutions, in fiscal year 2015, degree attainment funding shall be allocated to universities and branch campuses in proportion to each campus's share of the cost of earned credits for the degree. Each institution shall receive its prorated share of degree funding for credits earned at that institution. Cost of credits not earned at a university main or regional campus shall be credited to the degree-granting institution.

In calculating the subsidy entitlements for degree attainment at university main and regional campuses, the Chancellor of the Board of Regents shall use the following count of degrees and degree costs:

(a) The subsidy eligible undergraduate degrees shall be defined as follows:

(i) The subsidy eligible degrees conferred to students identified as residents of the state of Ohio in any term of their studies, as reported through the Higher Education Information (HEI) system student enrollment file, shall be weighted by a factor of 1.

(ii) The subsidy eligible degrees conferred to students identified as out-of-state residents during all terms of their studies, as reported through the Higher Education Information (HEI) system student enrollment file, who remain in the state of Ohio at least one year after graduation, as calculated based on the three-year average in-state residency rate for out-of-state students at each institution, shall be weighted by a factor of 50 per cent. For fiscal year 2014, subsidy eligible degrees conferred to all out-of-state students shall be weighted by a factor of 25 per cent.

(b) In fiscal year 2014, for those associate degrees awarded by a state-supported university, the subsidy eligible degrees granted are defined as only those earned by students attending a university that received funding under GRF appropriation item 235418, Access Challenge, in fiscal year 2009. In fiscal year 2015, subsidy eligible associate degrees are defined as

those earned by students attending any state-supported university main or regional campus.

(c) In calculating each campus's count of degrees, the Chancellor of the Board of Regents shall use the three-year average associate, baccalaureate, master's, and professional degrees awarded for the three-year period ending in the prior year. In fiscal year 2014, university regional campuses are not eligible for degree completion funding. In fiscal year 2015, all university campuses are eligible for degree completion funding.

(d) For fiscal year 2014, eligible associate degrees defined in division (D)(6)(b) of this section and all bachelor's degrees earned by a student that either had an expected family contribution less than 2190, was determined to have been in need of remedial education, is Native American, African American, or Hispanic, or is at least age 26 at the time of graduation, shall be defined as degrees earned by an at-risk student and shall be weighted by the following:

(i) A campus-specific at-risk index, where the index is calculated based on the proportion of at-risk students enrolled during a four-year cohort beginning in fiscal year 2001, 2002, 2003, or 2004; and

(ii) A statewide average at-risk degree completion weight determined by calculating the difference between the percentage of non-at-risk students who earned a degree and the percentage of at-risk students who earned a degree in eight years or less.

(e) For fiscal year 2015, eligible associate degrees defined in division (D)(6)(b) of this section and all bachelor's degrees earned by a student that either had an expected family contribution less than 2190, was determined to be in need of remedial education, is Native American, African American, or Hispanic, or is at least 26 years of age at the time of graduation, shall be defined as degrees earned by an at-risk student and shall be weighted by the following:

A student-specific degree completion weight, where the weight is calculated based on the at risk factors of the individual student, determined by calculating the difference between the percentage of students with each risk factor who earned a degree and the percentage of non-at-risk students who earned a degree.

(7) State share of instruction base formula earnings shall be determined as follows:

(a) The instructional costs shall be determined by multiplying the amounts listed above in divisions (B) and (C) of this section by the average subsidy-eligible FTEs for the three-year period ending in the prior year for all models except Doctoral I and Doctoral II.

(b) The Chancellor of the Board of Regents shall compute a uniform state share of instructional costs for each sector.

(i) For the state-supported community colleges, state community colleges, and technical colleges, in fiscal year 2014 the Chancellor of the Board of Regents shall compute the uniform state share of instructional costs for enrollment by dividing the sector level appropriation total as determined by the Chancellor in division (A)(1) of the section of this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted pursuant to divisions (B) and (C) of that section, less the student college success allocation as described in division (D)(1) of this section and less the course completion allocation as detailed in division (D)(2) of this section, by the sum of all eligible campuses' instructional costs as calculated in division (D)(7)(b) of this section.

(ii) For the state-supported university regional campuses, in fiscal year 2014 the Chancellor of the Board of Regents shall compute the uniform state share of instructional costs by dividing the sector level appropriation, as determined by the Chancellor in division (A)(2) of the section of this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted pursuant to division (B) of that section by the sum of all campuses' instructional costs as calculated in division (D)(7)(b) of this section.

(iii) For the state-supported university main campuses, in fiscal year 2014 the Chancellor of the Board of Regents shall compute the uniform state share of instructional costs by dividing the sector level appropriation, as determined by the Chancellor in division (A)(3) of the section of this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted pursuant to division (B) of that section, less the degree attainment funding as calculated in divisions (D)(3) to (6) of this section, less the doctoral set-aside, less the medical I set-aside, and less the medical II set-aside, by the sum of all campuses' instructional costs as calculated in division (D)(7)(b) of this section.

(iv) For the state university regional and main campuses, in fiscal year 2015 the Chancellor of the Board of Regents shall compute the uniform state share of instructional costs by dividing the university appropriation, as determined by the Chancellor in division (A)(3) of the section of this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted pursuant to division (B) of that section, less the degree attainment funding as calculated in divisions (D)(3) to (6) of this section, less the doctoral set-aside, less the medical I set-aside, and less the medical II set-aside, by the sum of all campuses' instructional costs as

calculated in division (D)(7)(b) of this section.

(c) The formula entitlement shall be determined by multiplying the uniform state share of instructional costs calculated in division (D)(7)(c) of this section by the instructional cost determined in division (D)(7)(b) of this section.

(8) In addition to the student success allocation, doctoral set-aside, medical I set-aside, medical II set-aside, and the degree attainment allocation determined in divisions (D)(1) to (6) of this section and the formula entitlement determined in division (D)(7) of this section, an allocation based on facility-based plant operations and maintenance (POM) subsidy shall be made. For each eligible university main campus, the amount of the POM allocation in each fiscal year shall be distributed based on what each campus received in the fiscal year 2009 POM allocation.

Any POM allocations required by this division shall be funded by proportionately reducing formula entitlement earnings, including the POM allocations, for all campuses in that sector.

(9) STABILITY IN STATE SHARE OF INSTRUCTION FUNDING FOR COMMUNITY, STATE COMMUNITY, AND TECHNICAL COLLEGES

In addition to and after the adjustments noted above, in fiscal year 2014, no community college, state community college, or technical college shall receive a state share of instruction allocation that is less than 97 per cent of the prior year's state share of instruction earnings. Funds shall be made available to support this allocation by proportionately reducing formula entitlement earnings from those campuses, within the community, state community, and technical college sector, that are not receiving stability funding.

(10) CAPITAL COMPONENT DEDUCTION

After all other adjustments have been made, state share of instruction earnings shall be reduced for each campus by the amount, if any, by which debt service charged in Am. H.B. 748 of the 121st General Assembly, Am. Sub. H.B. 850 of the 122nd General Assembly, Am. Sub. H.B. 640 of the 123rd General Assembly, H.B. 675 of the 124th General Assembly, Am. Sub. H.B. 16 of the 126th General Assembly, Am. Sub. H.B. 699 of the 126th General Assembly, Am. Sub. H.B. 496 of the 127th General Assembly, and Am. Sub. H.B. 562 of the 127th General Assembly for that campus exceeds that campus's capital component earnings. The sum of the amounts deducted shall be transferred to appropriation item 235552, Capital Component, in each fiscal year.

(E) EXCEPTIONAL CIRCUMSTANCES

Adjustments may be made to the state share of instruction payments and other subsidies distributed by the Chancellor of the Board of Regents to state colleges and universities for exceptional circumstances. No adjustments for exceptional circumstances may be made without the recommendation of the Chancellor and the approval of the Controlling Board.

(F) APPROPRIATION REDUCTIONS TO THE STATE SHARE OF INSTRUCTION

The standard provisions of the state share of instruction calculation as described in the preceding sections of temporary law shall apply to any reductions made to appropriation item 235501, State Share of Instruction, before the Chancellor of the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year.

Any reductions made to appropriation item 235501, State Share of Instruction, after the Chancellor of the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year, shall be uniformly applied to each campus in proportion to its share of the final allocation.

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION

The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the first six months of the fiscal year shall be based upon the state share of instruction appropriation estimates made for the various institutions of higher education according to the Chancellor of the Board of Regents enrollment, completion, and performance estimates. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Chancellor.

(H) STUDIES TO DETERMINE IMPROVEMENTS TO THE FISCAL YEAR 2015 STATE SHARE OF INSTRUCTION FORMULAS

(1) STUDY ON IDENTIFYING "AT-RISK" STUDENTS FOR COMMUNITY COLLEGES

Community college presidents, or their designees, in consultation with the Chancellor of the Board of Regents, shall study the most appropriate formula weights for students who come from "at-risk" populations and recommend how they may be used to determine allocations of appropriations to community colleges from appropriation item 235501, State Share of Instruction, in fiscal year 2015. The study shall identify the socio-economic, demographic, academic, personal, and other factors that

identify a student as being "at-risk" of academic failure, and recommend how these factors may be used to determine allocations of the State Share of Instruction for community colleges in fiscal year 2015. The study shall be completed by December 31, 2013. Notwithstanding any provision of law to the contrary, community college presidents, or their designees, in consultation with the Chancellor of the Board of Regents, shall use the results of the study to recommend changes in the determination of the distribution of the community college allocations beginning in fiscal year 2015 and shall report any such formula change recommendations to the Governor, the General Assembly, and the Office of Budget and Management not later than February 15, 2014.

(2) STUDY ON THE USE OF SUCCESS POINTS AND COMPLETION MEASURES FOR COMMUNITY COLLEGES

Community college presidents, or their designees, in consultation with the Chancellor of the Board of Regents, shall study the most appropriate formula weights for the "success points" and completion performance measures used in the allocation of appropriations to community colleges from appropriation item 235501, State Share of Instruction, in fiscal year 2015. The study shall research the most appropriate success points and completion measures that occur during the academic career of community college students and recommend revisions to the current State Share of Instruction model to fund achievement of the success points beginning in fiscal year 2015. In addition, community college presidents, or their designees, in consultation with the Chancellor of the Board of Regents, shall determine how the community college's fiscal year 2015 share of State Share of Instruction funding shall be distributed among its success points, completion measures and course completion funding, or other performance and access measures. The study shall be completed by December 31, 2013. Notwithstanding any provision of law to the contrary, community college presidents, or their designees, in consultation with the Chancellor of the Board of Regents, shall use the results of the study to recommend changes in the determination of the distribution of the community college allocations beginning in fiscal year 2015 and shall report any such formula change recommendations to the Governor, the General Assembly, and the Office of Budget and Management not later than February 15, 2014.

SECTION 363.200. STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015

(A) The foregoing appropriation item 235501, State Share of Instruction, shall be distributed according to the section of this act entitled

"STATE SHARE OF INSTRUCTION FORMULAS."

(1) Of the foregoing appropriation item 235501, State Share of Instruction, \$411,257,477 in fiscal year 2014 and \$419,101,428 in fiscal year 2015 shall be distributed to state-supported community colleges, state community colleges, and technical colleges.

(2) Of the foregoing appropriation item 235501, State Share of Instruction, \$1,372,968,020 in fiscal year 2014 and \$1,399,124,069 in fiscal year 2015 shall be distributed to state-supported university main and regional campuses.

(B) Of the amounts earmarked in division (A)(2) of this section:

(1) \$116,181,104 in fiscal year 2014 shall be distributed to state university regional campuses.

(2) \$3,923,764 in each fiscal year shall be distributed to university main campuses based on each campus's share of the appropriation item 235418, Access Challenge, in fiscal year 2009.

(C) Of the foregoing appropriation item 235501, State Share of Instruction, up to \$5,474,083 in fiscal year 2014 shall be used by the Chancellor to provide supplemental subsidy payments to each university main and regional campus receiving a State Share of Instruction allocation, as determined according to the section of this act entitled "STATE SHARE OF INSTRUCTION FORMULAS" and divisions (A) and (B) of this section, in fiscal year 2014 that is less than 96 per cent of that campus's State Share of Instruction allocation in fiscal year 2013. Supplemental subsidy payment amounts shall not exceed the amount needed to ensure that no university main or regional campus receives a State Share of Instruction allocation in fiscal year 2014 that is less than 96 per cent of that campus's fiscal year 2013 allocation. If the Chancellor determines that the amounts earmarked for these supplemental subsidies are inadequate to provide payments to ensure that each eligible campus receives a State Share of Instruction allocation in fiscal year 2014 that is equal to 96 per cent of that campus's fiscal year 2013 allocation, the Chancellor shall proportionally reduce payment amounts. If the Chancellor determines that the amount earmarked for these supplemental subsidies is greater than what is needed to ensure that no main or regional campus receives a State Share of Instruction allocation in fiscal year 2014 that is less than 96 per cent of the fiscal year 2013 allocation, the Chancellor shall proportionally allocate the remainder of the earmark between the amounts earmarked for fiscal year 2014 divisions (A)(1) and (A)(2) of this section.

(D) The POM adjustment in division (D)(7) of the section of this act entitled "STATE SHARE OF INSTRUCTION FORMULAS" and the

Access Challenge earmark in division (B) of this section shall expire on June 30, 2015.

(E) The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Chancellor of the Board of Regents.

SECTION 363.210. TRANSFER OF INSTRUCTIONAL SUBSIDIES BETWEEN UNIVERSITIES

Notwithstanding any provision of law to the contrary, in consultation with the Chancellor of the Board of Regents, a state-supported university may request to transfer its fiscal year 2014 state share of instruction subsidy allocations of the foregoing appropriation item 235501, State Share of Instruction, between a university main campus and any university branch campus for which the university main campus is affiliated to best accomplish institutional goals and objectives. At the request of the Chancellor of the Board of Regents, the Director of Budget and Management may transfer the requested amounts of state share of instruction appropriation allocations between affiliated university branch campuses and university main campuses.

SECTION 363.220. RESTRICTION ON FEE INCREASES

The boards of trustees of state institutions of higher education shall restrain increases in in-state undergraduate instructional and general fees. Each state university and the Northeast Ohio Medical University shall not increase its in-state undergraduate instructional and general fees by more than 2.0 per cent or \$188, whichever is higher, over what the institution charged for the preceding academic year.

Each university regional campus shall not increase its in-state undergraduate instructional and general fees by more than 2.0 per cent or \$114, whichever is higher, over what the institution charged for the preceding academic year.

Each community college, state community college, and technical college shall not increase its in-state undergraduate instructional and general fees by more than \$100 over what the institution charged for the preceding academic year.

These limitations shall not apply to increases required to comply with

institutional covenants related to their obligations or to meet unfunded legal mandates or legally binding obligations incurred or commitments made prior to the effective date of this section with respect to which the institution had identified such fee increases as the source of funds. Any increase required by such covenants and any such mandates, obligations, or commitments shall be reported by the Chancellor of the Board of Regents to the Controlling Board. These limitations may also be modified by the Chancellor of the Board of Regents, with the approval of the Controlling Board, to respond to exceptional circumstances as identified by the Chancellor of the Board of Regents.

These limitations shall not apply to institutions participating in an undergraduate tuition guarantee program pursuant to section 3345.48 of the Revised Code.

SECTION 363.230. HIGHER EDUCATION - BOARD OF TRUSTEES

(A) Funds appropriated for instructional subsidies at colleges and universities may be used to provide such branch or other off-campus undergraduate courses of study and such master's degree courses of study as may be approved by the Chancellor of the Board of Regents.

(B) In providing instructional and other services to students, boards of trustees of state institutions of higher education shall supplement state subsidies with income from charges to students. Except as otherwise provided in this act, each board shall establish the fees to be charged to all students, including an instructional fee for educational and associated operational support of the institution and a general fee for noninstructional services, including locally financed student services facilities used for the benefit of enrolled students. The instructional fee and the general fee shall encompass all charges for services assessed uniformly to all enrolled students. Each board may also establish special purpose fees, service charges, and fines as required; such special purpose fees and service charges shall be for services or benefits furnished individual students or specific categories of students and shall not be applied uniformly to all enrolled students. A tuition surcharge shall be paid by all students who are not residents of Ohio.

The board of trustees of a state institution of higher education shall not authorize a waiver or nonpayment of instructional fees or general fees for any particular student or any class of students other than waivers specifically authorized by law or approved by the Chancellor. This prohibition is not intended to limit the authority of boards of trustees to provide for payments to students for services rendered the institution, nor to prohibit the budgeting

of income for staff benefits or for student assistance in the form of payment of such instructional and general fees.

Each state institution of higher education in its statement of charges to students shall separately identify the instructional fee, the general fee, the tuition charge, and the tuition surcharge. Fee charges to students for instruction shall not be considered to be a price of service but shall be considered to be an integral part of the state government financing program in support of higher educational opportunity for students.

(C) The boards of trustees of state institutions of higher education shall ensure that faculty members devote a proper and judicious part of their work week to the actual instruction of students. Total class credit hours of production per academic term per full-time faculty member is expected to meet the standards set forth in the budget data submitted by the Chancellor of the Board of Regents.

(D) The authority of government vested by law in the boards of trustees of state institutions of higher education shall in fact be exercised by those boards. Boards of trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about the utilization of available resources, about organizational structure, about disciplinary procedure, about the operation and staffing of all auxiliary facilities, and about administrative personnel shall be the exclusive prerogative of boards of trustees. Any delegation of authority by a board of trustees in other areas of responsibility shall be accompanied by appropriate standards of guidance concerning expected objectives in the exercise of such delegated authority and shall be accompanied by periodic review of the exercise of this delegated authority to the end that the public interest, in contrast to any institutional or special interest, shall be served.

SECTION 363.240. STUDENT SUPPORT SERVICES

The foregoing appropriation item 235502, Student Support Services, shall be distributed by the Chancellor of the Board of Regents to Ohio's state colleges and universities that incur disproportionate costs in the provision of support services to disabled students.

SECTION 363.250. WAR ORPHANS SCHOLARSHIPS

The foregoing appropriation item 235504, War Orphans Scholarships, shall be used to reimburse state institutions of higher education for waivers of instructional fees and general fees provided by them, to provide grants to institutions that have received a certificate of authorization from the

Chancellor of the Board of Regents under Chapter 1713. of the Revised Code, in accordance with the provisions of section 5910.04 of the Revised Code, and to fund additional scholarship benefits provided by section 5910.032 of the Revised Code.

SECTION 363.260. OHIOLINK

The foregoing appropriation item 235507, OhioLINK, shall be used by the Chancellor of the Board of Regents to support OhioLINK, a consortium organized under division (T) of section 3333.04 of the Revised Code to serve as the state's electronic library information and retrieval system, which provides access statewide to an extensive set of electronic databases and resources, the library holdings of Ohio's public and participating private nonprofit colleges and universities, and the State Library of Ohio.

SECTION 363.270. AIR FORCE INSTITUTE OF TECHNOLOGY

The foregoing appropriation item 235508, Air Force Institute of Technology, shall be used to: (A) strengthen the research and educational linkages between the Wright Patterson Air Force Base and institutions of higher education in Ohio; and (B) support the Dayton Area Graduate Studies Institute, an engineering graduate consortium of Wright State University, the University of Dayton, and the Air Force Institute of Technology, with the participation of the University of Cincinnati and The Ohio State University.

SECTION 363.280. OHIO SUPERCOMPUTER CENTER

The foregoing appropriation item 235510, Ohio Supercomputer Center, shall be used by the Chancellor of the Board of Regents to support the operation of the Ohio Supercomputer Center, a consortium organized under division (T) of section 3333.04 of the Revised Code, located at The Ohio State University. The Ohio Supercomputer Center is a statewide resource available to Ohio research universities both public and private. It is also intended that the center be made accessible to private industry as appropriate.

Funds shall be used, in part, to support the Ohio Supercomputer Center's Computational Science Initiative, which includes its industrial outreach program, Blue Collar Computing, and its School of Computational Science. These collaborations between the Ohio Supercomputer Center and Ohio's colleges and universities shall be aimed at making Ohio a leader in using computer modeling to promote economic development.

SECTION 363.290. COOPERATIVE EXTENSION SERVICE

The foregoing appropriation item 235511, Cooperative Extension Service, shall be disbursed through the Chancellor of the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management under section 126.09 of the Revised Code.

Of the foregoing appropriation item 235511, Cooperative Extension Service, up to \$30,000 in fiscal year 2014 shall be used to develop an in-school agriculturally based curriculum for inclusion within the regular classroom curriculum of an elementary school in the Cleveland Municipal School District and the Cincinnati City School District.

Of the foregoing appropriation item 235511, Cooperative Extension Service, up to \$73,450 in each fiscal year shall be used to support a City of Cleveland Program Manager tasked with preparing regular classroom teachers in one elementary school to recruit and train volunteers for an after-school 4-H Club.

Of the foregoing appropriation item 235511, Cooperative Extension Service, \$73,450 in each fiscal year shall be used to support a City of Cincinnati Program Manager tasked with preparing regular classroom teachers in one elementary school to recruit and train volunteers for an after-school 4-H Club.

SECTION 363.300. CENTRAL STATE SUPPLEMENT

The foregoing appropriation item 235514, Central State Supplement, shall be disbursed by the Chancellor of the Board of Regents to Central State University in accordance with the plan developed by the Chancellor and submitted to the Governor and the General Assembly as directed by Am. Sub. H.B. 153 of the 129th General Assembly. Funds shall be used in a manner consistent with the goals of increasing enrollment, improving course completion, and increasing the number of degrees conferred.

The Chancellor shall monitor the implementation of the plan and the use of funds. Central State University shall provide any information requested by the Chancellor related to the implementation of the plan. If the Chancellor determines that Central State University's use of supplemental funds is not in accordance with the plan or if the plan is not having the desired effect, the Chancellor may notify Central State University that the plan is suspended. Upon receiving such notice, Central State University shall avoid all unnecessary expenditures under the plan. The Chancellor

shall notify the Controlling Board of the suspension of the plan and within sixty days prepare a new plan for the use of any remaining funds.

SECTION 363.310. CASE WESTERN RESERVE UNIVERSITY
SCHOOL OF MEDICINE

The foregoing appropriation item 235515, Case Western Reserve University School of Medicine, shall be disbursed to Case Western Reserve University through the Chancellor of the Board of Regents in accordance with agreements entered into under section 3333.10 of the Revised Code, provided that the state support per full-time medical student shall not exceed that provided to full-time medical students at state universities.

SECTION 363.313. WRIGHT STATE LAKE CAMPUS
AGRICULTURAL PROGRAM

The foregoing appropriation item 235516, Wright State Lake Campus Agricultural Program, shall be used to support the agricultural program at Wright State University's Lake Campus.

SECTION 363.320. FAMILY PRACTICE

The Chancellor of the Ohio Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235519, Family Practice.

SECTION 363.330. SHAWNEE STATE SUPPLEMENT

The foregoing appropriation item 235520, Shawnee State Supplement, shall be disbursed by the Chancellor of the Board of Regents to Shawnee State University in accordance with the plan developed by the Chancellor and submitted to the Governor and the General Assembly as directed by Am. Sub. H.B. 153 of the 129th General Assembly. Funds shall be used in a manner consistent with the goals of improving course completion, increasing the number of degrees conferred, and furthering the university's mission of service to the Appalachian region.

The Chancellor shall monitor the implementation of the plan and the use of funds. Shawnee State University shall provide any information requested by the Chancellor related to the implementation of the plan. If the Chancellor determines that Shawnee State University's use of supplemental funds is not in accordance with the plan or if the plan is not having the desired effect, the Chancellor may notify Shawnee State University that the

plan is suspended. Upon receiving such notice, Shawnee State University shall avoid all unnecessary expenditures under the plan. The Chancellor shall notify the Controlling Board of the suspension of the plan and within sixty days prepare a new plan for the use of any remaining funds.

SECTION 363.333. YOUTH STEM COMMERCIALIZATION AND ENTREPRENEURSHIP PROGRAM

The foregoing appropriation item 235523, Youth STEM Commercialization and Entrepreneurship Program, shall be used by the Chancellor of the Ohio Board of Regents to support the Youth STEM Commercialization and Entrepreneurship Program. The purpose of this program is to grow Ohio's next generation of entrepreneurs, to create jobs in Ohio by focusing on the practical application of science, technology, engineering, and mathematics (STEM), including medicine and health fields, and to innovate new products and services. The Youth STEM Commercialization and Entrepreneurship Program shall (1) conduct regional STEM forums for students and educators; (2) develop regional online high school and collegiate STEM commercialization and entrepreneurship content and courses; (3) create a statewide STEM commercialization and entrepreneurship mentoring network available to high school students anywhere in Ohio; and (4) conduct a statewide STEM Commercialization and Entrepreneurship Plan competition that includes incentive awards and scholarships for students and professional development and incentives for teacher participation. The competition and all aspects of the program shall be open to any Ohio high school student and shall include initiatives to engage minority, rural, and economically disadvantaged students anywhere in Ohio. The Youth STEM Commercialization and Entrepreneurship Program shall collaborate with Ohio's colleges and universities, existing STEM and entrepreneurship programs, and Ohio's STEM professional and trade associations to implement these provisions and to create the new products or services of the future, advance job creation in Ohio, and encourage enrollment at Ohio institutions of higher education.

SECTION 363.340. POLICE AND FIRE PROTECTION

The foregoing appropriation item 235524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), Rootstown Township, and the City of Nelsonville that may be used to assist these local governments in providing police and fire

protection for the central campus of the state-affiliated university located therein.

SECTION 363.350. GERIATRIC MEDICINE

The Chancellor of the Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235525, Geriatric Medicine.

SECTION 363.360. PRIMARY CARE RESIDENCIES

The Chancellor of the Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235526, Primary Care Residencies.

The foregoing appropriation item 235526, Primary Care Residencies, shall be distributed in each fiscal year of the biennium, based on whether or not the institution has submitted and gained approval for a plan. If the institution does not have an approved plan, it shall receive five per cent less funding per student than it would have received from its annual allocation. The remaining funding shall be distributed among those institutions that meet or exceed their targets.

SECTION 363.370. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER

The foregoing appropriation item 235535, Ohio Agricultural Research and Development Center, shall be disbursed through the Chancellor of the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management under section 126.09 of the Revised Code. The Ohio Agricultural Research and Development Center shall not be required to remit payment to The Ohio State University during the biennium ending June 30, 2015, for cost reallocation assessments. The cost reallocation assessments include, but are not limited to, any assessment on state appropriations to the Center.

The Ohio Agricultural Research and Development Center, an entity of the College of Food, Agricultural, and Environmental Sciences of The Ohio State University, shall further its mission of enhancing Ohio's economic development and job creation by continuing to internally allocate on a competitive basis appropriated funding of programs based on demonstrated performance. Academic units, faculty, and faculty-driven programs shall be evaluated and rewarded consistent with agreed-upon performance

expectations as called for in the College's Expectations and Criteria for Performance Assessment.

SECTION 363.380. STATE UNIVERSITY CLINICAL TEACHING

The foregoing appropriation items 235536, The Ohio State University Clinical Teaching; 235537, University of Cincinnati Clinical Teaching; 235538, University of Toledo Clinical Teaching; 235539, Wright State University Clinical Teaching; 235540, Ohio University Clinical Teaching; and 235541, Northeast Ohio Medical University Clinical Teaching, shall be distributed through the Chancellor of the Board of Regents.

SECTION 363.390. CAPITAL COMPONENT

The foregoing appropriation item 235552, Capital Component, shall be used by the Chancellor of the Board of Regents to provide funding for prior commitments made pursuant to the state's former capital funding policy for state colleges and universities that was originally established in Am. H.B. 748 of the 121st General Assembly. Appropriations from this item shall be distributed to all campuses for which the estimated campus debt service attributable to qualifying capital projects was less than the campus's formula-determined capital component allocation. Campus allocations shall be determined by subtracting the estimated campus debt service attributable to qualifying capital projects from the campus's formula-determined capital component allocation. Moneys distributed from this appropriation item shall be restricted to capital-related purposes.

Any campus for which the estimated campus debt service attributable to qualifying capital projects is greater than the campus's formula-determined capital component allocation shall have the difference subtracted from its State Share of Instruction allocation in each fiscal year. Appropriation equal to the sum of all such amounts except that of the Ohio Agricultural Research and Development Center shall be transferred from appropriation item 235501, State Share of Instruction, to appropriation item 235552, Capital Component. Appropriation equal to any estimated Ohio Agricultural Research and Development Center debt service attributable to qualifying capital projects that is greater than the Center's formula-determined capital component allocation shall be transferred from appropriation item 235535, Ohio Agricultural Research and Development Center, to appropriation item 235552, Capital Component.

SECTION 363.400. LIBRARY DEPOSITORIES

The foregoing appropriation item, 235555, Library Depositories, shall be distributed to the state's five regional depository libraries for the cost-effective storage of and access to lesser-used materials in university library collections. The depositories shall be administrated by the Chancellor of the Board of Regents, or by OhioLINK at the discretion of the Chancellor.

SECTION 363.410. OHIO ACADEMIC RESOURCES NETWORK (OARNET)

The foregoing appropriation item 235556, Ohio Academic Resources Network, shall be used by the Chancellor of the Board of Regents to support the operations of the Ohio Academic Resources Network, a consortium organized under division (T) of section 3333.04 of the Revised Code, which shall include support for Ohio's colleges and universities in maintaining and enhancing network connections, using new network technologies to improve research, education, and economic development programs, and sharing information technology services. To the extent network capacity is available, OARnet shall support allocating bandwidth to eligible programs directly supporting Ohio's economic development.

SECTION 363.420. LONG-TERM CARE RESEARCH

The foregoing appropriation item 235558, Long-term Care Research, shall be disbursed to Miami University for long-term care research.

SECTION 363.430. OHIO COLLEGE OPPORTUNITY GRANT

(A) Except as provided in division (C) of this section:

Of the foregoing appropriation item 235563, Ohio College Opportunity Grant, \$41,000,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to award need-based financial aid to students enrolled in eligible four-year public institutions of higher education, excluding early college high school and post-secondary enrollment option participants.

Of the foregoing appropriation item 235563, Ohio College Opportunity Grant, \$41,000,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to award need-based financial aid to students enrolled in eligible private nonprofit institutions of higher education, excluding early college high school and post-secondary enrollment option participants.

The remainder of the foregoing appropriation item 235563, Ohio College Opportunity Grant, shall be used by the Chancellor of the Board of Regents to award needs-based financial aid to students enrolled in eligible private for-profit career colleges and schools.

(B)(1) As used in this section:

(a) "Eligible institution" means any institution described in divisions (B)(2)(a) to (c) of section 3333.122 of the Revised Code.

(b) The three "sectors" of institutions of higher education consist of the following:

(i) State colleges and universities, community colleges, state community colleges, university branches, and technical colleges;

(ii) Eligible private nonprofit institutions of higher education;

(iii) Eligible private for-profit career colleges and schools.

(2) If the Chancellor determines that the amounts appropriated for support of the Ohio College Opportunity Grant program are inadequate to provide grants to all eligible students as calculated under division (D) of section 3333.122 of the Revised Code, the Chancellor may create a distribution formula for fiscal year 2014 and fiscal year 2015 based on the formula used in fiscal year 2013, or may follow methods established in division (C)(1)(a) or (b) of section 3333.122 of the Revised Code. The Chancellor shall notify the Controlling Board of the distribution method. Any formula calculated under this division shall be complete and established to coincide with the start of the 2013-2014 academic year.

(C) Prior to determining the amount of funds available to award under this section and section 3333.122 of the Revised Code, the Chancellor shall use the foregoing appropriation item 235563, Ohio College Opportunity Grant, to pay for renewals or partial renewals of scholarships students receive under the Ohio Academic Scholarship Program under sections 3333.21 and 3333.22 of the Revised Code. In paying for scholarships under this division, the Chancellor shall deduct funds from the allocations made under division (A) of this section. Deductions shall be proportionate to the amounts allocated to each sector from the total amounts appropriated for each sector under the foregoing appropriation item 235563, Ohio College Opportunity Grant.

In each fiscal year, with the exception of sections 3333.121 and 3333.124 of the Revised Code and Section 363.530 of this act, the Chancellor shall not distribute or obligate or commit to be distributed an amount greater than what is appropriated under the foregoing appropriation item 235563, Ohio College Opportunity Grant.

(D) The Chancellor shall establish, and post on the Ohio Board of

Regents' web site, award tables based on any formulas created under division (B) of this section. The Chancellor shall notify students and institutions of any reductions in awards under this section.

On or before August 31, 2013, the Chancellor of the Board of Regents shall submit award tables to the Controlling Board for the 2013-2014 academic year and allocations of Ohio College Opportunity Grant awards not already specified in section 3333.122 of the Revised Code.

(E) Notwithstanding section 3333.122 of the Revised Code, no student shall be eligible to receive an Ohio College Opportunity Grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years, less the number of semesters or quarters in which the student received an Ohio Instructional Grant.

SECTION 363.440. THE OHIO STATE UNIVERSITY CLINIC SUPPORT

The foregoing appropriation item 235572, The Ohio State University Clinic Support, shall be distributed through the Chancellor of the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

SECTION 363.450. NATIONAL GUARD SCHOLARSHIP PROGRAM

The Chancellor of the Board of Regents shall disburse funds from appropriation item 235599, National Guard Scholarship Program. During each fiscal year, the Chancellor of the Board of Regents, within ten days of cancellation, may certify to the Director of Budget and Management the amount of canceled prior-year encumbrances in appropriation item 235599, National Guard Scholarship Program. Upon receipt of the certification, the Director of Budget and Management may transfer cash in an amount up to the amount certified from the General Revenue Fund to the National Guard Scholarship Reserve Fund (Fund 5BM0). The Chancellor of the Board of Regents shall seek Controlling Board approval to authorize additional expenditures for appropriation item 235623, National Guard Scholarship Reserve Fund. Upon approval of the Controlling Board, the additional amounts are hereby appropriated. The Chancellor of the Board of Regents shall disburse funds from appropriation item 235623, National Guard Scholarship Reserve Fund.

SECTION 363.460. PLEDGE OF FEES

Any new pledge of fees, or new agreement for adjustment of fees, made in the biennium ending June 30, 2015, to secure bonds or notes of a state institution of higher education for a project for which bonds or notes were not outstanding on the effective date of this section shall be effective only after approval by the Chancellor of the Board of Regents, unless approved in a previous biennium.

SECTION 363.470. HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 235909, Higher Education General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, for obligations issued under sections 151.01 and 151.04 of the Revised Code.

SECTION 363.480. SALES AND SERVICES

The Chancellor of the Board of Regents is authorized to charge and accept payment for the provision of goods and services. Such charges shall be reasonably related to the cost of producing the goods and services. Except as otherwise provided by law, no charges may be levied for goods or services that are produced as part of the routine responsibilities or duties of the Chancellor. All revenues received by the Chancellor of the Board of Regents shall be deposited into Fund 4560, and may be used by the Chancellor of the Board of Regents to pay for the costs of producing the goods and services.

SECTION 363.483. CO-OP INTERNSHIP PROGRAM

Of the foregoing appropriation item 235649, Co-op Internship Program, \$200,000 in each fiscal year shall be used to support the Museum of Contemporary Art Cleveland fellowship program in collaboration with Cleveland State University.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to support the operations of Ohio University's Voinovich School.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year, shall be used by the Chancellor of the Board of Regents to support the operations of The Ohio State University's John Glenn School of Public Affairs.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used to support the Bliss Institute of Applied Politics at the University of Akron.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used to support the Center for Public Management and Regional Affairs at Miami University.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$150,000 in each fiscal year shall be used to support the Washington Center Internship Program.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$150,000 in each fiscal year shall be used to support the Ohio Center for the Advancement of Women in Public Service at the Maxine Goodman Levin College of Urban Affairs at Cleveland State University.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used to support the University of Cincinnati Internship Program.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to support the operations of the Center for Regional Development at Bowling Green State University.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to support the operations of the Institute for Defense Studies at Wright State University.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used to support the Kent State University Columbus Program.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used to support the University of Toledo Urban Affairs Center.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$10,000 in each fiscal year shall be provided to the Ohio College Access Network to support the Ohio Student Education Policy Institute.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used to support the Center for Urban and Regional Studies at Youngstown State University.

SECTION 363.485. DEFENSE/AEROSPACE WORKFORCE
DEVELOPMENT INITIATIVE

The foregoing appropriation item 235668, Defense/Aerospace

Workforce Development Initiative, shall be used by the Defense/Aerospace Graduate Studies Institute, to collaborate with the aviation, aerospace, and defense industries, to strengthen job training programs, equip Ohio's workforce with needed skills, and strengthen and grow research and educational linkages among Ohio's defense and aerospace aviation industry, federal agencies, state-assisted Ohio universities, and the University System of Ohio. A portion of the foregoing appropriation item 235668, Defense/Aerospace Workforce Development Initiative, shall be allocated to develop a strategic plan to align the University System of Ohio's research and workforce development assets with the workforce needs of public and private sector employers. A portion of these funds shall be used to support the Aerospace Professional Development Center to establish processes necessary to link underemployed or unemployed persons to job openings in these industries. The funds appropriated in this appropriation item shall be matched by private industry or educational partners or federal agencies in the aggregate amount of \$4,000,000 over the FY 2014–FY 2015 biennium.

SECTION 363.487. MANUFACTURING WORKFORCE DEVELOPMENT INITIATIVE

Of the foregoing appropriation item 235685, Manufacturing Workforce Development Initiative, \$1,000,000 in fiscal year 2014 shall be used for a demonstration project to purchase portable welding stations made from large shipping containers and high level advanced training equipment for use by Lorain County Community College.

Of the foregoing appropriation item 235685, Manufacturing Workforce Development Initiative, \$1,000,000 in fiscal year 2014 shall be used for a demonstration project to purchase portable welding stations made from large shipping containers and high level advanced training equipment for use at the Point Industrial Park in South Point.

SECTION 363.490. HIGHER EDUCATIONAL FACILITY COMMISSION ADMINISTRATION

The foregoing appropriation item 235602, Higher Educational Facility Commission Administration, shall be used by the Chancellor of the Board of Regents for operating expenses related to the Chancellor of the Board of Regents' support of the activities of the Ohio Higher Educational Facility Commission. Upon the request of the Chancellor, the Director of Budget and Management may transfer up to \$29,100 cash in each fiscal year from the HEFC Operating Expenses Fund (Fund 4610) to the HEFC

Administration Fund (Fund 4E80).

SECTION 363.500. NURSING LOAN PROGRAM

The foregoing appropriation item 235606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to \$50,000 in each fiscal year may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval.

SECTION 363.510. TELECOMMUNITY AND DISTANCE LEARNING

Of the foregoing appropriation item 235674, Telecommunity and Distance Learning, up to \$25,000 in each fiscal year shall be distributed by the Chancellor of the Board of Regents on a grant basis to eligible school districts to establish "distance learning" through interactive video technologies in the school district. Per agreements with eight Ohio local telephone companies, ALLTEL Ohio, CENTURY Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone Company, Orwell Telephone Company, Sprint North Central Telephone, VERIZON, and Western Reserve Telephone Company, school districts are eligible for funds if they are within one of the listed telephone company service areas. Funds to administer the program shall be expended by the Chancellor of the Board of Regents up to the amount specified in the agreements with the listed telephone companies.

Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4X10 in the State Special Revenue Fund Group any investment earnings from moneys paid by any telephone company as part of any settlement agreement between the listed companies and the Public Utilities Commission in fiscal years 1996 and beyond.

Of the foregoing appropriation item 235674, Telecommunity and Distance Learning, up to \$24,150 in each fiscal year shall be distributed by the Chancellor of the Board of Regents on a grant basis to eligible school districts to establish "distance learning" in the school district. Per an agreement with Ameritech, school districts are eligible for funds if they are within an Ameritech service area. Funds to administer the program shall be expended by the Chancellor of the Board of Regents up to the amount specified in the agreement with Ameritech.

Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4X10 in the State Special

Revenue Fund Group any investment earnings from moneys paid by any telephone company as part of a settlement agreement between the company and the Public Utilities Commission in fiscal year 1995.

SECTION 363.520. VETERANS PREFERENCES

The Chancellor of the Board of Regents shall work with the Department of Veterans Services to develop specific veterans preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans preference laws.

SECTION 363.530. STATE NEED-BASED FINANCIAL AID RECONCILIATION

By the first day of August in each fiscal year, or as soon as possible thereafter, the Chancellor of the Board of Regents shall certify to the Director of Budget and Management the amount necessary to pay any outstanding prior year obligations to higher education institutions for the state's need-based financial aid programs. The amounts certified are hereby appropriated to appropriation item 235618, State Need-based Financial Aid Reconciliation, from revenues received in the State Need-based Financial Aid Reconciliation Fund (Fund 5Y50).

SECTION 363.540. (A) As used in this section:

(1) "Board of trustees" includes the managing authority of a university branch district.

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

(B) The board of trustees of any state institution of higher education, notwithstanding any rule of the institution to the contrary, may adopt a policy providing for mandatory furloughs of employees, including faculty, to achieve spending reductions necessitated by institutional budget deficits.

SECTION 363.550. EFFICIENCY ADVISORY COMMITTEE

The Chancellor of the Board of Regents shall establish an efficiency advisory committee for the purpose of generating optimal efficiency plans for campuses, identifying shared services opportunities, and sharing best practices. The efficiency advisory committee shall also explore methods for reducing the costs for students for textbooks and other education resource

materials. The committee shall meet at the call of the Chancellor or the Chancellor's designee, but at least quarterly. Each state institution of higher education shall designate an employee to serve as its efficiency officer responsible for the evaluation and improvement of operational efficiencies on campus. Each efficiency officer shall serve on the efficiency advisory committee.

By December 31 of each year, the Efficiency Advisory Committee shall provide a report to the Office of Budget and Management, the Governor, and the General Assembly compiling the operational efficiency plans for all institutions of higher education and benchmarking efficiency gains realized over the preceding year and progress in implementing the prior year's efficiency plan. The report shall also be made available to the public on the Ohio Board of Regents web site.

SECTION 363.570. (A) TRANSFER OF DUTIES AND EMPLOYEES

(1) On July 1, 2013, all responsibilities related to the administration of the Telecommunity Fund and the Distance Learning Fund, as well as for technology-related teacher professional development programs, are transferred from the former eTech Ohio Commission to the Chancellor of the Board of Regents as described in sections 3317.50, 3317.51, and 3319.235 of the Revised Code, as amended by this act. The Chancellor is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the eTech Ohio Commission relating to the functions, assets, records, and obligations relating to these responsibilities.

(2) Any business related to these responsibilities commenced but not completed by the former eTech Ohio Commission shall be completed by the Chancellor in the same manner, and with the same effect, as if completed by the eTech Ohio Commission. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer, and shall be recognized, administered, performed, or enforced by the Chancellor.

(3) All of the rules of the former eTech Ohio Commission related to these responsibilities continue in effect as rules of the Chancellor, until amended or rescinded by the Chancellor.

(4) Any judicial or administrative action or proceeding related to these responsibilities, in which the eTech Ohio Commission is a party, that is pending on the effective date of this section is affected by the transfer. Such action or proceeding shall be prosecuted or defended in the name of the Chancellor. On application to the court or other tribunal, the Chancellor of the Board of Regents shall be substituted for the eTech Ohio Commission as

a party to such action or proceeding.

(5) Subject to the lay-off provisions of sections 124.321 to 124.328 and division (D) of section 3353.03 of the Revised Code, as amended by this act, all employees of the former eTech Ohio Commission assigned to these responsibilities continue with the Chancellor and retain their positions and all benefits accruing thereto.

(6) All books, records, documents, files, transcripts, equipment, furniture, supplies, and other materials related to these responsibilities assigned to or in the possession of the former eTech Ohio Commission shall be transferred to the Chancellor.

(7) All employees of the former eTech Ohio Commission who transferred to the Chancellor of the Board of Regents upon the reconstitution of the Commission as prescribed by Section 278.20 of H.B. 59 of the 130th General Assembly and who when employed by that Commission or a predecessor agency were included in a bargaining unit established under Chapter 4117. of the Revised Code, shall continue to be included in that bargaining unit, are public employees as defined in section 4117.01 of the Revised Code, and may collectively bargain with the Chancellor in accordance with that chapter. Otherwise, any employee hired by the Chancellor after the reconstitution of the Commission, either to fill vacancies or to fill new positions related to the transferred employees' duties, shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.

(B) FUND ABOLITION

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the eTech Ohio Telecommunity Education Fund (Fund 4W90) to the Distance Learning Fund (Fund 4X10). Upon completion of the transfer, the eTech Ohio Telecommunity Education Fund (Fund 4W90) is hereby abolished.

(C) ETECH OHIO COMMISSION APPROPRIATION ITEM TRANSFER

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 935408, General Operations, and re-establish them, as determined to be appropriate by the Director of Budget and Management, against appropriation item 235480, General Technology Operations. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 935408, General Operations, by July 1, 2013, shall be completed, as determined to be appropriate by the Director of Budget and Management, under appropriation item 235480, General

Technology Operations, in the same manner and with the same effect as if it were completed with regard to appropriation item 935408, General Operations.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 935411, Technology Integration and Professional Development, and re-establish them, as determined to be appropriate by the Director of Budget and Management, against appropriation item 235483, Technology Integration and Professional Development. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 935411, Technology Integration and Professional Development, by July 1, 2013, shall be completed, as determined to be appropriate by the Director of Budget and Management, under appropriation item 235483, Technology Integration and Professional Development, in the same manner and with the same effect as if it were completed with regard to appropriation item 935411, Technology Integration and Professional Development.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 935640, Conference/Special Purposes, and re-establish them against appropriation item 235675, Conference/Special Purposes. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 935640, Conference/Special Purposes, by July 1, 2013, shall be completed under appropriation item 235675, Conference/Special Purposes, in the same manner and with the same effect as if it were completed with regard to appropriation item 935640, Conference/Special Purposes.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 935630, Telecommunity, and cancel any existing encumbrances against appropriation item 935634, Distance Learning, and re-establish them against appropriation item 235674, Telecommunity and Distance Learning. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation items 935630, Telecommunity, and 935634, Distance Learning, by July 1, 2013, shall be completed under appropriation item 235674, Telecommunity and Distance Learning, in the same manner and with the same effect as if it were completed with regard to appropriation items 935630, Telecommunity, and 935634, Distance Learning.

Effective July 1, 2013, notwithstanding any provision of the law to the

contrary, and if requested by the Chancellor of the Board of Regents, the Director of Budget and Management may make budget changes made necessary by the transfer of the operations and related management functions of the former eTech Ohio Commission to the Chancellor of the Board of Regents, if any, including administrative organization, program transfers, the creation of new funds, the transfer of state funds, the consolidation of funds, and the transfer of capital appropriations, as authorized by this section. The Director of Budget and Management may, if necessary, establish prior year encumbrances or parts of prior year encumbrances of the former eTech Ohio Commission with the Chancellor of the Board of Regents in the appropriate fund and appropriation item for the same purpose and for payment to the same vendor in fiscal year 2014 or fiscal year 2015. The established encumbrances plus any additional amounts determined to be necessary for the Chancellor of the Board of Regents to perform the operations and related management functions of the former eTech Ohio Commission are hereby appropriated.

(D) CONFERENCE OPERATION OFFICE

Beginning in fiscal year 2014, the annual eTech Ohio Conference will be overseen by a Conference Operation Office comprised of employees of the Chancellor of the Board of Regents and Department of Education, including former employees of the eTech Ohio Commission transferred to the Chancellor of the Board of Regents and the Department of Education. The Office shall be responsible for conferences that focus on professional development in the education field, educational technology, distance learning, and other education topics pertinent to the State of Ohio.

SECTION 363.580. ELECTRONIC TEXTBOOK PILOT PROJECT

(A) The Electronic Textbook Pilot Project is hereby established to provide grants on a competitive basis to public and chartered nonpublic schools to purchase digital texts, as defined in section 3317.06 of the Revised Code and electronic educational content through the state's electronic distance learning clearinghouse established in section 3333.81 to 3333.88 of the Revised Code, and professional development and training resources. The Electronic Textbook Pilot Project shall be administered by the Chancellor of the Board of Regents.

(B) The Chancellor shall have the authority to set the grant criteria, to select grant recipients, and to review and assess the alignment of courses offered through the distance learning clearinghouse established in section 3333.81 to 3333.88 of the Revised Code with the academic content standards adopted under division (A) of section 3301.079 of the Revised

Code. In awarding grants under this section, the Chancellor shall establish the criteria for determining which applicants will be considered a priority for receiving grant funds.

(C) Not later than January 31, 2014, the Chancellor shall issue a request for proposals from eligible schools.

(D) Not later than May 31, 2014, the Chancellor shall award to public and chartered nonpublic schools grants for use during the 2014-2015 school year.

(E) The Chancellor and Superintendent of Public Instruction jointly shall notify schools of and promote participation in the pilot project.

(F) Not later than December 31, 2015, the Chancellor shall submit to the Governor and the General Assembly, in accordance with section 101.68 of the Revised Code, a formative evaluation of the implementation and results of the pilot project and legislative recommendations for any changes in the pilot project.

(G) The number of grants awarded under this section shall not exceed the number that can be funded with appropriations made by the General Assembly for this purpose.

SECTION 363.590. COLLEGE CREDIT PLUS PROGRAM

The Chancellor shall make recommendations to the General Assembly to establish the College Credit Plus program, whereby high school students may earn credits through Ohio institutions of higher education. The Chancellor shall consult with the Inter-University Council of Ohio, the Association of Independent Colleges and Universities of Ohio, the Ohio Association of Community Colleges, and the Superintendent of Public Instruction in developing the recommendations. The Chancellor shall provide a report of the recommendation to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2013, for implementation in the 2014-2015 academic year.

SECTION 365.10. DRC DEPARTMENT OF REHABILITATION AND CORRECTION

General Revenue Fund

GRF 501321	Institutional Operations	\$	883,768,015	\$	873,724,802
GRF 501403	Prisoner Compensation	\$	6,000,000	\$	6,000,000
GRF 501405	Halfway House	\$	45,049,356	\$	46,024,108
GRF 501406	Lease Rental Payments	\$	104,099,500	\$	99,534,800
GRF 501407	Community Nonresidential Programs	\$	34,187,858	\$	34,314,390
GRF 501408	Community Misdemeanor	\$	12,856,800	\$	12,856,800

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		Programs			
GRF	501501	Community Residential Programs - CBCF	\$	63,345,972	\$ 66,150,781
GRF	503321	Parole and Community Operations	\$	64,480,938	\$ 65,029,680
GRF	504321	Administrative Operations	\$	20,659,664	\$ 20,907,476
GRF	505321	Institution Medical Services	\$	243,289,774	\$ 254,139,452
GRF	506321	Institution Education Services	\$	19,102,051	\$ 19,112,418
		TOTAL GRF General Revenue Fund	\$	1,496,839,928	\$ 1,497,794,707
General Services Fund Group					
1480	501602	Institutional Services	\$	3,139,577	\$ 3,139,577
2000	501607	Ohio Penal Industries	\$	41,393,226	\$ 40,609,872
4830	501605	Property Receipts	\$	582,086	\$ 582,086
4B00	501601	Sewer Treatment Services	\$	2,023,671	\$ 2,067,214
4D40	501603	Prisoner Programs	\$	17,499,255	\$ 17,499,255
4L40	501604	Transitional Control	\$	1,113,120	\$ 1,113,120
4S50	501608	Education Services	\$	4,114,782	\$ 4,114,782
5710	501606	Training Academy Receipts	\$	125,000	\$ 125,000
5930	501618	Laboratory Services	\$	3,750,000	\$ 0
5AF0	501609	State and Non-Federal Awards	\$	1,440,000	\$ 1,440,000
5H80	501617	Offender Financial Responsibility	\$	2,000,000	\$ 2,000,000
5L60	501611	Information Technology Services	\$	250,000	\$ 250,000
		TOTAL GSF General Services Fund Group	\$	77,430,717	\$ 72,940,906
Federal Special Revenue Fund Group					
3230	501619	Federal Grants	\$	7,132,943	\$ 7,132,943
		TOTAL FED Federal Special Revenue Fund Group	\$	7,132,943	\$ 7,132,943
		TOTAL ALL BUDGET FUND GROUPS	\$	1,581,403,588	\$ 1,577,868,556

TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL SENTENCING REFORMS

For the purposes of implementing criminal sentencing reforms, and notwithstanding any other provision of law to the contrary, the Director of Budget and Management, at the request of the Director of Rehabilitation and Correction, may transfer up to \$14,000,000 in appropriations, in each of fiscal years 2014 and 2015, from appropriation item 501321, Institutional Operations, to any combination of appropriation items 501405, Halfway House; 501407, Community Residential Programs; 501408, Community Misdemeanor Programs; and 501501, Community Residential Programs - CBCF.

LEASE RENTAL PAYMENTS

The foregoing appropriation item 501406, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, by the Department of Rehabilitation and Correction under the primary leases and agreements for those buildings made under Chapters 152. and 154. of the

Revised Code. These appropriations are the source of funds pledged for bond service charges on related obligations issued under Chapters 152. and 154. of the Revised Code.

OSU MEDICAL CHARGES

Notwithstanding section 341.192 of the Revised Code, at the request of the Department of Rehabilitation and Correction, The Ohio State University Medical Center, including the Arthur G. James Cancer Hospital and Richard J. Solove Research Institute and the Richard M. Ross Heart Hospital, shall provide necessary care to persons who are confined in state adult correctional facilities. The provision of necessary care shall be billed to the Department at a rate not to exceed the authorized reimbursement rate for the same service established by the Department of Medicaid under the Medicaid Program.

CORRECTIVE CASH TRANSFER

At the request of the Director of Rehabilitation and Correction, the Director of Budget and Management may transfer an amount not to exceed \$2,391 in cash that was mistakenly deposited in the Federal Grants Fund (Fund 3230) to the General Revenue Fund.

SECTION 369.10. RCB RESPIRATORY CARE BOARD

General Services Fund Group

4K90 872609	Operating Expenses	\$	552,876	\$	545,246
TOTAL GSF General Services					
Fund Group		\$	552,876	\$	545,246
TOTAL ALL BUDGET FUND GROUPS					
		\$	552,876	\$	545,246

SECTION 371.10. RDF REVENUE DISTRIBUTION FUNDS

Special State Revenue Fund Group

5JG0 110633	Gross Casino Revenue	\$	158,005,325	\$	168,977,942
	County Fund				

TOTAL SSR State Special Revenue Fund Group		\$	158,005,325	\$	168,977,942
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Volunteer Firefighters' Dependents Fund

7085 800985	Volunteer Firemen's	\$	300,000	\$	300,000
	Dependents Fund				

TOTAL 085 Volunteer Firefighters' Dependents Fund		\$	300,000	\$	300,000
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Agency Fund Group

4P80 001698	Cash Management	\$	3,100,000	\$	3,100,000
	Improvement Fund				

5JH0 110634	Gross Casino Revenue	\$	105,336,883	\$	112,651,961
	County Student Fund				

5JJ0 110636	Gross Casino Revenue Host	\$	15,490,718	\$	16,566,465
	City Fund				

6080 001699	Investment Earnings	\$	30,000,000	\$	30,000,000
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7062	110962	Resort Area Excise Tax	\$	1,000,000	\$	1,000,000
7063	110963	Permissive Tax Distribution	\$	2,066,331,400	\$	2,151,135,100
7067	110967	School District Income Tax	\$	346,669,300	\$	365,277,800
7093	110640	Next Generation 9-1-1 Fund	\$	1,890,000	\$	2,690,000
7094	110641	Wireless 9-1-1 Government Assistance Fund	\$	11,110,000	\$	23,310,000
7099	762902	Permissive Tax Distribution - Auto Registration	\$	184,000,000	\$	184,000,000
7001	110996	Horse-Racing Tax Municipality Fund	\$	400,000	\$	400,000
TOTAL AGY Agency Fund Group			\$	2,765,328,301	\$	2,890,131,326
Holding Account Redistribution						
R045	110617	International Fuel Tax Distribution	\$	40,000,000	\$	40,000,000
TOTAL 090 Holding Account Redistribution Fund			\$	40,000,000	\$	40,000,000
Revenue Distribution Fund Group						
7049	335900	Indigent Drivers Alcohol Treatment	\$	2,250,000	\$	2,250,000
7050	762900	International Registration Plan Distribution	\$	30,000,000	\$	30,000,000
7051	762901	Auto Registration Distribution	\$	360,000,000	\$	360,000,000
7054	110954	Local Government Property Tax Replacement - Utility	\$	5,649,000	\$	5,649,000
7060	110960	Gasoline Excise Tax Fund	\$	395,000,000	\$	395,000,000
7065	110965	Public Library Fund	\$	359,300,000	\$	369,000,000
7066	800966	Undivided Liquor Permits	\$	14,100,000	\$	14,100,000
7068	110968	State and Local Government Highway Distribution	\$	196,000,000	\$	196,000,000
7069	110969	Local Government Fund	\$	363,600,000	\$	376,400,000
7081	110981	Local Government Property Tax Replacement-Business	\$	146,500,000	\$	107,900,000
7082	110982	Horse Racing Tax	\$	100,000	\$	100,000
7083	700900	Ohio Fairs Fund	\$	1,400,000	\$	1,400,000
TOTAL RDF Revenue Distribution Fund Group			\$	1,873,899,000	\$	1,857,799,000
TOTAL ALL BUDGET FUND GROUPS			\$	4,837,532,626	\$	4,957,208,268

ADDITIONAL APPROPRIATIONS

Appropriation items in this section shall be used for the purpose of administering and distributing the designated revenue distribution funds according to the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

GENERAL REVENUE FUND TRANSFERS

Notwithstanding any provision of law to the contrary, in fiscal year 2014 and fiscal year 2015, the Director of Budget and Management may transfer from the General Revenue Fund to the Local Government Tangible Property Tax Replacement Fund (Fund 7081) in the Revenue Distribution Fund Group, those amounts necessary to reimburse local taxing units under

section 5751.22 of the Revised Code. Also, in fiscal year 2014 and fiscal year 2015, the Director of Budget and Management may make temporary transfers from the General Revenue Fund to ensure sufficient balances in the Local Government Tangible Property Tax Replacement Fund (Fund 7081) and to replenish the General Revenue Fund for such transfers.

SECTION 373.10. SAN BOARD OF SANITARIAN REGISTRATION

General Services Fund Group

4K90 893609	Operating Expenses	\$	137,850	\$	129,850
TOTAL GSF General Services Fund Group		\$	137,850	\$	129,850
TOTAL ALL BUDGET FUND GROUPS		\$	137,850	\$	129,850

SECTION 375.10. OSB OHIO STATE SCHOOL FOR THE BLIND

General Revenue Fund

GRF 226321	Operations	\$	7,278,579	\$	7,278,579
TOTAL GRF General Revenue Fund		\$	7,278,579	\$	7,278,579

General Services Fund Group

4H80 226602	Education Reform Grants	\$	27,000	\$	27,000
5NJ0 226622	Food Service Program	\$	9,000	\$	9,000
TOTAL GSF General Services Fund Group		\$	36,000	\$	36,000

Federal Special Revenue Fund Group

3100 226626	Coordinating Unit	\$	2,527,104	\$	2,527,104
3DT0 226621	Ohio Transition Collaborative	\$	650,000	\$	650,000
3P50 226643	Medicaid Professional Services Reimbursement	\$	50,000	\$	50,000
TOTAL FED Federal Special Revenue Fund Group		\$	3,227,104	\$	3,227,104

State Special Revenue Fund Group

4M50 226601	Work Study and Technology Investment	\$	461,521	\$	461,521
TOTAL SSR State Special Revenue Fund Group		\$	461,521	\$	461,521
TOTAL ALL BUDGET FUND GROUPS		\$	11,003,204	\$	11,003,204

SECTION 377.10. OSD OHIO SCHOOL FOR THE DEAF

General Revenue Fund

GRF 221321	Operations	\$	8,727,657	\$	8,727,657
TOTAL GRF General Revenue Fund		\$	8,727,657	\$	8,727,657

General Services Fund Group

4M10 221602	Education Reform Grants	\$	35,000	\$	35,000
5NK0 221610	Food Service Program	\$	9,000	\$	9,000
TOTAL GSF General Services Fund Group		\$	44,000	\$	44,000

Federal Special Revenue Fund Group

3110	221625	Coordinating Unit	\$	2,153,245	\$	2,153,245
3R00	221684	Medicaid Professional Services Reimbursement	\$	35,000	\$	35,000

TOTAL FED Federal Special Revenue Fund Group			\$	2,188,245	\$	2,188,245
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State Special Revenue Fund Group

4M00	221601	Educational Program Expenses	\$	95,000	\$	95,000
5H60	221609	Even Start Fees and Gifts	\$	35,000	\$	35,000

TOTAL SSR State Special Revenue Fund Group			\$	130,000	\$	130,000
TOTAL ALL BUDGET FUND GROUPS			\$	11,089,902	\$	11,089,902

SECTION 381.10. SOS SECRETARY OF STATE**General Revenue Fund**

GRF	050321	Operating Expenses	\$	2,144,030	\$	2,144,030
GRF	050407	Pollworkers Training	\$	234,196	\$	234,196
TOTAL GRF General Revenue Fund			\$	2,378,226	\$	2,378,226

General Services Fund Group

4120	050609	Notary Commission	\$	475,000	\$	475,000
4130	050601	Information Systems	\$	49,000	\$	49,000
4S80	050610	Board of Voting Machine Examiners	\$	7,200	\$	7,200
5FG0	050620	BOE Reimbursement and Education	\$	80,000	\$	80,000

TOTAL General Services Fund Group			\$	611,200	\$	611,200
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Federal Special Revenue Fund Group

3AH0	050614	Election Reform/Health and Human Services	\$	300,000	\$	300,000
3AS0	050616	Help America Vote Act (HAVA)	\$	1,710,000	\$	1,710,000
3FM0	050624	Miscellaneous Federal Grants	\$	100,000	\$	100,000

TOTAL FED Federal Special Revenue Fund Group			\$	2,110,000	\$	2,110,000
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State Special Revenue Fund Group

5990	050603	Business Services Operating Expenses	\$	14,385,400	\$	14,385,400
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TOTAL SSR State Special Revenue Fund Group			\$	14,385,400	\$	14,385,400
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Holding Account Redistribution Fund Group

R001	050605	Uniform Commercial Code Refunds	\$	30,000	\$	30,000
R002	050606	Corporate/Business Filing Refunds	\$	85,000	\$	85,000

TOTAL 090 Holding Account Redistribution Fund Group			\$	115,000	\$	115,000
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TOTAL ALL BUDGET FUND GROUPS			\$	19,599,826	\$	19,599,826
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POLLWORKER TRAINING

The foregoing appropriation item 050407, Pollworkers Training, shall be used to reimburse county boards of elections for pollworker training pursuant to section 3501.27 of the Revised Code. At the end of fiscal year 2014, an amount equal to the unexpended, unencumbered portion of appropriation item 050407, Pollworkers Training, is hereby reappropriated in fiscal year 2015 for the same purpose.

BOARD OF VOTING MACHINE EXAMINERS

The foregoing appropriation item 050610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners, and for other expenses that are authorized to be paid from the Board of Voting Machine Examiners Fund, which is created in section 3506.05 of the Revised Code. Moneys not used shall be returned to the person or entity submitting equipment for examination. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

HAVA FUNDS

An amount equal to the unexpended, unencumbered portion of appropriation item 050614, Election Reform/Health and Human Services, at the end of fiscal year 2014 is reappropriated for the same purpose in fiscal year 2015.

An amount equal to the unexpended, unencumbered portion of appropriation item 050616, Help America Vote Act (HAVA), at the end of fiscal year 2014 is reappropriated for the same purpose in fiscal year 2015.

The Director of Budget and Management shall credit the ongoing interest earnings from the Election Reform/Health and Human Services Fund (Fund 3AH0) and the Help America Vote Act (HAVA) (Fund 3AS0) to the respective funds and distribute these earnings in accordance with the terms of the grant under which the money is received.

MISCELLANEOUS FEDERAL GRANTS

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer from the General Revenue Fund (GRF) all investment earnings and amounts equal to the interest earnings that were attributable to the Miscellaneous Federal Grants Fund (Fund 3FM0) in each quarter of fiscal year 2013. The Director of Budget and Management shall credit the ongoing interest earnings from Fund 3FM0 to that fund and distribute these earnings in accordance with the terms of the grant under which the money was received.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 050624, Miscellaneous Federal Grants, at the end of fiscal year 2013 is hereby reappropriated to the Secretary of State for

the same purpose for fiscal year 2014.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 050624, Miscellaneous Federal Grants, at the end of fiscal year 2014 is hereby reappropriated to the Secretary of State for the same purpose for fiscal year 2015.

HOLDING ACCOUNT REDISTRIBUTION GROUP

The foregoing appropriation items 050605, Uniform Commercial Code Refunds, and 050606, Corporate/Business Filing Refunds, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

SECTION 383.10. SEN THE OHIO SENATE

General Revenue Fund

GRF 020321	Operating Expenses	\$	11,657,822	\$	11,657,822
TOTAL GRF General Revenue Fund		\$	11,657,822	\$	11,657,822

General Services Fund Group

1020 020602	Senate Reimbursement	\$	852,001	\$	852,001
4090 020601	Miscellaneous Sales	\$	34,497	\$	34,497
TOTAL GSF General Services Fund Group		\$	886,498	\$	886,498
TOTAL ALL BUDGET FUND GROUPS		\$	12,544,320	\$	12,544,320

OPERATING EXPENSES

On July 1, 2013, or as soon as possible thereafter, the Clerk of the Senate may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 020321, Operating Expenses, at the end of fiscal year 2013 to be reappropriated to fiscal year 2014. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2014.

On July 1, 2014, or as soon as possible thereafter, the Clerk of the Senate may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 020321, Operating Expenses, at the end of fiscal year 2014 to be reappropriated to fiscal year 2015. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2015.

SECTION 385.10. CSV COMMISSION ON SERVICE AND VOLUNTEERISM

General Revenue Fund

GRF 866321	CSV Operations	\$	286,661	\$	294,072
TOTAL GRF General Revenue Fund		\$	286,661	\$	294,072

General Services Fund

5GN0 866605	Serve Ohio Support	\$	30,000	\$	30,000
TOTAL GSF General Services Fund		\$	30,000	\$	30,000

Federal Special Revenue Fund Group

3R70 866617	AmeriCorps Programs	\$	7,447,000	\$	7,447,000
TOTAL FED Federal Special Revenue Fund Group		\$	7,447,000	\$	7,447,000
TOTAL ALL BUDGET FUND GROUPS		\$	7,763,661	\$	7,771,072

SECTION 387.10. CSF COMMISSIONERS OF THE SINKING FUND**Debt Service Fund Group**

7070 155905	Third Frontier Research and Development Bond Retirement Fund	\$	66,511,600	\$	83,783,000
7072 155902	Highway Capital Improvement Bond Retirement Fund	\$	132,647,900	\$	127,171,800
7073 155903	Natural Resources Bond Retirement Fund	\$	24,325,400	\$	25,443,000
7074 155904	Conservation Projects Bond Retirement Fund	\$	33,376,600	\$	34,447,700
7076 155906	Coal Research and Development Bond Retirement Fund	\$	2,858,900	\$	4,327,200
7077 155907	State Capital Improvement Bond Retirement Fund	\$	227,810,300	\$	228,948,900
7078 155908	Common Schools Bond Retirement Fund	\$	351,806,100	\$	377,364,700
7079 155909	Higher Education Bond Retirement Fund	\$	221,168,700	\$	248,822,000
7080 155901	Persian Gulf, Afghanistan, and Iraq Conflicts Bond Retirement Fund	\$	7,542,600	\$	9,914,800
7090 155912	Job Ready Site Development Bond Retirement Fund	\$	15,498,400	\$	19,124,500
TOTAL DSF Debt Service Fund Group		\$	1,083,546,500	\$	1,159,347,600
TOTAL ALL BUDGET FUND GROUPS		\$	1,083,546,500	\$	1,159,347,600

ADDITIONAL APPROPRIATIONS

Appropriation items in this section are for the purpose of paying debt service and financing costs on bonds or notes of the state issued under the Ohio Constitution and acts of the General Assembly. If it is determined that additional amounts are necessary for this purpose, such amounts are hereby appropriated.

SECTION 389.10. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY DEVELOPMENT FOUNDATION
Tobacco Master Settlement Agreement Fund Group

3661

5M90 945601	Operating Expenses	\$	426,800	\$	426,800
K087 945602	Southern Ohio Agricultural Development Foundation	\$	129,578	\$	0
TOTAL TMF Tobacco Master Settlement Agreement Fund Group		\$	556,378	\$	426,800
TOTAL ALL BUDGET FUND GROUPS		\$	556,378	\$	426,800

TRANSFER TO OPERATING EXPENSES FUND

On July 1, 2014, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Southern Ohio Agricultural Community Development Trust Fund (Fund K087) to the Operating Expenses Fund (Fund 5M90). Upon completion of this transfer and on the effective date of its repeal by this act, Fund K087 is abolished.

SECTION 391.10. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY**General Services Fund Group**

4K90 886609	Operating Expenses	\$	472,260	\$	508,660
TOTAL GSF General Services Fund Group		\$	472,260	\$	508,660
TOTAL ALL BUDGET FUND GROUPS		\$	472,260	\$	508,660

SECTION 393.10. BTA BOARD OF TAX APPEALS**General Revenue Fund**

GRF 116321	Operating Expenses	\$	1,900,000	\$	1,700,000
TOTAL GRF General Revenue Fund		\$	1,900,000	\$	1,700,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,900,000	\$	1,700,000

SECTION 395.10. TAX DEPARTMENT OF TAXATION**General Revenue Fund**

GRF 110321	Operating Expenses	\$	72,568,330	\$	67,968,332
GRF 110404	Tobacco Settlement Enforcement	\$	178,200	\$	178,200
GRF 110901	Property Tax Allocation - Taxation	\$	666,640,000	\$	678,255,600
TOTAL GRF General Revenue Fund		\$	739,386,530	\$	746,402,132

General Services Fund Group

2280 110628	Revenue Enhancement	\$	15,500,000	\$	17,500,000
4330 110602	Tape File Account	\$	175,000	\$	175,000
5BP0 110639	Wireless 9-1-1 Administration	\$	290,000	\$	290,000
5CZ0 110631	Vendor's License Application	\$	250,000	\$	250,000
5MN0 110638	STARS Development and Implementation	\$	5,000,000	\$	3,000,000
5N50 110605	Municipal Income Tax Administration	\$	150,000	\$	150,000
5N60 110618	Kilowatt Hour Tax	\$	100,000	\$	100,000

		Administration			
5V80	110623	Property Tax Administration	\$	11,978,310	\$ 11,978,310
5W70	110627	Exempt Facility Administration	\$	49,500	\$ 49,500
TOTAL GSF General Services Fund Group					
			\$	33,492,810	\$ 33,492,810
State Special Revenue Fund Group					
4350	110607	Local Tax Administration	\$	20,000,000	\$ 20,700,000
4360	110608	Motor Vehicle Audit	\$	1,459,609	\$ 1,459,609
4370	110606	Income Tax Contribution	\$	38,800	\$ 38,800
4380	110609	School District Income Tax	\$	5,802,044	\$ 5,802,044
4C60	110616	International Registration Plan	\$	682,415	\$ 682,415
4R60	110610	Tire Tax Administration	\$	244,193	\$ 244,193
5V70	110622	Motor Fuel Tax Administration	\$	5,035,374	\$ 5,035,374
6390	110614	Cigarette Tax Enforcement	\$	1,750,000	\$ 1,750,000
6420	110613	Ohio Political Party Distributions	\$	500,000	\$ 500,000
6880	110615	Local Excise Tax Administration	\$	775,015	\$ 775,015
TOTAL SSR State Special Revenue Fund Group					
			\$	36,287,450	\$ 36,987,450
Agency Fund Group					
4250	110635	Tax Refunds	\$	1,546,800,000	\$ 1,546,800,000
7095	110995	Municipal Income Tax	\$	21,000,000	\$ 21,000,000
TOTAL AGY Agency Fund Group					
			\$	1,567,800,000	\$ 1,567,800,000
Holding Account Redistribution Fund Group					
R010	110611	Tax Distributions	\$	50,000	\$ 50,000
R011	110612	Miscellaneous Income Tax Receipts	\$	50,000	\$ 50,000
TOTAL 090 Holding Account Redistribution Fund Group					
			\$	100,000	\$ 100,000
TOTAL ALL BUDGET FUND GROUPS					
			\$	2,377,066,790	\$ 2,384,782,392

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK

The foregoing appropriation item 110901, Property Tax Allocation - Taxation, is hereby appropriated to pay for the state's costs incurred due to the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Upon receipt of these amounts, each local taxing district shall distribute the amount among the proper funds as if it had been paid as real property taxes. Payments for the costs of administration shall continue to be paid to

the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation item 110901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, which are determined to be necessary for these purposes, are hereby appropriated.

MUNICIPAL INCOME TAX

The foregoing appropriation item 110995, Municipal Income Tax, shall be used to make payments to municipal corporations under section 5745.05 of the Revised Code. If it is determined that additional appropriations are necessary to make such payments, such amounts are hereby appropriated.

TAX REFUNDS

The foregoing appropriation item 110635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

INTERNATIONAL REGISTRATION PLAN AUDIT

The foregoing appropriation item 110616, International Registration Plan, shall be used under section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT

Of the foregoing appropriation item 110607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines.

TOBACCO SETTLEMENT ENFORCEMENT

The foregoing appropriation item 110404, Tobacco Settlement Enforcement, shall be used by the Tax Commissioner to pay costs incurred in the enforcement of divisions (F) and (G) of section 5743.03 of the Revised Code.

STARS DEVELOPMENT AND IMPLEMENTATION FUND

The foregoing appropriation item 110638, STARS Development and Implementation Fund, shall be used to pay costs incurred in the development and implementation of the department's State Tax Accounting and Revenue System. The Director of Budget and Management, under a

plan submitted by the Tax Commissioner, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the Tax Reform System Implementation Fund, Local Tax Administration Fund, School District Income Tax Fund, Discovery Project Fund, and the Motor Fuel Tax Administration Fund to the credit of the STARS Development and Implementation Fund (Fund 5MN0). The transfers of cash shall not exceed \$8,000,000 in the biennium.

SECTION 397.10. DOT DEPARTMENT OF TRANSPORTATION

General Revenue Fund

GRF 775451	Public Transportation - State	\$	7,300,000	\$	7,300,000
GRF 776465	Ohio Rail Development Commission	\$	2,000,000	\$	2,000,000
GRF 777471	Airport Improvements - State	\$	750,000	\$	750,000
TOTAL GRF General Revenue Fund		\$	10,050,000	\$	10,050,000
TOTAL ALL BUDGET FUND GROUPS		\$	10,050,000	\$	10,050,000

SECTION 399.10. TOS TREASURER OF STATE

General Revenue Fund

GRF 090321	Operating Expenses	\$	7,743,553	\$	7,743,553
GRF 090401	Office of the Sinking Fund	\$	502,304	\$	502,304
GRF 090402	Continuing Education	\$	377,702	\$	377,702
GRF 090524	Police and Fire Disability Pension Fund	\$	6,000	\$	6,000
GRF 090534	Police and Fire Ad Hoc Cost of Living	\$	70,000	\$	70,000
GRF 090554	Police and Fire Survivor Benefits	\$	507,000	\$	507,000
GRF 090575	Police and Fire Death Benefits	\$	20,000,000	\$	20,000,000
TOTAL GRF General Revenue Fund		\$	29,206,559	\$	29,206,559

General Services Fund Group

4E90 090603	Securities Lending Income	\$	3,765,000	\$	3,765,000
5770 090605	Investment Pool Reimbursement	\$	850,000	\$	850,000
5C50 090602	County Treasurer Education	\$	170,057	\$	170,057
6050 090609	Treasurer of State Administrative Fund	\$	835,000	\$	835,000
TOTAL GSF General Services Fund Group		\$	5,620,057	\$	5,620,057

Agency Fund Group

4250 090635	Tax Refunds	\$	6,000,000	\$	6,000,000
TOTAL Agency Fund Group		\$	6,000,000	\$	6,000,000
TOTAL ALL BUDGET FUND GROUPS		\$	40,826,616	\$	40,826,616

SECTION 399.20. OFFICE OF THE SINKING FUND

The foregoing appropriation item 090401, Office of the Sinking Fund, shall be used for costs incurred by or on behalf of the Commissioners of the Sinking Fund and the Ohio Public Facilities Commission with respect to State of Ohio general obligation bonds or notes, and the Treasurer of State with respect to State of Ohio general obligation and special obligation bonds or notes, including, but not limited to, printing, advertising, delivery, rating fees and the procurement of ratings, professional publications, membership in professional organizations, and other services referred to in division (D) of section 151.01 of the Revised Code. The General Revenue Fund shall be reimbursed for such costs relating to the issuance and administration of Highway Capital Improvement bonds or notes authorized under Ohio Constitution, Article VIII, Section 2m and Chapter 151. of the Revised Code. That reimbursement shall be made from appropriation item 155902, Highway Capital Improvement Bond Retirement Fund, by intrastate transfer voucher pursuant to a certification by the Office of the Sinking Fund of the actual amounts used. The amounts necessary to make such a reimbursement are hereby appropriated from the Highway Capital Improvement Bond Retirement Fund created in section 151.06 of the Revised Code.

POLICE AND FIRE DEATH BENEFIT FUND

The foregoing appropriation item 090575, Police and Fire Death Benefits, shall be disbursed quarterly by the Treasurer of State at the beginning of each quarter of each fiscal year to the Board of Trustees of the Ohio Police and Fire Pension Fund. The Treasurer of State shall certify such amounts quarterly to the Director of Budget and Management. By the twentieth day of June of each fiscal year, the Board of Trustees of the Ohio Police and Fire Pension Fund shall certify to the Treasurer of State the amount disbursed in the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to the Treasurer of State moneys received from this appropriation item but not disbursed.

TAX REFUNDS

The foregoing appropriation item 090635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If the Director of Budget and Management determines that additional amounts are necessary for this purpose, such amounts are hereby appropriated.

SECTION 401.10. VTO VETERANS' ORGANIZATIONS

General Revenue Fund

VAP AMERICAN EX-PRISONERS OF WAR

GRF 743501	State Support	\$	28,910	\$	28,910
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VAN ARMY AND NAVY UNION, USA, INC.

3666

GRF 746501	State Support	\$	63,539	\$	63,539
VKW KOREAN WAR VETERANS					
GRF 747501	State Support	\$	57,118	\$	57,118
VJW JEWISH WAR VETERANS					
GRF 748501	State Support	\$	34,321	\$	34,321
VCW CATHOLIC WAR VETERANS					
GRF 749501	State Support	\$	66,978	\$	66,978
VPH MILITARY ORDER OF THE PURPLE HEART					
GRF 750501	State Support	\$	65,116	\$	65,116
VVV VIETNAM VETERANS OF AMERICA					
GRF 751501	State Support	\$	214,776	\$	214,776
VAL AMERICAN LEGION OF OHIO					
GRF 752501	State Support	\$	349,189	\$	349,189
VII AMVETS					
GRF 753501	State Support	\$	332,547	\$	332,547
VAV DISABLED AMERICAN VETERANS					
GRF 754501	State Support	\$	249,836	\$	249,836
VMC MARINE CORPS LEAGUE					
GRF 756501	State Support	\$	133,947	\$	133,947
V37 37TH DIVISION VETERANS' ASSOCIATION					
GRF 757501	State Support	\$	6,868	\$	6,868
VFW VETERANS OF FOREIGN WARS					
GRF 758501	State Support	\$	284,841	\$	284,841
TOTAL GRF General Revenue Fund		\$	1,887,986	\$	1,887,986
TOTAL ALL BUDGET FUND GROUPS		\$	1,887,986	\$	1,887,986

RELEASE OF FUNDS

The Director of Budget and Management may release the foregoing appropriation items 743501, 746501, 747501, 748501, 749501, 750501, 751501, 752501, 753501, 754501, 756501, 757501, and 758501, State Support.

SECTION 403.10. DVS DEPARTMENT OF VETERANS SERVICES

General Revenue Fund

GRF 900321	Veterans' Homes	\$	27,369,946	\$	27,369,946
GRF 900402	Hall of Fame	\$	107,075	\$	107,075
GRF 900408	Department of Veterans Services	\$	2,001,823	\$	2,001,823
GRF 900901	Persian Gulf, Afghanistan, and Iraq Compensation Debt Service	\$	7,542,600	\$	9,914,800
TOTAL GRF General Revenue Fund		\$	37,021,444	\$	39,393,644

General Services Fund Group

4840 900603	Veterans' Homes Services	\$	1,596,894	\$	1,596,894
TOTAL GSF General Services Fund Group		\$	1,596,894	\$	1,596,894

Federal Special Revenue Fund Group

3680 900614	Veterans Training	\$	684,017	\$	697,682
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3667

3740	900606	Troops to Teachers	\$	111,822	\$	111,879
3BX0	900609	Medicare Services	\$	2,250,000	\$	2,250,000
3L20	900601	Veterans' Homes Operations - Federal	\$	24,887,790	\$	25,634,423
TOTAL FED Federal Special Revenue Fund Group			\$	27,933,629	\$	28,693,984
State Special Revenue Fund Group						
4E20	900602	Veterans' Homes Operating	\$	10,614,652	\$	10,837,435
6040	900604	Veterans' Homes Improvement	\$	403,663	\$	459,359
TOTAL SSR State Special Revenue Fund Group			\$	11,018,315	\$	11,296,794
Persian Gulf, Afghanistan, and Iraq Compensation Fund Group						
7041	900615	Veteran Bonus Program - Administration	\$	738,703	\$	629,709
7041	900641	Persian Gulf, Afghanistan, and Iraq Compensation	\$	14,500,000	\$	9,400,000
TOTAL 041 Persian Gulf, Afghanistan, and Iraq Compensation Fund Group			\$	15,238,703	\$	10,029,709
TOTAL ALL BUDGET FUND GROUPS			\$	92,808,985	\$	91,011,025

**PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION
GENERAL OBLIGATION DEBT SERVICE**

The foregoing appropriation item 900901, Persian Gulf, Afghanistan and Iraq Compensation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2013, through June 30, 2015, on obligations issued for Persian Gulf, Afghanistan and Iraq Conflicts Compensation purposes under sections 151.01 and 151.12 of the Revised Code.

**SECTION 405.10. DVM STATE VETERINARY MEDICAL
LICENSING BOARD**

General Services Fund Group

4K90	888609	Operating Expenses	\$	337,432	\$	331,695
5BU0	888602	Veterinary Student Loan Program	\$	30,000	\$	30,000
TOTAL GSF General Services Fund Group			\$	367,432	\$	361,695
TOTAL ALL BUDGET FUND GROUPS			\$	367,432	\$	361,695

SECTION 407.10. DYS DEPARTMENT OF YOUTH SERVICES

General Revenue Fund

GRF	470401	RECLAIM Ohio	\$	166,862,228	\$	166,862,228
GRF	470412	Lease Rental Payments	\$	26,044,800	\$	27,819,700
GRF	470510	Youth Services	\$	16,702,728	\$	16,702,728
GRF	472321	Parole Operations	\$	10,583,118	\$	10,583,118
GRF	477321	Administrative Operations	\$	11,355,389	\$	11,355,389

3668

TOTAL GRF General Revenue Fund	\$	231,548,263	\$	233,323,163
General Services Fund Group				
1750 470613 Education Reimbursement	\$	3,950,000	\$	3,600,000
4790 470609 Employee Food Service	\$	125,000	\$	125,000
4A20 470602 Child Support	\$	250,000	\$	250,000
4G60 470605 General Operational Funds	\$	115,000	\$	115,000
5BN0 470629 E-Rate Program	\$	525,000	\$	525,000
TOTAL GSF General Services Fund Group	\$	4,965,000	\$	4,615,000
Federal Special Revenue Fund Group				
3210 470601 Education	\$	1,480,740	\$	1,203,272
3210 470603 Juvenile Justice Prevention	\$	300,000	\$	300,000
3210 470606 Nutrition	\$	1,033,947	\$	1,033,947
3210 470614 Title IV-E Reimbursements	\$	5,755,620	\$	3,714,548
3CP0 470638 Federal Juvenile Programs FFY 09	\$	20,000	\$	5,000
3CR0 470639 Federal Juvenile Programs FFY 10	\$	479,900	\$	126,000
3FB0 470641 Federal Juvenile Programs FFY 11	\$	500,000	\$	105,000
3FC0 470642 Federal Juvenile Programs FFY 12	\$	600,000	\$	50,000
3GB0 470643 Federal Juvenile Programs FFY 13	\$	135,000	\$	600,000
3GC0 470644 Federal Juvenile Programs FFY 14	\$	0	\$	135,000
3V50 470604 Juvenile Justice/Delinquency Prevention	\$	1,300,000	\$	1,000,000
TOTAL FED Federal Special Revenue Fund Group	\$	11,605,207	\$	8,272,767
State Special Revenue Fund Group				
1470 470612 Vocational Education	\$	1,795,000	\$	1,795,000
TOTAL SSR State Special Revenue Fund Group	\$	1,795,000	\$	1,795,000
TOTAL ALL BUDGET FUND GROUPS	\$	249,913,470	\$	248,005,930

COMMUNITY PROGRAMS

For purposes of improving community programs, and notwithstanding any provision of law to the contrary, of the foregoing appropriation item 470401, RECLAIM Ohio, the Department of Youth Services shall use \$8,813,811 in each fiscal year to expand Targeted RECLAIM, the Behavioral Health Juvenile Justice Initiative, and other evidence-based community programs.

For purposes of implementing juvenile sentencing reforms, and notwithstanding any provision of law to the contrary, the Department of Youth Services may use up to forty-five per cent of the unexpended, unencumbered balance of the portion of appropriation item 470401, RECLAIM Ohio, that is allocated to juvenile correctional facilities in each fiscal year to expand Targeted RECLAIM, the Behavioral Health Juvenile

Justice Initiative, and other evidence-based community programs.

LEASE RENTAL PAYMENTS

The foregoing appropriation item 470412, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made for the period from July 1, 2013, through June 30, 2015, by the Department of Youth Services under the leases and agreements for facilities made under Chapters 152. and 154. of the Revised Code. This appropriation is the source of funds pledged for bond service charges on related obligations issued under Chapters 152. and 154. of the Revised Code.

EDUCATION REIMBURSEMENT

The foregoing appropriation item 470613, Education Reimbursement, shall be used to fund the operating expenses of providing educational services to youth supervised by the Department of Youth Services. Operating expenses include, but are not limited to, teachers' salaries, maintenance costs, and educational equipment. This appropriation item may be used for capital expenses related to the education program.

EMPLOYEE FOOD SERVICE AND EQUIPMENT

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470609, Employee Food Service, may be used to purchase any food operational items with funds received into the fund from reimbursements for state surplus property.

FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES

In collaboration with the county family and children first council, the juvenile court of that county that receives allocations from one or both of the foregoing appropriation items 470401, RECLAIM Ohio, and 470510, Youth Services, may transfer portions of those allocations to a flexible funding pool as authorized by the section of Am. Sub. H.B. 153 of the 129th General Assembly titled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL."

SECTION 501.10. SCREENING TOOL FOR HIGH-RISK YOUTH TEAM EVALUATION

The Office of Health Transformation shall convene a team comprised of the Department of Youth Services, the Department of Medicaid, the Department of Job and Family Services, the Department of Health, and the Department of Mental Health and Addiction Services. The team shall evaluate the feasibility of implementing a trauma screening tool for high-risk youth and create a report with the following information: (A) the recommended trauma screening tool to be used to evaluate high-risk youth; (B) training in the administration of the recommended tool; (C) screening

protocols; (D) the persons to whom the recommended tool should apply; and (E) the implications for treatment. The report shall be completed by December 1, 2013, and shall be distributed to the Governor. The Department of Youth Services may receive funds for piloting the recommended tool in detention centers.

SECTION 501.20. All items set forth in sections 501.20 and 501.30 of this act are hereby appropriated for the biennium ending on June 30, 2015, out of any moneys in the state treasury to the credit of the Administrative Building Fund (Fund 7026) that are not otherwise appropriated.

		Appropriations
CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD		
C87412 Capitol Square Security	\$	1,200,000
TOTAL Capitol Square Review and Advisory Board	\$	1,200,000

		Appropriations
SECTION 501.30. TOS TREASURER OF STATE		
C09001 Treasury Management System	\$	10,000,000
TOTAL Treasurer of State	\$	10,000,000
TOTAL Administrative Building Fund	\$	11,200,000

The foregoing appropriation item C09001, Treasury Management System, shall be used to pay costs incurred in the acquisition and implementation of the Treasury Management System.

The Treasurer of State may acquire and implement a Treasury Management System, including, but not limited to, the application hardware and software and the installation and implementation thereof, for the use of the Treasurer of State. The Treasury Management System is an integrated treasury technology infrastructure system that will replace the Treasurer of State's existing separate cash, custody, investment, and accounting software and administration systems for the various treasury functions performed by the state.

The Treasurer of State is hereby authorized to issue and sell, in accordance with Section 2i of Article VIII, Ohio Constitution, and Chapter 154. of the Revised Code, particularly section 154.24 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$11,200,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay costs associated with previously authorized capital facilities and the capital facilities referred to in this section of the act.

SECTION 503.10. PERSONAL SERVICE EXPENSES

Unless otherwise prohibited by law, any appropriation from which personal service expenses are paid shall bear the employer's share of public employees' retirement, workers' compensation, disabled workers' relief, and insurance programs; and the costs of centralized financial services, centralized payroll processing, and related reports and services; centralized human resources services, including affirmative action and equal employment opportunity programs; the Office of Collective Bargaining; the Employee Assistance Program; centralized information technology management services; administering the enterprise resource planning system; and administering the state employee merit system as required by section 124.07 of the Revised Code. These costs shall be determined in conformity with the appropriate sections of law and paid in accordance with procedures specified by the Office of Budget and Management. Expenditures from appropriation item 070601, Public Audit Expense - Intra-State, may be exempted from the requirements of this section.

SECTION 503.20. SATISFACTION OF JUDGMENTS AND SETTLEMENTS AGAINST THE STATE

Except as otherwise provided in this section, an appropriation in this act or any other act may be used for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims or by any other court of competent jurisdiction in connection with civil actions against the state. This authorization does not apply to appropriations to be applied to or used for payment of guarantees by or on behalf of the state, or for payments under lease agreements relating to, or debt service on, bonds, notes, or other obligations of the state. Notwithstanding any other statute to the contrary, this authorization includes appropriations from funds into which proceeds of direct obligations of the state are deposited only to the extent that the judgment, settlement, or administrative award is for, or represents, capital costs for which the appropriation may otherwise be used and is consistent with the purpose for which any related obligations were issued or entered into. Nothing contained in this section is intended to subject the state to suit in any forum in which it is not otherwise subject to suit, and is not intended to waive or compromise any defense or right available to the state in any suit against it.

SECTION 503.30. CAPITAL PROJECT SETTLEMENTS

This section specifies an additional and supplemental procedure to provide for payments of judgments and settlements if the Director of Budget and Management determines, pursuant to division (C)(4) of section 2743.19 of the Revised Code, that sufficient unencumbered moneys do not exist in the fund to support a particular appropriation to pay the amount of a final judgment rendered against the state or a state agency, including the settlement of a claim approved by a court, in an action upon and arising out of a contractual obligation for the construction or improvement of a capital facility if the costs under the contract were payable in whole or in part from a state capital projects appropriation. In such a case, the Director may either proceed pursuant to division (C)(4) of section 2743.19 of the Revised Code or apply to the Controlling Board to increase an appropriation or create an appropriation out of any unencumbered moneys in the state treasury to the credit of the capital projects fund from which the initial state appropriation was made. The amount of an increase in appropriation or new appropriation approved by the Controlling Board is hereby appropriated from the applicable capital projects fund and made available for the payment of the judgment or settlement.

If the Director does not make the application authorized by this section or the Controlling Board disapproves the application, and the Director does not make application under division (C)(4) of section 2743.19 of the Revised Code, the Director shall for the purpose of making that payment make a request to the General Assembly as provided for in division (C)(5) of that section.

SECTION 503.40. RE-ISSUANCE OF VOIDED WARRANTS

In order to provide funds for the reissuance of voided warrants under section 126.37 of the Revised Code, there is hereby appropriated, out of moneys in the state treasury from the fund credited as provided in section 126.37 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management.

SECTION 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES OF OPERATING APPROPRIATIONS

(A) An unexpended balance of an operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of

a fiscal year is hereby reappropriated on the first day of July of the following fiscal year from the fund from which it was originally appropriated or reappropriated for the following period and shall remain available only for the purpose of discharging the encumbrance:

(1) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells, for a period of not more than five months from the end of the fiscal year;

(2) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

(3) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

(4) For an encumbrance for any other expense, for such period as the Director approves, provided such period does not exceed two years.

(B) Any operating appropriations for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year by division (A)(2) of this section shall be reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the item, and the name of the vendor. The report shall be updated on a quarterly basis for encumbrances remaining open.

(C) Upon the expiration of the reappropriation period set out in division (A) of this section, a reappropriation made by this section lapses, and the Director of Budget and Management shall cancel the encumbrance of the unexpended reappropriation not later than the end of the weekend following the expiration of the reappropriation period.

(D) Notwithstanding division (C) of this section, with the approval of the Director of Budget and Management, an unexpended balance of an encumbrance that was reappropriated on the first day of July by this section for a period specified in division (A)(3) or (4) of this section and that remains encumbered at the close of the fiscal biennium is hereby reappropriated on the first day of July of the following fiscal biennium from the fund from which it was originally appropriated or reappropriated for the applicable period specified in division (A)(3) or (4) of this section and shall remain available only for the purpose of discharging the encumbrance.

(E) The Director of Budget and Management may correct accounting errors committed by the staff of the Office of Budget and Management, such as reestablishing encumbrances or appropriations cancelled in error, during the cancellation of operating encumbrances in November and of nonoperating encumbrances in December.

(F) The Director of Budget and Management may at any time correct accounting errors committed by the staff of a state agency or state institution of higher education, as defined in section 3345.011 of the Revised Code, such as reestablishing prior year nonoperating encumbrances canceled or modified in error. The reestablished encumbrance amounts are hereby appropriated.

(G) If the Controlling Board approved a purchase, that approval remains in effect so long as the appropriation used to make that purchase remains encumbered.

SECTION 503.60. APPROPRIATIONS RELATED TO CASH TRANSFERS AND RE-ESTABLISHMENT OF ENCUMBRANCES

Any cash transferred by the Director of Budget and Management under section 126.15 of the Revised Code is hereby appropriated. Any amounts necessary to re-establish appropriations or encumbrances under section 126.15 of the Revised Code are hereby appropriated.

SECTION 503.70. INCOME TAX DISTRIBUTION TO COUNTIES

There are hereby appropriated out of any moneys in the state treasury to the credit of the General Revenue Fund, which are not otherwise appropriated, funds sufficient to make any payment required by division (B)(2) of section 5747.03 of the Revised Code.

SECTION 503.80. EXPENDITURES AND APPROPRIATION INCREASES APPROVED BY THE CONTROLLING BOARD

Any money that the Controlling Board approves for expenditure or any increase in appropriation that the Controlling Board approves under sections 127.14, 131.35, and 131.39 of the Revised Code or any other provision of law is hereby appropriated for the period ending June 30, 2015.

SECTION 503.90. FUNDS RECEIVED FOR USE OF GOVERNOR'S RESIDENCE

If the Governor's Residence Fund (Fund 4H20) receives payment for

use of the residence pursuant to section 107.40 of the Revised Code, the amounts so received are hereby appropriated to appropriation item 100604, Governor's Residence Gift.

SECTION 506.10. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS

Unless the agency and nuclear electric utility mutually agree to a higher amount by contract, the maximum amounts that may be assessed against nuclear electric utilities under division (B)(2) of section 4937.05 of the Revised Code and deposited into the specified funds are as follows:

<u>Fund</u>	<u>User</u>	<u>FY 2014</u>	<u>FY 2015</u>
Utility Radiological Safety Fund (Fund 4E40)	Department of Agriculture	\$ 130,000	\$ 130,000
Radiation Emergency Response Fund (Fund 6100)	Department of Health	\$1,049,954	\$ 1,086,098
ER Radiological Safety Fund (Fund 6440)	Environmental Protection Agency	\$ 284,266	\$ 290,674
Emergency Response Plan Fund (Fund 6570)	Department of Public Safety	\$1,415,945	\$ 1,415,945

SECTION 512.10. TRANSFERS TO THE GENERAL REVENUE FUND OF INTEREST EARNED

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, through June 30, 2015, may transfer interest earned by any state fund to the General Revenue Fund. This section does not apply to funds whose source of revenue is restricted or protected by the Ohio Constitution, federal tax law, or the "Cash Management Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501 et seq., as amended.

SECTION 512.20. CASH TRANSFERS TO THE GENERAL REVENUE FUND FROM NON-GRF FUNDS

Notwithstanding any provision of law to the contrary, the Director of Budget and Management may transfer up to \$60,000,000 in each fiscal year in cash from non-General Revenue Funds that are not constitutionally restricted to the General Revenue Fund in order to ensure that available General Revenue Fund receipts and balances are sufficient to support

General Revenue Fund appropriations in each fiscal year.

SECTION 512.30. FISCAL YEAR 2013 GENERAL REVENUE FUND
ENDING BALANCE

Notwithstanding divisions (B) and (C) of section 131.44 of the Revised Code, the Director of Budget and Management shall determine the surplus General Revenue Fund revenue that existed on June 30, 2013, in excess of the amount required under division (A)(3) of section 131.44 of the Revised Code, and transfer from the General Revenue Fund, to the extent of the amount so determined, the following:

(A) To the Disaster Services Fund (Fund 5E20), a cash amount of up to \$15,000,000;

(B) To the Controlling Board Emergency Purposes Fund (Fund 5KM0), a cash amount of up to \$20,000,000;

(C) To the Natural Resources Special Purposes Fund (Fund 5MW0), which is hereby created in the state treasury, a cash amount of up to \$16,328,974;

(D) To the Unemployment Compensation Interest Contingency Fund (Fund 5HC0), a cash amount of up to \$120,000,000 for payment to the United States Secretary of the Treasury of accrued interest costs related to federal unemployment account borrowing.

SECTION 512.40. ACCESS SUCCESS II PROGRAM

To the extent cash is available, the Director of Budget and Management may transfer cash from the Money Follows the Person Enhanced Reimbursement Fund (Fund 5AJ0), used by the Department of Medicaid, to the Sale of Goods and Services Fund (Fund 1490), used by the Department of Mental Health and Addiction Services. The transferred cash is hereby appropriated.

The Department of Mental Health and Addiction Services shall use the transferred funds to administer the Access Success II Program to help non-Medicaid patients in any hospital established, controlled, or supervised by the Department under Chapter 5119. of the Revised Code to transition from inpatient status to a community setting.

SECTION 512.50. Not later than the first day of September 2013, the Director of Mental Health and the Director of Alcohol and Drug Addiction Services shall certify to the Director of Budget and Management the amount

of all of the unexpended, unencumbered balances of general revenue fund appropriations made to the Department of Mental Health and to the Department of Alcohol and Drug Addiction Services for FY 2012, excluding funds appropriated for rental payments to the Ohio Public Facilities Commission. On receipt of the certification, the Director of Budget and Management shall transfer cash to the Department of Mental Health and Addiction Services Trust Fund created in section 5119.46 of the Revised Code (renumbered section 5119.60 of the Revised Code in this act) in an amount up to, but not exceeding, the total amounts certified by the Director of Mental Health and the Director of Alcohol and Drug Addiction Services.

SECTION 512.70. PROHIBITION ON TRANSFERS

Notwithstanding section 131.44 of the Revised Code, cash shall not be transferred to the Income Tax Reduction Fund prior to July 1, 2015.

SECTION 512.80. DIESEL EMISSIONS REDUCTION GRANT PROGRAM

There is hereby established in the Highway Operating Fund (Fund 7002), used by the Department of Transportation, a Diesel Emissions Reduction Grant Program. The Director of Environmental Protection shall administer the program and shall solicit, evaluate, score, and select projects submitted by public and private entities that are eligible for the federal Congestion Mitigation and Air Quality (CMAQ) Program. The Director of Transportation shall process Federal Highway Administration-approved projects as recommended by the Director of Environmental Protection.

In addition to the allowable expenditures set forth in section 122.861 of the Revised Code, Diesel Emissions Reduction Grant Program funds also may be used to fund projects involving the purchase or use of hybrid and alternative fuel vehicles that are allowed under guidance developed by the Federal Highway Administration for the CMAQ Program.

Public entities eligible to receive funds under section 122.861 of the Revised Code and CMAQ shall be reimbursed from moneys in the Highway Operating Fund (Fund 7002) designated for the Department of Transportation's Diesel Emissions Reduction Grant Program.

Private entities eligible to receive funds under section 122.861 of the Revised Code and CMAQ shall be reimbursed through transfers of cash

from moneys in the Highway Operating Fund (Fund 7002) designated for the Department of Transportation's Diesel Emissions Reduction Grant Program to the Diesel Emissions Reduction Fund (Fund 3FH0), used by the Environmental Protection Agency. Total expenditures between both the Environmental Protection Agency and the Department of Transportation shall not exceed the amounts appropriated in this act for appropriation item 715693, Diesel Emissions Reduction Grants.

On or before June 30, 2014, the Director of Environmental Protection may certify to the Director of Budget and Management the amount of any unencumbered balance of the foregoing appropriation item 715693, Diesel Emissions Reduction Grants, for fiscal year 2014 to be used for the same purpose in fiscal year 2015. Once the certification permitted under this section has been submitted and approved by the Director of Budget and Management, the amount approved is hereby appropriated for fiscal year 2015.

Any cash transfers or allocations under this section represent CMAQ program moneys within the Department of Transportation for use by the Diesel Emissions Reduction Grant Program by the Environmental Protection Agency. These allocations shall not reduce the amount of such moneys designated for metropolitan planning organizations.

The Director of Environmental Protection, in consultation with the directors of Development Services and Transportation, shall develop guidance for the distribution of funds and for the administration of the Diesel Emissions Reduction Grant Program. The guidance shall include a method of prioritization for projects, acceptable technologies, and procedures for awarding grants.

SECTION 515.30. On the effective date of this section, the Rehabilitation Services Commission is renamed the Opportunities for Ohioans with Disabilities Agency. The Rehabilitation Services Commission's functions, and its assets and liabilities, are transferred to the Opportunities for Ohioans with Disabilities Agency. The Opportunities for Ohioans with Disabilities Agency is successor to, assumes the obligations and authority of, and otherwise continues the Rehabilitation Services Commission. No right, privilege, or remedy, and no duty, liability, or obligation, accrued under the Rehabilitation Services Commission is impaired or lost by reason of the renaming and shall be recognized, administered, performed, or enforced by the Opportunities for Ohioans with Disabilities Agency.

Business commenced but not completed by the Rehabilitation Services Commission or by the Administrator of the Rehabilitation Services

Commission shall be completed by the Opportunities for Ohioans with Disabilities Agency or the Executive Director of the Opportunities for Ohioans with Disabilities Agency in the same manner, and with the same effect, as if completed by the Rehabilitation Services Commission or the Administrator of the Rehabilitation Services Commission.

All of the Rehabilitation Services Commission's rules, orders, and determinations continue in effect as rules, orders, and determinations of the Opportunities for Ohioans with Disabilities Agency until modified or rescinded by the Opportunities for Ohioans with Disabilities Agency.

Subject to the layoff provisions of sections 124.321 to 124.382 of the Revised Code, all employees of the Rehabilitation Services Commission continue with the Opportunities for Ohioans with Disabilities Agency and retain their positions and all benefits accruing thereto.

The Director of Budget and Management shall determine the amount of unexpended balances in the appropriation accounts that pertain to the Rehabilitation Services Commission and shall recommend to the Controlling Board their transfer to the appropriation accounts that pertain to the Opportunities for Ohioans with Disabilities Agency. The Administrator of the Rehabilitation Services Commission shall provide full and timely information to the Controlling Board to facilitate the transfer.

Whenever the Rehabilitation Services Commission or the Administrator of the Rehabilitation Services Commission is referred to in a statute, contract, or other instrument, the reference is deemed to refer to the Opportunities for Ohioans with Disabilities Agency or to the Executive Director of the Opportunities for Ohioans with Disabilities Agency, whichever is appropriate in context.

No pending action or proceeding being prosecuted or defended in court or before an agency by the Rehabilitation Services Commission or the Administrator of the Rehabilitation Services Commission is affected by the renaming and shall be prosecuted or defended in the name of the Opportunities for Ohioans with Disabilities Agency or the Executive Director of the Opportunities for Ohioans with Disabilities Agency, whichever is appropriate. Upon application to the court or agency, the Opportunities for Ohioans with Disabilities Agency or the Executive Director of the Opportunities for Ohioans with Disabilities Agency shall be substituted.

SECTION 515.40. The Department of Aging shall use appropriation item 490627, Board of Executives of LTSS, to spend cash in the Board of Executives of Long-Term Services and Supports Fund (Fund 5MT0), which

is hereby established in the State Treasury. On the effective date of this section, the Board of Examiners of Nursing Home Administrators is renamed the Board of Executives of Long-Term Services and Supports. The Board of Examiners of Nursing Home Administrators' functions and its assets and liabilities, are transferred to the Board of Executives of Long-Term Services and Supports. The Board of Executives of Long-Term Services and Supports is successor to, assumes the obligations and authority of, and otherwise continues the Board of Examiners of Nursing Home Administrators. No right, privilege, or remedy, and no duty, liability, or obligation, accrued under the Board of Examiners of Nursing Home Administrators is impaired or lost by reason of the renaming and shall be recognized, administered, performed, or enforced by the Board of Executives of Long-Term Services and Supports.

Business commenced but not completed by the Board of Examiners of Nursing Home Administrators or by the Secretary of the Board of Examiners of Nursing Home Administrators shall be completed by the Board of Executives of Long-Term Services and Supports or the Secretary of the Board of Executives of Long-Term Services and Supports in the same manner, and with the same effect, as if completed by the Board of Examiners of Nursing Home Administrators or by the Secretary of the Board of Examiners of Nursing Home Administrators.

All of the Board of Examiners of Nursing Home Administrators' rules, orders, and determinations continue in effect as rules, orders, and determinations of the Board of Executives of Long-Term Services and Supports.

Subject to the layoff provisions of sections 124.321 to 124.328 of the Revised Code, all employees of the Board of Examiners of Nursing Home Administrators who provide administrative, technical, or other services to the Board of Examiners of Nursing Home Administrators on a full-time, permanent basis shall continue with the Board of Executives of Long-Term Services and Supports and retain their positions and benefits accruing thereto, except that those employees in the classified service shall be reclassified into the unclassified service and shall serve at the pleasure of the Board.

Notwithstanding section 4751.03 of the Revised Code, as amended by this act, those board members currently serving as members of the Board of Examiners of Nursing Home Administrators on the effective date of this act shall continue to serve as members of the Board of Executives of Long-Term Services and Supports for the remainder of their appointment

period, at which time new members shall be appointed in a manner consistent with section 4751.03 of the Revised Code, as amended by this act.

Within ninety days after the effective date of this act, the Governor shall appoint to the Board of Executives of Long-Term Services and Supports those new members who are required to be appointed under divisions (A)(3) and (6) of section 4751.03 of the Revised Code, as amended by this act, for terms ending on May 27, 2014. Thereafter, appointment for those members shall be as provided in section 4751.03 of the Revised Code, as amended by this act.

Whenever the Board of Examiners of Nursing Home Administrators is referred to in statute, contract, or other instrument, the reference is deemed to refer to the Board of Executives of Long-Term Services and Supports.

No pending action or proceeding being prosecuted or defended in court or before an agency by the Board of Examiners of Nursing Home Administrators or the Secretary of the Board of Examiners of Nursing Home Administrators is affected by the renaming and shall be prosecuted or defended in the name of the Board of Executives of Long-Term Services and Supports or the Secretary of the Board of Executives of Long-Term Services and Supports. Upon application to the court or agency, the Board of Executives of Long-Term Services and Supports or the Secretary of the Board of Executives of Long-Term Services and Supports shall be substituted.

SECTION 518.10. GENERAL OBLIGATION DEBT SERVICE PAYMENTS

Certain appropriations are in this act for the purpose of paying debt service and financing costs on general obligation bonds or notes of the state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

SECTION 518.20. LEASE RENTAL PAYMENTS FOR DEBT SERVICE

Certain appropriations are in this act for the purpose of making lease rental payments pursuant to leases and agreements relating to bonds or notes issued by the Treasurer of State, or previously by the Ohio Public Facilities Commission or the Ohio Building Authority, pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that

additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

SECTION 518.30. AUTHORIZATION FOR TREASURER OF STATE AND OBM TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS

The Office of Budget and Management shall process payments from general obligation and lease rental payment appropriation items during the period from July 1, 2013, through June 30, 2015, relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m, 2n, 2o, 2p, 2q, 2r, and 15 of Article VIII, Ohio Constitution, and Chapters 151., 152., and 154. of the Revised Code. Payments shall be made upon certification by the Treasurer of State of the dates and the amounts due on those dates.

SECTION 521.11. STATE AND LOCAL REBATE AUTHORIZATION

There is hereby appropriated, from those funds designated by or pursuant to the applicable proceedings authorizing the issuance of state obligations, amounts computed at the time to represent the portion of investment income to be rebated or amounts in lieu of or in addition to any rebate amount to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those state obligations under section 148(f) of the Internal Revenue Code.

Rebate payments shall be approved and vouchered by the Office of Budget and Management.

SECTION 521.20. STATEWIDE INDIRECT COST RECOVERY

Whenever the Director of Budget and Management determines that an appropriation made to a state agency from a fund of the state is insufficient to provide for the recovery of statewide indirect costs under section 126.12 of the Revised Code, the amount required for such purpose is hereby appropriated from the available receipts of such fund.

SECTION 521.30. TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT COST ALLOCATION PLAN

The total transfers made from the General Revenue Fund by the Director of Budget and Management under this section shall not exceed the amounts transferred into the General Revenue Fund under section 126.12 of the Revised Code.

The director of an agency may certify to the Director of Budget and

Management the amount of expenses not allowed to be included in the Statewide Indirect Cost Allocation Plan under federal regulations, from any fund included in the Statewide Indirect Cost Allocation Plan, prepared as required by section 126.12 of the Revised Code.

Upon determining that no alternative source of funding is available to pay for such expenses, the Director of Budget and Management may transfer cash from the General Revenue Fund into the fund for which the certification is made, up to the amount of the certification. The director of the agency receiving such funds shall include, as part of the next budget submission prepared under section 126.02 of the Revised Code, a request for funding for such activities from an alternative source such that further federal disallowances would not be required.

The director of an agency may certify to the Director of Budget and Management the amount of expenses paid in error from a fund included in the Statewide Indirect Cost Allocation Plan. The Director of Budget and Management may transfer cash from the fund from which the expenditure should have been made into the fund from which the expenses were erroneously paid, up to the amount of the certification.

The director of an agency may certify to the Director of Budget and Management the amount of expenses or revenues not allowed to be included in the Statewide Indirect Cost Allocation Plan under federal regulations, for any fund included in the Statewide Indirect Cost Allocation Plan, for which the federal government requires payment. If the Director of Budget and Management determines that an appropriation made to a state agency from a fund of the state is insufficient to pay the amount required by the federal government, the amount required for such purpose is hereby appropriated from the available receipts of such fund, up to the amount of the certification.

SECTION 521.35. CASH TRANSFERS TO TOBACCO OVERSIGHT ADMINISTRATION AND ENFORCEMENT FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Tobacco Settlement Enforcement Fund (Fund T087) and the Education Technology Trust Fund (Fund S087) to the Tobacco Oversight Administration and Enforcement Fund (Fund U087). Upon completion of the transfer, Fund T087 and Fund S087 are abolished. The Director shall cancel any existing encumbrances against appropriation items 110402, Tobacco Settlement Enforcement, and 935602, Education Technology Trust.

On July 1, 2014, or as soon as possible thereafter, the Director of

Budget and Management shall transfer the cash balance in the Law Enforcement Improvement Trust Fund (Fund J087) to the Tobacco Oversight Administration and Enforcement Fund (Fund U087). Upon completion of the transfer, Fund J087 is abolished. The Director shall cancel any existing encumbrances against appropriation item 055635, Law Enforcement Technology, Training, and Facility Enhancements.

SECTION 521.40. FEDERAL GOVERNMENT INTEREST REQUIREMENTS

Notwithstanding any provision of law to the contrary, on or before the first day of September of each fiscal year, the Director of Budget and Management, in order to reduce the payment of adjustments to the federal government, as determined by the plan prepared under division (A) of section 126.12 of the Revised Code, may designate such funds as the Director considers necessary to retain their own interest earnings.

SECTION 521.50. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT

Pursuant to the plan for compliance with the Federal Cash Management Improvement Act required by section 131.36 of the Revised Code, the Director of Budget and Management may cancel and re-establish all or part of encumbrances in like amounts within the funds identified by the plan. The amounts necessary to re-establish all or part of encumbrances are hereby appropriated.

SECTION 521.60. FISCAL STABILIZATION AND RECOVERY

To ensure the level of accountability and transparency required by federal law, the Director of Budget and Management may issue guidelines to any agency applying for federal money made available to this state for fiscal stabilization and recovery purposes, and may prescribe the process by which agencies are to comply with any reporting requirements established by the federal government.

SECTION 601.10. LIMITATION ON USE OF CAPITAL APPROPRIATIONS

The capital appropriations made in this act, excluding those made to the State Capital Improvement Fund (Fund 7038) and the State Capital Improvements Revolving Loan Fund (Fund 7040) for buildings or

structures, including remodeling and renovations, are limited to:

- (A) Acquisition of real property or interests in real property;
- (B) Buildings and structures, which include construction, demolition, complete heating, lighting and lighting fixtures, all necessary utilities, and ventilating, plumbing, sprinkling, and sewer systems, when such systems are authorized or necessary;
- (C) Architectural, engineering, and professional services expenses directly related to the projects;
- (D) Machinery that is a part of structures at the time of initial acquisition or construction;
- (E) Acquisition, development, and deployment of new computer systems, including the redevelopment or integration of existing and new computer systems, but excluding regular or ongoing maintenance or support agreements;
- (F) Equipment that meets all the following criteria:
 - (1) The equipment is essential in bringing the facility up to its intended use;
 - (2) The unit cost of the equipment, and not the individual parts of a unit, is about \$100 or more;
 - (3) The equipment has a useful life of five years or more; and
 - (4) The equipment is necessary for the functioning of the particular facility or project.

Equipment shall not be paid for from these appropriations that is not an integral part of or directly related to the basic purpose or function of a project for which moneys are appropriated. This paragraph does not apply to appropriation items specifically for equipment.

SECTION 601.20. OBLIGATIONS ISSUED UNDER CHAPTER 151. OF THE REVISED CODE

The capital improvements for which appropriations are made in this act from the Clean Ohio Conservation Fund (Fund 7056), the Ohio Agricultural Easement Fund (Fund 7057), and the Clean Ohio Trail Fund (Fund 7061) are determined to be capital improvements and capital facilities for projects for conservation purposes and are designated as capital facilities to which proceeds of obligations issued under Chapter 151. of the Revised Code are to be applied.

SECTION 601.30. OBLIGATIONS ISSUED UNDER CHAPTER 154. OF THE REVISED CODE

The capital improvements for which appropriations are made in this act from the Administrative Building Fund (Fund 7026) are determined to be capital improvements and capital facilities for housing state agencies and branches of government and are designated as capital facilities to which proceeds of obligations issued under Chapter 154. of the Revised Code are to be applied.

SECTION 605.03. That Section 1 of Sub. H.B. 34 of the 130th General Assembly be amended to read as follows:

Sec. 1. All items in this section are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2014, and those in the second column are for fiscal year 2015.

FND AI	AI TITLE	Appropriations	
BWC BUREAU OF WORKERS' COMPENSATION			
Workers' Compensation Fund Group			
7023 855401	William Green Lease	\$ 16,026,100	\$ 0
	Payments to OBA		
7023 855407	Claims, Risk and Medical Management	\$ 118,338,586	\$ 118,338,586
7023 855408	Fraud Prevention	\$ 12,114,226	\$ 12,114,226
7023 855409	Administrative Services	\$ 105,857,276	\$ 105,357,276
7023 855410	Attorney General Payments	\$ 4,621,850	\$ 4,621,850
8220 855606	Coal Workers' Fund	\$ 147,666	\$ 147,666
8230 855608	Marine Industry	\$ 75,527	\$ 75,527
8250 855605	Disabled Workers Relief Fund	\$ 319,718	\$ 319,718
8260 855609	Safety and Hygiene Operating	\$ 49,461,132	\$ 49,461,132
		<u>21,661,132</u>	<u>21,661,132</u>
8260 855610	Gear Program Safety Grants	\$ 5,000,000	\$ 5,000,000
		<u>15,000,000</u>	<u>15,000,000</u>
8290 855604	Long Term Care Loan Program	\$ 100,000	\$ 100,000
TOTAL WCF Workers' Compensation Fund Group		\$ 281,762,081	\$ 265,235,981
		<u>294,262,081</u>	<u>277,735,981</u>
Federal Special Revenue Fund Group			
3490 855601	OSHA Enforcement	\$ 1,731,000	\$ 1,731,000
3FW0 855614	BLS SOII Grant	\$ 116,919	\$ 116,919
TOTAL FED Federal Special Revenue Fund Group		\$ 1,847,919	\$ 1,847,919
TOTAL ALL BUDGET FUND GROUPS		\$ 283,610,000	\$ 267,083,900
		<u>296,110,000</u>	<u>279,583,900</u>

WILLIAM GREEN LEASE PAYMENTS

Of the foregoing appropriation item 855401, William Green Lease Payments, up to \$16,026,100 shall be used to make lease payments to the

Treasurer of State at the times they are required to be made during the period from July 1, 2013 to June 30, 2015, pursuant to leases and agreements made under section 154.24 of the Revised Code. If it is determined that additional appropriations are necessary for such purpose, such amounts are hereby appropriated.

WORKERS' COMPENSATION FRAUD UNIT

Of the foregoing appropriation item 855410, Attorney General Payments, \$828,200 in each fiscal year shall be used to fund the expenses of the Workers' Compensation Fraud Unit within the Attorney General's Office. These payments shall be processed at the beginning of each quarter of each fiscal year and deposited into the Workers' Compensation Section Fund (Fund 1950) used by the Attorney General.

SAFETY AND HYGIENE

Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall transfer ~~\$19,161,132~~ \$21,661,132 cash in fiscal year 2014 and ~~\$19,161,132~~ \$21,661,132 cash in fiscal year 2015 from the State Insurance Fund to the Safety and Hygiene Fund (Fund 8260).

OSHA ON-SITE CONSULTATION PROGRAM

The Bureau of Workers' Compensation may designate a portion of appropriation item 855609, Safety and Hygiene Operating, to be used to match federal funding for the federal Occupational Safety and Health Administration's (OSHA) on-site consultation program.

VOCATIONAL REHABILITATION

The Bureau of Workers' Compensation and the ~~Rehabilitation Services Commission~~ Opportunities for Ohioans with Disabilities Agency shall enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. The bureau may provide not more than \$605,407 in fiscal year 2014 and not more than \$605,407 in fiscal year 2015 from the State Insurance Fund to fund vocational rehabilitation services and staff in accordance with the interagency agreement.

FUND BALANCE

Any unencumbered cash balance in excess of \$45,000,000 in the Workers' Compensation Fund (Fund 7023) on the thirtieth day of June of each fiscal year shall be used to reduce the administrative cost rate charged to employers to cover appropriations for Bureau of Workers' Compensation operations.

SECTION 605.04. That existing Section 1 of Sub. H.B. 34 of the 130th General Assembly is hereby repealed.

SECTION 605.10. That Sections 205.10, 506.10, and 755.30 of Am. Sub. H.B. 51 of the 130th General Assembly be amended to read as follows:

Sec. 205.10. DPS DEPARTMENT OF PUBLIC SAFETY

State Highway Safety Fund Group

4W40	762321	Operating Expense - BMV	\$	130,559,268	\$	130,418,957
5V10	762682	License Plate Contribution	\$	2,100,000	\$	2,100,000
7036	761321	Operating Expense - Information and Education	\$	7,055,066	\$	6,999,331
7036	761401	Lease Rental Payments	\$	2,472,300	\$	2,473,100
7036	764033	Minor Capital Projects	\$	1,250,000	\$	1,250,000
7036	764321	Operating Expense - Highway Patrol	\$	268,232,602 <u>268,743,502</u>	\$	270,232,602
7036	764605	Motor Carrier Enforcement Expenses	\$	2,860,000	\$	2,860,000
8300	761603	Salvage and Exchange - Administration	\$	20,053	\$	20,053
8310	761610	Information and Education - Federal	\$	300,000	\$	300,000
8310	764608	FARS Grant Federal	\$	175,000	\$	175,000
8310	764610	Patrol - Federal	\$	2,250,000	\$	2,250,000
8310	764659	Transportation Enforcement - Federal	\$	5,200,000	\$	5,200,000
8310	765610	EMS - Federal	\$	225,000	\$	225,000
8310	769610	Investigative Unit Federal Reimbursement	\$	1,400,000	\$	1,400,000
8310	769631	Homeland Security - Federal	\$	750,000	\$	400,000
8320	761612	Traffic Safety - Federal	\$	22,000,000	\$	22,000,000
8350	762616	Financial Responsibility Compliance	\$	5,274,068	\$	5,274,068
8370	764602	Turnpike Policing	\$	11,553,959	\$	11,553,959
83C0	764630	Contraband, Forfeiture, Other	\$	622,894	\$	622,894
83F0	764657	Law Enforcement Automated Data System	\$	8,500,000	\$	8,500,000
83G0	764633	OMVI Enforcement/Education	\$	641,927	\$	641,927
83J0	764693	Highway Patrol Justice Contraband	\$	2,100,000	\$	2,100,000
83M0	765624	Operating - EMS	\$	3,056,069	\$	3,056,069
83M0	765640	EMS - Grants	\$	3,300,000	\$	3,300,000
83R0	762639	Local Immobilization Reimbursement	\$	450,000	\$	450,000
83T0	764694	Highway Patrol Treasury Contraband	\$	21,000	\$	21,000
8400	764607	State Fair Security	\$	1,294,354	\$	1,294,354
8400	764617	Security and Investigations	\$	8,793,865	\$	9,514,236
8400	764626	State Fairgrounds Police Force	\$	1,047,560	\$	1,084,559
8400	769632	Homeland Security - Operating	\$	650,000	\$	630,000
8410	764603	Salvage and Exchange -	\$	1,339,399	\$	1,339,399

		Highway Patrol				
8460	761625	Motorcycle Safety Education	\$	3,280,563	\$	3,280,563
8490	762627	Automated Title Processing Board	\$	16,675,513	\$	16,467,293
TOTAL HSF State Highway Safety Fund Group			\$	515,450,460	\$	517,434,364
				<u>515,961,360</u>		

General Services Fund Group

4P60	768601	Justice Program Services	\$	900,000	\$	875,000
5ET0	768625	Drug Law Enforcement	\$	4,250,000	\$	4,250,000
5LM0	768698	Criminal Justice Services Law Enforcement Support	\$	850,946	\$	850,946
TOTAL GSF General Services Fund Group			\$	6,290,946	\$	6,265,946
				<u>6,000,946</u>	<u>5,975,946</u>	

Federal Special Revenue Fund Group

3290	763645	Federal Mitigation Program	\$	10,413,642	\$	10,413,642
3370	763609	Federal Disaster Relief	\$	27,707,636	\$	27,707,636
3390	763647	Emergency Management Assistance and Training	\$	70,934,765	\$	70,934,765
3CE0	768611	Justice Assistance Grants – FFY09	\$	400,000	\$	100,000
3DE0	768612	Federal Stimulus - Justice Assistance Grants	\$	1,000,000	\$	300,000
3DU0	762628	BMV Grants	\$	1,350,000	\$	1,325,000
3EU0	768614	Justice Assistance Grants – FFY10	\$	830,000	\$	500,000
3FK0	768615	Justice Assistance Grants – FFY11	\$	900,000	\$	900,000
3FP0	767620	Ohio Investigative Unit Justice Contraband	\$	55,000	\$	55,000
3FY0	768616	Justice Assistance Grants – FFY12	\$	2,200,000	\$	1,500,000
3FZ0	768617	Justice Assistance Grants – FFY13	\$	7,000,000	\$	2,000,000
3GA0	768618	Justice Assistance Grants – FFY14	\$	0	\$	7,500,000
3L50	768604	Justice Program	\$	10,500,000	\$	10,500,000
3N50	763644	U.S. Department of Energy Agreement	\$	31,672	\$	31,672
TOTAL FED Federal Special Revenue Fund Group			\$	133,322,715	\$	133,767,715

State Special Revenue Fund Group

4V30	763662	Storms/NOAA Maintenance	\$	4,950,000	\$	4,950,000
5390	762614	Motor Vehicle Dealers Board	\$	150,000	\$	140,000
5B90	766632	Private Investigator and Security Guard Provider	\$	1,400,000	\$	1,400,000
5BK0	768687	Criminal Justice Services - Operating	\$	400,000	\$	400,000
5BK0	768689	Family Violence Shelter Programs	\$	750,000	\$	750,000
5CM0	767691	Equitable Share Account	\$	300,000	\$	300,000
5DS0	769630	Homeland Security	\$	1,414,384	\$	1,414,384
5FF0	762621	Indigent Interlock and Alcohol Monitoring	\$	2,000,000	\$	2,000,000

3690

5FL0	769634	Investigations	\$	899,300	\$	899,300
5ML0	769635	Infrastructure Protection	\$	400,000	\$	400,000
5BP0	764609	DPS Wireless 911	\$	290,000	\$	290,000
		Administration				
6220	767615	Investigative Contraband and Forfeiture	\$	325,000	\$	325,000
6570	763652	Utility Radiological Safety	\$	1,415,945	\$	1,415,945
6810	763653	SARA Title III HAZMAT Planning	\$	262,438	\$	262,438
8500	767628	Investigative Unit Salvage	\$	92,700	\$	92,700
TOTAL SSR State Special Revenue Fund Group			\$	15,049,767	\$	15,039,767
				<u>14,759,767</u>		<u>14,749,767</u>
Agency Fund Group						
5J90	761678	Federal Salvage/GSA	\$	1,500,000	\$	1,500,000
TOTAL AGY Agency Fund Group			\$	1,500,000	\$	1,500,000
Holding Account Redistribution Fund Group						
R024	762619	Unidentified Motor Vehicle Receipts	\$	1,885,000	\$	1,885,000
R052	762623	Security Deposits	\$	350,000	\$	350,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	2,235,000	\$	2,235,000
TOTAL ALL BUDGET FUND GROUPS			\$	673,558,888	\$	675,952,792
				<u>673,779,788</u>		<u>675,662,792</u>

MOTOR VEHICLE REGISTRATION

The Registrar of Motor Vehicles may deposit revenues to meet the cash needs of the State Bureau of Motor Vehicles Fund (Fund 4W40) established in section 4501.25 of the Revised Code, obtained under sections 4503.02 and 4504.02 of the Revised Code, less all other available cash. Revenue deposited pursuant to this paragraph shall support, in part, appropriations for operating expenses and defray the cost of manufacturing and distributing license plates and license plate stickers and enforcing the law relative to the operation and registration of motor vehicles. Notwithstanding section 4501.03 of the Revised Code, the revenues shall be paid into Fund 4W40 before any revenues obtained pursuant to sections 4503.02 and 4504.02 of the Revised Code are paid into any other fund. The deposit of revenues to meet the aforementioned cash needs shall be in approximately equal amounts on a monthly basis or as otherwise determined by the Director of Budget and Management pursuant to a plan submitted by the Registrar of Motor Vehicles.

OPERATING EXPENSE – BMV

Of the foregoing appropriation item 762321, Operating Expense – BMV, up to \$50,000 in fiscal year 2014 shall be used to pay for costs associated with improvements to the program to accept applications for registration transactions of apportionable vehicles electronically over the internet.

OPERATING EXPENSE - INFORMATION AND EDUCATION

Of the foregoing appropriation item 761321, Operating Expense – Information and Education, up to \$250,000 in each fiscal year may be used to fund state employees to staff travel information centers on the border of the state.

The Department of Public Safety shall conduct a study for partnering with local travel and tourism centers, as well as a study for the creation of the Ohio Ambassadors Volunteer Program at rest stops.

LEASE RENTAL PAYMENTS

The foregoing appropriation item 761401, Lease Rental Payments, shall be used for payments to the Treasurer of State for the period July 1, 2013, through June 30, 2015, under the primary leases and agreements for public safety related buildings. The appropriations are the source of funds pledged for bond service charges on obligations pursuant to Chapters 152. and 154. of the Revised Code.

OPERATING EXPENSE - HIGHWAY PATROL

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$510,900 cash from the GRF to the State Highway Safety Fund (Fund 7036). The transferred cash shall be used by the State Highway Patrol for the purchase of specialized equipment for examining commercial truck cargo.

CASH TRANSFERS BETWEEN FUNDS

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, upon the written request of the Director of Public Safety, may transfer cash between the following six funds: the Trauma and Emergency Medical Services Fund (Fund 83M0), the Homeland Security Fund (Fund 5DS0), the Investigations Fund (Fund 5FL0), the Emergency Management Agency Service and Reimbursement Fund (Fund 4V30), the Justice Program Services Fund (Fund 4P60), and the State Bureau of Motor Vehicles Fund (Fund 4W40).

CASH TRANSFER FROM TEEN DRIVER EDUCATION FUND TO LICENSE PLATE CONTRIBUTION FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer the cash balance in the Teen Driver Education Fund (Fund 5JS0) to the License Plate Contribution Fund (Fund 5V10). Upon completion of the transfer, Fund 5JS0 is hereby abolished.

CASH TRANSFER FROM HILLTOP UTILITY REIMBURSEMENT FUND TO STATE HIGHWAY SAFETY FUND

Not later than January 1, 2014, the Director of Budget and Management may transfer the cash balance in the Hilltop Utility Reimbursement Fund (Fund 4S30) to the State Highway Safety Fund (Fund 7036). Upon

completion of the transfer, Fund 4S30 is hereby abolished. The Director shall cancel any existing encumbrances against appropriation item 766661, Hilltop Utility Reimbursement, and reestablish them against appropriation item 761321, Operating Expense – Information and Education. The reestablished encumbrance amounts are hereby appropriated.

CASH TRANSFER FROM REGISTRAR RENTAL FUND TO STATE HIGHWAY SAFETY FUND

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Registrar Rental Fund (Fund 8380) to the State Bureau of Motor Vehicles Fund (Fund 4W40). Upon completion of the transfer, Fund 8380 is abolished.

STATE DISASTER RELIEF

The State Disaster Relief Fund (Fund 5330) may accept transfers of cash and appropriations from Controlling Board appropriation items for Ohio Emergency Management Agency disaster response costs and disaster program management costs, and may also be used for the following purposes:

(A) To accept transfers of cash and appropriations from Controlling Board appropriation items for Ohio Emergency Management Agency public assistance and mitigation program match costs to reimburse eligible local governments and private nonprofit organizations for costs related to disasters;

(B) To accept and transfer cash to reimburse the costs associated with Emergency Management Assistance Compact (EMAC) deployments;

(C) To accept disaster related reimbursement from federal, state, and local governments. The Director of Budget and Management may transfer cash from reimbursements received by this fund to other funds of the state from which transfers were originally approved by the Controlling Board.

(D) To accept transfers of cash and appropriations from Controlling Board appropriation items to fund the State Disaster Relief Program, for disasters that qualify for the program by written authorization of the Governor, and the State Individual Assistance Program for disasters that have been declared by the federal Small Business Administration and that qualify for the program by written authorization of the Governor. The Ohio Emergency Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

JUSTICE ASSISTANCE GRANT FUND

The federal payments made to the state for the Byrne Justice Assistance Grants Program under Title II of Division A of the American Recovery and

Reinvestment Act of 2009 shall be deposited to the credit of the Justice Assistance Grant Fund (Fund 3DE0), which is hereby created in the state treasury. All investment earnings of the fund shall be credited to the fund.

TRANSFER FROM STATE FIRE MARSHAL FUND TO EMERGENCY MANAGEMENT AGENCY SERVICE AND REIMBURSEMENT FUND

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$200,000 cash from the State Fire Marshal Fund (Fund 5460) to the Emergency Management Agency Service and Reimbursement Fund (Fund 4V30) to be distributed to the Ohio Task Force One – Urban Search and Rescue Unit, other similar urban search and rescue units around the state, and for the maintenance of the statewide fire emergency response plan by an entity recognized by the Ohio Emergency Management Agency.

FAMILY VIOLENCE PREVENTION FUND

Notwithstanding any provision of law to the contrary, in each of fiscal years 2014 and 2015, the first \$750,000 received to the credit of the Family Violence Prevention Fund (Fund 5BK0) is appropriated to appropriation item 768689, Family Violence Shelter Programs, and the next \$400,000 received to the credit of Fund 5BK0 in each of those fiscal years is appropriated to appropriation item 768687, Criminal Justice Services - Operating. Any moneys received to the credit of Fund 5BK0 in excess of the aforementioned appropriated amounts in each fiscal year shall, upon the approval of the Controlling Board, be used to provide grants to family violence shelters in Ohio.

SARA TITLE III HAZMAT PLANNING

The SARA Title III HAZMAT Planning Fund (Fund 6810) is entitled to receive grant funds from the Emergency Response Commission to implement the Emergency Management Agency's responsibilities under Chapter 3750. of the Revised Code.

COLLECTIVE BARGAINING INCREASES

Notwithstanding division (D) of section 127.14 and division (B) of section 131.35 of the Revised Code, except for the General Revenue Fund, the Controlling Board may, upon the request of either the Director of Budget and Management, or the Department of Public Safety with the approval of the Director of Budget and Management, authorize expenditures in excess of appropriations and transfer appropriations, as necessary, for any fund used by the Department of Public Safety, to assist in paying the costs of increases in employee compensation that have occurred pursuant to collective bargaining agreements under Chapter 4117. of the Revised Code and, for

exempt employees, under section 124.152 of the Revised Code. Any money approved for expenditure under this paragraph is hereby appropriated.

CASH BALANCE FUND REVIEW

Not later than the first day of April in each fiscal year of the biennium, the Director of Budget and Management shall review the cash balances for each fund, except the State Highway Safety Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 4W40), in the State Highway Safety Fund Group, and shall recommend to the Controlling Board an amount to be transferred to the credit of Fund 7036 or Fund 4W40, as appropriate.

AUTO REGISTRATION DISTRIBUTION FUND

Notwithstanding the amendment by this act to section 4501.03 of the Revised Code and the enactment by this act of section 4501.031 of the Revised Code, any license tax assessed under Chapters 4503. or 4504. of the Revised Code, and derived from registrations processed on business days prior to July 1, 2013, shall be deposited to the state treasury to the credit of the Auto Registration Distribution Fund (Fund 7051) created by section 4501.03 of the Revised Code, even if such deposit does not occur until on or after July 1, 2013. All license tax assessed on registrations under Chapters 4503. or 4504. of the Revised Code prior to July 1, 2013, shall be deposited, and distributed, in accordance with sections 4501.03, 4501.04, 4501.041, 4501.042, and 4501.043 of the Revised Code as they existed prior to the amendments to those sections by this act.

Sec. 506.10. Notwithstanding division (A)(3) of section 4501.044 and division (A)(1) of section 4501.045 of the Revised Code, commencing July 1, 2013, and extending through June 30, 2014, the Director of Public Safety shall deposit the money otherwise deposited and distributed in accordance with those divisions into the State Highway Safety Fund (Fund 7036) created by section 4501.06 of the Revised Code until such time as the deposits equal a cumulative total of ~~\$35,000,000~~ \$29,000,000. At that point, the Director shall cease depositing any such money into Fund 7036 and shall deposit and distribute that money as prescribed in division (A)(3) of section 4501.044 and division (A)(1) of section 4501.045 of the Revised Code.

Notwithstanding division (A)(3) of section 4501.044 and division (A)(1) of section 4501.045 of the Revised Code, commencing July 1, 2014, and extending through June 30, 2015, the Director of Public Safety shall deposit the money otherwise deposited and distributed in accordance with those divisions into the State Highway Safety Fund (Fund 7036) created by section 4501.06 of the Revised Code until such time as the deposits equal a cumulative total of \$35,000,000. At that point, the Director shall cease depositing any such money into Fund 7036 and shall deposit and distribute

that money as prescribed in division (A)(3) of section 4501.044 and division (A)(1) of section 4501.045 of the Revised Code.

Sec. 755.30. ~~On July 1~~ Beginning on July 31, 2013, and on the first last day of the month for each month thereafter, ~~the Treasurer of State,~~ before making any of the distributions specified in sections 5735.23, 5735.26, 5735.291, and 5735.30 of the Revised Code but after any transfers to the tax refund fund as required by those sections and section 5703.052 of the Revised Code, the Treasurer of State shall deposit the first two per cent of the amount of motor fuel tax received for the preceding calendar month to the credit of the Highway Operating Fund (Fund 7002).

SECTION 605.11. That existing Sections 205.10, 506.10, and 755.30 of Am. Sub. H.B. 51 of the 130th General Assembly are hereby repealed.

SECTION 605.20. That Section 753.30 of Am. Sub. H.B. 153 of the 129th General Assembly be amended to read as follows:

Sec. 753.30. (A) The Governor is authorized to execute a deed in the name of the state conveying to a buyer or buyers to be determined in the manner provided in division (B) of this section all of the state's right, title, and interest in the real property of any facility under the management and control of the Department of Youth Services following the closure of that facility that the Director of Administrative Services determines is no longer required for state purposes. This section applies only to facilities that are closed before January 1, 2012.

(B)(1) The Director of Administrative Services shall offer the real estate, improvements and chattels of a facility sold pursuant to division (A) of this section for sale "as is" in its present condition according to the following process:

The real estate of the facility shall be sold as an entire parcel and not subdivided.

The Director of Administrative Services shall conduct a sealed bid sale and the real property of the facility shall be sold to the highest bidder at a price acceptable to both the Director of Administrative Services and the Director of Youth Services.

(2) The contract for sale of a facility pursuant to this section shall include a condition that requires the purchaser to provide preferential hiring treatment to employees or former employees of the Department of Youth Services in order to retain or rehire staff displaced as a result of the closure of the facility located on the property, to the extent the purchaser's use of the

facility requires employees in the same or similar positions as those displaced as a result of the closure.

The contract for sale also shall include a binding commitment that irrevocably grants to the state a right, upon the occurrence of any triggering event described in division (B)(2)(a) or (b) of this section and in accordance with the particular division, to repurchase the facility and the real property on which it is situated, any surrounding land that is to be transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that is to be transferred under the contract. The triggering events and the procedures for a repurchase under the irrevocable grant described in this division are as follows:

(a) Before the purchaser, or the purchaser's successor in title, may resell or otherwise transfer the facility and the real property on which it is situated, any surrounding land that is to be transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that is to be transferred under the contract, the purchaser or successor first must offer the state the opportunity to repurchase the facility, real property, and surrounding land that is to be resold or transferred for a price not greater than the purchase price paid to the state for that facility, real property, or surrounding land, less depreciation from the time of the conveyance of that facility, real property, or surrounding land to the purchaser, plus the depreciated value of any capital improvements to that facility, real property, or surrounding land that were made to it and funded by anyone other than the state subsequent to the conveyance to the purchaser. The repurchase opportunity described in this division must be offered to the state at least one hundred twenty days before the purchaser intends to resell or otherwise transfer the facility, real property, or surrounding land that is to be resold or transferred. After being offered the repurchase opportunity, the state has the right to repurchase the facility, real property, and surrounding land that is to be resold or otherwise transferred for the price described in this division.

(b) Upon the purchaser's default of any financial agreement for the purchase of the facility and the real property on which it is situated, any surrounding land that is to be transferred under the contract, or both the facility and real property on which it is situated plus the surrounding land that is to be transferred under the contract, upon the purchaser's default of any other term in the contract, or upon the purchaser's financial insolvency or inability to meet its contractual obligations, the state has the right to repurchase the facility and real property, the surrounding land, or both the facility and real property and the surrounding land, for a price not greater than the purchase price paid to the state for that facility, real property, or

surrounding land, less depreciation from the time of the conveyance of that facility, real property, or surrounding land to the purchaser, plus the depreciated value of any capital improvements to that facility, real property, or surrounding land that were made to it and funded by anyone other than the state subsequent to the conveyance to the purchaser.

(3) The Director of Administrative Services shall advertise the sealed bid sale in a newspaper of general circulation within Scioto County once a week for three consecutive weeks prior to the date of the sealed bid sale. The Director of Administrative Services may reject any and all bids from the sealed bid sale. The terms of sale shall be ten per cent of the purchase price in cash, bank draft, or certified check payable within five business days following written notification of the acceptance of the bid by the Director of Administrative Services, with the balance payable within sixty days after the date of the written notification of the acceptance of the bid by the Director of Administrative Services. A purchaser who does not complete the conditions of the sale as prescribed in this division shall forfeit the ten per cent of the purchase price paid to the state as liquidated damages. Should a purchaser not complete the conditions of sale as described in this division, the Director of Administrative Services is authorized to accept the next highest bid by collecting ten per cent of the revised purchase price from that bidder and to proceed to close the sale, provided that the secondary bid meets all other criteria provided for in this section. If the Director of Administrative Services rejects all bids from the sealed bid sale, the Director may repeat the sealed bid process described in this section or may use an alternate sale process acceptable to the Director of Youth Services.

Advertising costs and any other costs incident to the sale of a facility pursuant to this section shall be paid by the Department of Youth Services.

Upon notice from the Director of Administrative Services, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the facility to the purchaser identified by the Director of Administrative Services. The deed shall be executed by the Governor, countersigned by the Secretary of State, presented in the Office of the Auditor of State for recording, and delivered to the grantee at closing and upon the grantee's payment of the balance of the purchase price. The grantee shall present the deed for recording in the office of the recorder of the county in which the facility is located.

The grantee shall pay all costs associated with the purchase and conveyance of the facility, including the costs of recording the deed.

The net proceeds of the conveyance of the facility shall be deposited into the State Treasury to the credit of the Adult and Juvenile Correctional

Facilities Bond Retirement Fund and shall be used to offset bond indebtedness on state bonds issued for the facility that has been sold. The Director of Budget and Management may direct that any moneys remaining in the fund after the redemption or defeasance of the bonds issued for that facility be transferred to the General Revenue Fund.

(C) This section expires two years after its effective date or on November 1, 2015, whichever is later.

SECTION 605.21. That existing Section 753.30 of Am. Sub. H.B. 153 of the 129th General Assembly is hereby repealed.

SECTION 605.23. That Section 4 of Am. Sub. H.B. 279 of the 129th General Assembly be amended to read as follows:

Sec. 4. Notwithstanding any provision of the Revised Code to the contrary, individuals that provide services to a child under the autism scholarship program shall not be required to comply with the requirements of section 3310.43 of the Revised Code as enacted by this act until ~~twelve months after the effective date of this section~~ December 20, 2014.

SECTION 605.24. That existing Section 4 of Am. Sub. H.B. 279 of the 129th General Assembly is hereby repealed.

SECTION 605.30. That Section 11 of Sub. H.B. 303 of the 129th General Assembly be amended to read as follows:

Sec. 11. (A) As used in this section, "intermediate care facility for individuals with intellectual disabilities" and "ICF/IID" mean an intermediate care facility for the mentally retarded as defined in the "Social Security Act," section 1905(d), 42 U.S.C. 1396d(d).

(B) The Department of Developmental Disabilities may conduct or contract with another entity to conduct, for the first quarter of calendar year 2013, assessments of all residents of each ICF/IID, regardless of payment source, who are in the ICF/IID, or on hospital or therapeutic leave from the ICF/IID, on the day or days that the assessments are conducted at the ICF/IID.

(C) If assessments are conducted under division (B) of this section, the Department shall do all of the following:

(1) In conducting the assessments, provide for both of the following:

(a) The resident assessment instrument prescribed in rules authorized by

~~division (B) of section 5111.232~~ 5124.191 of the Revised Code to be used in accordance with an inter-rater reliable process;

(b) The assessments to be performed by individuals who meet the requirements to be qualified intellectual disability professionals, as specified in 42 C.F.R. 483.430(a).

(2) Use the data obtained from the assessments to determine each ICF/IID's case-mix score for the first quarter of calendar year 2013;

(3) ~~For the purpose of determining each ICF/IID's fiscal year 2014 Medicaid rates for direct care costs and subject~~ Subject to divisions (C)(~~8~~)(7), (D), and (~~E~~)(F) of this section, ~~do both of the following determine the fiscal year 2014 Medicaid payment rate for the direct care costs of each ICF/IID as follows:~~

(a) Determine the average of the following:

(i) The ICF/IID's case-mix score determined or assigned under section 5124.192 of the Revised Code for the last quarter of calendar year 2012;

(ii) The ICF/IID's case-mix score determined under section 5124.192 of the Revised Code for the first quarter of calendar year 2013;

(iii) The ICF/IID's case-mix score determined under division (C)(2) of this section for the first quarter of calendar year 2013.

(b) In determining costs per case-mix units and maximum costs per case-mix units for the purpose of ~~division~~ divisions (B) and (C) of section ~~5111.23~~ 5124.19 of the Revised Code, use ~~each ICF/IID's case-mix score~~ the average determined under division (C)(2)(3)(a) of this section in place of the ICF/IID's average case-mix score for calendar year 2012;

~~(b) Instead of determining quarterly Medicaid rates for the direct care costs of each ICF/IID pursuant to division (D) of section 5111.23 of the Revised Code, determine, as follows, one Medicaid rate for the direct care costs of each ICF/IID to be paid for all of fiscal year 2014:~~

(i)(c) Multiply the ~~ICF/IID's case-mix score~~ average determined under division (C)(2)(3)(a) of this section by the lesser of the cost per case-mix unit determined for the ICF/IID pursuant to division (C)(3)(~~a~~)(b) of this section or the maximum cost per case-mix unit determined for the ICF/IID's peer group pursuant to division (C)(3)(~~a~~)(b) of this section;

(ii)(d) Adjust the product determined under division (C)(3)(~~b~~)(i)(c) of this section by the inflation rate estimated in accordance with division (~~B~~)(3)(D) of section ~~5111.23~~ 5124.19 of the Revised Code.

(4) For the purpose of determining each ICF/IID's fiscal year 2015 Medicaid rates for direct care costs and subject to division (C)(~~8~~)(7) of this section, use the ~~following when determining, pursuant to the second paragraph of division (C) of section 5111.232 of the Revised Code, each~~

ICF/IID's ~~annual average~~ case-mix score determined under division (C)(2) of this section for the first quarter of calendar year 2013:

~~(a) For the first quarter of calendar year 2013, the ICF/IID's case mix score determined under division (C)(2) of this section;~~

~~(b) For the last three quarters of calendar year 2013 and except as provided in division (D) of section 5111.232 of the Revised Code, the ICF/IID's case mix scores determined by using the data the ICF/IID provider compiles in accordance with the first paragraph of division (C) of section 5111.232 of the Revised Code. if the ICF/IID provider does not submit resident assessment data for that quarter pursuant to section 5124.191 of the Revised Code;~~

~~(5) Notify each ICF/IID provider that the provider is permitted but not required to compile assessment data for the first quarter of calendar year 2013 pursuant to the first paragraph of division (C) of section 5111.232 of the Revised Code;~~

~~(6) After the assessments of all of an ICF/IID's residents are completed but not later than April 30, 2013, provide, or have the entity (if any) with which the Department contracts pursuant to division (B) of this section provide, the results of the assessments to the ICF/IID provider;~~

~~(7)(6) Conduct, in accordance with division (C)(8)(7) of this section, a reconsideration for any ICF/IID provider who does both of the following:~~

~~(a) Submits a written request for the reconsideration to the Department not later than fifteen days after the provider receives the assessments' results pursuant to division (C)(6)(5) of this section;~~

~~(b) Includes in the request all of the following:~~

~~(i) A detailed explanation of the items in the assessments' results that the provider disputes;~~

~~(ii) Copies of relevant supporting documentation from specific resident records;~~

~~(iii) The provider's proposed resolution of the disputes.~~

~~(8)(7) When conducting a reconsideration required by division (C)(7)(6) of this section, do both of the following:~~

~~(a) Consider all of the following:~~

~~(i) The historic results of the resident assessments performed pursuant to section 5124.191 of the Revised Code (formerly the first paragraph of division (C) of section 5111.232 5124.19 of the Revised Code as that section existed on the day immediately before the effective date of the amendments to that section by Sub. H.B. 59 of the 130th general assembly) by the ICF/IID provider who requested the reconsideration;~~

~~(ii) All of the materials the provider includes in the reconsideration~~

request;

(iii) All other matters the Department determines necessary for consideration.

(b) Issue a written decision regarding the reconsideration not later than the sooner of the following:

(i) Thirty days after the Department receives the reconsideration request;

(ii) June 1, 2013.

(D) If an ICF/IID provider does not submit resident assessment data to the department pursuant to section 5124.191 of the Revised Code for the first quarter of calendar year 2013, the Department shall use the case-mix scores specified in divisions (C)(3)(a)(i) and (iii) of this section when determining the average under division (C)(3)(a) of this section.

(E) The Department's decision regarding a reconsideration required by division (C)(~~7~~)(6) of this section is final and not subject to further appeal.

(~~E~~)(F) Regardless of what an ICF/IID's case-mix score is determined to be under division (C)(2) of this section or pursuant to a reconsideration required by division (C)(~~7~~)(6) of this section, no such case-mix score shall cause an ICF/IID's fiscal year 2014 Medicaid payment rate for direct care costs to be less than ninety per cent of its June 30, 2013, Medicaid rate for direct care costs.

(~~F~~)(G) No ICF/IID provider shall be treated as having failed, for the first quarter of calendar year 2013, to timely submit data necessary to determine the ICF/IID's case-mix score for that quarter if the assessment is to be conducted under division (B) of this section.

(~~G~~)(H) The Department may provide for assessments to be conducted under division (B) of this section and, if it so provides, shall comply with the other divisions of this section notwithstanding anything to the contrary in sections ~~5111.20~~ 5124.01, ~~5111.23~~ 5124.19, 5124.191, and ~~5111.232~~ 5124.192 of the Revised Code.

SECTION 605.31. That existing Section 11 of Sub. H.B. 303 of the 129th General Assembly is hereby repealed.

SECTION 605.33. That Section 9 of Am. Sub. H.B. 386 of the 129th General Assembly be amended to read as follows:

Sec. 9. A)(A) As used in this section, "permit holder" and "track" have the same meanings as in Section 7 of this act.

(B) ~~Within six months of the effective date of this section, the~~ The

Governor, in consultation with the State Racing Commission, shall discuss, negotiate in good faith, and reach an agreement with necessary parties regarding providing five hundred thousand dollars per year, with the first payment by December 31, 2014, and annually thereafter, to the municipal corporations or townships receiving moneys from the ~~Racetrack Relocation~~ Casino Operator Settlement Fund under ~~division (E)(3) of Section 7 10 of this act~~ Am. Sub. H.B. 386 of the 129th General Assembly, as subsequently amended.

SECTION 605.34. That existing Section 9 of Am. Sub. H.B. 386 of the 129th General Assembly is hereby repealed.

SECTION 605.40. That Section 4 of Am. Sub. H.B. 472 of the 129th General Assembly be amended to read as follows:

Sec. 4. That ~~sections 5507.40 and~~ section 5507.53 of the Revised Code ~~are~~ is hereby repealed.

SECTION 605.41. That existing Section 4 of Am. Sub. H.B. 472 of the 129th General Assembly is hereby repealed.

SECTION 610.10. That Sections 201.80, 205.83, and 509.40 of Sub. H.B. 482 of the 129th General Assembly be amended to read as follows:

Sec. 201.80. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the School Building Program Assistance Fund (Fund 7032), that are not otherwise appropriated.

Appropriations

SFC SCHOOL FACILITIES COMMISSION

C23002	School Building Program Assistance	\$	425,000,000
			<u>413,000,000</u>
<u>C23020</u>	<u>School Security Grant Program</u>	\$	<u>12,000,000</u>
	Total School Facilities Commission	\$	425,000,000
	TOTAL School Building Program Assistance Fund	\$	425,000,000

SCHOOL BUILDING PROGRAM ASSISTANCE

The foregoing appropriation item C23002, School Building Program Assistance, shall be used by the School Facilities Commission to provide funding to school districts that receive conditional approval from the Commission pursuant to Chapter 3318. of the Revised Code.

SCHOOL SECURITY GRANT PROGRAM

The foregoing appropriation item C23020, School Security Grant

Program, shall be used by the School Facilities Commission to provide funding to all public schools for school security expenditures including the purchase and installation of one Multi-Agency Radio Communications System (MARCS) unit per school building and a security door system, consisting of a security camera, an intercom, and remote access, at one entrance per school building. If law enforcement agencies with jurisdiction over all or a portion of the geographical area of a public school do not use MARCS, a public school may purchase one emergency communications system compatible with the system or systems in use by law enforcement agencies with jurisdiction over the school territory. A school may apply to the School Facilities Commission for reimbursement up to \$2,000 for one MARCS unit or other emergency communications system per school building and up to \$5,000 for costs incurred with the purchase of a security door system installed on or after January 1, 2013. A school may receive reimbursement for either a MARCS unit or another emergency communications system, but not both.

Sec. 205.83. The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2o and 2q of Article VIII, Ohio Constitution, and pursuant to sections 151.01 and 151.09 of the Revised Code, original obligations of the state in an aggregate principal amount not to exceed ~~\$6,000,000~~ 12,500,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued and sold from time to time, subject to applicable constitutional and statutory limitations, as needed to ensure sufficient moneys to the credit of the Clean Ohio Trail Fund (Fund 7061) to pay costs of conservation projects.

Sec. 509.40. **AGENCY ADMINISTRATION OF CAPITAL FACILITIES PROJECTS**

Notwithstanding ~~sections 123.01 and 123.15~~ section 123.21 of the Revised Code, the Executive Director of Administrative Services ~~the Ohio Facilities Construction Commission~~ may authorize the Departments of Mental Health, Developmental Disabilities, Agriculture, Job and Family Services, Rehabilitation and Correction, Youth Services, Public Safety, Transportation, ~~and~~ Veterans Services, and the Bureau of Workers' Compensation to administer any capital facilities projects, the estimated cost of which, including design fees, construction, equipment, and contingency amounts, is less than \$1,500,000. Requests for authorization to administer capital facilities projects shall be made ~~in writing to the Director of Administrative Services~~ through the OAKS-CI application by the applicable state agency ~~within sixty days after the effective date of the section of law in~~

~~which the General Assembly initially makes an appropriation for the project.~~
Upon the release of funds for the projects by the Controlling Board or the Director of Budget and Management, the agency may administer the capital project or projects for which agency administration has been authorized without the supervision, control, or approval of the Executive Director of Administrative Services ~~the Ohio Facilities Construction Commission.~~

A state agency authorized by the Executive Director of Administrative Services ~~the Ohio Facilities Construction Commission~~ to administer capital facilities projects pursuant to this section shall comply with the applicable procedures and guidelines established in Chapter 153. of the Revised Code and shall track all project information in OAKS-CI pursuant to Ohio Facilities Construction Commission guidelines.

SECTION 610.11. That existing Sections 201.80, 205.83, and 509.40 of Sub. H.B. 482 of the 129th General Assembly are hereby repealed.

SECTION 610.14. That Sections 301.11, 301.12, and 301.13 of Am. Sub. H.B. 487 of the 129th General Assembly be amended to read as follows:

Sec. 301.11. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Clean Ohio Conservation Fund (Fund 7056) that are not otherwise appropriated.

		Appropriations
PWC PUBLIC WORKS COMMISSION		
C15060	Clean Ohio Conservation	\$ <u>36,000,000</u>
		<u>75,000,000</u>
	Total Public Works Commission	\$ <u>36,000,000</u>
		<u>75,000,000</u>
	TOTAL Clean Ohio Conservation Fund	\$ <u>36,000,000</u>
		<u>75,000,000</u>

The foregoing appropriation item C15060, Clean Ohio Conservation, shall be used in accordance with sections 164.20 to 164.27 of the Revised Code. If the Public Works Commission receives refunds due to project overpayments that are discovered during the post-project audit, the Director of the Public Works Commission may certify to the Director of Budget and Management that refunds have been received. If the Director of Budget and Management determines that the project refunds are available to support additional appropriations, such amounts are hereby appropriated.

Sec. 301.12. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Clean Ohio Agricultural Easement Fund (Fund 7057) that are not otherwise

appropriated.

		Appropriations
AGR DEPARTMENT OF AGRICULTURE		
C70009	Clean Ohio Agricultural Easements	\$ 6,000,000 <u>12,500,000</u>
Total Department of Agriculture		\$ 6,000,000 <u>12,500,000</u>
TOTAL Clean Ohio Agricultural Easement Fund		\$ 6,000,000 <u>12,500,000</u>

Sec. 301.13. (A) The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2o and 2q of Article VIII, Ohio Constitution, and pursuant to sections 151.01 and 151.09 of the Revised Code, original obligations of the state in an aggregate principal amount not to exceed ~~\$36,000,000~~ 75,000,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued and sold from time to time, subject to applicable constitutional and statutory limitations, as needed to ensure sufficient moneys to the credit of the Clean Ohio Conservation Fund (Fund 7056) to pay costs of conservation projects.

(B) The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with Section 2o and 2q of Article VIII, Ohio Constitution, and pursuant to sections 151.01 and 151.09 of the Revised Code, original obligations of the state in an aggregate principal amount not to exceed ~~\$6,000,000~~ 12,500,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued and sold from time to time, subject to applicable constitutional and statutory limitations, as needed to ensure sufficient moneys to the credit of the Clean Ohio Agricultural Easement Fund (Fund 7057) to pay costs of conservation projects.

SECTION 610.15. That existing Sections 301.11, 301.12, and 301.13 of Am. Sub. H.B. 487 of the 129th General Assembly are hereby repealed.

SECTION 610.15.10. That Section 10 of Am. Sub. H.B. 386 of the 129th General Assembly, as amended by Am. Sub. H.B. 51 of the 130th General Assembly, be amended to read as follows:

Sec. 10. As used in this section, "commercial racetrack" has the same meaning as "track" as found in Sections 3 and 7 of Am. Sub. H.B. 386 of the 129th General Assembly.

To the extent that sufficient cash is available, within three months after

the receipt of moneys into the Casino Operator Settlement Fund created in section 3772.34 of the Revised Code, the Director of Budget and Management shall pay one million dollars to the municipal corporation or township in which ~~each~~ greater than fifty per cent of the real property of a commercial racetrack is was located, including on June 11, 2012, or a municipal corporation or township to which greater than fifty per cent of the real property of a commercial racetrack is to relocate as specified in the memorandum of understanding of February 17, 2012, between the Office of the Governor, State of Ohio, and Penn National Gaming, Inc., pertaining to racing permit transfers, but excluding the previous municipal corporation or township of each moved ~~track~~ or moving commercial racetrack, and excluding a municipal corporation or township in a county with a population between 1,100,000 and 1,200,000 in the most recent federal decennial census. Additionally, within six months after the first payments made under this section, the Director of Budget and Management shall pay an additional one million dollars to each of these municipal corporations and townships. Not more than six municipal corporations or townships shall be eligible for the payments under this section. The determination of which six municipal corporations or townships are eligible to receive payments under this section shall be made solely by the Director of Budget and Management. Each municipal corporation or township receiving such a payment shall use at least fifty per cent of the funds received for infrastructure or capital improvements. If after either of the payments referenced in this section, a municipal corporation or township loses a commercial racetrack as a result of the commercial racetrack permit holder's decision to relocate to another municipal corporation or township, the municipal corporation or township losing the commercial racetrack becomes eligible for a payment from the Racetrack Facility Community Economic Redevelopment Fund provided for in Sections 7 and 8 of H.B. 386 of the 129th General Assembly after all of the communities that have already lost a racetrack permit holder's commercial racetrack at the time the first payments referenced in this section are made have each been awarded up to \$3 million for the initial loss of such commercial racetracks. Such a municipal corporation or township shall not receive more than the sum of \$3 million minus any payments made by the Director of Budget and Management in accordance with this section. The Director of Budget and Management is also authorized to establish any necessary appropriation items in the appropriate funds and agencies in order to make any payments required under this section. Any funds in such items are hereby appropriated.

SECTION 610.15.11. That existing Section 10 of Am. Sub. H.B. 386 of the 129th General Assembly, as amended by Am. Sub. H.B. 51 of the 130th General Assembly, is hereby repealed.

SECTION 610.16. That Section 205.80 of Sub. H.B. 482 of the 129th General Assembly, as amended by Am. Sub. H.B. 487 of the 129th General Assembly, be amended to read as follows:

Sec. 205.80. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Clean Ohio Trail Fund (Fund 7061) that are not otherwise appropriated.

DNR DEPARTMENT OF NATURAL RESOURCES

		Appropriations
C72514	Clean Ohio Local Grants	\$ 6,000,000
		<u>12,500,000</u>
Total Department of Natural Resources		\$ 6,000,000
		<u>12,500,000</u>
TOTAL Clean Ohio Trail Fund		\$ 6,000,000
		<u>12,500,000</u>

SECTION 610.17. That existing Section 205.80 of Sub. H.B. 482 of the 129th General Assembly, as amended by Am. Sub. H.B. 487 of the 129th General Assembly, is hereby repealed.

SECTION 610.20. That Section 4 of Sub. S.B. 171 of the 129th General Assembly, as amended by Am. Sub. H.B. 487 of the 129th General Assembly, be amended to read as follows:

Sec. 4. The following agencies are retained under division (D) of section 101.83 of the Revised Code and expire on December 31, 2016:

AGENCY NAME	REVISED CODE OR UNCODIFIED SECTION
Academic Distress Commission	3302.10
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12
Advisory Board to Assist and Advise in the Operation of the Ohio Center for Autism and Low Incidence	3323.33, 3323.34

Advisory Council on Amusement Ride Safety	1711.51, 1711.52
Advisory Council of Directors for Prison Labor	5145.162
<u>Office of Enterprise Development Advisory Board</u>	
Advisory Council for Wild, Scenic, or Recreational River Area(s)	1547.84
Advisory Committee on Livestock Exhibitions	901.71
Agricultural Commodity Marketing Programs Operating Committees	924.07
Agricultural Commodity Marketing Programs Coordinating Committee	924.14
Alternative Energy Advisory Committee	4928.64(D)
AMBER Alert Advisory Committee	5502.521
Apprenticeship Council	Chapter 4139.
Armory Board of Control	5911.09, 5911.12
Automated Title Processing Board	4505.09(C)(1)
Backflow Advisory Board	3703.21
Banking Commission	1123.01
Board of Directors of the Great Lakes Protection Fund	1506.22 (6161.04)
Board of Directors of the Medical Liability Underwriting Association Stabilization Fund	3929.631
Board of Directors of the Ohio Appalachian Center for Higher Education	3333.58
Board of Directors of the Ohio Health Reinsurance Program	3924.08 - 3924.11
Board of Governors of the Commercial Insurance Joint Underwriting Association	3930.03
Board of Governors of the Medical Liability Underwriting Association	3929.64
Board of Voting Machines Examiners	3506.05
Budget Planning and Management Commission	Section 509.10, H.B. 1, 128th G.A.
Brain Injury Advisory Committee	3304.231
Bureau of Workers' Compensation Board of Directors	4121.12
Capitol Square Review and Advisory Board	105.41
Child Care Advisory Council	5104.08

Child Support Guideline Advisory Council	3119.024
Children's Trust Fund Board	3109.15 - 3109.17
Citizen's Advisory Council	5123.092, 5123.093
Clean Ohio Trail Advisory Board	1519.06
Coastal Resources Advisory Council	1506.12
Commission on African-American Males	4112.12, 4112.13
Commission on Hispanic-Latino Affairs	121.31
Commission on Minority Health	3701.78
Committee on Prescriptive Governance	4723.49 - 4723.492
Commodity Advisory Commission	926.32
Consumer Advisory Committee to the Opportunities for Ohioans with Disabilities Commission	3304.16 (3304.14), Section 803.40
Continuing Education Committee	109.80(B)
Council on Alcohol and Drug Addiction Services	3793.09
Council on Unreclaimed Strip Mined Lands	1513.29
County Sheriff's Standard Car Marking and Uniform Commission	311.25 - 311.27
Credential Review Board	3319.65
Credit Union Council	1733.329
Criminal Sentencing Advisory Committee	181.22
Data Collection and Analysis Group	3727.32
Dentist Loan Repayment Advisory Board	3702.92
Department Advisory Council(s)	107.18, 121.13
Development Financing Advisory Council	122.40, 122.41
Early Childhood Advisory Council	3301.90
Education Commission of the States (Interstate Compact for Education)	3301.48, 3301.49
Education Management Information System Advisory Board	3301.0713
Educator Standards Board	3319.60
Electrical Safety Inspector Advisory Committee	3783.08
Emergency Response Commission	3750.02
Engineering Experiment Station Advisory Committee	3335.27
Environmental Education Council	3745.21

Environmental Protection Agency Advisory Board(s)	121.13, 3704.03, 3745.01
eTech Ohio <u>Broadcast Educational Media</u> Commission	3353.02 - 3353.04
Ex-Offender Reentry Coalition	5120.07
Farmland Preservation Advisory Board	901.23
Financial Planning and Supervision Commission(s) for Municipal Corporation, County, or Township	118.05
Financial Planning and Supervision Commission for a school district	3316.05
Forestry Advisory Council	1503.40
Governance Authority for a State University or College	3345.75
Governor's Council on People with Disabilities	3303.41
Governor's Policy Information Working Group	Section 313, H.B. 420, 127th G.A.
Governor's Residence Advisory Commission	107.40
Grain Marketing Program Operating Committee	924.20 - 924.30
Great Lakes Commission (Great Lakes Basin Compact)	6161.01
Gubernatorial Transition Committee	107.29, 126.26
Help Me Grow Advisory Council	3701.611
Hemophilia Advisory Subcommittee of the Medically Handicapped Children's Medical Advisory Council	3701.0210
Homeland Security Advisory Council	5502.011(E)
Hospital Measures Advisory Council	3727.31
Housing Trust Fund Advisory Committee	174.06
Industrial Commission Nominating Council	4121.04
Industrial Technology and Enterprise Advisory Council	122.29, 122.30
Infant Hearing Screening Subcommittee	3701.507
Infection Control Group	3727.312(D)
Insurance Agent Education Advisory Council	3905.483
Interstate Rail Passenger Advisory Council	4981.35
Joint Select Committee on Volume Cap	133.021
Labor-Management Government Advisory Council	4121.70
Legislative Programming Committee of the Ohio Government Telecommunications Service	3353.07

Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51
Maternity and Newborn Advisory Council	3711.20, 3711.21
Medically Handicapped Children's Medical Advisory Council	3701.025
Midwest Interstate Passenger Rail Compact Commission	4981.361
Milk Sanitation Board	917.03 - 917.032
Mine Subsidence Insurance Governing Board	3929.51
Minority Development Financing Advisory Board	122.72, 122.73
Multi-Agency Radio Communications System (MARCS) Steering Committee	Section 15.02, H.B. 640, 123rd G.A.
National Museum of Afro-American History and Culture Planning Committee	149.303
New African Immigrants Commission	4112.31, 4112.32
Ohio Accountability Task Force	3302.021(E)
Ohio Advisory Council for the Aging	173.03
Ohio Agriculture License Plate Scholarship Fund Board	901.90
Ohio Arts Council	Chapter 3379.
Ohio Business Gateway Steering Committee	5703.57
Ohio Cemetery Dispute Resolution Commission	4767.05, 4767.06
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)(4)
Ohio Commercial Market Assistance Plan Executive Committee	3930.02
Ohio Commission on Dispute Resolution and Conflict Management	179.02 - 179.04
Ohio Commission on Fatherhood	5101.34
Ohio Community Service Council	121.40 - 121.404
Ohio Council for Interstate Adult Offender Supervision	5149.22
Ohio Cultural Facilities Commission	Chapter 3383.
Ohio Cystic Fibrosis Legislative Task Force	101.38

Ohio Developmental Disabilities Council	5123.35
Ohio Expositions Commission	991.02
Ohio Family and Children First Cabinet Council	121.37
Ohio Geographically Referenced Information Program Council	125.901, 125.902
Ohio Geology Advisory Council	1501.11
Ohio Grape Industries Committee	924.51 - 924.55
Ohio Historic Site Preservation Advisory Board	149.301
Ohio Historical Society Board of Trustees	149.30
Ohio Judicial Conference	105.91 - 105.97
Ohio Lake Erie Commission	1506.21
Ohio Legislative Commission on the Education and Preservation of State History	Section 701.05, H.B. 1, 128th G.A.
Ohio Medical Quality Foundation	3701.89
Ohio Parks and Recreation Council	1541.40
Ohio Peace Officer Training Commission	109.71, 109.72
Ohio Private Investigation and Security Services Commission	4749.021, 4743.01
Ohio Public Defender Commission	120.01 - 120.03
Ohio Public Library Information Network Board of Trustees	3375.65, 3375.66
Ohio Quarter Horse Development Commission	3769.086
Ohio Small Government Capital Improvements Commission	164.02(C)(D)
Ohio Soil and Water Conservation Commission	1515.02
Ohio Standardbred Development Commission	3769.085
Ohio Subrogation Rights Commission	2323.44
Ohio Thoroughbred Racing Advisory Committee	3769.084
Ohio Transportation Finance Commission	5531.12(B) to (D)
Ohio Tuition Trust Authority	3334.03, 3334.08
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10, 3337.11
Ohio Vendors Representative Committee	3304.34, 20 USC 107
Ohio War Orphans Scholarship Board	5910.02 - 5910.06
Ohio Water Advisory Council	1521.031

Ohio Water Resources Council Advisory Group	1521.19
Ohio Water Resources Council	1521.19
Oil and Gas Commission	1509.35
Operating Committee of the Oil and Gas Marketing Program	1510.06, 1510.11
Organized Crime Investigations Commission	177.01
Pharmacy and Therapeutics Committee of the Department of Job and Family Services <u>Medicaid</u>	5111.084 <u>5164.7510</u>
Physician Assistant Policy Committee of the State Medical Board	4730.05, 4730.06
Physician Loan Repayment Advisory Board	3702.81
Power Siting Board	4906.02
Prequalification Review Board	5525.07
Private Water Systems Advisory Council	3701.346
Public Utilities Commission Nominating Council	4901.021
Public Utility Property Tax Study Committee	5727.85(K)
Radiation Advisory Council	3748.20
Reclamation Commission	1513.05
Reclamation Forfeiture Fund Advisory Board	1513.182
Recreation and Resources Commission	1501.04
Recycling and Litter Prevention Advisory Council	1502.04
School and Ministerial Lands Divestiture Committee	501.041
Savings and Loan Associations and Savings Banks Board	1181.16
Second Chance Trust Fund Advisory Committee	2108.35
Service Coordination Workgroup	Section 751.20, H.B. 1, 128th G.A.
Ski Tramway Board	4169.02
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19
Solid Waste Management Advisory Council	3734.51
Special Commission to Consider the Suspension of Local Government Officials	3.16
Speed to Scale Task Force	Section 375.60.80, H.B. 119, 128th G.A.
State Agency Coordinating Group	1521.19
State Audit Committee	126.46

State Council of Uniform State Laws	105.21 - 105.27
State Criminal Sentencing Commission	181.22 - 181.26
State Fire Council	3737.81
State Library Board	3375.01
State Victims Assistance Advisory Council	109.91(B) and (C)
Statewide Consortium of County Law Library Resource Boards	3375.481
STEM Committee	3326.02
Student Tuition Recovery Authority	3332.081
Sunset Review Committee	101.84 - 101.87
Tax Credit Authority	122.17(M)
Technical Advisory Committee to Assist Director of the Ohio Coal Development Office	1551.35
Technical Advisory Council on Oil and Gas	1509.38
Transportation Review Advisory Council	5512.07 - 5512.09
Unemployment Compensation Advisory Council	4141.08
Unemployment Compensation Review Commission	4141.06
Veterans Advisory Committee	5902.02(K)
Volunteer Fire Fighters' Dependents Fund Boards (private volunteer)	146.02 - 146.06
Volunteer Fire Fighters' Dependents Fund Boards (public)	146.02 - 146.06
Water and Sewer Commission	1525.11(C)
Waterways Safety Council	1547.73
Wildlife Council	1531.03 - 1531.05
Workers' Compensation Board of Directors Nominating Committee	4121.123

SECTION 610.21. That existing Section 4 of Sub. S.B. 171 of the 129th General Assembly, as amended by Am. Sub. H.B. 487 of the 129th General Assembly, is hereby repealed.

SECTION 620.10. That Section 105.05 of Am. Sub. H.B. 2 of the 128th General Assembly be amended to read as follows:

Sec. 105.05. Section 121.53 of the Revised Code is hereby repealed,

effective ~~September~~ June 30, 2013 2014.

SECTION 620.11. That existing Section 105.05 of Am. Sub. H.B. 2 of the 128th General Assembly is hereby repealed.

SECTION 630.10.10. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Parks and Recreation Improvement Fund (Fund 7035) that are not otherwise appropriated for the biennium ending June 30, 2014:

		Appropriations	
DNR DEPARTMENT OF NATURAL RESOURCES			
C725S6	Cleveland Zoological Society	\$	150,000
TOTAL Department of Natural Resources		\$	150,000

CLEVELAND ZOOLOGICAL SOCIETY

Of the foregoing appropriation item C725S6, Cleveland Zoological Society, shall be used for the Cleveland Zoological Society.

SECTION 630.11. That Sections 203.30.40, 203.30.70, 203.30.80, 203.90.20, 205.10.20, 205.30.90, 205.50.70, and 207.10.10 of Sub. S.B. 312 of the 129th General Assembly be amended to read as follows:

		Reappropriations	
Sec. 203.30.40. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD			
C87405	Capitol Rotunda Renovations	\$	37,363
C87406	Statehouse Grounds Repair/Improvements	\$	34,663
C87407	Sound System Upgrades	\$	30,654
C87409	Cupola Gutters and Ancillary Roof	\$	5,577
C87411	ADA Specific Sidewalk Ramp Replacement	\$	7,564
C87412	Capitol Square Security	\$	121,316
C87413	CSRAB Visitors' Center	\$	48,576
Total Capitol Square Review and Advisory Board		\$	285,713

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer any unexpended appropriations in appropriation item C87405, Capitol Rotunda Renovations, and appropriation item C87413, CSRAB Visitors' Center, to appropriation item C87412, Capitol Square Security. The appropriations transferred under this section are hereby appropriated.

		Reappropriations	
Sec. 203.30.70. OSB SCHOOL FOR THE BLIND			
C22607	Renovation of Science Laboratory Greenhouse	\$	26,473
C22614	New School Lighting	\$	32,775
C22616	Renovation and Repairs	\$	779,478

C22617	Elevator Replacement	\$	104,500
C22619	Public Address System Replacement	\$	73,150
C22622	Track Shelter	\$	42,750
C22624	Natatorium Renovations	\$	2,483
C22700	Infrastructure Improvements	\$	<u>1,640,652</u>
			<u>1,657,435</u>
Total Ohio School for the Blind		\$	<u>2,702,261</u>
			<u>2,719,044</u>

PUBLIC ADDRESS SYSTEM REPLACEMENT

The amount reappropriated for the foregoing appropriation item C22619, Public Address System Replacement, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C22619, Public Address System Replacement, minus \$77,000.

TRACK SHELTER

The amount reappropriated for the foregoing appropriation item C22622, Track Shelter, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C22622, Track Shelter, plus \$77,000.

INFRASTRUCTURE IMPROVEMENTS

The amount reappropriated for the foregoing appropriation item C22700, Infrastructure Improvements, is the unencumbered and unallotted balance as of June 30, 2013, in appropriation item C22700, Infrastructure Improvements, plus \$16,783.

Reappropriations

Sec. 203.30.80. OSD SCHOOL FOR THE DEAF

C22104	Boilers, Blowers, and Controls for the School Complex	\$	44,992
C22107	Renovation and Repairs	\$	950,000
C22108	High School Window Replacement	\$	20,041
C22109	High School HVAC	\$	19,182
C22111	Staff Building Windows and Repair	\$	15,983
C22112	Alumni Park Preservation	\$	59,375
C22800	Infrastructure Improvements	\$	905,833 <u>922,616</u>
Total Ohio School for the Deaf		\$	<u>2,015,406</u>
			<u>2,032,189</u>
TOTAL Administrative Building Fund		\$	<u>29,689,586</u>
			<u>29,723,152</u>

Reappropriations

Sec. 203.90.20. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES

C59004	Community Assistance Projects	\$	13,913,599
C59029	Emergency Generator Replacement	\$	460,362
C59034	Statewide Developmental Centers	\$	1,407,067
C59050	Emergency Improvements	\$	484,984
C59051	Energy Conservation	\$	430,500
C59055	Camp McKinley Improvements	\$	30,000
C59056	The Hope Learning Center	\$	250,000
TOTAL Department of Developmental Disabilities		\$	16,976,512
TOTAL Mental Health Facilities Improvement Fund		\$	<u>42,684,512</u>
			<u>42,584,512</u>

COMMUNITY ASSISTANCE PROJECTS

The foregoing appropriation item C59004, Community Assistance Projects, may be used to provide community assistance funds for the construction or renovation of facilities for day programs or residential programs that provide services to persons eligible for services from the Department of Developmental Disabilities or county boards of developmental disabilities.

The amount reappropriated for the foregoing appropriation item C59004, Community Assistance Projects, is the unencumbered, unallotted balance as of June 30, 2012, in appropriation item C59004, Community Assistance Projects, plus \$8,326,255. Prior to the expenditure of this reappropriation, the Director of Developmental Disabilities shall certify to the Director of Budget and Management canceled encumbrances in the Mental Health Facilities Improvement Fund (Fund 7033) in the amount of at least \$8,326,255.

STATEWIDE DEVELOPMENTAL CENTERS

The amount reappropriated for the foregoing appropriation item C59034, Statewide Developmental Centers, is the unencumbered, unallotted balance as of June 30, 2012, in appropriation item C59034, Statewide Developmental Centers, plus \$167,912. Prior to the expenditure of this reappropriation, the Director of Developmental Disabilities shall certify to the Director of Budget and Management canceled encumbrances in the Mental Health Facilities Improvement Fund (Fund 7033) in the amount of at least \$167,912.

Reappropriations

Sec. 205.10.20. BOR BOARD OF REGENTS

C23506	Third Frontier Project	\$	15,689,958
C23519	315 Research and Technology Corridor	\$	2,090,000
C23525	CWRU Mt. Sinai Skills and Simulation Center	\$	500,000
C23528	Clintonville Fiber Project	\$	100,000
C23529	Non-credit Job Training Facilities	\$	2,011,227
C23535	CWRU Energy Center <u>Cleveland Center for Membrane and Structural Biology</u>	\$	333,333
Total Board of Regents		\$	20,724,518

SUPPLEMENTAL RENOVATIONS LIBRARY DEPOSITORIES

The amount reappropriated for appropriation item C23524, Supplemental Renovations Library Depositories, is the unencumbered and unallotted balance in appropriation item C23524, Supplemental Renovations Library Depositories, minus \$95,695.

NON-CREDIT JOB TRAINING FACILITIES

The amount reappropriated for the foregoing appropriation item C23529, Non-credit Job Training Facilities, is the unencumbered and

unallotted balance in appropriation item C23529, Non-credit Job Training Facilities, as of June 30, 2012, plus \$866,811.

Reappropriations

Sec. 205.30.90. CCC CUYAHOGA COMMUNITY COLLEGE

C37800	Basic Renovations	\$	617,662
C37803	Technology Learning Center - Western	\$	40,941
C37812	Building A Expansion Module - Western	\$	118,115
C37816	College-Wide Wayfinding Signage System	\$	118,825
C37817	College-Wide Asset Protection & Building	\$	599,645
C37818	Healthcare Technology Building - Eastern	\$	1,343,897
C37821	Hospitality Management Program	\$	37,203
C37822	Theater Renovations	\$	948,231
C37824	Rock and Roll Hall of Fame Archive	\$	3,000
C37826	CW Roof Replacement	\$	181,197
C37831	Visiting Nurse Association	\$	142,500
C37833	Cleveland Zoological Society	\$	142,500
C37834	Museum of Contemporary Art Cleveland	\$	427,500
C37835	Western Reserve Historical Society	\$	2,660,000
Total Cuyahoga Community College		\$	<u>7,381,216</u>

BASIC RENOVATIONS

The amount reappropriated for the foregoing appropriation item C37800, Basic Renovations, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C37800, Basic Renovations, plus \$1,033,551.

NON-CREDIT JOB TRAINING

The amount reappropriated for appropriation item C37805, Non-credit Job Training, is the unencumbered and unallotted balance in appropriation item C37805, Non-credit Job Training, as of June 30, 2012, minus \$38,676.

BUILDING A EXPANSION MODULE - WESTERN

The amount reappropriated for the foregoing appropriation item C37812, Building A Expansion Module - Western, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C37812, Building A Expansion Module - Western, minus \$82,761.

THEATER RENOVATIONS

The amount reappropriated for the foregoing appropriation item C37822, Theater Renovations, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C37822, Theater Renovations, minus \$950,790.

CCC AUTO LAB IMPROVEMENTS

The amount reappropriated for appropriation item C37830, CCC Auto Lab Improvements, is the unencumbered and unallotted balance in appropriation item C37830, CCC Auto Lab Improvements, as of June 30, 2012, minus \$239.

Reappropriations

Sec. 205.50.70. STC STARK TECHNICAL COLLEGE

C38900	Basic Renovations	\$	4,775
C38917	Wind Energy Research and Development Center	\$	1,166,996
	Total Stark Technical College	\$	1,171,771
	TOTAL Higher Education Improvement Fund	\$	<u>226,722,333</u>
			<u>226,579,833</u>

Sec. 207.10.10. LOCAL PARKS PROJECTS

Of the foregoing appropriation item C725E2, Local Parks Projects, \$50,000 plus an amount equal to two per cent of the projects listed may be used by the Ohio Department of Natural Resources for the administration of local projects; \$1,586,570 shall be used for Grand Lake St. Mary's Improvements; \$400,000 shall be used for the Austin Pike Project - Land Acquisition; \$191,000 shall be used for Deerfield Township Simpson Creek Erosion Mitigation and Bank Control; \$121,700 shall be used for the Salt Fork State Park Concession Stand; \$100,000 shall be used for the Crown Point Conservation Easement; \$100,000 shall be used for the Euclid Beach Pier; \$100,000 shall be used for the Liberty Park Expansion - Twinsburg; \$100,000 shall be used for the Lucas County Marina; \$100,000 shall be used for the Midtown Cleveland Mountain Bike Park; \$100,000 shall be used for the Mudbrook Trail and Greenway Project; \$69,000 shall be used for Miami and Erie Canal Repairs in Spencerville; \$60,000 shall be used for the Marseilles Reservoir Bulkhead Project; \$50,000 shall be used for Dillon State Park Upgrades; \$25,000 shall be used for the Marblehead Lighthouse State Park Life Boat Station; \$24,165 shall be used for Tar Hollow State Park Improvements; \$20,200 shall be used for Van Buren State Park Campground Electric and Restroom Facility Improvements; and \$10,000 shall be used for Village of Albany Bike Paths.

FINDLEY STATE PARK

The amount reappropriated for the foregoing appropriation item C72511, Findley State Park, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C72511, Findley State Park, minus \$22,856.

LAKE HOPE STATE PARK

The amount reappropriated for the foregoing appropriation item C72522, Lake Hope State Park, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C72522, Lake Hope State Park, minus \$7,276.

HOCKING HILLS STATE PARK

The amount reappropriated for the foregoing appropriation item C72559, Hocking Hills State Park, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C72559, Hocking Hills

State Park, minus \$3,025.

PORTAGE LAKES STATE PARK

The amount reappropriated for the foregoing appropriation item C72576, Portage Lakes State Park, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C72576, Portage Lakes State Park, minus \$2,040.

DEER CREEK STATE PARK

The amount reappropriated for the foregoing appropriation item C72594, Deer Creek State Park, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C72594, Deer Creek State Park, minus \$19,392.

RIVERFRONT IMPROVEMENTS

The amount reappropriated for the foregoing appropriation item C725D0, Riverfront Improvements, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C725D0, Riverfront Improvements, minus \$5,000.

MOHICAN STATE PARK

The amount reappropriated for the foregoing appropriation item C725M9, Mohican State Park, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C725M9, Mohican State Park, minus \$72,469.

WASTEWATER AND WATER SYSTEMS UPGRADE

The amount reappropriated for the foregoing appropriation item C725N6, Wastewater and Water Systems Upgrade, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C725N6, Wastewater and Water Systems Upgrade, plus \$162,050.

SOUTH BASS ISLAND STATE PARK

The amount reappropriated for the foregoing appropriation item C725R0, South Bass Island State Park, is the unencumbered and unallotted balance as of June 30, 2012, in appropriation item C725R0, South Bass Island State Park, minus \$29,992.

KAMP DOVETAIL PROJECT

The amount reappropriated for the foregoing appropriation item C725S5, Kamp Dovetail Project, used by the Department of Natural Resources, is the unencumbered and unallotted balance remaining as of June 30, 2013, in appropriation item C59020, Kamp Dovetail Project, used by the Department of Developmental Disabilities.

FEDERAL REIMBURSEMENT

All reimbursements received from the federal government for any expenditures made pursuant to sections of this act numbered with the prefix

"207.10" shall be deposited in the state treasury to the credit of the Parks and Recreation Improvement Fund.

SECTION 630.12. That existing Sections 203.30.40, 203.30.70, 203.30.80, 203.90.20, 205.10.20, 205.30.90, 205.50.70, and 207.10.10 of Sub. S.B. 312 of the 129th General Assembly are hereby repealed.

SECTION 701.10. EXEMPT EMPLOYEE CONSENT TO CERTAIN DUTIES

As used in this section, "appointing authority" has the same meaning as in section 124.01 of the Revised Code, and "exempt employee" has the same meaning as in section 124.01 of the Revised Code.

Notwithstanding section 124.181 of the Revised Code, in cases where no vacancy exists, an appointing authority may, with the written consent of an exempt employee, assign duties of a higher classification to that exempt employee for a period of time not to exceed two years, and that exempt employee shall receive compensation at a rate commensurate with the duties of the higher classification.

SECTION 701.30. (A) As used in this section, "public record" has the meaning defined in section 149.43 of the Revised Code, and "public office" has the meaning defined in section 149.011 of the Revised Code.

Not later than May 31, 2014, the Director of Administrative Services shall deliver a report to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate that proposes uniform standards that should apply to a public office that chooses to post public records on an internet web site maintained by the public office. In developing the standards, the Director shall consider, at a minimum, the following factors: any recommended technology and/or software to use; the projected costs of implementing and maintaining such technology and software; and how a public office is to post a public record on its web site, or on a public web site maintained by the state, so that the public record, or the data contained in the public record, is capable of being searched and downloaded by the public in a uniform manner. The proposed uniform standards, as articulated in the report, shall seek to incorporate, insofar as practical, related practices of the Auditor of State and of other state agencies.

The Director may form, and seek advice from and consult with, an

advisory committee. Members of the advisory committee shall include, but are not limited to, representatives of state and local governments and individuals having relevant expertise to assist in developing the report.

(B) Not later than May 31, 2014, the Director of Development Services, in cooperation with the Local Government Innovation Council, shall prepare and issue to the members of the General Assembly a report that recommends various means by which the information exchange may provide local governments with insights regarding efficiency and productivity, and various means by which the information exchange may help local governments improve services to vulnerable populations by providing insights regarding programs that benefit the poor, including general welfare support programs. The report also shall include recommendations, developed by the Director and the Council in consultation with the Third Frontier Commission, expressing various means by which data in the information exchange may create opportunities for private sector research institutions to develop value-added products or services that may be commercialized or create jobs, and thereby contribute to the betterment of the state economy.

SECTION 701.40. (A) As used in this section, "political subdivision" has the meaning defined in section 2744.01 of the Revised Code.

(B) There is the Local Government Efficiency Program to be administered by the Local Government Innovation Council. The Council shall adopt rules under Chapter 119. of the Revised Code as are necessary to administer the program, including application procedures and identification of approved training programs. Under the program, the Council may:

(1) Award scholarships to political subdivision employees, and make grants and loans to political subdivisions, and to regional councils of government or other similar cooperative governmental arrangements consisting of political subdivisions, for training in process efficiency programs including, but not limited to, Six Sigma, Kaizen, and Lean;

(2) Award grants or loans to political subdivisions to assist the political subdivisions in implementing the recommendations in the report published by the Director of Administrative Services under Section 701.30 of this act; and

(3) Award a grant, not to exceed \$200,000, to the Department of Administrative Services for the provision of training in process efficiency programs as described in division (B)(1) of this section.

SECTION 701.61. Notwithstanding sections 124.14, 124.141, and 124.15 of the Revised Code, until July 1, 2015, the Director of Administrative Services may implement the provisions of sections 124.14, 124.141, and 124.15 of the Revised Code that otherwise would require the adoption of rules without adopting rules.

SECTION 715.10. Two years after the amendments to section 1501.011 of the Revised Code by this act take effect, the Ohio Facilities Construction Commission and the Department of Natural Resources shall review division (C) of that section.

SECTION 733.10. Notwithstanding section 3317.01 of the Revised Code, as amended by this act, to determine whether a school district satisfied the minimum school year in the 2013-2014 school year in order to qualify for state funding under Chapter 3317. of the Revised Code for fiscal year 2015, the Department of Education shall apply the criteria prescribed in the version of division (B) of section 3317.01 of the Revised Code in effect prior to July 1, 2014.

SECTION 733.20. The General Assembly hereby declares its intent, in enacting section 3319.031 of the Revised Code, to supersede any effect of the decision of the Court of Appeals of the Eighth Appellate District in *OAPSE/AFSCME Local 4 v. Berdine*, 174 Ohio App.3d 46 (Cuyahoga County, 2007) to the extent the decision conflicts with the principle that boards of education may appoint a licensed business manager, but also may determine instead to assign the roles and functions of a business manager to one or more employees or officers of the board, including the treasurer, in the board's sole discretion.

SECTION 733.40. (A) The Superintendent of Public Instruction shall appoint three incorporators who are knowledgeable about the administration of public schools and about the operation of nonprofit corporations in Ohio.

(B) The incorporators shall do whatever is necessary and proper to set up a nonprofit corporation under Chapter 1702. of the Revised Code. The articles of incorporation, in addition to meeting the requirements of section 1702.04 of the Revised Code, shall set forth the following provisions:

(1) That the nonprofit corporation is to create and implement a pilot program that provides an alternative path for individuals to receive training and development in the administration of primary and secondary education and leadership, that will enable these individuals to earn a degree in public school administration, that will enable these individuals to obtain licenses in public school administration, and that promotes the placement of these individuals in public schools that have a poverty percentage greater than fifty per cent.

(2) That the Board of Directors are to establish criteria for program costs, participant selection, and continued participation, and metrics to document and measure pilot program activities.

(3) That the name of the nonprofit corporation is "New Leaders for Ohio Schools."

(4) That the Board of Directors is to consist of the following nine directors:

(a) The Governor or the Governor's designee;

(b) The Superintendent of Public Instruction, or the Superintendent's designee;

(c) The Chancellor of the Ohio Board of Regents, or the Chancellor's designee;

(d) Two individuals to represent major business enterprises in Ohio;

(e) Two individuals appointed by the Speaker of the House of Representatives, one of whom shall be an active duty or retired military officer;

(f) Two individuals appointed by the President of the Senate, one of whom shall be a current or retired teacher or principal.

The Dean of The Ohio State University Fisher College of Business and the Dean of The Ohio State University College of Education and Human Ecology are to serve as ex-officio nonvoting members of the Board.

The individuals on the Board who represent major business enterprises in Ohio are to be appointed by a statewide organization selected by the Governor. The organization is to be nonpartisan and consist of chief executive officers of major corporations organized in Ohio.

(5) That the Board is to elect a chairperson from among its members, and is to appoint a President of the corporation.

(6) That the President of the Corporation, subject to the approval of the Board, is to enter into a contract with The Ohio State University Fisher College of Business. Under the contract, the College is to provide oversight to the corporation, is to serve as fiscal agent for the corporation, and is to provide the corporation with office space, and with office furniture and

equipment, as is necessary for the corporation successfully to fulfill its duties.

(7) That the overhead expenses of the corporation are not to exceed fifteen per cent of the annual budget of the corporation.

(8) That the President is to apply for, and is to receive and accept, grants, gifts, bequests, and contributions from private sources.

(9) That the corporation is to submit an annual report to the General Assembly and Governor beginning December 31, 2013.

(10) That state financial support for the corporation shall cease on the date that is five years after the effective date of this section.

SECTION 733.50. (A) The State Board of Education shall issue an alternative principal or administrator license in accordance with rules adopted under this section to an individual who successfully completes the New Leaders for Ohio Schools pilot program under Section 733.40 of this act.

(B) The State Board, in consultation with the Board of Directors of New Leaders for Ohio Schools, shall adopt rules that prescribe the requirements for an alternative principal or administrator license specifically for an individual who successfully completes the New Leaders for Ohio Schools pilot program. The State Board shall use the rules for alternative principal and administrator licenses previously adopted under section 3319.27 of the Revised Code as a guideline for development of the rules adopted under this section.

SECTION 737.20. TELEMEDICINE POLICY WORKGROUP

The Executive Director of the Governor's Office of Health Transformation may convene a workgroup of state agency directors to study policy matters regarding the potential benefits of using telemedicine as a means of increasing the quality and availability of health care services within this state. If established, the workgroup shall include the Medicaid Director, Superintendent of Insurance, and any other state agency director the Executive Director considers appropriate. Additional individuals may be included at the discretion of the Executive Director.

A study conducted by a workgroup established under this section shall focus on developing a comprehensive statewide policy that encourages the use of telemedicine as an integral component of the state's health care system. In doing so, the workgroup shall consider not only the practice of telemedicine and the technology used to provide telemedicine services, but

also matters pertaining to the implementation of telemedicine systems and the reimbursement of health care professionals, health care facilities, and other providers of telemedicine services, including coverage provided by health care insurers and the Medicaid program.

SECTION 737.30. Before December 31, 2013, the Joint Committee on Gaming and Wagering, established in section 3772.032 of the Revised Code, shall prepare a report that includes findings on criminal problems posed by gaming and wagering at casino facilities and video lottery terminal facilities, as well as recommendations on policies and procedures that may be used to protect personal liberty while also reducing criminal activity. The committee shall submit the report to the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Governor, the Attorney General, the State Lottery Commission, and the Ohio Casino Control Commission.

SECTION 745.10. There is hereby created the License Plate Safety Task Force. The Task Force shall consist of eight members: three members appointed by the President of the Senate, one member appointed by the Minority Leader of the Senate, three members appointed by the Speaker of the House of Representatives, and one member appointed by the Minority Leader of the House of Representatives. At least five members shall represent law enforcement.

The Task Force shall examine the extent of license plate degradation over time and the impediments to law enforcement efforts caused by illegible license plates resulting from degradation. The Task Force also shall examine whether having dual license plates is beneficial to law enforcement officers and determine whether the state should continue its dual plate requirement. Not later than December 31, 2013, the Task Force shall issue a report of its findings and recommendations to the Governor, the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives. At that time, the Task Force shall cease to exist.

SECTION 747.10. (A) The Ohio Cemetery Law Task Force shall develop recommendations on modifications of the laws of this state relating to cemeteries.

(B) The Ohio Cemetery Law Task Force is established. The Task Force

shall consist of the following eleven members: a representative of local government, other than townships, appointed by the President of the Senate; a representative of the Ohio Township Association appointed by the President of the Senate; a representative of Native Americans appointed by the President of the Senate; a representative of private cemeteries appointed by the Speaker of the House of Representatives; a representative of the Ohio Historical Society appointed by the Speaker of the House of Representatives; a representative of archeologists appointed by the Speaker of the House of Representatives; a representative of the Ohio Genealogical Society appointed by the Governor; a representative of the Ohio Cemetery Dispute Resolution Commission appointed by the Governor; a representative of the Division of Real Estate and Professional Licensing in the Department of Commerce appointed by the Governor; a representative of the Department of Transportation appointed by the Governor; and a representative of the Department of Natural Resources appointed by the Governor.

The initial appointments shall be made not later than thirty days after the effective date of this section. Vacancies shall be filled in the manner provided for original appointments.

The Task Force shall elect two of its members to serve as co-chairpersons of the Task Force.

The Task Force shall meet as often as necessary to carry out its duties and responsibilities. Members of the Task Force shall serve without compensation.

(C) The Task Force shall issue a report of its recommendations to the President of the Senate, the Speaker of the House of Representatives, and the Governor not later than one year after the effective date of this section. The Task Force ceases to exist upon submitting its report.

SECTION 747.20. The county recorder shall continue to keep six separate sets of records of all agreements for the registration of lands as archaeological or historic landmarks recorded before the effective date of this section.

SECTION 747.30. Notwithstanding section 4783.04 of the Revised Code, as enacted by this act, if an individual certified as a board certified behavior analyst by the Behavior Analyst Certification Board or its successor organization can demonstrate active practice in a manner prescribed in rules adopted by the State Board of Psychology within one year after the effective

date of those rules, the individual may apply for immediate certification as a certified Ohio behavior analyst without paying a fee or satisfying other requirements specified in section 4783.04 of the Revised Code or requirements prescribed by the State Board of Psychology.

The State Board of Psychology shall provide internet access to the study guide produced by the State Board of Psychology that summarizes the applicable laws and rules. An individual issued a certificate pursuant to this section is responsible for knowledge of Ohio law based on self-study of these documents.

Following initial certification under this section, a certified Ohio behavior analyst shall comply with section 4783.05 of the Revised Code with respect to biennial registration, payment of fees, and continuing education requirements.

SECTION 747.40. The Departments of Developmental Disabilities, Mental Health and Addiction Services, Health, and Education; the Ohio Board of Regents; and any other appropriate state agency shall work with the Ohio Center for Autism and Low Incidence or another qualified entity to create a certification or endorsement process for individuals providing evidence-based interventions to serve or support an individual with an autism spectrum disorder. The process created shall not conflict with or duplicate any current state licensure processes and shall include clinical therapeutic interventionists. The goal of the process created shall be to build the capacity of individuals qualified to serve or support individuals with autism spectrum disorders. Legislative recommendations shall be submitted to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives not later than October 31, 2013.

SECTION 751.10. RECOVERY REQUIRES A COMMUNITY PROGRAM

The Department of Mental Health and Addiction Services, in consultation with the Department of Medicaid, shall administer the Recovery Requires a Community Program to identify individuals residing in nursing facilities who can be successfully moved into a community setting with the aid of community non-Medicaid services.

The Director of Mental Health and Addiction Services and the Medicaid

Director shall agree upon an amount representing the savings realized from decreased nursing facility utilization to be transferred within the biennium from the Department of Medicaid to the Department of Mental Health and Addiction Services to support non-Medicaid program costs for individuals moving into community settings.

Of the foregoing appropriation item 651525, Medicaid/Health Care Services, the Medicaid Director shall transfer the amount agreed upon representing the savings from the General Revenue Fund to the Sale of Goods and Services Fund (Fund 1490). The transfer shall be made using an intrastate transfer voucher. The transferred cash is hereby appropriated to appropriation item 335609, Community Operating/Planning.

SECTION 751.41. (A) The Workforce Training Pilot Program for the Economically Disadvantaged is hereby established to provide grants to provide training in life and technical skills. The Director of Job and Family Services shall administer the Pilot Program for a period of two years, beginning July 1, 2013.

(B) The Director of Job and Family Services, in consultation with the Director of Development Services and JobsOhio, shall issue a request for proposals to allow an entity to receive a grant under this section to create and administer a demonstration project in the field of workforce development. The demonstration project shall provide training to those individuals located in the region described in division (C) of this section where the project is located who the applicant determines are economically disadvantaged. The request for proposals shall include all of the following requirements:

(1) That the applicant shall include in the proposal a description of the manner in which the applicant will determine whether an individual is economically disadvantaged;

(2) That the demonstration project shall provide life skills training, to assist an individual to develop character traits necessary to obtain employment, and technical, field-related training;

(3) That the applicant is collaborating with an organization in the region described in division (C) of this section where the project is located and at least one community-based nonprofit organization that has experience in life-skill support services and workforce development;

(4) That the applicant satisfies any other requirements established in the request for proposals.

(C)(1) The Director of Job and Family Services, in consultation with the Director of Development Services and JobsOhio, shall award a grant in

fiscal year 2014 for a demonstration project described in division (B) of this section in each of the following regions of the state:

(a) The counties of Allen, Crawford, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, and Wyandot;

(b) The counties of Ashland, Ashtabula, Columbiana, Cuyahoga, Erie, Geauga, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, and Wayne;

(c) The counties of Auglaize, Champaign, Clark, Clinton, Darke, Fayette, Greene, Mercer, Miami, Montgomery, Preble, and Shelby;

(d) The counties of Delaware, Fairfield, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, and Union;

(e) The counties of Adams, Athens, Belmont, Carroll, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton, and Washington;

(f) The counties of Brown, Butler, Clermont, Hamilton, and Warren.

(2) The Director of Job and Family Services may award a grant to one or two demonstration projects located in a region described in division (C)(1) of this section, however, no region shall receive more than one million dollars in grant funding under this section.

(D) The Director of Job and Family Services shall adopt rules in accordance with Chapter 119. of the Revised Code to establish reporting requirements for grant recipients under this section. Those rules shall require a grant recipient to report on the successful completion rate of project participants, rate of job placement of participants, tracking of participant's employment after completion of the project, and any other information requested by the Director. The Director shall require grant recipients to report this information during the two-year Pilot Program and to submit a final report upon the expiration of the Pilot Program. A grant recipient shall comply with rules adopted by the Director.

(E) On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$8,000,000 cash from the Economic Development Projects Fund (Fund 5JC0) used by the Board of Regents to the Training Activities Fund (Fund 6130) used by the Department of Job and Family Services. The transferred funds shall be used for the Pilot Program established in this section.

SECTION 753.30. (A) There is the State Facility Utilization and Consolidation Task Force. The Task Force shall create an inventory of

state-owned real property and of assets related to the real property, study the current utilization of the real property and related assets, determine which real properties and related assets are not being productively used, determine which real properties and related assets that are not being productively used could be productively used, and determine which real properties and related assets that are not being productively used could be productively used if consolidated. The Task Force, based on its study, shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives, not later than one year after the effective date of this section, a report expressing Task Force's recommendations for the sale, productive use, or consolidation of state-owned real property and assets. Upon completing delivery of its report, the Task Force ceases to exist.

(B) The Task Force consists of the following members: Two members of the House of Representatives, appointed by the Speaker of the House of Representatives; two members of the Senate appointed by the President of the Senate; one individual appointed by the Governor; the Director of Administrative Services or the Director's designee; and the Director of Budget and Management or the Director's designee. Vacancies on the Task Force shall be filled by the appointing authority.

The Task Force shall select a chairperson and vice-chairperson from among its members.

Members of the Task Force are not entitled to compensation for serving on the Task Force. Members of the Task Force may continue to receive the compensation and benefits accruing from their regular offices or employments. A member of the Task Force is entitled to reimbursement of actual and necessary expenses incurred because of service on the Task Force.

The Task Force first shall meet within one month after the effective date of this section at the call of the Governor. Thereafter, the Task Force shall meet at the call of its chairperson as necessary to carry out its duties.

The Director of Administrative Services shall provide the Task Force with meeting space and with professional, technical, and clerical staff as is necessary for the Task Force successfully and efficiently to fulfill its duties.

SECTION 755.10. Not later than ninety days after the effective date of this section, the Director of Transportation shall establish a county bridge program to assist counties with the maintenance of bridges. The program may provide monetary and other resources, and shall address infrastructure

needs related to county-maintained bridges, including bridge embankments, drainage bridge repair, and other related conditions.

The Director may consult with affected political subdivisions in assessing needs and in developing the program. Upon establishing the program, the Director shall notify affected political subdivisions in an appropriate manner of the availability of the program.

SECTION 757.10. MINIMUM DISTRIBUTION OF LOCAL GOVERNMENT FUND

Notwithstanding any provision of section 131.51 of the Revised Code to the contrary, from revenue arising from the personal income tax levied under Chapter 5747. of the Revised Code, an amount equal to one hundred per cent of the amount credited to the Local Government Fund in July 2012 shall be credited to such fund in July 2013. In July 2013 each county undivided local government fund shall receive the same amount it received in July 2012. In July 2013 each municipal corporation shall receive the same amount it directly received from the Local Government Fund in July 2012.

SECTION 757.50. The amendment by this act of divisions (Q), (R), and (S) of section 5741.01 and section 5741.03 of the Revised Code and the enactment of section 5741.032 of the Revised Code are hereby effectuated with the intent that if the United States Congress enacts the Marketplace Fairness Act of 2013, or other similar legislation authorizing states to require sellers that lack a substantial nexus with the state to pay, collect, or remit sales or use tax, the General Assembly shall adopt, before the effective date of such federal legislation, any conforming amendments required by such federal legislation and requiring the Tax Commissioner to adopt rules necessary to effectively administer such taxes with respect to remote sellers, as defined in division (R) of section 5741.01 of the Revised Code.

This section is not intended to create a nexus between this state and remote sellers for any tax other than those imposed under Chapters 5739. and 5741. of the Revised Code.

SECTION 757.60. The purpose of section 3735.661 of the Revised Code is to clarify the intent of the General Assembly that "first two amendments," as used in division (B) of Section 3 of Am. Sub. S.B. 19 of the 120th General Assembly, has, on and after July 22, 1994, referred and continues to

refer to only a substantive amendment to a community reinvestment area ordinance or resolution that extends, expands, increases, or otherwise broadens the availability of tax exemptions provided under the ordinance or resolution and does not refer to an amendment that decreases or otherwise limits the availability of tax exemptions under the ordinance or resolution or that are procedural or administrative. Therefore, section 3735.661 of the Revised Code applies retroactively to ordinances and resolutions adopted under section 3735.66 of the Revised Code before and after the effective date of section 3735.661 of the Revised Code.

SECTION 803.10. An investor who is issued a tax credit certificate under section 122.152 of the Revised Code prior to that section's repeal by this act may continue to claim that credit in the manner provided for in that section.

SECTION 803.20. The member of the Farmland Preservation Advisory Board appointed under division (A)(4) of section 901.23 of the Revised Code, as that section existed prior to its amendment by this act, who is serving on the effective date of this act shall continue to serve until the expiration of the term for which the member was appointed. At the end of that term, a member shall be appointed in accordance with division (A)(4) of that section as amended by this act.

SECTION 803.30. A member of the technical advisory committee created in section 1551.35 of the Revised Code, as amended by this act, who was appointed by the Director of the Ohio Coal Development Office and who is serving on the committee immediately prior to the effective date of the amendments to that section shall continue in office until the expiration of the member's term. Thereafter, the appointment of a member for that position on the committee shall be made in accordance with the amendments to that section by this act.

SECTION 803.41. (A) A member serving on the Rehabilitation Services Commission immediately prior to the effective date of this section who was appointed under section 3304.12 of the Revised Code as that section existed prior to its amendment by this act shall continue serving on the Opportunities for Ohioans with Disabilities Commission established by the

amendments to that section by this act until the end of the term for which the member was appointed.

(B) The consumer advisory committee that is required to be appointed by the Opportunities for Ohioans with Disabilities Commission by section 3304.16 (3304.14) of the Revised Code, as amended and renumbered by this act, is a continuation of the consumer advisory committee that was required to be appointed by the Rehabilitation Services Commission by section 3304.24 of the Revised Code prior to the repeal of that section by this act.

SECTION 803.50. The amendments to sections 3313.48, 3313.533, 3313.62, 3317.01, and 3321.05; the repeal and reenactment of section 3313.481; and the repeal of section 3313.482 of the Revised Code made by this act do not apply to any collective bargaining agreement executed under Chapter 4117. of the Revised Code prior to July 1, 2014. Any collective bargaining agreement or renewal executed after that date shall comply with the changes provided for in this act.

SECTION 803.60. (A) As used in this section:

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

(2) "Career-technical planning district" has the same meaning as in section 3302.033 of the Revised Code.

(B) Nothing in Chapter 3365. of the Revised Code or the amendment of sections in that chapter by this act shall be construed to infringe upon or require the alteration of any existing or future articulation agreement for technical coursework offered through state-approved career-technical programs of study or any corresponding payment structure between any state institution of higher education and a career-technical planning district.

The Department of Education and the Board of Regents shall study the implications of applying the changes in Chapter 3365. of the Revised Code to articulation agreements for technical coursework offered through state-approved career-technical programs of study. The Department and the Board also shall make recommendations on how such career-technical programs of study might be included under Chapter 3365. of the Revised Code and the implications of including them. These recommendations shall be submitted to the Governor's Office of 21st Century Education and the General Assembly in accordance with section 101.68 of the Revised Code,

not later than July 1, 2014.

SECTION 803.80. (A) The amendment by this act of divisions (A)(26) and (GG) of section 5747.01, section 5747.022 by adding the last sentence thereto, and of division (A) of section 5747.025 of the Revised Code applies to taxable years beginning on or after January 1, 2014.

(B) The amendment by this act of divisions (A)(26), (29), (31), and (33) of section 5747.01, the first sentence of section 5747.022, division (C) of section 5747.025, and of sections 5747.02, 5747.05, 5747.08, 5747.21, 5747.22, and 5748.01 and the repeal of section 5747.211 of the Revised Code applies to taxable years beginning on or after January 1, 2013.

SECTION 803.90. (A) Except as provided in division (B) of this section, the amendment by this act of section 5751.01 of the Revised Code applies to tax periods ending on or after the effective date of that amendment.

(B) The amendment by this act of section 5751.02, division (A) of section 5751.051, divisions (B)(1), (B)(2), and (J) of section 5751.20, and all divisions of section 5751.01 of the Revised Code except divisions (F)(2)(z) and (jj) of that section shall take effect July 1, 2014.

(C) The amendment by this act of divisions (F)(2)(z) and (jj) of section 5751.01 of the Revised Code applies to original returns filed on or after January 1, 2014.

(D) The amendment by this act of section 5751.03 and division (B)(2) of section 5751.051 of the Revised Code applies to tax periods beginning on or after January 1, 2014.

SECTION 803.120. (A) The amendment by this act of section 1509.50, division (C)(12) of section 5703.21, section 5749.02, divisions (D), (F), (H), and (I) of section 5749.06, and section 5749.17 of the Revised Code applies to calendar quarters beginning on or after October 1, 2013.

(B) The amendment by this act of division (G) of section 5749.06 of the Revised Code applies to the severance of natural resources occurring in calendar quarters beginning on or after January 1, 2014.

SECTION 803.160. (A) References to the Ohio Cooperative Extension Service, or use of a similar term, in any contracts, agreements, or other instruments that were entered into or executed prior to the effective date of this section pursuant to state statutes are deemed to be references to OSU

Extension as defined in section 1.611 of the Revised Code as enacted by this act.

(B) References to the Ohio Cooperative Extension Service, or use of a similar term, in rules adopted prior to the effective date of this section pursuant to state statutes are deemed to be references to OSU Extension.

SECTION 803.170. The amendment by this act of section 5709.17 of the Revised Code applies to tax year 2013 and every tax year thereafter.

SECTION 803.180. The amendment or enactment by this act of sections 5735.012 and 5735.013 applies on and after January 1, 2014.

SECTION 803.190. (A) The amendment or enactment by this act of division (I), except for divisions (I)(2)(g) and (I)(4), of section 5741.01 of the Revised Code applies to the storage, use, or other consumption of tangible personal property or services occurring on and after the first month beginning after the effective date of that division and section.

(B) The amendment by this act of divisions (I)(2)(g) and (I)(4) of section 5741.01 and section 5741.17 of the Revised Code applies to the storage, use, or other consumption of tangible personal property or services occurring on and after October 1, 2013, regardless of the date a seller and a resident entered into an agreement described in division (I)(2)(g) of section 5741.01 of the Revised Code. On that date, as used in divisions (I)(2)(g) and (I)(4) of section 5741.01 of the Revised Code, "preceding twelve months" means the twelve months beginning October 1, 2012, and ending September 30, 2013.

(C) The amendment by this act of section 5739.02 of the Revised Code, adding divisions (B)(49)(b) and (54), applies to retail sales occurring on or after the first day of the first month beginning after the effective date of that section.

(D) The amendment by this act of section 5739.01, adding divisions (B)(12) and (QQQ), and of division (B)(4) of section 5739.02 of the Revised Code applies to the storage, use, or other consumption of tangible personal property or services and retail sales made on or after January 1, 2014.

(E) The amendment by this act of division (A) of section 5739.02 and sections 5739.10 and 5741.02 of the Revised Code applies to the storage, use, or other consumption of tangible personal property and services and retail sales made on or after September 1, 2013.

SECTION 803.193. The amendment by this act of sections 5743.01, 5743.51, 5743.62, and 5743.63 of the Revised Code applies on and after October 1, 2013.

SECTION 803.210. Section 4503.192 of the Revised Code, which under Am. Sub. H.B. 51 of the 130th General Assembly is scheduled to take effect on July 1, 2013, rather takes effect on January 1, 2014.

SECTION 803.230. The amendment by this act of section 5739.02 of the Revised Code, adding division (B)(52), applies to the sale or storage, use, or other consumption of tangible personal property or services occurring before, on, or after the effective date of this section.

SECTION 803.240. The amendments by this act to section 5735.27 of the Revised Code apply to any proceedings commenced after their effective date, and, so far as their provisions support the actions taken, also apply to any proceedings that on their effective date are pending, in progress, or completed and that are supplemented to provide or confirm compliance with or support by the provisions of those amendments as if they had been in effect at the time of those proceedings, and also apply to any public obligations authorized, issued, or incurred pursuant to those proceedings, notwithstanding any law, resolution, ordinance, order, advertisement, notice, or other proceeding in effect before their effective date. Any proceedings pending or in progress on the effective date of the amendments, or any public obligations authorized, sold, issued, incurred, delivered, or validated pursuant to those proceedings, shall be deemed to have been taken, authorized, sold, issued, incurred, delivered, or validated in conformity with the amendments so far as their provisions support the actions taken.

The amendments by this act to section 5735.27 of the Revised Code provide additional and supplemental provisions for subject matter that may also be the subject of other laws, and are intended to be supplemental to, and not in derogation of, any similar authority provided by, derived from, or implied by, the Constitution of Ohio, or any other law, including laws amended by this act, or any charter, order, resolution, or ordinance; and those amendments to section 5735.27 of the Revised Code shall not be interpreted to negate the authority provided by, derived from, or implied by the Constitution of Ohio, laws, charters, orders, resolutions, or ordinances.

SECTION 803.260. The amendment by this act of section 5729.04 of the Revised Code applies to calendar years ending on or after December 31, 2013.

SECTION 803.280. The amendment by this act of sections 307.673, 307.696, 307.697, 4301.421, 5743.024, and 5743.323 of the Revised Code apply to any proceedings commenced after their effective date, and, so far as their provisions support the actions taken, also apply to any proceedings that on their effective date are pending, in progress, or completed, to any elections authorized, conducted, or certified, and to securities authorized or issued pursuant to those proceedings, notwithstanding any law, resolution, ordinance, order, advertisement, notice, or other proceeding in effect before their effective date. Any proceedings pending or in progress on, or completed by or before, the effective date of those amendments, elections authorized, conducted, or certified, and securities sold, issued, and delivered, or validated, pursuant to those proceedings, shall be deemed to have been taken, authorized, conducted, certified, sold, issued, delivered, or validated in conformity with those amendments so far as their provisions support the actions taken, and are hereby ratified and confirmed.

The amendment by this act of sections 307.673, 307.696, 307.697, 4301.421, 5743.024, and 5743.323 of the Revised Code provide additional or supplemental provisions for subject matter that may also be the subject of other laws, and is intended to be supplemental to, and not in derogation of, any similar authority provided by, derived from, or implied by, the Constitution of Ohio, or any other law, including laws amended by this act, or any charter, order, resolution, or ordinance; and those amendments to sections 307.673, 307.696, 307.697, 4301.421, 5743.024, and 5743.323 of the Revised Code shall not be interpreted to negate the authority provided by, derived from, or implied by such Constitution of Ohio, laws, charters, orders, resolutions, or ordinances.

Sections 307.673, 307.696, 307.697, 4301.421, 5743.024, and 5743.323 of the Revised Code, as they existed prior to their amendment by this act, shall be deemed to remain applicable to any actions taken, including any election held or any securities issued pursuant to or in reliance on them.

SECTION 803.290. The amendment or enactment by this act of sections 3769.089, 3769.10, 3769.101, 3769.102, 3769.103, 3769.26, and 3769.28,

of section 3769.08 amending divisions (C) and (M) and the first paragraph of division (B) of that section, of section 3769.087 amending divisions (A) and (B) of that section, and of section 3769.088 of the Revised Code amending division (A) of that section, takes effect on October 1, 2013.

SECTION 803.300. The amendment by this act of division (A) of section 5705.21 of the Revised Code applies to any proceedings commenced after its effective date, and, so far as its provisions support the actions taken, also applies to any proceedings that on its effective date are pending, in progress, or completed, to any elections authorized, conducted, or certified, and to securities authorized or issued pursuant to those proceedings, notwithstanding any law, resolution, ordinance, order, advertisement, notice, or other proceeding in effect before its effective date. Any proceedings pending or in progress on, or completed by or before, the effective date of the amendment, elections authorized, conducted, or certified, and securities sold, issued, and delivered, or validated, pursuant to those proceedings, shall be deemed to have been authorized, conducted, certified, sold, issued, delivered, or validated in conformity with the amendment so far as its provision support the actions taken, and are hereby ratified and confirmed.

The amendment by this act of division (A) of section 5705.21 of the Revised Code provides additional or supplemental provisions for subject matter that may also be the subject of other laws, and is intended to be supplemental to, and not in derogation of, any similar authority provided by, derived from, or implied by, the Constitution of Ohio, or any other law, including laws amended by this act, or any resolution; and that amendment shall not be interpreted to negate the authority provided by, derived from, or implied by the Constitution of Ohio or such laws or resolutions.

The provisions of law enacted, amended, or repealed by this act, as the provisions existed prior to the effective date of this section, shall be deemed to remain applicable to any actions taken, including any election held or any securities issued pursuant to or in reliance on them.

SECTION 803.310. The amendment by this act of sections 5709.40, 5709.73, and 5709.78 of the Revised Code applies to applications for exemption that are pending on, or are filed on or after, the effective date of this section.

SECTION 806.10. The items of law contained in this act, and their applications, are severable. If any item of law contained in this act, or if any application of any item of law contained in this act, is held invalid, the invalidity does not affect other items of law contained in this act and their applications that can be given effect without the invalid item of law or application.

SECTION 809.10. An item of law, other than an amending, enacting, or repealing clause, that composes the whole or part of an uncodified section contained in this act has no effect after June 30, 2015, unless its context clearly indicates otherwise.

SECTION 812.10. Except as otherwise provided in this act, the amendment, enactment, or repeal by this act of a section is subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore takes effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified below, on that date.

The amendment of sections 955.01, 955.05, 955.06, 955.07, 955.08, 955.09, and 955.14 of the Revised Code takes effect December 1, 2013.

The enactment of section 5162.12 of the Revised Code takes effect January 1, 2014.

The amendment or repeal of sections 183.11, 183.16, and 183.33 of the Revised Code takes effect July 1, 2014.

The amendment, enactment, or repeal of sections 3313.48, 3313.533, 3313.62, 3314.092, 3321.05, 3326.11, and 3327.02 of the Revised Code takes effect July 1, 2014.

The repeal and reenactment of section 3313.481 of the Revised Code takes effect July 1, 2014.

The enactment of section 3327.07 of the Revised Code takes effect on July 1, 2014.

Division (A) of section 4783.02 of the Revised Code takes effect one year after the effective date of that section.

Sections 323.70, 323.110, 323.120, and 323.480 of this act take effect at the earliest time permitted by law but not earlier than September 30, 2013.

SECTION 812.20. The amendment, enactment, or repeal by this act of the sections listed below is exempt from the referendum under Ohio

Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore takes effect immediately when this act becomes law or, if a later effective date is specified below, on that date.

Sections 131.51, 731.091, 3314.05, 3734.57, 3734.901, 4301.43, 5727.84, 5739.10, 5741.02, 5747.501, and 5753.03 of the Revised Code.

Sections of this act prefixed with section numbers in the 200's, 300's, 400's, and 500's except for sections 323.10.70, 323.70, 323.110, 323.120, 323.480, 363.230, 363.520, 363.540, and 363.550 of this act.

Sections 605.30 and 605.31 of this act.

Section 751.41 of this act.

Section 803.210 of this act.

Sections 812.10, 812.20, and 812.30 of this act.

The enactment of section 5168.41 of the Revised Code takes effect July 1, 2013.

The amendment of sections 120.06 and 5139.04 of the Revised Code takes effect July 1, 2013.

SECTION 812.30. The sections that are listed in the left-hand column of the following table combine amendments by this act that are and that are not exempt from the referendum under Ohio Constitution, Article II, sections 1c and 1d and section 1.471 of the Revised Code.

The middle column identifies the amendments to the listed sections that are subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore take effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified, on that date.

The right-hand column identifies the amendments to the listed sections that are exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law or, if a later effective date is specified, on that date.

Section of law	Amendments subject to referendum	Amendments exempt from referendum
3745.11	Amendments to division (M)(5)	All amendments except as described in the middle column
3721.50 (5168.40)	All amendments except as described in the right-hand column	Amendments to division (F)

5112.30 (5168.60)	All amendments except as described in the right-hand column	Amendments to division (A) take effect July 1, 2013
5739.02	All amendments except as described in the right-hand column	Amendments to division (A)
6109.21	The stricken sentence in division (E)	All amendments except as described in the middle column

SECTION 812.40. The amendments to sections 5101.573 (5160.40), 5101.58 (5160.37), 5111.07 (5164.752), 5111.071 (5164.753), 5111.083 (5164.757), 5111.17 (5167.10), and 5111.19 (5164.74) of the Revised Code are subject to the referendum under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, and therefore take effect on the ninety-first day after this act is filed with the Secretary of State. However:

(A) In section 5101.573 (5160.40) of the Revised Code, the new matter inserted into division (C) takes effect January 1, 2014.

(B) In section 5101.58 (5160.37) of the Revised Code, the insertion of division (K) takes effect January 1, 2014.

(C)(1) In section 5111.07 (5164.752) of the Revised Code, all of the amendments take effect July 1, 2014, except for the following amendments:

(a) The renumbering of the section;

(b) The strike through of "job and family services" and insertion of "medicaid" in the first sentence as the section appears on the day immediately preceding the effective date of this section.

(2) The reference to "director of job and family services" in the last sentence shall be read as if it reads the "director of medicaid" while the last sentence remains in effect.

(D) In section 5111.071 (5164.753) of the Revised Code, the insertion in the last sentence of "and the extent to which each terminal distributor participates in the medicaid program as a provider of drugs" takes effect July 1, 2014.

(E) In section 5111.083 (5164.757) of the Revised Code, all of the amendments take effect January 1, 2014, except for the following amendments:

(1) The renumbering of the section;

(2) The insertion of "medicaid" before "director" in the first sentence of division (B);

(3) The strike through of "of job and family services".

(F) In section 5111.17 (5167.10) of the Revised Code, the amendments to division (B)(2) take effect January 1, 2014.

(G) In section 5111.19 (5164.74) of the Revised Code, the following amendments take effect January 1, 2014:

(1) The insertion of "and the allocation of payments for." in the first paragraph;

(2) The strike through of the second paragraph and divisions (A), (B), and (C).

SECTION 815.10. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 9.90 of the Revised Code as amended by both Am. Sub. H.B. 153 and Sub. S.B. 171 of the 129th General Assembly.

Section 109.572 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly.

Section 122.17 of the Revised Code as amended by Sub. H.B. 327, Am. Sub. H.B. 510, and Am. Sub. S.B. 314, all of the 129th General Assembly.

Section 122.171 of the Revised Code as amended by both Am. Sub. S.B. 314 and Am. Sub. H.B. 510 of the 129th General Assembly.

Section 122.33 of the Revised Code as amended by both Am. Sub. H.B. 117 and Am. Sub. H.B. 356 of the 121st General Assembly.

Section 124.381 of the Revised Code as amended by both Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 149.311 of the Revised Code as amended by both Am. Sub. H.B. 510 and Am. Sub. S.B. 314 of the 129th General Assembly.

Section 149.43 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. S.B. 314 of the 129th General Assembly.

Section 329.06 of the Revised Code as amended by both Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 955.201 of the Revised Code as amended by both Am. Sub. H.B. 1 and Am. Sub. H.B. 2 of the 128th General Assembly.

Section 2901.30 of the Revised Code as amended by both Am. H.B. 181 and Sub. S.B. 87 of the 127th General Assembly.

Section 2903.13 of the Revised Code as amended by both Sub. H.B. 525 and Am. Sub. H.B. 62 of the 129th General Assembly.

Section 2923.126 of the Revised Code as amended by both Am. Sub.

H.B. 495 and Am. Sub. S.B. 316 of the 129th General Assembly, that is scheduled to take effect January 1, 2014.

Section 2929.13 of the Revised Code as amended by Am. Sub. H.B. 62, Am. Sub. H.B. 262, and Am. Sub. S.B. 160 of the 129th General Assembly.

Section 3304.231 of the Revised Code as amended by both Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3313.978 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. S.B. 316 of the 129th General Assembly.

Section 3701.78 of the Revised Code as amended by both Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 3734.01 of the Revised Code as amended by both Am. Sub. H.B. 487 and Sub. S.B. 294 of the 129th General Assembly.

Section 3745.11 of the Revised Code as amended by both Am. Sub. H.B. 487 and Sub. S.B. 294 of the 129th General Assembly.

Section 4731.22 of the Revised Code as amended by both Sub. H.B. 251 and Sub. S.B. 301 of the 129th General Assembly.

Section 5104.012 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. S.B. 316 of the 129th General Assembly, that is scheduled to take effect January 1, 2014.

Section 5104.013 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. S.B. 316 of the 129th General Assembly, that is scheduled to take effect January 1, 2014.

Section 5111.032 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly.

Section 5111.033 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly.

Section 5111.034 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly.

Section 5111.172 of the Revised Code as amended by both Am. Sub. H.B. 93 and Am. Sub. H.B. 153 of the 129th General Assembly.

Section 5119.16 of the Revised Code as amended by both Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.

Section 5701.13 of the Revised Code as amended by both Sub. H.B. 267 and Am. Sub. H.B. 487 of the 129th General Assembly.

Section 5705.21 of the Revised Code as amended by both Sub. H.B. 525 and Am. S.B. 321 of the 129th General Assembly.

Section 5705.25 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. S.B. 321 of the 129th General Assembly.

Section 5709.40 of the Revised Code as amended by both Am. Sub. H.B. 508 and Am. Sub. H.B. 509 of the 129th General Assembly.

Section 5709.73 of the Revised Code as amended by both Am. Sub. H.B. 508 and Am. Sub. H.B. 509 of the 129th General Assembly.

Section 5731.39 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly.

Section 5739.01 of the Revised Code as amended by Am. Sub. H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly.

Section 5739.02 of the Revised Code as amended by Am. Sub. H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly.

Section 5747.01 of the Revised Code as amended by Am. H.B. 167, Sub. H.B. 365, and Am. Sub. H.B. 510, all of the 129th General Assembly.

Section 5747.98 of the Revised Code as amended by both Am. Sub. H.B. 386 and Am. Sub. H.B. 510 of the 129th General Assembly.

Section 5749.02 of the Revised Code as amended by both Am. Sub. H.B. 1 and S.B. 73 of the 128th General Assembly.

Section 5751.01 of the Revised Code as amended by both Am. Sub. H.B. 51 and Am. S.B. 28 of the 130th General Assembly.

Section 5753.03 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. H.B. 386 of the 129th General Assembly.

SECTION 815.20. The amendment of sections 5104.11 and 5120.07 of the Revised Code by this act is not intended to supersede the earlier repeal, with delayed effective date, of those sections.

The amendment of section 5507.53 (128.53) of the Revised Code by this act is not intended to supersede the earlier repeal, with delayed effective date, of that section. The amendment of section 5507.40 (128.40) of the Revised Code of this act is intended to supersede the earlier repeal, with delayed effective date, of that section.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 59

130th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____